

# NEW YORK STATE ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

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## Massachusetts House Bill 4362 “Right To Repair” Enacted

Massachusetts became the first state with Right to Repair legislation today, as Gov. Deval Patrick signed into law legislation that will give consumers choices beyond dealerships for repairing their vehicles. "This new consumer law will expand choice, level the playing field for local, neighborhood repair shops, and put more price competition -- and consumer savings -- into the car repair marketplace," said Art Kinsman, a Right to Repair spokesman.

Under this new law, consumers, dealers, and independent repairers have total access to original equipment manufacturer (OEM) tools and repair information. It ensures choice for Massachusetts vehicle owners, protects manufacturers' intellectual property, preserves the integrity of the role of the dealer in the repair process and protects Massachusetts small independent repair businesses and community dealers.

Passage of the bill came after the car companies, new car dealers and the Massachusetts Right to Repair Coalition reached a last minute agreement that addressed issues of concern for the new car dealers and provided additional time to vehicle manufacturers to comply with certain provisions of the bill. Under H 4362, after 90 days from the effective date, car companies will be required to make available to the independent vehicle repair industry on “fair and reasonable terms”, the same tools, software, and repair information that they make available to their franchised dealers. The bill establishes criteria for determining “fair and reasonable terms” that are similar to those utilized by the U.S. Environmental Protection Agency (EPA) for judging the availability of emissions related service information and tools from the

manufacturers.

Some key provisions:

- In model year 2018 (which translates into 2017) and will require vehicle manufacturers to establish web sites or “clouds” that will contain the same information and software that dealers have access to as part of their proprietary tools.
- Car companies must provide access to the vehicles diagnostic computers using a standardized vehicle interface that meets either the Society for Automotive Engineers (SAE) J 2534 or International Standards Organization (ISO) 22900 standards.
- Under the new law, subscriptions to the cloud will need to be available on a daily, monthly and yearly basis, shops will be able to decide how much access makes sense based on their customers.
- Car companies can exclude diagnostic service and repair information necessary to reset an immobilizer system or security related electronic modules, but provides that this information and capabilities must be available through the secure data release model system (SDRM) that was established by the National Automotive Service Task Force. Information on how participate in SDRM can be found at <http://www.nastf.org/i4a/pages/index.cfm?pageid=3532>.
- Car companies must make available diagnostic repair information to aftermarket scan tool companies and to third party service information providers as long as the company has appropriate licensing contractual or confidentiality agreements.
- Under the newly passed law, a failure to comply by a vehicle manufacturer will be deemed to be an “unfair method of competition and an unfair or deceptive

act or practices in the conduct of trade and commerce” and subject to legal action under Massachusetts’ strong consumer protection statute, 93A.

AAIA and the Coalition for Automotive Repair Equality (CARE) will continue the negotiations with the car companies until there is a national requirement for them to share information and tools, whether it is a state by state or federal effort. As part of the compromise with the car companies that led to this bill, the manufacturers have agreed to sit down with us to see if a national agreement can be developed that will ensure affordable access for independent repair facilities.

Notwithstanding the need for strong enforcement in a national agreement, it is also hoped that the talks also will yield an effective process for resolving issues such that they do not reach the need for enforcement. All parties are committed to work towards the development of long term solutions to address issues related to aftermarket access to information coming off of telematic systems and to strengthen training resources available for technicians employed in aftermarket shops.

The association applauds those who worked for the bills passage and the Massachusetts Legislature for being the first state to pass this measure, and expresses its hope that the NYS legislature will soon follow suit.

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### **New Federal Reserve Rule Will Enrich Banks For Not Preventing Fraud**

The Merchants Payments Coalition criticized the Federal Reserve for making merchants pay for fraud prevention even if banks don’t prevent fraud. Although the Fed found that merchants bear 41% of signature

debit fraud losses and 74% of such losses for “card-not-present” transactions, its rules now require them to pay fees that cover 100% of fraud-prevention costs incurred by issuing banks.

Under debit-card reform that took effect in October, the Fed was to ensure that banks actually take effective steps to prevent fraud and decide how much of the cost of preventing fraud the merchants and the banks should bear. Instead, the Fed rule rewards banks with more merchant funds if they self-determine that they prevent fraud. That will not be effective and regulators should have to find that the banks actually reduce fraud before they get more funds.

U.S. banks lag much of the rest of the industrialized world in technology to make card transactions safer and remain mired in 1970s-era technology, in part because the less-safe transactions (signing for a debit card purchase rather than using a PIN number) have historically been more profitable for the banks.

The coalition believes it is unfair for the Fed to saddle merchants with the costs resulting from this purposely outdated technology. Instead the Merchants Payments Coalition believes that with this ruling the Fed is abdicating its regulatory role and simply allowing more money to flow to banks that issue debit cards.

Nothing in today’s ruling actually decreases fraud. This is inherently unfair to merchants who already bear nearly half the cost of preventing fraud.

The Federal Reserve Board’s final rule, which goes into effect Oct. 1, allows non-exempt issuers to collect a 1-cent fraud prevention adjustment on debit card transaction revenues, so long as issuing

banks self-certify that they meet the Fed's fraud prevention standards. This fee, in addition to a 0.7% fee for fraud prevention costs already included in the interchange fee, would place the entire cost of fraud prevention on the backs of merchants.

This final rule the Fed announced Friday is the same amount as the preliminary rule. The Fed is responsible for the details of enforcing debit reform passed by Congress in 2010 as part of the Dodd-Frank bill created to prevent another financial crash.

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### **Feds Conduct National Drug Raid Of C-Stores**

More than 90 people were arrested and more than five million packets of synthetic drugs were seized in the first national law enforcement action against the synthetic drug industry, which produces and sells drugs often marketed as bath salts, spice, incense or plant food, the federal Drug Enforcement Agency (DEA) announced.

The drugs, many covered by federal and state bans, mimic the effects of drugs such as marijuana, LSD, methamphetamine and cocaine.

The probe, dubbed Operation Log Jam, involved several federal agencies and state and local law enforcement in more than 109 cities in 31 states, targeting every level of the drug trade, including retailers such as convenience stores and smoke shops.

The products have become increasingly popular, particularly among teens and young adults who believe they can bypass drug testing protocols set up by employers and government agencies.

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### **Drought Hampers U.S. Production of Oil**

Across the country, farmers and oilmen are struggling in the midst of one of the worst droughts in American history, CNN Money reports. More than 60% of the country is experiencing water shortages, including Colorado, Kansas, North Dakota, Pennsylvania and West Texas—all of which extract oil and natural gas via hydraulic fracturing, called fracking.

Fracking uses tons of water to remove the energy sources from the ground, which has become a major problem during a severe drought. "We're having difficulty acquiring water," said Chris Faulkner, CEO of Breitling Oil and Gas. Two Pennsylvania counties have cut off oil companies from getting water from rivers, and the cost of water from Kansas wells has risen sharply. Breitling has stopped production on 10% to 12% of its wells. "As the drought continues, those numbers will rise," said Faulkner.

Other companies are experiencing the same problems, although experts say the slowdown shouldn't trigger higher oil and gasoline prices. However, natural gas production has slowed because fracking extracts most of what the U.S. consumes. Natural gas prices have skyrocketed during the past couple of months, rising 70% in some localities.

"Another rally in natural gas as drought concerns may lead to a cessation of non-conventional shale production," wrote Stephen Schork, energy trader/publisher of the Schork Report.

Ethanol made from corn has seen prices increase around 30% since June, as corn prices have registered record highs. But the recent upswing in gasoline prices is more tied to increasing oil prices than higher

ethanol prices.

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### **Michigan Governor Declares Fuel Shortage Emergency**

Michigan Gov. Rick Snyder on Tuesday declared a fuel shortage emergency in the state due to temporary shortages of gasoline and diesel fuel in parts of the Upper Peninsula, Reuters reports.

The shortage was caused by the shutdown of a pipeline in Wisconsin, and the governor's declaration suspends state and federal regulations that limit the hours of service for motor carriers and drivers transporting fuel to address the shortages.

The West Shore pipeline that carries 70,000 barrels-per-day of refined products from Chicago to Green Bay in northern Wisconsin was shut for several days after a gasoline leak was found on July 17. The pipeline was restarted last weekend.

The pipeline carries fuel and the closed section of the line started about 10 miles northwest of Milwaukee. It supplies gasoline and diesel fuel to gas station through the western and central sections of Michigan's Upper Peninsula.

"This energy emergency declaration is necessary to ensure that petroleum supplies will remain sufficient and to assure the health, safety and welfare of Michigan residents and visitors," Snyder said.

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### **Shell CEO: U.S. Could Be Energy Independent In 20 Years**

The United States could be close to energy

independence in the next 20 years, Royal Dutch Shell plc CEO Peter Voser said today during the company's second-quarter earnings call.

"This means petrochemical companies could come back to the U.S., due to cheaper feedstocks," he said. "That would bring more jobs to the United States."

Natural gas would be the primary source of the possible energy independence, the chief executive said, adding that Shell is working on many liquefied natural gas (LNG) projects in the United States. "LNG is a great opportunity for Shell. We need to link our LNG projects with our [petroleum] strategy," Voser said.

Specifically, he noted that he is pleased thus far with Shell's deal with TravelCenters of America LLC to sell LNG at 100 TA- and Petro-branded truck stops. The agreement was inked in June.

As for Shell's 2012 fiscal second-quarter results, Shell's downstream division, parent of its convenience stores, earned \$1.296 billion, compared to \$1.081 billion in the same quarter in 2011.

For the entire company, Shell's earnings dropped 53 percent when comparing quarter to quarter. The oil giant earned \$4.063 billion for its 2012 second quarter, vs. \$8.662 billion during its 2011 second quarter.

However, Voser said the company is doing well in tough economic times and on track to achieve \$200 billion in cash flow from 2012 to 2015.

Shell continues to sell assets in what it considers slower-growth areas, or ones that are not directly related to its core businesses.

In fact, the CEO said Shell has sold twice as many assets as the number of acquisitions the London-based company has made in the past 78 months.

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### **Proposed Antitrust Settlement With Visa and MasterCard Rejected**

The proposed settlement of longstanding antitrust litigation between merchants and the credit card industry was rejected by the National Association of Convenience Stores (NACS), a class plaintiff in the lawsuit.

Because the proposed settlement does not introduce competition and transparency into the broken credit card swipe fee market, the NACS Board of Directors, comprised of more than two dozen merchants, unanimously rejected the proposed settlement agreement.

"Not only does the proposed settlement fail to introduce competition and transparency into a clearly broken market, it actually provides Visa and MasterCard with the tools to continue to shield swipe fees from market forces," said NACS Chairman Tom Robinson, "This proposed settlement allows the card companies to continue to dictate the prices banks charge and the rules that constrain the market including for emerging payment methods, particularly mobile payments. Consumers and merchants ultimately will pay more as a result of this agreement — without any relief in sight."

The proposed settlement is the largest antitrust settlement in U.S. history, but it only amounts to less than two months' worth of swipe fees, based on the estimated \$50 billion in swipe fees collected by the credit card companies on an annual basis. Worse, there are no fundamental market

changes that would constrain Visa and MasterCard from continuing to raise rates to a point where the net effect is to make merchants pay for their own settlement — and then some.

As a class plaintiff in the litigation, NACS sought a trial to establish that the anticompetitive practices engaged in by the credit card industry are illegal. NACS also pushed to end the practices engaged in by the credit card companies that don't allow for market competition.

The proposed settlement does allow merchants to show consumers some of the costs of accepting credit cards, but only under very limited circumstances with strict oversight by Visa and MasterCard. That oversight makes the settlement unworkable for virtually all merchants.

The proposed settlement also sets a dangerous path for the future of the payments landscape. Visa and MasterCard will be able to use their power in the market to prevent new entrants, like PayPal, from expanding their share of the market.

And the proposed settlement allows Visa and MasterCard to continue to require that merchants accept all of their credit cards no matter how expensive they make those cards.

SSDA-AT has sought for years to bring competition and transparency to the credit card swipe fee market. This proposed settlement does not come close to providing even a minimal level of the competition and transparency those merchants, their customers and the U.S. economy need.

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## General Counsel Corner

Peter H. Gunst

*PMPA Trumps Eviction Law*

In *Zad, LLC v. Bulk Petroleum Corp.*, 2012 WL 1886471, a Kentucky appellate court recently considered whether a supplier can bypass the protections against dealer termination contained within the federal Petroleum Marketing Practices Act by proceeding instead under state eviction law. At least in this instance, it could not.

When the relationship between dealer Zad and distributor Bulk deteriorated, Bulk filed a petition for forcible detainer in state court, seeking a summary order of eviction for Zad's failure to make timely rent payments. The trial court's order finding Zad "guilty" of forcible detainer ultimately was reconsidered by Kentucky's Court of Appeals.

Zad argued that the trial court's summary disposition of the case should be set aside because Bulk had not complied with the more onerous termination requirements contained within the federal statute.

The Kentucky appellate court recognized that the parties' dispute typified "the debate that has been going on in courtrooms across the country since the PMPA was enacted – whether and to what extent the PMPA preempts state legislation which does not expressly attempt to regulate petroleum franchises."

After recognizing that decisions in other states had gone both ways, and finding none of them particularly persuasive, the Kentucky appellate court conducted its own analysis of the preemptive sweep of the PMPA when applied in the context of a state eviction proceeding.

In finding that the state eviction law was indeed preempted when applied in the context of a service station lease agreement, the Kentucky appellate court emphasized the summary nature of an eviction proceeding, as opposed to the far more demanding requirements for franchise termination set forth in the PMPA.

The appeals court observed:

[Such eviction proceedings] frequently involve merely a showing that the tenant has stopped paying rent or some other relatively basic provision of the lease agreement. Indeed, that is all the evidence Bulk Petroleum offered the district court – that Zad has not paid rent for November and December of 2008 and January 2009. The PMPA, on the other hand, requires a series of thoughtful, difficult factual analyses before a franchise relationship can be deemed properly terminated, which ...forcible detainer procedures are [not] equipped to handle. We conclude that the issues are certainly not of the type Congress intended to be addressed by a court of limited jurisdiction.

The appellate court's opinion, of course, is limited to its consideration of Kentucky law and other state courts may or may not agree with its conclusion. Nevertheless, its ruling appears to correctly recognize that Congress intended that special requirements must be satisfied if a supplier desires to terminate any of the three key characteristics of a petroleum marketing franchise: the lease, supply agreement and trademark license.

One seemingly limiting aspect of the Kentucky appellate court's opinion should be noted. The court's opinion begins with the boldface notice that "THIS OPINION IS NOT FINAL AND SHALL NOT BE CITED AS AUTHORITY IN ANY COURTS OF THE COMMONWEALTH

OF KENTUCKY.” That caption may or may not be removed from the opinion following exhaustion of any further appeal.

This device, which is often used by courts to limit the impact of their decisions on subsequent cases, is problematic. In reality, lawyers are almost certain to cite the court’s opinion despite the court’s disclaimer, and it is highly unlikely that a lower court in Kentucky, or perhaps elsewhere, will ignore its analysis in any event.

This trend toward supposedly non-precedential opinions is troubling. If a court reaches a conclusion concerning a legal issue that is likely to recur, why should it not stand by what it says?

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### **EEOC Guidance on Arrest and Conviction Records**

The Equal Employment Opportunity Commission (EEOC) has approved its first Enforcement Guidance in more than 20 years on employers’ use of arrest and conviction records in making employment decisions.

As part of its E-RACE (Eradicating Racism and Colorism from Employment) initiative, the EEOC has focused recently on employment policies that prohibit or curtail hiring of applicants with criminal convictions. The EEOC concluded that those policies have a “disparate impact” on African-American and Hispanic applicants, and has been pursuing claims against employers based on these kinds of policies.

The focal point of the guidance is the EEOC’s strong recommendation that, to defend against a showing that a criminal background policy has a disparate impact,

employers should:

- develop and use a screening process that takes into account the nature and gravity of the offense, how long ago the offense occurred, and the nature of the job held or sought,
- conduct an individualized assessment of any applicant initially screened out based on a criminal conviction, to give him or her the
- opportunity to explain the particular circumstances and evaluate whether to make an exception to its criminal records policy based on the information provided by the applicant,
- avoid asking about convictions on employment applications; or if you ask about convictions, include a statement that “a conviction will not necessarily disqualify you from employment,”
- refrain from asking about arrests or making arrest records the basis of any employment decision, and if challenged, be able to independently demonstrate that a refusal to hire an applicant was job related and consistent with business necessity.

In light of the EEOC issuing the Guidance and the commission’s increased scrutiny of employers’ criminal background check policies, SESCO recommends:

- provide training on the requirements of Title VII and the EEOC’s guidance to HR/Management who administer and/or consider criminal background checks,
- review your criminal background check policies and practices and, if necessary, revise them to take into account relevance of the offense to the job held or sought,
- adopt an individualized assessment of applicants as part of your process, and develop a formal and defensible screening and hiring process including customized questions, screening tools, skills and personality assessments and

reference checking.

most often, the next tool that you will need.

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### **Tool Uses**

*Courtesy of Bob Lombardo*

*Wire Wheel:* Cleans paint off bolts and then throws them somewhere under the workbench with the speed of light. Also removes fingerprints and hard-earned calluses from fingers in about the time it takes you to say, 'Oh shit!'

*Skill Saw:* A portable cutting tool used to make studs too short.

*Pliers:* Used to round off bolt heads. Sometimes used in the creation of blood-blisters.

*Vise-Grips:* Generally used after pliers to completely round off bolt heads. If nothing else is available, they can also be used to transfer intense welding heat to the palm of your hand.

*Oxyacetylene Torch:* Used almost entirely for lighting various flammable objects in your shop on fire. Also handy for igniting the grease inside the wheel hub out of which you want to remove a bearing race.

*Hydraulic Floor Jack:* Used for lowering an automobile to the ground after you have installed your new brake shoes, trapping the jack handle firmly under the bumper.

*Two-Ton Engine Hoist:* A tool for testing the maximum tensile strength of everything you forgot to disconnect.

*Son-Of-A-Bitch Tool:* (A personal favorite!) Any handy tool that you grab and throw across the garage while yelling 'Son of a BITCH!' at the top of your lungs. It is also,

### **Martin Siegel Passes**

It is with a heavy heart that we report to the members of the service station and repair shop industry the death of Martin Siegel, August 20, 2012. Mr. Siegel had been a long time active member of both the New York State Association of Service Stations and its affiliate the Gasoline and Automotive Service Dealers Association, Ltd. (GASDA).

Mr. Siegel played a big part in our industry, taking over his father's business and running it very successfully until his retirement a few years ago. He lived most of his life on Long Island and upon retirement moved to Boca Raton, Florida. As a member of the association he served as a board member, and several times as Chairman of the Board of GASDA during some very trying periods. He also served as the President of the New York State Association of Service Stations and Repair Shops, Inc. starting in 1980 for a period of four years. He was instrumental in seeing to it that both organizations remained successful, active and financially stable.

If one was to categorize Martin Siegel, it would be with the word "gentleman." He was always available to assist anyone who needed help. On many occasions he jumped in to help members of the association financially and with advice. He devoted a great deal of his time to the organization and was one of the main reasons for our success today.

Martin Siegel will be missed by his loving wife Nancy and family, but also by the industry who knew him. We are sad to report his passage but happy that we had the

opportunity to know Marty Siegel as a person.

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### **Clean Scan Penalties**

The Department of Motor Vehicles is issuing some steep penalties for Clean Scanning. A recent case resulted in one inspector receiving an indefinite suspension of his inspector's license and a \$110,950 fine.

Another inspector received a penalty of \$75,550

A third inspector received an indefinite suspension of his inspectors license and a \$185,000 fine.

The Station Inspection License was revoked. The number of Clean Scans that caused the problem was 331.

Failure to pay the civil penalties will result in a suspension of any license or registration issued to the parties and the penalties will be treated as a judgment.

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### **Price of Plastic Going Up? Merchants May Get Surcharge Rights**

By Andrew R. Johnson  
*The Wall Street Journal*

Merchants may soon begin to impose a surcharge each time a customer pays with a credit card, a practice Visa Inc. and MasterCard Inc. currently prohibit.

Retailers have long pushed for the right to charge extra to customers who pay with plastic versus cash, saying the practice would help defray their costs for accepting

credit and debit cards. Merchants pay transaction fees on each card swipe.

But Visa and MasterCard, which operate the world's largest card-payments networks, ban the practice in the U.S. as part of rules they require retailers to follow to accept their cards. That ban is expected to be eliminated or altered, though, under a potential settlement of long-standing lawsuits retailers have brought against the card networks and numerous banks that issue their cards.

Merchants prefer complete flexibility, and in their eyes relaxing some of these rules like surcharging [is] something that will be permanent," said Glenn Fodor, an analyst with Morgan Stanley.

Settlement discussions have taken place over the past year, and Mr. Fodor and other analysts have predicted a deal would be reached before a September trial date for the litigation, which includes more than 50 lawsuits filed since 2005. The suits have been consolidated in U.S. District Court in Brooklyn.

A settlement is likely to include changes to Visa and MasterCard rules, including the card companies' ban against surcharges, analysts have said.

A spokeswoman for Visa and a spokesman for MasterCard declined to comment on the status of discussions Friday. Several attorneys involved in the case also declined to comment. A settlement could be finalized as soon as this week, Bloomberg News reported last week.

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### **Administration Initiates WTO Challenge**

The United States Trade Representative

(USTR), Ron Kirk, announced on July 5 that the United States has requested dispute settlement consultations with China at the World Trade Organization (WTO), over China's imposition of antidumping and countervailing duties on American-produced automobiles.

Consultations are the first step in a WTO dispute. Under WTO rules, if parties do not resolve a matter through consultations within 60 days, complainants may request the establishment of a WTO dispute settlement panel.

The USTR also pointed out that shortly after President Obama decided in September 2009 to impose a safeguard measure against Chinese tire imports, China's Ministry of Commerce announced that it would initiate antidumping and countervailing duty investigations of imports of American-made cars and sport utility vehicles (SUVs), with an engine capacity of 2.5 liters or larger. However, China did not begin to impose the duties until December 2011. Last year's exports to China in this category totaled more than \$3B.

In a letter to the WTO the Office of the USTR claimed that, among other things:

- China failed to require the applicant to provide adequate non-confidential summaries of allegedly confidential information.
- China failed to adequately disclose the calculations and data used to establish the anti-dumping duty rates it determined.
- China made a determination of injury using an improper definition of the domestic industry.
- China failed to grant interested parties a full opportunity for the defense of their interests.

Please contact Paul Fiore at paul.fiore@aftermarket.org to obtain a copy of the letter.

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### **NHTSA Announces Public Hearing on Heavy-Duty Vehicle Electronic Stability Control Systems**

The National Highway Traffic Safety Administration (NHTSA) will hold a public hearing to allow oral testimony from the public on a recent proposed electronic stability control (EBS) standard for heavy-duty vehicles. NHTSA has conducted numerous studies on crashes involving heavy-duty vehicles since 2006 and their findings suggest that ESC could have a major impact on reducing the expensive and potentially fatal accidents caused by these vehicles.

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### **Weights And Measures Approves Reforms To Permit Fuel Discounts**

The National Conference on Weights and Measures (NCWM) yesterday unanimously approved a proposal to revise Handbook 44 to remove restrictive language governing fuel price discounts and insert provisions that will provide retailers with the legal means to implement pro-consumer fuel marketing programs. The new provisions take effect on January 1, 2013.

NACS Vice President of Government Relations John Eichberger stated "The current provisions essentially require every price at which a fuel product is offered for sale to be conspicuously posted on the dispenser and restrict the ability of retailers whose dispensers cannot automatically roll back the price from offering fuel discounts.

We are pleased the conference adopted the task group's recommended changes."

Eichberger explained that the goal of the task group was to facilitate the introduction of fuel price marketing programs while ensuring consumers are protected from deceptive practices.

"We wanted to create rules that would provide retailers with the ultimate flexibility to benefit consumers, while ensuring that consumers and public officials could effectively audit a transaction and ensure that the price promised was actually the price charged."

The new requirements can be broken down into two categories:

1. For pre-delivery discounts: A dispenser that is capable of rolling back the posted price shall do so. (For a dispenser that is not capable of a price roll back, all discounts shall be treated as "post-delivery discounts" and subject to requirements listed below.)

Dispensers will display or be capable of displaying the final unit price prior to any post-delivery discounts following a deliberate action by the purchaser. (A deliberate action could include the swiping of a debit card or loyalty card or paying the clerk with cash prior to initiating the transaction.) Other discounts applied after the delivery can be, at the election of the retailer, posted on the dispenser for marketing purposes. Dispensers used exclusively for fleet sales, price contract sales or truck refueling are exempt from these requirements.

2. For post-delivery discounts: The unit price at which the dispenser is set to compute shall be the highest unit price for any transaction. All purchases must be

accompanied by a printed receipt recorded by the system (no hand written receipts or hand calculated discounts are permitted — such transactions are already prohibited) that includes the dispensed price per unit, total quantity delivered, total price shown on the dispenser, an itemization of the discounts to the unit price, other discounts applied to the total sales price (such as \$2.00 per fill up with purchase of a hot dog) and the final price of the sale. When available, the customer may be given the option to receive the receipt electronically.

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#### **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 drivers license, vehicle registration, and vehicle title records for an additional fee of \$2 per abstract. Please call 518-452-4367.

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#### **STAY IN TOUCH**

The Association website is  
[www.nysassrs.com](http://www.nysassrs.com)  
Our e-mail address has changed to:  
[state@nysassrs.com](mailto:state@nysassrs.com)

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**Did Your Worker's Comp  
Policy Give You 35% Of Your  
Premium Back Last Year?  
Call The Association Today  
To Receive A Price Quote**

# \$afety Group 536

With a Financial history like this you have lots of reasons to smile.



## DIVIDEND HISTORY

35%	2010-2011
35%	2009-2010
35%	2008-2009
35%	2007-2008
30%	2006-2007
30%	2005-2006
25%	2004-2005
22.5%	2003-2004
17.5%	2002-2003
10%	2001-2002
15%	2000-2001
30%	1999-2000
40%	1998-1999

## DISCOUNT HISTORY

25%	2012
25%	2011
20%	2010
20%	2009
20%	2008
25%	2007
25%	2006
25%	2005
20%	2004
20%	2003
20%	2002
20%	2001
30%	2000

Current Group Management took over for the 04-05 policy year  
2008 20 % Discount due to 18% rate decrease

**Lawley**  
INSURANCE



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## Special pricing on merchant services.

An exclusive benefit for New York State Association of Service Stations and Repair Shops (NYSASSRS) — only from Bank of America

### Merchant Services

We're pleased to offer you and other members of your organization some of the industry's most flexible and efficient payment processing options available, along with valuable savings.

#### Specially negotiated discount rates

**Fast access to cash** — with funds deposited into your account as soon as the next business day.<sup>1</sup>

**Point-of-sale payment options** — virtually every point-of-sale payment option — credit, debit, electronic benefits transfer (EBT), gift cards and fleet (WEX and Voyager). And, for check payers, our TeleCheck Electronic Check Acceptance® helps you reduce the risks of accepting checks while minimizing processing costs.

**Internet and telephone payment capability** — for safe, secure shopping, whether online, by phone, by mail or in any card-not present environment.

**Safety and security** — to protect your business and your customers' information. Our systems support you through enhanced security and procedures, which help you comply with card organization rules and regulations.

**Gift cards and loyalty programs** — for reduced costs, and increased loyalty, sales and profits with our simple, user-friendly programs. Our full range of services includes card production, implementation and program interface.

**Terminals and point-of-sale solutions** — a comprehensive variety of affordable terminals and peripherals that offer adaptability for changing needs.

**Payroll cards** — with the security and control of electronic payroll.

**One statement** — and one customer service number for the convenience of your business.

**24/7 technical support** — to answer sudden questions or respond to unexpected needs. Expert help is as close as the web or your phone.

Program can support these card types:



Please contact your Bank of America Merchant Services sales representative at 1.877.899.9123.

<sup>1</sup> After deposit of transactions. Must have a Bank of America Business Checking account. Exceptions may apply. Only valid on Visa®, MasterCard® and Discover® transactions.

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# RSGDAofWNY

Repair Shop and Gasoline Dealers Association of Western New York

## Member Legal Services Plan

Administered by  
**KENNEY SHELTON LIPTAK & NOWAK, LLP**

Dues paying members in good standing with the Association are entitled to participate in our group legal services plan that provides the following services:

- Five billable hours of legal services for representation and defense at Department of Motor Vehicles or any other New York state Administrative Proceeding or Hearing for repair-shop related issues, and in Small Claims Court, if your business is sued. The Plan does not include representation in any court other than Small Claims or in any matter where the member is charged with a misdemeanor or felony.
- Additional legal services for covered services as listed above, and representation in business-related matters brought in any court other than Small Claims, will be provided at the law firms standard hourly rate (\$200) less 25% member discounted rate (\$150).
- One hour of free consultation per year for business-related transactions, including leases, supply contracts, and franchise agreements.
- Real estate (residential) purchase or sale at a flat fee rate:  
Sale \$400  
Purchase \$400
- Estate planning at a flat fee rate:  
Simple will (single) \$100  
Simple will (husband and wife) \$150

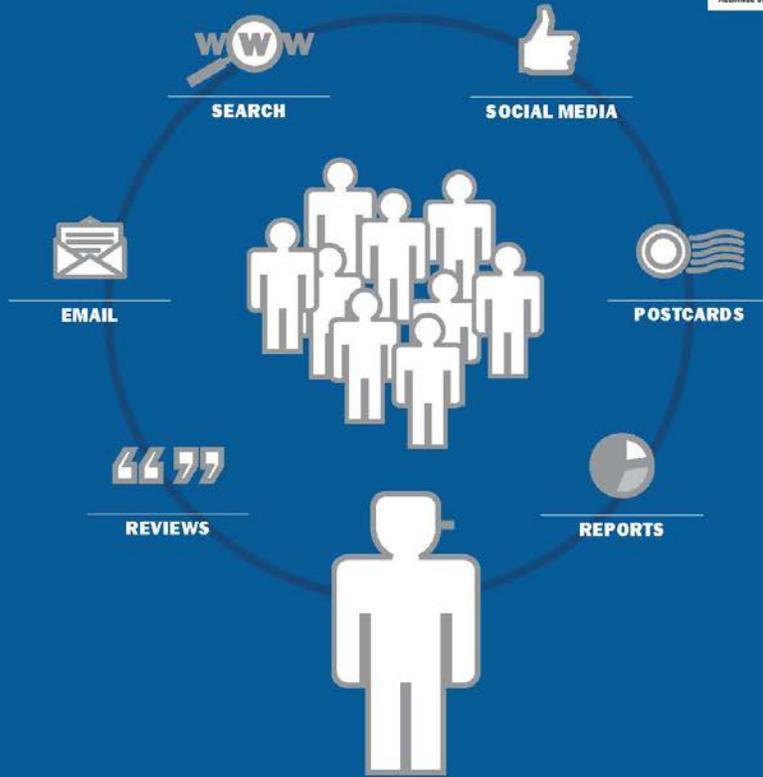
In order to participate in the plan, you must be a dues paying member, in good standing, and must have been a member for at least ninety days prior to the need for legal services.

If you are in need of this service, you must first call the association office at (585) 423-9924 or (716) 656-1035. The association will then contact the law firm to relay your information. You will be contacted by the law firm, personally, to schedule an interview.

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The law firm of Kenney Shelton Liptak and Nowak, LLP was chosen to administer the RSGDAofWNY legal plan based on their knowledge and familiarity with the needs of our industry.

**To become a dues paying member of RSGDAofWNY  
and be eligible for legal services, call (716) 656-1035**



# SOCIALCRM: SHOP MARKETING MADE SIMPLE

**AASP Members Receive  
\$15/month off SocialCRM**

Includes new SocialCRM sales and upgrades of existing eCRM customers to SocialCRM. It does not include a discount on new sales of the eCRM product level.



Please Contact Your AASP Sales Representative  
to Schedule a Mitchell 1 Presentation



SEARCH

## GO WHERE NEW CUSTOMERS CAN FIND YOU

Our Customer Review System allows your customers to create reviews of your service, which are automatically verified as authentic customer reviews. These reviews, with keywords added to optimize performance, create Search Engine-friendly links – driving your search visibility upwards, where new customers can find you.



EMAIL

## STAY CONNECTED TO CURRENT CUSTOMERS

Turn first-time customers into loyal, profitable customers automatically. Mitchell 1's Social CRM integrates seamlessly with your shop management system, calculating mileage history and combining that with specific maintenance schedules to determine next recommended services. Includes:

- Email matching with your customer database
- Ongoing automatic email service reminders
- Target market promotions
- Customizable large-format postcards, artwork, and logos



POSTCARDS



SOCIAL MEDIA

## IT'S TIME TO GET SOCIAL MEDIA WORKING FOR YOU

Your dedicated support agents will set up your Facebook page for maximum word-of-mouth marketing. Compelling content, AutoNetTV™ videos and Customer Reviews will be automatically pushed to your Facebook page on a regular basis to keep your shop visible and your customers engaged. Facebook links will be included in the Thank-You emails and on your customer's personalized vehicle maintenance website, OwnerAutoSite.com.



REVIEWS

## GIVE YOUR SHOP A REPUTATION BOOST

Your customer reviews are posted to the web, complete with Overall Satisfaction Star Ratings, Review Comments, and Recommend scores. The Customer Review System can also verify which reviews are from actual customers, which studies prove are typically higher than unverified reviews. With ReScore, you can ask for a follow up review once you've had the opportunity to resolve a customer concern.

- Automated low score alerts
- Review customer verification
- Links to your shop's website
- Respond to customer reviews



REPORTS

## SAY HELLO TO MARKETING CRUISE CONTROL

Your Mitchell 1 Support Agent will work with you to set up your SocialCRM service and monitor its performance with our extensive Summary Reports. Your support agent will:

- Set up Facebook page and create automatic feeds of video and review content
- Help you choose automatic Email and Postcard campaigns
- Review your Summary Reports and recommend tuning your program for maximum return on your investment
- Help you create coupons and send targeted email blast campaigns



Q1 2012

	Promo Price	AASP Price
<b><u>Manager</u></b>		
Manager, Single User	\$0 S&I <del>\$109/mo</del>	\$99/mo
Manager, Multi User	\$0 S&I <del>\$135/mo</del>	\$125/mo
ManagerPlus, Single User	\$0 S&I <del>\$139/mo</del>	\$129/mo
ManagerPlus, Multi User	\$0 S&I <del>\$175/mo</del>	\$165/mo

**TEAMWORKS**

Manager, Single User w/OnDemand5.com	\$0 S&I <del>\$209/mo</del>	\$199/mo
Manager, Multi User w/OnDemand5.com	\$0 S&I <del>\$259/mo</del>	\$249/mo
ManagerPlus, Single User w/ OnDemand5.com:	\$0 S&I <del>\$239/mo</del>	\$229/mo
ManagerPlus, Multi User w/OnDemand5.com:	\$0 S&I <del>\$295/mo</del>	\$285/mo

**Other Products available as bundles or individually**

OnDemand5.com	\$0 S&I <del>\$159/mo</del>	\$149/mo
Medium-Truck.net	\$0 S&I <del>\$129/mo</del>	\$119/mo
Tractor-Trailer.net	\$0 S&I <del>\$235/mo</del>	\$225/mo
SocialCRM	\$0 S&I \$199/mo	
<b>SocialCRM - AASP Members Only</b>	<b>\$15.00/mo Off Promo Price</b>	
	<b>1<sup>st</sup> Quarter 2012</b>	

Please contact your local Mitchell1 Representative for more info.

To find your local representative, or submit a lead, go to: [www.m1leads.com/aasp](http://www.m1leads.com/aasp)

- **Prices should not be shared as an example only. Prices may vary depending on the product needs of the Repair Shop Customer.**
- All products come with a 30 day cancellation policy from Mitchell1.
- All products require 12-month agreement. After initial 12 months, each renewal period is 12 months with 30-day guarantee period commencing on renewal date.
- All products offered as software only; customer must provide hardware.
- All products include on-site training and installation.
- Network set up, installation and installation of all multi-user products is the responsibility of customer. Obtaining the services of a Network Professional to set up the network and install all multi-user products is highly recommended.
- Promotional pricing ends March 31, 2012.



# Let your energy bill *pay you back*

Enjoy all these great benefits when you switch your energy supplier to Energy Plus®



**\$50 Activation Bonus**  
after two months of active service for your business' electric accounts\*



**Earn 3% Cash Back**  
every year on the supply portion of your business' electric bill\*



**Earn even more Cash Back**  
when you enroll your natural gas account\*



**No commitment**  
when you enjoy the same service without risks, fees, or long-term commitments

► **IS THERE ANY COST TO ENROLL OR CANCEL?**

Not at all! There is no cost to enroll with Energy Plus and you can cancel service at any time without penalty. Give Energy Plus a try risk-free today.

► **FOR YOUR BUSINESS AND HOME.**

Energy Plus provides energy to both homes and businesses throughout New York so you can enroll all your energy accounts. Members with electric residential accounts are also eligible to receive a \$25 Activation Bonus and 2% Cash Back annually on the supply portion of their electric bills. Homes and businesses receive an additional \$25 Activation Bonus and up to 3% Cash Back on natural gas supply charges every year.\* Sign up both your business and home today!

► **NO INTERRUPTION TO YOUR SERVICE.**

The best part is that nothing about the way your service is delivered will change. Your local utility will continue to deliver your energy, read your meter, handle service emergencies, and send your monthly statement. You'll be earning Cash Back while still enjoying the safety and reliability of your current service.

Select the **Green Option** to support 100% wind power

► **HOW DO I EARN CASH BACK?**

Once you select Energy Plus, you will receive a Cash Back rebate check automatically after every 12 months of service. Your Cash Back rebate will be 3% of your annual electricity supply charges for home accounts and 5% for business accounts. Earn even more Cash Back when you enroll your natural gas account. Home accounts receive 2% Cash Back and business accounts receive 3% Cash Back on your annual natural gas supply charges.

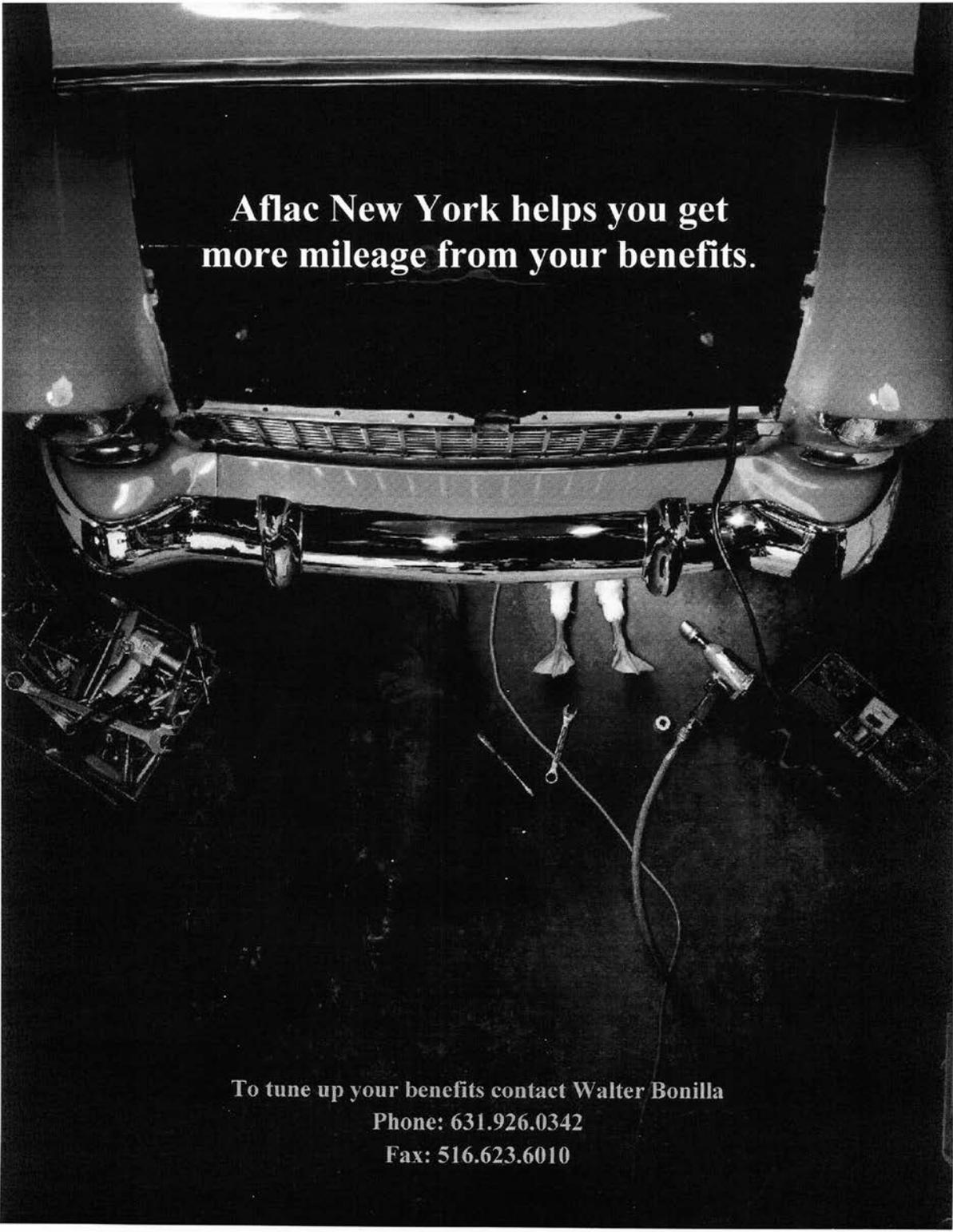


To learn more or enroll, visit this special offer page at [www.EnergyPlusRewards.com/NYSASSRS59](http://www.EnergyPlusRewards.com/NYSASSRS59)

or call 855-388-5274 and mention Offer Code "SER-0059"

**ENERGY PLUS**

\*If enrolling an electric account, a \$50 Activation Bonus for business accounts or a \$25 Activation Bonus for residential accounts will be awarded after completing 2 billing cycles of active electric service with Energy Plus. If enrolling a natural gas account, a \$25 Activation Bonus check for business accounts or a \$25 Activation Bonus check for residential accounts will be awarded after completing 2 billing cycles of active gas service with Energy Plus. Active accounts are defined as those (i) that are billing more than \$0 and (ii) for which Energy Plus has not received a request on behalf of the customer to discontinue (drop) their service. Please note, if you enroll both electric and gas accounts, it is possible your services will start on different dates - so your bonuses may be awarded on different dates. Members will receive a Cash Back rebate check after every 12 billing cycles of service for active accounts. The Cash Back rebate will be 3% of the annual supply charges per business account and 2% per residential account. Account eligibility for a natural gas Activation Bonus requires a minimum of 500 annual therms or ccf's, based on historic usage as estimated by your utility at the time of enrollment. Electricity service is provided through Energy Plus Holdings LLC and natural gas service is through its affiliate Energy Plus Natural Gas LLC. The Energy Plus rate is variable and therefore subject to change each billing cycle. Current and historical rates should not be taken as a guarantee of future rates and Energy Plus makes no warranty, express or implied, regarding specific savings. If you are currently on a Budget Billing plan, your monthly budget billing amount may be adjusted as a result of enrollment with Energy Plus. In addition, your utility may perform a true-up upon enrollment with Energy Plus. Depending on various factors, including season, this true-up could result in a charge, or a credit. Electricity offer valid for NY residents excluding areas serviced by the Long Island Power Authority (LIPA). Natural gas offer valid for NY residents with heating accounts in areas serviced by Consolidated Edison, National Grid (Keyspan NY), National Grid (Niagara Mohawk), Orange & Rockland and National Fuel Gas. Energy Plus reserves the right to discontinue or modify the program and other offers cannot be combined with this offer. Your local utility company will continue to deliver your electricity and/or natural gas, as applicable. Offer not valid for government entities.



**Aflac New York helps you get  
more mileage from your benefits.**

To tune up your benefits contact Walter Bonilla  
Phone: 631.926.0342  
Fax: 516.623.6010



## HERE'S HOW AFLAC NEW YORK CAN HELP:

Many industries-like specialized auto repair and customization-require highly skilled talent that is not easy to find and retain. Great benefits are a top priority for these talented professionals when considering where to work. With Aflac New York, you can provide a wide range of benefits that gives them coverage in the areas they need most, and with a brand they know and want. You can attract and retain new talent by providing the kind of benefits they'd expect from a bigger company, helping your business stand out from the crowd.

### THE BEST PART ABOUT AFLAC!

#### NO DIRECT COST TO YOUR COMPANY

Aflac New York's insurance policies are paid entirely by your employees; therefore, adding value to your employee benefits plan without incurring direct costs.

#### OFFERS A WIDE RANGE OF POLICIES

Aflac New York offers a wide range of policies that can help cover health events from accidents to hospitalization. You choose the ones that are best for you, your employees, and your business.

#### POTENTIAL TAX SAVINGS

Aflac New York's tax-advantaged plan allows employees to use pre-tax dollars to pay for certain benefit costs, through a Section 125 cafeteria Plan. This plan may also reduce your FICA taxes, helping you counterbalance the challenges you face in today's economic environment.

#### ATTRACTIVE TO YOUR EMPLOYEES

Aflac New York insurance complements your major medical insurance to help you create a more attractive employee benefits package. Our wide range of policies is designed to provide cash benefits to your employees if they become injured or sick. With Aflac New York policies, there are no deductibles, copayments, doctor networks, or pre-authorization requirements.

Join the 16,500 companies\* that Already include Aflac New York as an essential part of their benefits package. Find out more:

Walter Bonilla    1.631.926.0342    [walter\\_bonilla@us.aflac.com](mailto:walter_bonilla@us.aflac.com)

American Family Life Assurance Company of New York (Aflac New York)



## The NAPA Major Account Program

\*\*\* **FREE MONEY GIVEAWAY** \*\*\*



Want to put more money in your pocket  
and do nothing more than you do now?



You already buy parts and supplies for your business so why not buy from NAPA and earn 2% rebate!

The Association and NAPA developed a complete, competitive supply program designed to boost your backroom profits and meet your customer needs. Here's what it includes:

### BENEFITS TO ASSOCIATION RETAILER

<b><u>Quality</u></b> Products that meet or exceed OEM specifications	<b><u>Consistent</u></b> Nationwide Parts Warranty
<b><u>Customized</u></b> Pricing -Reduced Parts Costs	<b><u>Availability</u></b> -Up to 342,000 Part Numbers
<b><u>Improved</u></b> Inventory Turnover	<b><u>Broader</u></b> Inventory Coverage
<b><u>Less</u></b> Downtime -Higher Gross Profitability	<b><u>Obsolescence</u></b> Protection
<b><u>Increased</u></b> Field Contacts -700 Factory Representatives	<b><u>Tailored</u></b> Local Inventories
<b><u>Consistent</u></b> Manufacturers Throughout Our System	<b><u>Recognized</u></b> Consumer Brand
<b><u>More</u></b> Effective Shop Inventory -Reduced Investment and Higher Productivity	
<b><u>Prolink</u></b> Internet based catalog, 24/7 parts availability and pricing	

### PROFIT PLAN

Very competitive pricing on NAPA Premium and Value Line products  
Special quarterly stocking incentives  
Quarterly product discounts to enhance competitive pricing during key selling seasons  
Discount on electronically ordered parts from participating stores  
Prompt payment discount terms (2% 10, Net 20)

### A BRIEF LOOK AT NAPA

Since 1925, NAPA (**National Automotive Parts Association**) has helped businesses expand their parts coverage and maximize turnover and ROI. They offer an unparalleled package for people, products and programs to increase your productivity:

More than 5,800 **NAPA AUTO PARTS** Stores Nationwide

- Strategically located Distribution Centers servicing all 50 states
- Computerized inventory control linked to your station
- Highly trained Factory Reps.
- Training for you and your employees

(O V E R)

Now...what do you have to do to participate in the NAPA Program? It's easy. You just have to:

- Register in **NAPA** Major Account Program with the Association
- Stock a minimum of four product lines
- Designate **NAPA** as first call supplier, and
- Purchase a minimum of \$7,500 per quarter (Average \$2,500 per month)

It couldn't be easier so why not join today. **No risk**...if you don't meet the quota you just don't receive the rebate, nothing lost...but additional profit could be gained!

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