

# SSRA

Service Station & Repair Shop Association of Central New York  
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February 2010

## Attention Tobacco Retailers

The attorneys who are handling the lawsuit to have the tobacco registration fee returned to 2009 levels met with the Judge and an assistant attorney general in the Judge's chambers on January 26th. The case was reargued for about an hour.

Our attorney reports,

- The Judge is expected to rule within 60 days.
- Our attorney feels fairly optimistic about our chances.
- He feels the court understands our arguments.

We now need to push our legislative agenda hard. Call your assemblymen and senator and get their support for Bill A8817 - S6083. It sets the annual license fee at the much more reasonable \$200 level, with a \$100 surcharge per point on an establishment's record. Licenses for vending machines will likewise be set at a \$100 level. You can make an appointment to see them in the district or make an appointment for the association to visit them in Albany.

Remember, if we win, the money you save will be YOURS.

**Bill Number: S6083 – A8817**

**Reduces Tobacco License Fees**

**Sponsor: Senator Stachowski – Assemblymen Magee**

The subject bill amends the New York State Tax Law, concerning the registration fee for a retail tobacco dealer license. It increases the annual registration fee for retail dealers of tobacco products and vending machines.

The bill revises the registration fee for retail businesses that sell cigarettes and other tobacco products to \$200 per year. It also places a surcharge of \$100 for an establishment with one point on its tobacco enforcement record and an additional surcharge of \$200 for an establishment with two points on its tobacco enforcement record. Vending machines that dispense tobacco products are sold will be licensed at \$200 per year, rather than \$250, \$625, or \$1,250 depending on gross sales under existing law.

The 2009-10 budget bill A.158B increased the annual registration fee that retail establishments selling tobacco products pay to the state Department of Taxation and Finance. The 2009 fee was \$100 per store. Under the recently approved budget, however, the 2010 fee will be \$1,000, \$2,500, or \$5,000 per store depending on the store's gross sales of all products, not just tobacco. Service station's gross sales are artificially inflated because of the high price per gallon of motor fuel with very little of the amount being profit for the retailer.

Retailers were originally told that the purpose of this fee increase is to maintain a registry of retail tobacco dealers for taxation and enforcement purposes. The fee was supposedly not to generate extra revenue for the state budget or penalize tax-collecting businesses for selling tobacco to adult customers in accordance with state and local regulations.

Increases of 900%, 2,400% or 4,900% in these small business fees are outrageous, particularly in the midst of the worst economic recession in 40 years. Moreover, as New York State struggles to retain jobs, this fee hike is specifically designed to force 5,000 to 10,000 retail stores to discontinue selling tobacco, sacrificing a major product that drives customer traffic and contributes to their overall success.

Supporters of this fee increase claim that having less licensed tobacco retail outlets would help stop smoking. Ridiculous! It would only drive more smokers to buy from unlicensed sources of tobacco, such as tribal stores, the Internet, and the black market - further reducing state excise tax and sales tax revenue.

Also the reduction of customers going to convenience stores to buy tobacco products would result in a decrease of outlets that sell New York Lottery tickets. The reduction of

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tobacco taxes and lottery sales will offset any increase in revenues realized for the increase in the tobacco fee.

The legislature must come to realize the small business is the heart of New York's business community. Draconian taxes and fees will help us emerge from this recession. The Association supports this bill and ask that it be passed into law.

### **Let's Close the Budget Gap By 1 Billion Dollars Each Year – Every Year**

How much tax each year is going uncollected on cigarettes in New York State? How about \$1 billion? That is, at least, according to the March 2009 estimate arrived at in a study by economist Brian O' Connor, Ph.D., entitled An Update – Additional Cigarette Tax Revenue Sources For New York State. So why is the Governor looking for a \$1 per pack increase in cigarette taxes, rather than enforcing laws designed to collect what is already owed.

"Not all lost taxes are easy to identify and collect," said Ralph Bombardiere. "There are taxes lost to other state as residents by out of state due to the relatively high price in New York. This is particularly the case in New York City, where residents cross to New Jersey to buy cigarettes. It is also true of illegal Internet sales, where often cigarettes sold to New Yorkers go untaxed."

"The difficulty in these situations is that the state is left with no option but to collect from the buyer, and it is an arduous task to hunt them down and collect," continued Bombardiere. "There is however one group that of retailers from which the state can easily collect taxes. Those are the Native Americans, which sell cigarettes to non-Natives. All that needs to be put in place is a coupon system to allow sales to Native Americans. By collecting these taxes, New York will collect the lion's share of its uncollected cigarette taxes."

An existing state law requires state to promulgate regulations for the collection of these taxes, but Governor Paterson refuses to enforce it. Enforcing current tax laws to collect that money should be the focus of any new cigarette tax initiative. A higher tax rate would only worsen tax evasion throughout the state.

Each increase in the cigarette tax over the past 10 years in New York has given more incentive for smokers to dodge the tax. At the same time, there has been no effort to close off established tax-avoidance channels, such as sales on reservations. O'Connor's study found that as a result, half the cigarettes consumed in New York go untaxed."

"Experience shows that every time you increase the state cigarette excise tax, or increase fees on legitimate retailers, more smokers are enticed to evade taxes," Bombardiere said. "It chases business away from tax-collecting stores. Evasion thwarts anti-smoking efforts, by eliminating the financial incentive to quit. It rewards retailers who are beyond the reach of health department monitoring to detect and punish underage sales

Let's do something to really balance the budget, provide an incentive to quit, and just plain be fair to all tax-paying

New Yorkers. Lets collect the taxes that are already in place.

### **Bill Number A.9467**

#### **Makes Motorcycle Noise Part Of Inspection Assemblyman Lancman**

The subject bill amends the New York State Vehicle and Traffic Law, concerning inspections of motorcycles to include a sound level test. The bill is supposed to combat an alleged problem of motorcycle noise by requiring a noise test during the annual motor vehicle inspection process.

The bill amends the State Vehicle and Traffic law by requiring a metered sound test be performed on all motorcycles during the annual inspection process to ensure compliance with the sound level requirements currently in the Vehicle and Traffic Law.

Currently, there is a maximum decibel sound level for motorcycles in the V and T Law. This bill places the onus on State inspection stations to inspect and fail motorcycles with exhaust noise above the allowable limit. There is no testing of motorcycles for sound levels at this time. This bill will force compliance of existing sound restrictions.

In order for an inspection station to inspect motorcycles a separate license is required. Dealers must apply, pay another fee, and install another sign, in order to comply with the mandates to inspect motorcycles. The inspection fee is only \$6.00, of which the station pays the State \$2.00 for the sticker, affording the station \$4.00 gross profit. Adding a new item to the inspection list that will require the purchasing of new equipment is unreasonable. The association has received numerous complaints from inspection stations about the motorcycle fee. Many have said they will have to discontinue inspecting cycles.

If the State wishes to inspect other items on motorcycles, trucks or even cars it must increase the fee. The fee has not been increased since 1985. The Association opposes this bill and urges it be defeated.

### **Bill Number, A9435**

#### **Requires Self-Service Stations To Provide Full Service To Handicapped Sponsor: Assemblymen Latimer**

The subject bill amends the New York State General Business Law, to require motor fuel service station to assist disabled motorists. It provides that a motorist with a physical handicap receive assistance when filling his or her gas tank at a self-service gas station. The bill provides for the following:

- Gasoline stations offering the sale of motor fuel at self-service islands to provide a minimum of one self-service island device that allows a disabled person parked at that station in a vehicle, displaying a disabled license plate issued by New York State or a valid disabled license plate issued by any other state, to signal an employee that the driver requires assistance in

- dispensing motor fuel.
- An attendant to dispense motor fuel at no additional cost beyond the price that the fuel is being offered to the general public.
- Installation of a device that alerts the employee inside the building that assistance is required at the pump, and be mounted between thirty-four and forty-eight inches from the ground.
- A sign conspicuously posted at the self-service station that meets the American Disability Act Accessibility Guidelines identifying the call device and the hours when assistance will be available and operable from the vehicle
- Service stations will not be required to provide this service during times when the fueling station is being operated on a remote control basis by only one employee or if a passenger in that vehicle is capable of dispensing motor fuel.

If a service station owner owns only one gasoline station in New York State, then that gas station must be in compliance within one year of the effective date of this bill. If an owner owns more than one gasoline station in New York State then the owner must make at least fifty percent of those gasoline stations compliant with this bill within one year of the effective date of this bill. In either case the owner must be in compliance within three years of the effective date.

The current handicap law has been in effect for many years. There have been no complaints or major problems to our knowledge. This assault on the law has been from individuals seeking to make themselves look important. The Association must oppose this bill and ask that it be defeated. Mandating full service stations will place attendants, and clerks in danger. Holdups and crime occur at service station all the time. The cost of the extra attendant needed to accommodate this law places the stations in financial jeopardy. Also, why solve a problem when one does not exist. We challenge the sponsor of this bill to identify a significant number of problems where a handicapped person was not able to get motor fuel.

#### **Bill Number: A9490**

#### **Prohibits Sale of Hazardous Waste Generating Automotive Refinishing Products To Unlicensed Individuals**

#### **Sponsor: Seminerio**

The subject bill amends the General Business Law, in relation to restricting the sale of automotive refinishing material. It prohibits the sale of automotive refinishing material, which may result in generating hazardous waste by individuals not licensed to use such materials. This creates the possibility of bypassing regulatory agencies. The provisions of the bill prohibit any seller or supplier of automotive refinishing material labeled "For Professional Use Only," which will generate a hazardous waste, to individuals who do not meet the local ordinances for the application of

these materials. The bill also includes provisions for the imposition of a civil penalty if it is found, after notice and hearing, to have violated the provisions of this law.

In recent years the auto body repair industry has been subjected to increasingly vigorous environmental regulation by federal, state and local regulatory authorities. The ultimate goal of these regulations is a cleaner environment. Current law still leaves unregulated the sale of these materials to individuals who fail to meet environmental regulatory requirements that govern the use of these products. Also, while auto body repair shops must account for the use and disposal of hazardous waste materials purchased through trade suppliers, individuals using these material on their own are not regulated. This bill simply prohibits the sale of any automotive refinishing material labeled "For Professional Use Only" to any individual not possessing proof of compliance with applicable local ordinances and licensing provisions mandated by the appropriate regulatory authorities.

This bill promotes the objective of environmental protection by prohibiting the use of these materials by individuals not subject to regulations that require proper disposal. The bill will assist in the removal of unregistered and unlicensed repair shops, which operate in the state illegally. The removal of unregistered repair shops would help promote a better, more efficient and more environmentally sound repair process. It will also result in the generating of revenues for the state. Sales tax revenues previously lost due to repairs being performed at unregistered "backyard" repair shops would be collected because these illegal repairs would be done at licensed and registered repair facilities.

For the above reasons the Association supports this legislation and urges it become law.

#### **Waste Tire Management And Recycling Fee**

The 2010-11 New York State Budget has a provision that eliminates the sunset clause on the Waste Management and Recycling Fee. The Waste Tire Management and Recycling Fund will be renamed the "Waste Management and Cleanup Fund" and the authorized purpose of the fund is going to be expanded.

The Environmental Conservation law established priorities for the management of waste tires and created a \$2.50 fee charged on each new tire sold. This fee was to end in December 31, 2010. The proposed budget extends that deadline indefinitely. Also in the budget is the elimination of the sunset date of March 31, 2011 requiring a tire service business to submit a report to the Department of Tax and Finance, meaning that this reporting requirement will continue indefinitely.

The budget also expands the purpose of the fund to include administration and enforcement of the Environmental Conservation Laws. These provisions of the budget will need to receive legislative approval and then be signed into law. The 2010-11 budget contains many items that are controversial, and timely passage is unlikely.

## **Wine Industry & Liquor Store Revitalization Act**

The NYS 2010-2011 Budget contains a provision called the Wine Industry and Liquor Store Revitalization Act. This bill permits the sale of wine in grocery and drug stores, which currently only qualify for a beer license. It also will provide for expanded opportunities for liquor stores to sell items complementary to their business and to install ATM machines. The bill will also allow multiple licenses, authorizes liquor stores to sell to retail establishments licensed for consumption on the premises, and also provide for limitations on the number of licenses issued under the ABC law.

The bill would allow for existing liquor storeowners to be able to auction off their existing licenses to the highest bidder and sell any additional licenses. The State Liquor Authority likewise would be permitted to auction off licenses that they have cancelled or revoked. Also, liquor stores will be allowed to sell to restaurants and certain grocery stores. The annual fee for the license will be \$500 for each grocery or drug store to sell wine. The annual fee for applicants who hold two or more grocery or drug store licenses will be \$1,000.

Section 11 of the Bill provides for the licensing of grocery stores and drug stores to sell wine for consumption off premises and will institute a fee structure. A graduated franchise fee is part of the license provision. The franchise fee is 0.4 percent of the gross sales of the business. The average service station convenience store would pay fee, which would be a one-time shot, of approximately \$6,400. If the gross sales are higher than \$1,000,000, the fee is increased up to 0.55 percent of the gross sales.

It amends the law to provide that any person under the age of 18 years may handle and deliver wine and may accept payment for wine sales when under the direct supervision of someone older.

The State Liquor Authority will also be required to report the length of time it takes to approve an application for a liquor license.

This issue has been raised in other legislative sessions, but the budget is predicting that this will bring a \$52 million dollar windfall to the State. The bill is not expected to be received without argument. We will keep monitoring this bill and look to amend it in some way to accommodate some of our needs.

## **Congressional Leaders Look to Exclude Republicans from Health Care Reform Discussions**

With different versions of health care reform legislation now having passed the House (H.R. 3962) and the Senate (H.R. 3590), Democratic leaders are looking to bypass the traditional methods by which Congress would negotiate a compromise between the two bills. Generally, a formal conference committee would be formed with House and Senate members from both parties to meld the two pieces of legislation into one. However, according to some on Capitol Hill, Democratic leadership in Congress is looking to hold a series of informal meetings to construct a single piece of

legislation to be voted on by both chambers of Congress. The process will include the administration, but will exclude Republican lawmakers.

The most likely course is to have the House take up any amended legislation first and then have it acted upon by the Senate, which would need to hold together its tenuous 60-vote majority. In order to retain enough votes for Senate passage, the House will apparently need to abandon the public option provision that was a key part of the House legislation. Other issues to be reconciled include the structure of insurance exchanges, date of implementation, abortion funding provisions, employer mandate structure, funding, and premium subsidies levels. The exact timeframe for the process is unclear, but congressional leaders and the administration had hoped to have a bill passed, and possibly enacted, before President Obama's State of the Union address in early February.

## **EPA Extends Comment Period on Proposed Approval of New A/C Refrigerant**

The U.S. Environmental Protection Agency (EPA) has extended the comment period for its proposed rule to permit the use of HFO-1234yf as a refrigerant in motor vehicle air conditioners. The proposal issued under the Significant New Alternatives Program (SNAP) would permit the use of 1234yf only on new vehicles. There is considerable interest from the vehicle manufacturers in 1234yf due to the significantly lower global warming potential of the substance over the current refrigerant used on vehicles, R-134a.

EPA's SNAP proposal has received criticism from car companies because of the extensive vehicle modifications that would need to be made to use the new refrigerant due to concerns expressed by EPA regarding flammability. In addition, the SNAP proposal does not, at this point, permit the retrofitting of the current vehicle population, but the agency is accepting comments on this issue. Issues related to use of the new refrigerant by do-it-yourselfers is expected to be addressed by a soon to be issued rulemaking under the Toxic Substances Control Act (TSCA).

The original comment period was Dec. 18, 2009, but the agency determined to extend it until Feb. 1 in response to both a request from AAIA and the Automotive Products Refrigeration Institute (ARPI), and due to the availability of new supporting materials.

## **OSHA Announces Hearings on Proposed Revisions to Hazard Communication Standard**

OSHA has scheduled a series of informal hearings on its proposal to revise the Hazard Communication Standard to conform with the United Nations Globally Harmonized System of Classification and Labeling of Chemicals (GHS). GHS is intended to provide a single system to classify chemicals, labels and safety data sheets with the intention of increasing the quality and consistency of information provided to workers, employers and chemical users.

# Lawley

New York State Association of  
Service Stations & Repair Shops, Inc.

## Declares Dividend

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Service Station and Repair-shop Association of Central New York

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- Reduced premiums by being a member of our groups.
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IN ORDER TO ACCOMMODATE OUR MEMBERS,  
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PLEASE NOTE DATES, TIME, AND LOCATION OF THE NEXT SEMINAR**

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\*Members with active accounts will receive a cash back rebate check after every 12 billing cycles of service. The cash back rebate will be 3% of the annual electricity supply charges per business account and 2% per residential account. For active accounts, a \$50 activation bonus check for business accounts or a \$25 activation bonus check for residential accounts will be mailed at the close of your second billing cycle with Energy Plus. Energy Plus reserves the right to modify or discontinue the program. This offer cannot be combined with other offers. Offer valid for all service areas in New York, excluding LIPA.

\*\*By signing up with Energy Plus, you will qualify for a waiver of any sales tax charges that appear on the delivery portion of your electricity bill. For New York City customers, the city portion of your sales tax will not be waived due to recent changes in the New York City tax code. Exceptions according to specific tax laws in your area may apply. Please refer to your bill for your actual tax rate.

# Corporate Accounts

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Single User Pricing	Monthly Payment		Activation	
Manager/Repair/Estimator (TeamWorks)	\$357	\$214	\$199	\$0
ManagerPlus/Repair/Estimator (TeamWorks Plus)	\$397	\$244	\$199	\$0
Manager/Repair/Estimator (TeamWorks) with OnDemand5.com	\$328	\$204	\$199	\$0
ManagerPlus/Repair/Estimator (TeamWorks Plus) with OnDemand5.com	\$368	\$234	\$199	\$0
OnDemand5.com (3-users)	\$199	\$154	\$199	\$0
OnDemand5 Repair and Estimator	\$229	\$164	\$199	\$0
OnDemand5.com (Repair Only)	\$189	\$144	\$199	\$0
OnDemand5 (Repair Only)	\$189	\$154	\$199	\$0
Multi-User Pricing	Monthly Payment		Activation	
Manager/Repair/Estimator (TeamWorks)	\$437	\$254	\$199	\$0
ManagerPlus/Repair/Estimator (TeamWorks Plus)	\$487	\$294	\$199	\$0
OnDemand5 Repair and Estimator	\$278	\$220	\$199	\$0
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Promo Code: POPDSCT ID: 463				

Corporate discount has already been applied. Please see Exhibit B for details. Not combinable with other offers or discounts. Include first month's payment with all orders. New customers only. **Expires 3/31/10.**



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# Corporate Accounts

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Single User Pricing	First 6 Months	After 6 Months	Activation	
Repair & Estimator (Desktop)	\$99	\$164	\$199	\$0
OnDemand5.com	\$99	\$154	\$199	\$0
Multi-User Pricing	First 6 Months	After 6 Months	Activation	
Repair & Estimator (Desktop)	\$150	\$220	\$199	\$0
Promo Code: COMSWAP ID: 463				

**Must have one of the following in order to be considered for the Competitive Swap Out Promo:**

- Either a shop management system or Alldata, Chilton Pro or Identifix.
- Repair or Repair / Estimator orders that are written under the COMSWAP promo, must have proof of a Repair product.
- User must provide proof of current Competitive subscription to qualify. Competitive customers who have been expired 90 days or less are eligible for this promo. Include first month's payment on order.



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# Corporate Accounts

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Single User Pricing	First 6 Months	After 6 Months	Activation	
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TeamWorks with ManagerPlus	\$169	\$244	\$199	\$0
TeamWorks with Manager and OnDemand5.com	\$139	\$204	\$199	\$0
TeamWorks with ManagerPlus and OnDemand5.com	\$159	\$234	\$199	\$0
Multi-User Pricing	First 6 Months	After 6 Months	Activation	
TeamWorks with Manager	\$169	\$254	\$199	\$0
TeamWorks with ManagerPlus	\$199	\$294	\$199	\$0

Promo Code: COMSWAP ID: 463

### Must have one of the following in order to be considered for the Competitive Swap Out Promo:

- Either a shop management system or Alldata, Chilton Pro or Identifix.
- Repair or Repair / Estimator orders that are written under the COMSWAP promo, must have proof of a Repair product.
- User must provide proof of current Competitive subscription to qualify. Competitive customers who have been expired 90 days or less are eligible for this promo. Include first month's payment on order.



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