
NYS ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

6 WALKER WAY, ALBANY, NY 12205

April 2011

(518) 452-1979 -- (716) 656-1035 – state@nysassrs.com – www.nysassrs.com

New Law – Use Of Lead Wheel Weights Illegal

A law has made the use of lead wheel weights illegal as of April 1st this year. Guidance has just been issued by DEC. What follows is Q&A designed to keep you on the right side of the law.

- As of April 1, 2011 any person replacing or balancing a tire on a motor vehicle (that is required to be registered under article fourteen of title four of the vehicle and traffic law), shall not use a wheel weight or other product for balancing motor vehicle wheels if the weight or other balancing product contains more than 0.1 percent lead by weight.
- After April 1, 2011 no person shall sell, offer to sell or distribute weights or other products used for balancing tires that contain more than 0.1 percent of lead by weight.
- Additionally, after April 1, 2012 a person may not sell a new motor vehicle that is equipped with a weight or other wheel balancing product that contains more than 0.1 percent lead by weight.

Some frequently asked questions and their answers.

Q. When does this new law go into effect?

A. This law was signed on September 17, 2010 and as of April 1, 2011 prohibits the use of lead wheel weights to balance tires and by April 1, 2012 no new vehicles may be sold with lead wheel weights.

Q. Are there plans to enforce the law immediately, or is there a grace period?

A. There is no grace period, and the regulated community is expected to be in compliance with the law on April 1, 2011. DEC is providing outreach to the regulated community.

Q. How do I know whether my wheel weight has lead in it?

A. Wheel weights may have a chemical abbreviation written on them. For weights made of steel, you may see the

chemical abbreviation "Fe" (for iron, the primary component of steel). The chemical abbreviation "Zn" may be visible on weights made of zinc. Both of these metals tend to be a little lighter in weight than those made of lead, so those weights should be larger than lead weights. You may want to contact the manufacturer if you have questions about the materials in your wheel weights.

Q. Does the law require that I replace lead wheel weights with compliant wheel weights?

A. The law does not require that lead wheel weights be replaced. However, if any work is done on a car's tire(s) that requires an old lead wheel weight to be removed or a lost wheel weight to be replaced, or if a lead wheel weight falls off in the process of working on a tire, the old lead wheel weight cannot be placed back on the tire. Any wheel weight installed on the tire will need to comply with the new law.

Q. If a car with lead wheel weights comes into my repair shop because the tires need to be rebalanced, do I have to install wheel weights made of compliant materials?

A. If you add or replace a wheel weight you have to replace it with a compliant wheel weight.

Q. If a car comes into my repair shop to have a flat tire fixed, and I remove a wheel weight, do I have to replace the wheel weight with one made of a compliant material?

A. If you remove the wheel weight and replace it, you have to replace it with a compliant wheel weight.

Q. What should I do with unwanted stock of lead weights?

A. Options may include returning the wheel weights to your supplier to see if it will exchange them for the type that comply with the new law; sending them for recycling as scrap metal, and disposing of them as a regulated hazardous waste. You cannot discard them in the trash.

Q. Can lead wheel weights be sent back to the supplier or manufacturer and replaced with compliant weights?

A. The law does not require distributors, suppliers, or manufacturers to exchange lead wheel weights with compliant wheel weights, but you can contact your distributor or manufacturer for more information about what to do with your noncompliant lead wheel weights.

Q. Can I sell a new motor vehicle with lead wheel weights?

A. After April 1, 2012, a new motor vehicle cannot be sold with wheel weights containing lead.

Q. Can I sell a used motor vehicle with lead wheel weights?

A. Yes. However, if lead wheel weights are removed from a tire for any reason prior to sale, the old lead wheel weight cannot be placed back on the tire. A wheel weight that complies with the new law will need to be installed on the car.

Q. What penalty provisions apply to a person that does not comply with the law or improperly stores or releases lead to

INSIDE THIS ISSUE

- 1-2 Use Of Lead Wheel Weights Illegal
- 2 EPA Approves End Use of 134a on New Cars
- 2 Attorney General Looking at Motor Fuel Prices
- 3 Tobacco Registration Fee Part Of Budget
- 3 FDA Panel Finds Menthol Cigarettes Don't Increase Risk of Disease
- 3-4 Getty Petroleum Marketing Sold
- 4 House Repeals 1099 Health-Care Law Provision
- 4 State Ensures Compliance At Auto Body Shops

the environment?

A. Any person who violates any of the provisions of, or who fails to perform any duty imposed by section 37-0107 or any rule or regulation promulgated pursuant hereto, shall be liable for a civil penalty not to exceed two thousand five hundred dollars for each such violation and an additional penalty of not more than five hundred dollars for each day during which such violation continues, and, in addition thereto, such person may be enjoined from continuing such violation.

Q. What should I do with lead weights that have been removed from a tire for balancing or repair?

A. Lead wheel weights should be recycled; recycling facilities can be found in the yellow pages.

EPA Approves Petition to End Use of 134a as a Refrigerant on New Cars

The U.S. Environmental Protection Agency (EPA) has approved a petition by the Natural Resources Defense Council (NRDC) to prohibit the use of HFC-134a as a refrigerant in new motor vehicles. Currently, 134a is a refrigerant used in nearly all motor vehicles. However, environmental groups are now targeting its use based on its high global warming potential (GWP). While there are not many good low-GWP refrigerants that have been approved by EPA for use on motor vehicles, the agency will soon issue a final rule that will permit the use of 1234yf as a substitute refrigerant on new vehicles. Considered the most promising of the substitute refrigerants, 1234yf has a GWP of 4, while 134a has a GWP of 1400.

The approval of the petition means that EPA will initiate a proposed rulemaking, which would delist 134a as an acceptable substitute refrigerant under the agency's Significant New Alternatives Program (SNAP). Among the issues that will need to be determined during the rulemaking process is the time frame for when alternative refrigerants will be available and the amount of lead time car companies will need to incorporate those new alternatives. The rulemaking will not include any proposal to restrict the use of 134a in servicing vehicles that currently contain the refrigerant, nor require retrofitting of legacy vehicles with a new refrigerant.

The approval of the NRDC petition represents a partial victory for the environmental group, which had asked for a prohibition on use of 134a in multiple areas including aerosols and commercial refrigeration units. However, the agency believes that the petition did not provide sufficient information to extend the prohibition beyond new vehicles at this time. NRDC has vowed to continue pressuring EPA to phase out 134a for other uses.

Attorney General Looking at Motor Fuel Prices – Dealers Look Out

After an article appeared in the Binghamton News questioning the rising price of gasoline, the New York State Attorney General Schneiderman announced that he will review complaints in Central New York and the

Southern Tier. He indicated that drivers have a right to know why it's costing so much to fill their gas tanks and he intends to collect and analyze gas prices in the area to determine the cause.

The investigation will be directed by the same Deputy Attorney General that conducted investigations following the accusations of price gouging after Hurricane Katrina in 2005. Several members have received a formal written request for their wholesale and retail price data, which could cover weeks or months. They will be looking to determine if you violated the state's anti-price-gouging law by excessively increasing your gas profit margin. Be careful.

The state's price gouging law (Section 396-r of the General Business Law) states that "During any abnormal disruption of the market for consumer goods and services vital and necessary for the health, safety and welfare of consumers, no party within the chain of distribution of such consumer goods or services or both shall sell or offer to sell any such goods or services or both for an amount which represents an unconscionably excessive price. For purposes of this section, the phrase 'abnormal disruption of the market' shall mean any change in the market, whether actual or imminently threatened, resulting from stress of weather, convulsion of nature, failure or shortage of electric power or other source of energy, strike, civil disorder, war, military action, national or local emergency, or other cause of an abnormal disruption of the market which results in the declaration of a state of emergency by the governor." We have asked the A.G.'s office for clarification as to whether we are in an abnormal market disruption and, if so, when it began. They have not furnished us with a definitive answer.

If you are contacted by the A.G.'s office you should consult a lawyer as soon as possible. Usually the request for documents is sent with a letter or subpoena giving very little time for you to collect all of the desired information. Counsel can work together with you and the A.G.'s office to arrive at a solution on how to satisfy your obligation or send the letter to the association office.

Although this looks like a "witch-hunt" it can be serious for the individual retailer. During the post-Hurricane Katrina price increases several of our members were intimidated into paying thousands of dollars in penalties to the A.G.'s Office just to prevent the potential costs of thousands of dollars in legal fees to defend their legitimate motor fuel pricing.

Hours after Mr. Schneiderman's announcement, NYACS reacted with the following statement to the press:

"We respect the Attorney General's interest in reviewing gas prices, but we wonder how objective the inquiry will be if he's accusing us of 'slamming' consumers before the investigation has even begun.

"We empathize with the financial and psychological distress experienced by our gas customers during this period of price volatility. It's no picnic for local retailers either, having to buy motor fuel 10,000 gallons at a time and forfeit more than half of their gross profit margin to Visa or Mastercard just to electronically process purchases made with credit cards.

"If people suspect the seller of any product or service is

overcharging, the marketplace has a solution - competition. Whether it's motor fuel, fresh produce, or restaurant meals, those who overprice lose business to those who price competitively. Pointing fingers may be a great way for consumers to vent frustration and politicians to make headlines, but the best and simplest recourse for price disparities between gas stations is to just buy from the lower-priced one.

"Our retail members have always been convenient scapegoats for the escalating cost of motor fuel. But the reality is that they have no control over events in the Middle East and on Wall Street that precipitated the surge in wholesale prices they have had to reluctantly pass along in the form of higher prices at the pump."

Tobacco Fee Registration Part Of Budget

Part T of the Revenue Article VII budget bill (S.2811-C/A.4011-C) amends the tobacco registration fee to \$300 for each retail business and \$100 for each vending machine. It also provides for a refund if a fee greater than established under the new provisions was paid in 2010 and 2011. The new fee structure is made retroactive to apply to registrations for the 2010 calendar year and thereafter.

Businesses which paid \$100 per year following the TRO will have to make up the difference. That means a payment of \$200 for 2010 and \$200 for 2011, in addition to the upcoming payment of \$300 for 2012. This \$700 only applies if you paid \$100 for 2010 and 2011. Those who paid \$1000, \$2500, or \$5000 will have their balance refunded.

Starting in 2013 stores will pay \$300.

FDA Panel Finds Menthol Cigarettes Don't Increase Risk of Disease

The Tobacco Products Scientific Advisory Committee's draft report finds that menthol cigarettes may not boost the chance of disease more than other cigarettes, the Dow Jones News Service reports. The report found not enough evidence that menthol intensifies smoke inhalation or exposure to nicotine. The report also showed that menthol did not increase the risk of disease. However, the committee's draft report did find that the flavoring could make smoking more palatable to young smokers. Analysts reported that the study had no surprises, given what panelists had said before during public hearings.

Lorillard Inc. shares soared 4.2 percent to reach \$80 in premarket trading after news of the draft report. Lorillard produces the majority of menthol cigarette brands on the marketplace. Currently, menthol cigarettes account for close to a third of all cigarette sales volume.

"While the headlines read quite positively thus far pertaining to the release of these chapters, we believe this is quite one-sided," said analysts from Stifel Nicolaus. "We cannot call these chapters a net positive for U.S. tobacco stocks."

Last week, Lorillard Inc. and R.J. Reynolds Tobacco Co. [requested](#) a federal court to prohibit the FDA from using advisory panel reports to craft rules on menthol cigarettes,

among other concerns.

Getty Petroleum Marketing Sold; Marketers Ask What's Next For Getty, Lukoil Brands

Getty Petroleum Marketing, the company that leases about 800 branded stations from Getty Realty, has been sold. Uncertainty about the financial capability of the new buyer shaved more than 20% of the value off of Getty Realty's stock in publicly traded markets, and has provoked questions about future growth for the Getty and Lukoil brands.

Getty Petroleum Marketing had been owned and operated as a subsidiary for some time by Lukoil Americas Corp., but the subsidiary was sold Feb. 28 to Cambridge Petroleum Holding Inc., described as an affiliate of Cambridge Securities LLC. The company isn't known to petroleum property mergers & acquisitions specialists but has a Manhattan, N.Y., address and is headed by Bjorn Aaserod. Cambridge Securities is described as a "firm specializing in investments and operations in the oil and gas services industry."

The same press release said the sale took place "following an extensive review and sale process" and did not disclose terms. But the new operator missed a payment due to Getty Realty on March 1, and the realty company had to divulge on March 2 that its largest tenant had missed a rent payment because of the transfer.

Getty Realty was told that it would be paid on or before March 7, but tersely noted that it "cannot provide any assurance that Marketing will meet its rental, environmental or other obligations under the Master Lease." Financial analysts believe that Getty Petroleum Marketing's rents account for about 60% of Getty Realty revenue.

In late 2009, Getty Petroleum Marketing exited the direct-supply gasoline business when it sold 164 stations to its parent company, Lukoil North America for \$195.5 million. (None of those stations were leased from Getty Realty.) Lukoil also received supply contracts for 339 other stations as well as a home heating oil company and propane company in Pennsylvania. Previous to that move, the marketing company divested its blending operations to Lukoil Pan America, and closed two marketing regions and eliminated 194 jobs. Lukoil CEO Vadim Gluzman noted at the time that any future growth would come via the Lukoil operations. Lukoil is often rumored to be a potential buyer of refining and marketing sales, but the company has so far had limited downstream reach on the East Coast.

When Lukoil announced the sale of the marketing company, it included a quote from Cambridge CEO Bjorn Aaserod, who commented "we are impressed with Getty's infrastructure, its excellent talent pool and growth prospects."

Some Getty marketers chuckled when asked about the quote, noting that the Getty brand has "listed in the wind" for several years. Lukoil eliminated various incentive rebates and other brand support in recent years, as well as downstream support people. It is heard that many of the terminals operated by Getty are due to shut down shortly, although throughputters and exchange partners received

guarantees that the Albany, N.Y., facility would remain open through March.

Getty Petroleum Marketing stopped posting wholesale prices on March 1, and it's not clear where marketers will get their branded supply. Many had been told of an upcoming transfer of the supply assignment, but they were unclear whether they would continue to buy product on a formulae basis from Lukoil.

Getty Realty, meanwhile, has broadened its rent base well beyond Getty and Lukoil stations in recent years, even though Getty Petroleum Marketing is still the largest tenant. Earlier this year, the REIT picked up 59 Mobil-flagged stations in New York City suburbs for some \$111.3 million. The stations are leased to CPD NY Energy, a subsidiary of Chestnut Petroleum Distributors.

House Repeals Unpopular

1099 Health-Care Law Provision

The U.S. House of Representatives voted 314 to 112 to repeal the unpopular 1099 tax provision contained in the health-care law, reports the *National Journal*. However, it's unlikely the Senate will provide similar support.

According to the news source, the House bill offsets the estimated \$17 billion in lost revenue from the 1099 requirement by requiring those on the threshold of 400 percent of the federal poverty limit to pay back insurance exchange subsidies if their income increases over the course of a year. House Democrats who oppose the measure say it would impose tax increases on the middle class.

"If this bill would become law, it would mean a tax increase for hundreds of thousands of middle-income taxpayers," House Ways and Means ranking member Sander Levin (D-MI) said during debate, adding, "What this bill would do would be to saddle middle-income taxpayers in future years, pure and simple."

Although businesses don't have to fill out the actual 1099 tax forms until 2013, they will have to get ready to track all purchases over \$600 in 2012 to comply with the reporting requirement. Such uncertainty could affect purchasing and accounting decisions.

House Majority Leader Eric Cantor (R-VA) commented that the next step is negotiation between Senate and House versions of the measure.

"We'll have to see where the differences lie between the two bills," Cantor said. "Hopefully we can get this to the president's desk as quickly as possible."

In early February the Senate voted 81 to 17 to roll back the 1099 tax reporting requirement, although it's version of the bill would authorize the Office of Management and Budget to find an equal amount of unused funds, essentially punting the responsibility of coming up with the cash.

Industry Groups Challenge

EPA's 15 Percent Ethanol Rule

Nine energy, food and retail industry groups filed a federal court challenge to the Environmental Protection Agency's (EPA) decision to allow refiners to increase ethanol use to 15 percent in vehicles manufactured between 2001 and 2006, the *Washington Examiner* reports.

The suit claims the EPA lacks statutory authority and that the move places businesses and consumers at risk.

Last Friday's filing supplements an earlier challenge to the EPA's ruling to allow E15 to be used in vehicles manufactured after 2007.

"The EPA's decision improperly authorizes an increase in ethanol content of gasoline from 10 percent to 15 percent," said the American Petroleum Institute's Director of Downstream Operations Bob Greco. "EPA's second E15 waiver was based on just as shaky – if not shakier – legal and technical grounds than the first waiver decision."

Tests have uncovered potential compatibility issues with E15 fuel, including the ability for engines to accommodate the higher ethanol mixture and the ability of station pumps and underground storage tanks to handle it.

State Takes Action To Ensure

Compliance At Auto Body Shops

A three-day compliance sweep of auto body shops by New York State Environmental Conservation Police Officers (ECOs) last week resulted in the issuance of more than two dozen administrative and criminal appearance tickets, Peter A. Scully, Regional Director of the New York State Department of Environmental Conservation announced today. The compliance initiative was prompted by complaints DEC had received from industry representatives regarding non-compliant facilities in the Town of Brookhaven, Scully said.

"Auto body shops are a vital part of New York's automotive industry and an important part of our local economy," Director Scully said. "DEC took this action to protect those business owners who comply with environmental laws from being placed at an economic disadvantage by operators who ignore regulations to cut costs."

During the three-day investigation ECOs inspected 28 facilities and issued 17 Administrative Conservation Appearance Tickets (ACATs) and eight Environmental Conservation Appearance Tickets (ECATs). ECATs are criminal tickets.

Nine ACATs were issued for lack of registration, four for failure to maintain equipment and four for producing unreasonable fumes and odors. ACATs are handled through DEC's administrative processes. ACATs typically result in Orders on Consent being signed by DEC and the facilities that were issued tickets. Orders on Consent contain requirements and guidelines for bringing facilities into compliance with DEC regulations. Fines can also be levied as part of this process. Four ECATs were issued for disposing of noisome or unwholesome substances on or near a highway and four ECATs were issued for the producing unreasonable fumes and odors.

All the ECATs, which are criminal tickets, were issued to individuals who were operating illegal body shop operations some of which were acting as backyard enterprises. The majority of ACATs were issued to auto repair businesses that were operating illegal body shops.

Lawley

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

Declares Dividend

Workers Compensation Safety Group #536
Pays dividend for the 18th year.

35%

(Applies to Policy Term 5/1/08 - 5/1/09)

Dividend checks will be mailed direct to your address by
The State Insurance Fund

Lawley – Group Manager
Workers Compensation State Fund Safety Group #536

Jim Bodecker - (716) 849-8202
Lawleyinsurance.com

*Recent Dividend History

35%	08-09
35%	07-08
30%	06-07
30%	05-06
25%	04-05

Insurance | Employee Benefits | Risk Management

Rest insured.

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:

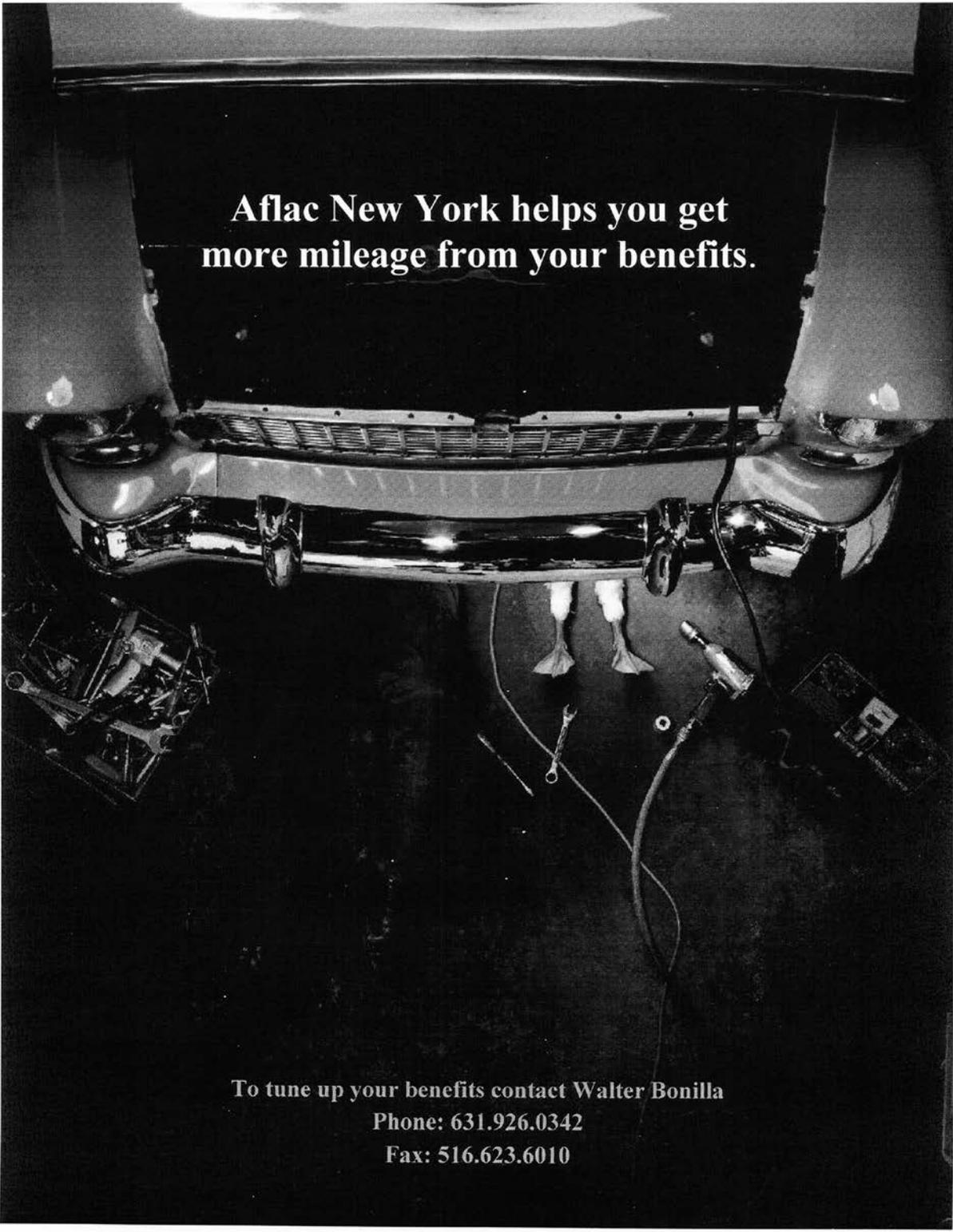
- Five billable hours of legal services for representation and defense at Department of Motor Vehicles or any other New York state Administrative Proceeding or Hearing for repair-shop related issues, and in Small Claims Court, if your business is sued. The Plan does not include representation in any 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.

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**



**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

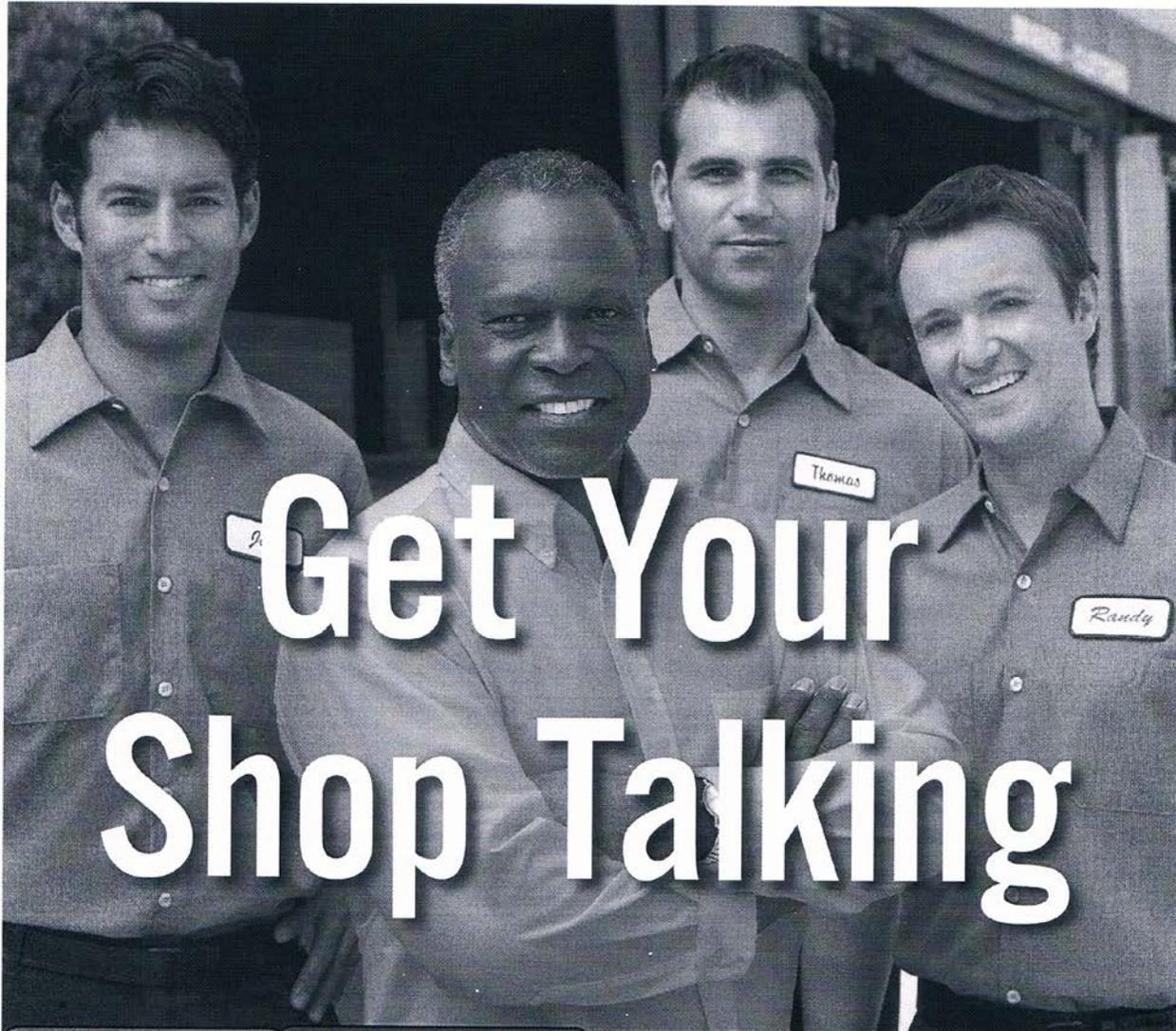
Aflac New York insurance complements your major medical insurance to help you create a more attractive employee benefits package. Our wide range of policies is designed to provide cash benefits to your employees if they become injured or sick. With Aflac New York policies, there are no deductibles, copayments,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

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





Get Your Shop Talking

Repair Information Services

Shop Management Solutions

Business Performance Services

Business Information Solutions

Mitchell1 **TeamWorks™**

Mitchell 1 TeamWorks combines the features of Manager, Estimator and Repair to seamlessly integrate all parts of your shop. From the moment your customer walks in the door, TeamWorks allows your Service Advisor to look up customer and vehicle information, calculate time to diagnose, check TSBs and prepare an estimate. Parts advisors order and track parts from your favorite vendors. Techs pull up work requested with associated diagnostic and service information, and enter recommended service. That's the kind of shop talk you can turn into profit!



888-724-6742
mitchell1.com

Mitchell1
Shop Management Solutions

© 2010 Mitchell Repair Information Company. The Mitchell 1 name is used herein by permission from Mitchell International, which has no ownership interest in Mitchell 1.



Keep Your Customers Coming Back

Repair Information Services

Shop Management Solutions

Business Performance Services

Business Intelligence Services

Mitchell1[®] eCRM[™]

Now you can turn customers into loyal, profitable repeat customers easily. Mitchell 1 CRM integrates seamlessly with your shop management system to track your customers' vehicle history and send timely scheduled service reminder postcards and e-mails automatically. You choose the postcards and customize with your logo and message – finally, a way to communicate your message to your customers that they'll be glad to receive.

- Service Reminder E-mails & Postcards
- Consumer Vehicle History Website
- Service Recommendations
- Custom Promotions
- Dedicated Marketing Support Center
- Return on Investment Reporting



800.410.0529
mitchell1.com/eCRM

Mitchell1[®]
Business Performance Services