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# NYS ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

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## **What's Coming?**

With the summer over and the eminent return to normal activities we need to set priorities for the association. In January there will be a new Governor and some policies will change for better or worse. We will need to monitor the attitude of the new administration as it relates to small business and especially the service station repair shop industry. This past year the association was asked to act or react to issues that were good and bad. For example:

### *Credit Card Fees:*

At \$3.00 a gallon dealers are paying up to nine cents per gallon to the credit card processor. Motor fuel dealers with margins between twelve and a half to fifteen cents a gallon figure that five and a half cents of that margin goes to the credit card companies. While there are alternate processors who will charge less than those selected by the oil companies, dealers are unable to use them because they are tied to the supplier software in the pump.

What can be done? It hard to say, but we could introduce legislation that will prohibit an oil company from forcing a dealer to use their processor. At the very least this will open discussions on the issue.

### *Zone Pricing:*

Zone pricing, if used properly, is a good marketing tool and can help some dealers. However, it has also been used as a weapon by oil companies to punish dealers for making

more margins than what is acceptable to the supplier. There has been a bill in Albany prohibiting zone pricing but it was flawed. In the next session we can amend the bill to make it acceptable to retailers. This bill will have a chance of passing.

### *Open Supply:*

Governor Pataki opened the door to allowing retailers to sell unbranded fuel. The Governor signed into law a bill that permits retailer to sell E85 fuel, 15% gasoline 85% ethanol without the oil companies consent. All that needs to be done is to change a few words to include all fuels. This bill will be a heavy lift, but legislators are convinced that the oil companies are gouging the motoring public. If we can show that by allowing service station dealers to sell unbranded product the price will come down, there will be interest in this legislation.

Open supply can also be a tool for the dealers to combat increasing rents and squeezed margins. If a law is passed that permits dealers to shop for the lowest price, and sell it as unbranded at a competitive price, they can make more profit. Lower prices will increase dealer volume and therefore the ability to make more money for the dealer to pay the higher rents being charged by oil companies. The major suppliers can either compete, or lose market share.

Remember there is no competition at wholesale on motor fuel.

### *Right to Repair Act.*

As the automobile fleet becomes newer repair shops are doing fewer repairs. This is due to the lack of information and tools available to repair these vehicles. The retail parts and repair industries have joined together to promote federal legislation to require automobile manufactures to provide the information necessary, and to permit the purchase of the tools needed to repair automobiles, at a reasonable price. The federal bill has had some success, passing out of sub-committee by a narrow margin. However, the future of the bill in this session is not optimistic.

Our association, in an effort to be prepared if the attempt fails on a national level, introduced the same bill in the New York State Legislature. In the coming session we will try to move this bill and encourage other states to do the same. National automobile manufactures cannot operate if there are different laws in each state. We have sent questionnaires seeking examples of repair problems that have occurred do to the lack of information or equipment

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resulting in the need to send the vehicle to the dealership. If there are enough horror stories where customers were inconvenienced and/or had to pay a higher price for a repair, we will gain the needed attention of some legislators.

Another issue that needs to be addressed on a state level in any bill is that of heavy-duty vehicles. The federal bill does not provide any relief for these repair shops. We will need to include these vehicles in any state legislation.

#### *DEC Tank Regulations*

The State Department of Environmental Conservation began an active program on enforcement of tank regulations in the first part of 2006. They were aggressive. Service stations were given violations for the slightest infraction of the regulations and fines were excessive. This enforcement initiative slowed for the summer months but is expected to pick-up shortly. The US-EPA is mandating that states inspect every motor fuel dispensing location at least once every three years. Training of attendants, managers and owners will be required. Getting DEC to be reasonable when enforcing the regulations, without going overboard, will be a task. We will need to form coalitions with others who are facing the same enforcement actions.

#### **Eight Dealers Charged In Illegal Gasoline Scheme**

Eight Brooklyn dealers pleaded not guilty to charges that they schemed to rip-off gas stations on Long Island and New York City by illegally importing thousands of gallons of gasoline from New Jersey where taxes are lower and the fuel additives MTBE is still permitted.

The eight posed as legitimate gas delivery companies and allegedly sold regular gas at premium prices, short changed gas station owners on the volume delivered, and pocketed the difference. They also allegedly avoided paying tens of thousands of dollars in higher New York State taxes.

Investigators for the State Attorney General's office as well as the state Department of Environmental Conservation said there was no way to tell if there was a connection between the MTBE gas delivered to the stations on Long Island and the MTBE contamination in West Hempstead.

It has always been illegal to transport motor fuel from New Jersey where the prices are lower. The taxes in New Jersey are approximately 25 to 30 cents lower than New York State. Also, there is a differential in the price because ethanol blended gasoline is sold at higher prices.

#### **EPA and UPS Unveil Trucks With 60 to 70 Percent Higher Fuel Economy**

UPS delivery trucks will not be the same in the future as EPA unveils, what it claims, is the world's most fuel-

efficient and cost-effective delivery vehicle. The first of its kind, EPA and UPS partnered to develop a UPS truck that uses EPA -patented hydraulic hybrid technology that can achieve fuel efficiency by 60-70 percent in urban driving while lowering greenhouse gas emissions by 40 percent. EPA adds that delivering packages with this new product.

According to EPA, laboratory tests have shown that this hybrid technology has the potential to dramatically improve the fuel economy of package delivery vehicles, shuttle and transit buses, and refuse pickup. More than 1000 gallons of the fuel each year could be saved per vehicle. EPA estimates that the up front cost for the hybrid components could be recouped in less than three years for a typical delivery vehicle. The net savings over the vehicle's life span could exceed \$50,000, assuming the current price of motor fuel.

The vehicle features a full hydraulic hybrid power train and a unique hydraulic hybrid propulsion system integrated with the drive axle. Hydraulic motors and hydraulic tanks are used to store energy, in contrast to electric motors and batteries used in electric hybrid vehicles. The vehicle is scheduled to deliver UPS packages across Michigan this summer.

#### **EPA Creates Program to Recover Mercury Switches From Junked Automobiles**

The Environmental Protection Agency (EPA), together with representatives of the automobile, steel and vehicle recycling industries, signed a memorandum of understanding that has created the National Vehicle Mercury Switch Recovery Program aimed at encouraging the recovery of mercury-containing switches from end-of-life vehicles.

The program, which will run through Dec. 31, 2017, would educate recyclers about mercury control issues and provide them with 40 cents per switch as a financial incentive to remove mercury-containing switches from scrap automobiles. It is estimated that the voluntary program will cut mercury air emissions by 75 tons over the next 15 years.

For more information on the program visit <http://www.epa.gov/mercury/switch.htm>

#### **Oyster Bay to Reconsider Convenience Store Code**

Congratulations to all who participated in GASDA's write in campaign to the town of Oyster Bay. The town proposed a change to its code to establish a standard with respect to the allowable size of a convenience store. The proposal would have restricted the size of a new or addition to convenience stores to a maximum gross floor area of one third the total gross floor area on the premises or five hundred (500) square feet, whichever is less. The permissible footage was to include related storage, rest

rooms and mechanical space. The proposal also would have required that the location have one space per one hundred fifty (150) square feet of gross floor area plus the parking required for vehicle fuel sales and service.

The town board has decided to reconsider the requirements in the bill. A new draft of the bill should be ready in 2 to 4 weeks. Congratulations to GASDA and all those who heeded its call and contacted their town officials. The Association will continue to monitor this bill closely. Once one locale places code restrictions others follow.

## Labor Poster Requirements

Effective January 1, 2007 the New York State minimum wage will increase from \$6.75 per hour to \$7.15 per hour. You will be required to post the new minimum wage poster for your employees. The Association office has obtained this poster and has the other posters that are required by New York State and the federal government. Below is a list of the posting requirements.

- *Minimum Wage Information* -- Issues related to wages shall be posted and made available to all employees. Wages and minimum wage information shall be posted where employees normally find posted materials. (State & Federal)
- *Smoking (Clean Indoor Act)* -- No smoking signs shall be posted and properly maintained where smoking is prohibited. (State)
- *Fair Employment and Discrimination Law* -- Equal employment notices shall be posted by every employer, labor organization, or employment agency. These notices shall be posted in obvious places where all employees may access them. (State)
- *Job Safety and Health* -- Requires employers to furnish employees with a workplace free from hazards and in compliance with the safety and health standards. (State)
- *Fringe benefits and hours* -- This posting is only required if the employer participates in a fringe benefit program with his/her employees. This notification may also be placed in an employee handbook. (State)
- *Unemployment Insurance* -- This posting is required if you are registered with the New York State Department of Labor you will need to contact your local office to obtain this requirement that is specific to each individual business. (State)
- *Worker's Compensation Benefits* -- This posting is specific to the individual business and can be obtained from your Workmen's Compensation carrier. (State)
- *Child Labor Law* -- If you employ minors you are required by law to post work schedules, break times as well as other regulations (State)
- *Uniformed Services Employment and Reemployment Rights Act* -- Each employer shall provide to persons entitled to rights and benefits under the chapter a notice

of the rights, benefits, and obligations of such persons and such employers under this chapter. The requirement for the provision of notice under this section may be met by the posting of the notice where employers place notices for employees. (Federal)

- *Employee Polygraph Protection Act* -- Every employer subject to the EPPA shall post and keep posted on its premises a notice explaining the Act, as prescribed by the Secretary. (Federal)
- *Equal Employment Opportunity Notice* -- Every employer shall post and keep posted upon its premises notices in accessible format...describing the applicable provisions of title VII and the ADA. Failure to comply with this section punishable by a fine not of not more than \$110 for each separate offense. (Federal)
- *Family and Medical Leave Act* -- A notice setting forth excerpts from, or summaries of, the pertinent provisions of this chapter and information pertaining to the filing of a charge...Any employer that willfully violates this section may be assessed a civil money penalty not to exceed \$100 for each separate offense. (Federal)
- *Occupational Safety and Health* -- Informs employees of the protections and obligations provided for the Act. Each employer shall take steps to insure that such notices are not altered, defaced, or covered with other material. (Federal)

In addition to these posters, you may need to also post others such as *Right to Know Information*, *Disability Benefits*, and *Time off for Voting*. These posters should be posted in a conspicuous location in the work place. If you have any questions or need any further assistance please call the Association office.

## Information Access Still a Problem for European Vehicle Aftermarket Despite Pro-Competitive Regulations

Speaking on Sept. 25 before the European Council for Motor Trades and Repairs, European Competition Commissioner, Neelie Kroes provided a mixed assessment of regulations that were implemented four years ago to encourage competition in the distribution of motor vehicles and replacement parts. The regulation ensured that "independent repair shops could also operate on a level play field by making it clear that vehicle manufacturers are seriously restricting competition if they withhold any technical information necessary to repair vehicles."

Kroes declared "independent repairers are still not getting all the technical information that they need."

According to Kroes, the agency's investigations against four manufacturers have confirmed real problems: too little information is provided and it is too hard to access. Kroes said. "Again these cases should act as an important signal for the whole sector."

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### **EPA Proposes Approval of CO2 and 152a as Acceptable Motor Vehicle Refrigerants**

The U.S. Environmental Protection Agency (EPA) is proposing under its Significant New Alternatives Policy (SNAP) to find HFC-152a and carbon dioxide (CO2) as acceptable refrigerant substitutes for CFC-12 in motor vehicle air conditioning systems. EPA had found CO2 to be acceptable back in 1994 but has now determined, based on safety and health data, that certain use conditions should be imposed to ensure the health of both vehicle passengers and service technicians.

Specifically, EPA is proposing to require engineering devices or mitigation strategies be employed so that in the event of a leak, the resulting concentrations of refrigerants in the interior car compartment would be maintained at safe levels. Air conditioning systems with two or more evaporators will generally have larger refrigerant charges and therefore require more elaborate safety mitigation's devices and/or strategies. EPA also stated in the proposed rule that while the potential exposure could be higher for service technicians than for passengers, it is "within the level of risk that technicians currently accept as part of their job." However, EPA is recommending that service technicians receive additional training so that "they are knowledgeable about the different hazards associated with working on HFC-152a and CO2 systems as compared to HFC-134a systems."

The SNAP program determines whether potential substitutes for ozone depleting substances are acceptable based on toxicity, flammability, the potential for occupational and general population exposure and environment effects including ozone depletion. Comments on the SNAP proposal for HFC-152a and CO2 must be forwarded to EPA by Oct. 23, 2006.