GASDA EST. 1931 – LIPDRA DISS. 1999

GASOLINE & AUTOMOTIVE SERVICE DEALERS ASSOCIATION
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March 2016

ATTORNEY'S CORNER

One of the most important tools in your toolbox to ensure you get paid for the work you perform is the New York State Lien Law. This powerful statute does something very rare indeed in New York - it allows you to seize the property, the motor vehicle, of a customer who legitimately owes you money without first going to court to get an Order or Judgment against your debtor. However, since this statute is so powerful, it is hedged about with many restrictions to prevent its abuse.

First, the garage must be a registered repair shop. The garage must also be a legitimate bailee of the motor vehicle. A bailee is someone who rightfully is in possession of someone else's property. Usually the owner brings in the car but sometimes a vehicle may be towed in under a police contract.

Second, the garage must have performed services on the vehicle or stored it with the owner's consent, express or implied. The price for the work or storage must have been agreed upon and should be reasonable. Under the D.M.V. Commissioner's Regulations storage may only be charged on a motor vehicle if the customer has actual notice of the storage charges. Even a neon sign as big as your building is not actual notice. Only if the customer signs a work order or estimate with the storage charge written on it, or receives an ordinary first class letter setting forth the storage charges, may a customer be charged for storage. If the vehicle is brought in under a police towing contract or by a third party, you would be well advised to send such a first class letter to the registered owner of the vehicle and any lien holders you learn are on the vehicle.

The best way to be sure you are completely compliant with all of the Commissioner's Regulations is to procure an invoice form from your Association that has been designed to ensure such compliance if properly filled out. When your Estimate/Invoice is compliant you stand the best chance to be able to enforce the Lien Law against any deadbeats trying to stiff you. Of course, there is more to the story, primarily concerning the auction process and the auction notice required to be given, but that's a tale for another column. But be advised that if you do need an auctioneer you should contact your Association office. We can suggest an auctioneer(s) who knows how to properly conduct an auction.

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

Check Out Our New Website

GASDA is pleased to announce its new website www.GASDA-NY.com. Come, check out the website, where you can read our newsletter online, get training links, register for the trade directory and more.

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U.S. House Passes Common Sense Menu-Labeling Legislation

By a strong bipartisan vote of 266–144, the House approved H.R. 2017, the Common Sense Nutrition Disclosure Act of 2015, introduced by Reps. Cathy McMorris-Rodgers (R-WA) and Loretta Sanchez (D-CA), to clarify and simplify costly and complex menu-labeling regulations for foodservice establishments promulgated by the Food and Drug Administration under the Affordable Care Act (ACA).

Leading up to the vote NACS members communicated to their representatives the importance of passing H.R. 2017, outreach that resulted in hundreds of letters sent to Capitol Hill.

Foodservice sales continue to be a rising portion of convenience stores' business-now accounting for nearly 19% of total in-store revenues at $42 billion in sales-as busy customers look for fast and healthier options to go. The FDA's proposed regulations, however, were designed in a way that added unfair costs and compliance barriers to establishments with offerings that do not appear on a centralized "menu" board. A commonly cited example is how differently food is ordered from a central point in a traditional fast food restaurant versus the multiple coffee, frozen drink and food islands at a convenience store.

NACS has worked closely with both congressional leaders and the FDA to ensure that final regulations allow the industry to meet the ACA's goals of more informed consumers and healthier fare while facilitating compliance by convenience stores and other small businesses. More information on this issue can be found at www.nacsonline.com/menulabeling.

Judge Sides With Retailers On Tobacco Violations

Orton Motor Co. launched a legal challenge in December 2015 to some of the practices the U.S. Food and Drug Administration's Center for Tobacco Products (CTP) has engaged in to enforce its tobacco regulations. This week, Administrative Law Judge Lewis T. Booker Jr. ruled in favor of Orton and NACS.

Retailers have been concerned that many have been cited for multiple violations of the Tobacco Control Act in a single transaction (failing to check ID and making an underage sale) and/or a single inspection. Retailers have also been concerned that they have not had the right to a hearing to challenge a violation the first time they receive one from CTP.

Judge Booker ruled in favor of Orton on both of these questions. He decided that Orton's failure to check an ID and sale of the product to an underage individual in one transaction amounted to one violation of the Tobacco Control Act—not two—as CTP had alleged.

The Judge also ruled that this was Orton's first violation because, even though Orton had received a warning letter for a 2013 violation, Orton was not given a chance to ask for a hearing (the necessary due process to challenge that violation). Without due process, the first violation was in effect never assessed.

The judge's ruling vindicates our longtime view that CTP was enforcing the law in a way that was inconsistent with the language of the law. This decision, however, might not be the final word on these questions. CTP has 30 days from the date of the decision in which it can appeal. If it does, NACS plans to continue to press for confirmation of the decision that retailers can only be cited for one violation of the law in a single inspection, and that retailers must be afforded due process on every alleged violation.

FDA Undercover Tobacco Operations

The US Food and Drug Administration is currently performing undercover sting operations on tobacco purchases. The agency is sending underage individuals into stores in NYS attempting to purchase tobacco products. If an employee sells a tobacco product to the minor then a violation is issued which may result in a penalty ranging from a written warning to a suspension of their TOBACCO PERMIT and a fine, depending on the severity and frequency of violations.

These inspections duplicate and overlap undercover operations conducted by both state and county regulatory departments as well as the New York City Department of Consumer Affairs. The FDA has conducted multiple inspections to many of the same stores that have already had inspections, stacking penalties higher than the Sears Tower.

We feel this is a colossal waste of resources and energy since the state/counties and NYC Department of Consumer Affairs is already conducting its own sting operations. Doesn't Uncle Sam have bigger issues to deal with... like justifying why a fry cook should make more than my mechanic?

One of the problems is that in the year 2015 the Food and Drug Administration inspections database indicates that it has an 11.2% noncompliance rate. That is more than double the state wide failure rate reported by either Consumer Affairs or the NYS Health Department. We are unable to account for this discrepancy. However this discrepancy may come from the FDA doing the undercover operations at Oneida Indian "Savon" locations in Oneida County, Hogansburg, and Niagara County. The FDA however completely skipped over tax free tribal stores on the Poospatuck, Shinnecock, Onondaga, Cayuga, Tonawanda reservations and possibly all of the Seneca Indian Reservation as well.

We continually work with local and state health departments and we will provide training for any individual who sells tobacco products. We find that our noncompliance rate is much lower than the federal rate of 11.2%.

Generally the FDA issues a warning letter for noncompliance to tobacco retailers for a first time violation. Retailer's that are found to have 5 or more violations to the federal regulations can receive a no tobacco sales order (NTSO).

The Association feels that the FDA is intruding on an already successful State program and will be contacting our congressional delegation to complain that this is a duplication of effort and a waste of resources.

The Consequences Of Selling Synthetic Drugs In Your Store

Selling synthetic drugs as an alternative to illegal or restricted drugs may seem like a safe choice for convenience store operators, but the reality is more dangerous, according to "Synthetic Drugs: Ensuring Your Entire Product Line is Legal," a Jan. 14 NACS webinar presented by the Office of the Attorney General for the District of Columbia and the U.S. Drug Enforcement Administration (DEA).

While suppliers of synthetic drugs, which are often sold under names such as Spice and K2, claim the products are a legal alternative to marijuana, they have actually been outlawed in numerous states, and many types have been criminalized by the federal government via the DEA. Additionally, they often cause unexpected and severe side effects that marijuana does not cause.

"They're absolutely nothing like marijuana," said one webinar presenter.

Along with the high they seek, users have experienced rapid heart rates, spiking blood pressure, vomiting, confusion, hallucinations, memory loss and even psychotic or violent behavior. Such side effects can harm people at all levels of fitness; earlier in January, New England Patriots player Chandler Jones was admitted to the hospital in Foxborough, Mass., after suffering a bad reaction to synthetic marijuana.

Popular forms of synthetic drugs include:

Cannabinoids, which are typically sold in three- to five-gram packages of herb-like material and are smoked in pipes, rolled cigarettes and electronic cigarettes, as well as ingested in tea; and

Synthetic cathinones, which are sold in foil or plastic packages of crystalline powder.

Certain names for synthetic drugs are common, but in reality, there is no consistent oversight or quality control over their manufacture. Many synthetic drugs are made overseas and shipped to the United States, where they are assembled in generic, non-uniform packaging purchased online in environments that more closely resemble someone's garage than a sterile environment, according to the NACS webinar.

"Just like pharmaceuticals, the abuse of synthetic drugs has become more and more prevalent," said one speaker, noting that calls to U.S. poison control centers about synthetic drugs have risen in recent years.

C-store operators, fuel distributors and property owners can all face consequences for the sale of synthetic drugs where prohibited, even if they were unaware or believed them to be legal. In case studies presented during the webinar, penalties ranged from fines to loss of business licenses to prison sentences.

The DEA and Attorney General recommend that rather than trying to distinguish between legal and illegal synthetic drugs, c-store operators err on the safe side by assuming all brands and types of synthetic drugs are illegal. They should contact local law enforcement if they are approached with an offer to sell them.

Additionally, property owners should be aware that they have an obligation to know how their tenants are operating businesses on their properties and should cooperate with law enforcement investigations to ensure tenants are complying

U.S. Convenience Stores Continue Growth

The U.S. convenience store count increased to 154,195 stores as of December 31, 2015, a 0.9% increase (1,401 stores) from the year prior, according to the 2016 NACS/Nielsen Convenience Industry Store Count

Within the retail universe that Nielsen tracks, convenience stores account for 34.2% of all outlets in the United States, which is significantly higher than the U.S. total of other retail channels, including superettes, supermarket and supercenters (51,055 stores), drug stores (41,969 stores) and dollar stores (27,378 stores).

Overall, 80.7% of convenience stores (124,374) sell motor fuels.

The convenience retailing industry continues to be dominated by single-store operators, which account for 63.1% of all convenience stores (97,359 stores total) and 74.3% of store growth in 2015.

The industry has roughly doubled in size over the last three decades. At year-end 1985, the convenience store count was 90,900 stores; at year-end 1995 the store count was 101,100 stores; and at year-end 2005 the store count was 140,655 stores.

Among the states, Texas continues to lead in store count with 15,607 stores. The rest of the top 10 states for convenience stores are California (11,540), Florida (9,909), New York (8,446), Georgia (6,765), North Carolina (6,330), Ohio (5,605), Michigan, (4,880), Illinois (4,732) and Pennsylvania (4,706), the same top 10 as 2015. All states experienced year-over-year increases with the exception of Georgia (-1 store) and Michigan (-27 stores).

The bottom three states in terms of store count are Alaska (206 stores), Wyoming (357) and Delaware (350).

Gasoline Racks and Spot Markets See 50cts Gal of Variability

What's more surprising? A possible dip to less than 50cts gal for spot gasoline or the slow extinction of E10 and reformulated gasoline rack prices of less than $1 gal?

Both are possibilities this week. Chicago spot conventional blendstock was barely worth 50cts gal this afternoon, selling at a 40cts-gal or so discount to NYMEX futures. Meanwhile, with the exception of some Rocky Mountain, Northeast and California terminals, most rack prices for finished gasoline have slipped to anywhere from 60cts gal to 99cts gal.

On a percentage basis, the differences between markets are more compelling than they have been in any previous February. Traders have previously seen Chicago spot prices descend to greater outright discounts versus futures, but never against the backdrop of such low NYMEX values. A 40cts gal discount in recent days amounted to about a 40% markdown, something common in jewelry stores but not in U.S. spot markets.

Accordingly, the prices available to Midcontinent marketers are unlike anything seen on the coasts. One could buy E10 or reformulated gasoline in Lockport and Chicago, Ill., today with some Indiana markets priced as aggressively as 61.3cts gal. Tomorrow will almost certainly see the first sub-60cts gal rack prices since 2004.

If depressed spot values in Chicago and Group 3 hold through the week, the 60cts/gal mark could be bettered in Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma and Ohio. All of those markets had gasoline available for 65cts gal or less today, thanks either to posted prices, or to ambitious discounts off of OPIS Low numbers.

In contrast, California has been in a steady descent this year, but the best rack numbers Tuesday were more than twice the value of spot gasoline in Chicago, with bottom line levels of $1.11 gal at Golden State terminals. Nevada just cracked the dollar mark today by virtue of Las Vegas discounts that took gasoline down to 97cts gal.

The difference between where a given market was sourced had huge ramifications. Terminals in South Dakota that are fed by Group 3 spot barrels saw rack prices for E10 as cheap as 64.7cts gal. Rapid City costs were about 20cts gal higher, in accord with Rocky Mountains values that remain above $1 gal. In Pennsylvania, markets sourced in Philadelphia or the New York Harbor saw E10 values in the high $0.90s. Terminals in eastern Ohio had gasoline for less than 65cts gal.

Some markets are nowhere near as expensive as they might appear. Most rack prices in New Mexico were 90cts gal or so, but OPIS confirmed term business at the Ciniza rack at 17.77cts gal under the OPIS Low posting.

The most challenged areas for refiners continue to be in the heart of northern oil shale plays. One could find finished gasoline for less than 65cts gal today in Fargo or Grand Forks, N.D. Refiners that depend on North Dakota customers struggled to get 90cts gal for diesel, whereas most other areas saw diesel in the $1 gal-plus neighborhood.

The "elephant's graveyard" for diesel, meanwhile, continues to be Salt Lake City. OPIS confirmed rack sales of ultra-low sulfur diesel there at 83.20cts gal, about 15cts gal below most U.S. and global spot venues.

--Tom Kloza, tkloza@opisnet.com

EIA Projects Average 2016 Retail Gasoline Price at $1.98/Gal, $2.21 in 2017

Adding to the downward pressure on U.S. gasoline prices Tuesday was the federal government's projection that the retail price of regular would average $1.98/gal in 2016, a yearly level not seen for 12 years.

"For the first time since 2004, U.S. drivers are expected to pay an average of less than $2 a gallon for regular grade gasoline this year," Adam Sieminski, Administrator of the Energy Information Administration (EIA), said Tuesday.

The gasoline price forecast for 2017 in the EIA's just-issued Short Term Energy Outlook (February) is an average of $2.21/gal for regular grade.

In 2016, EIA expects the monthly average price to see its lowest level in February ($1.8170/gal, also a seven-year low) before climbing back past $2/gal in May. The highest averages for the year are seen for July and August, both at $2.0770/gal). Monthly averages fall below $2/gal for October, November and December, according to the agency's forecast.

Growth in global and domestic demand for gasoline drove high refinery gasoline margins for most of 2015, but lower crude oil prices (down 70% since summer 2014) "have more than offset high wholesale gasoline margins" and driven retail gasoline prices on a sharp decline so far in 2016, EIA said. The retail average in January was $1.95/gal.

The EIA offered up new historical perspective of crude oil's towering inventory levels (excluding the Strategic Petroleum Reserve). The 503-million-bbl level that U.S. commercial inventories reached at the end of January marked the first time oil stocks had topped 500 million bbl since 1930, Sieminski said in a statement.

The agency is projecting that total U.S. crude stocks will peak at 517 million bbl in April, also seen as the apex of spring refinery turnaround outages." Continuing increases in global oil inventories are expected to keep oil prices under $40 a barrel through August," Sieminski added.

U.S. gasoline consumption in 2016 is forecast to increase by 70,000 b/d, or 0.8%, and demand in 2017 is seen as flat year on year. According to EIA, 2015 saw domestic gasoline demand growth of 240,000 b/d, or 2.6%, to reach 9.2 million b/d.

--Beth Heinsohn, bheinsohn@opisnet.com

ExxonMobil's Heavy Upstream Loss Wipes Out Strong Downstream Earnings

ExxonMobil reported on Monday that a sharp increase in its downstream earnings for the fourth quarter of 2015 was wiped out by larger upstream losses.

Despite lower oil prices and heavy upstream loss, ExxonMobil was able to increase oil and gas production last quarter.

Downstream earnings were $1.4 billion, up $854 million from the fourth quarter of 2014.

Stronger margins and favorable volume and mix effects increased earnings by $610 million and $70 million, respectively. All other items increased earnings by$170 million, including lower maintenance expenses and favorable foreign exchange and tax effects, partly offset by unfavorable inventory impacts.

Petroleum product sales of 5.7 million b/d were 166,000 b/d lower than the prior year.

Earnings from the U.S. Downstream were $435 million, up $436 million from the fourth quarter of 2014. Non-U.S. Downstream earnings of $916 million were $418 million higher than last year.

Total refinery throughput in the fourth quarter was slightly higher than a year ago at 4,395,000 b/d. All regions, including Canada, Europe and Asia Pacific, showed a year-on-year increase, except the U.S.

U.S. refinery throughput dropped to 1,649,000 b/d from 1,876,000 b/d a year ago.Petroleum product sales in the U.S. fell to 2,416,000 b/d from 2,666,000 b/d.

On an oil-equivalent basis, production increased 4.8% from the fourth quarter of 2014. Liquids production totaled 2.5 million b/d, up 299,000 b/d.

Upstream earnings were $857 million in the fourth quarter of 2015, down $4.6 billion from the fourth quarter of 2014. Lower liquids and gas realizations decreased earnings by $3.7 billion, while volume and mix effects increased earnings by $100 million, benefiting from new developments.

Fourth-quarter earnings were $2.8 billion, or $0.67 per diluted share, down from $6.6 billion in the fourth quarter of 2014. ExxonMobil's 2015 earnings were$16.2 billion compared with $32.5 billion a year earlier.

--Edgar Ang, eang@opisnet.com

Gas Pump Skimming Devices

The incidence of criminals covertly attaching payment card data skimming devices to retail gas pumps is increasing across New York.

Service Station owners who sell motor fuel need to be vigilant. Basic precautions and heightened awareness can greatly reduce the likelihood of these illegal devices being installed.

In the past six months alone, gas pump Skimming devices have already been discovered in Monroe, Niagara, Nassau, and Orange counties. More have been found on ATMs.

The alarming trend prompted Governor Cuomo in November to announce a new, statewide effort to crack down on illegal credit/debit card skimmers at gas pumps and ATMS across New York.

That's why state and local Weights and Measures personnel are currently visiting gas pumps across the state checking for skimmers.

Skimming occurs when a third-party card- reading device is secretly installed either out- side or inside a fuel dispenser, allowing the thief to capture a customer's banking information encoded on credit and debit cards, including their PIN. The perpetrators range from local thieves to international crime syndicates.

What You Can Do

Retailers are advised to:

- Every day, inspect all dispensers, locks and panels for tampering. Check for cabinets with broken locks, scratching or cuts, loose card readers, and card readers with unusual covers over them.
- Periodically, have a qualified service provider inspect interiors of dispenser payment terminals for evidence of tampering or skimming.
- Consider using tamperproof seals on dispenser cabinets. One source of such labels is the National Association of Convenience Stores' "We Care" program at this link: http://www.nacsonline.com/Solutions/Finance-Operations/Pages/WeCare.aspx
- Monitor dispensers for any high levels of bad card reads or problems accepting cards.
- Be suspicious of vehicles parked at the fueling center for a long time – especially on outermost islands.
- Be suspicious of any "technicians" performing unscheduled work on dispensers. Perhaps work with your equipment service provider to create acceptable standards for technician visits and identification.
- Be on the lookout for wiring and/or devices that do not belong in any of the cabinets.

Investing in Pump Security

You may also want to consider the following upgrades to your dispensing equipment.

- Replace common dispenser payment terminal door locks with ones that are unique to your location.
- Upgrade your dispenser's flat membrane keypads to PCI-compliant Encrypting PIN Pads (EPPs) with full-travel numeric keys that make it difficult to add a fake keypad overlay.
- Consider adding card readers that provide increased physical protection and encrypt payment card magnetic stripe data.
- Consider installing dispenser access security kit upgrades for high risk locations (interstates, high volume).
- Use video surveillance equipment to discourage unauthorized access to your dispensers. Make this monitoring obvious and post signs stating monitoring is in use.
- Perform a review of your dispensers with your motor fuel equipment provider to create an

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New York Association of Convenience Stores

NYVIP2 Message No. 217
Date: 2/8/2016
To: All Inspection Stations
From: Opus Inspection Inc

Subject: Transaction Fee (Test Authorization)

Under contract with the New York State Department of Motor Vehicles (NYSDMV), Opus Inspection Inc. (Opus) is the provider of Computerized Vehicle Inspection System (CVIS) equipment and information management for the New York Vehicle Inspection Program (NYVIP2). Your inspection station has a contract with Opus for those services.

This message is to inform you that effective January 1, 2016, the test authorization (TA) fee for each inspection/transaction pre-paid to Opus will remain the same at $0.436 (43.6 cents) throughout the next calendar year. Test Authorizations will continue to be sold in batches of twenty (20) at a cost of $8.72 per batch. The TA fee is for each inspection your NYVIP2 CVIS conducts.

NYSDMV does not have discretion in determining the test authorization fee amount each year. The contract between NYSDMV and Opus requires a recalculation of this fee each year based on the number of inspections/transactions occurring in the prior year by the entire inspection station network.

If you have questions, you may call Opus Inspection at 1-866-623-8378

Arizona Auto Glass Repair

The Arizona House of Representative Insurance Committee passed a sweeping automotive glass bill on February 3. The bill is designed to amend the insurance statute to regulate the marketing of automobile glass. The bill, "Unlawful Practices: Auto Glass Repair," was approved by a unanimous vote.

Frank Thomas, of Thomas Auto Glass in Phoenix, Ariz., spoke in favor. "Consumer safety is compromised when gift carding and cash spiffs are the reason for choosing one company over another," he said. "A vast underground economy exists in Arizona with regard to auto glass, simply because anyone can start a glass company tomorrow with a business card and phone number. … I don't believe that HB 2500 was drafted to enable steering or for one company to garnish more market share over another. I believe that HB 2500 is the first step of your awareness and a movement to provide safe windshield installations and protect Arizona automotive consumers."

Also testifying in support were Marc Osborn of the Property Casualty Insurers Association of America and Barbara Meaney of Safelite Group, according to a document from the Insurance Committee.

Several AGRR company owners voiced their opposition to the committee.

Rex Altree, president of the Arizona Auto Glass Association, said the bill "appears to be an excessive over reach by the insurance companies, Safelite and their associates and agents. … As an association, we recognize there are parties that operate in a fraudulent manner. However, this bill would punish the honest service providers while making no distinction between the two." Joining Altree to testify in opposition were Barry Aarons of the Safety Glass Association of Arizona, Shannon King, Blake Trickey, Bob Hittenberger and Kerry Soat, owner of Fas-Break in Chandler, Ariz.

"Most of the comments from the [committee] representatives dealt with their distaste for car washes, door-to-door salespeople and people on the side of the road," said Soat. "My company has 85 operators working in some 20 states, and we operate in states 'without' the zero deductible. I wanted them to know that if the zero deductible disappears tomorrow windshield repairs would still be free in the state of Arizona because most of the insurance companies waive deductibles for repairs."

Though the bill passed, several members of the committee said it should be rewritten prior to going to the House floor for vote.

"They are recommending that they add an amendment (or amendments) to get the bill into an acceptable form," said Soat. "It will not pass in its present form and most committee members stated they wouldn't vote for it on the floor if not changed."

The next step is for the bill to be rewritten, Altree pointed out. After the rewrite there will be a second reading, noted Thomas. If it is passed in the House then it would go to the state Senate for consideration.

Safelite did not respond to a request for comment at press time

SSDA-AT Meets With NTSB Vice Chair
On Tire Recall Reform

On January 3, our national affiliate, SSDA-AT, attended an event with the Honorable T. Bella Dinh-Zarr, PhD, MPH who serves as Vice Chairman of NTSB. T. Bella Dinh-Zarr, took the oath of office as the 42nd Member of the National Transportation Safety Board in March 2015, whereupon President Barack Obama designated her as Vice Chairman of the Board for a two-year term.

SSDA-AT had an extensive conversation with Dinh-Zarr following the event on tire related issues. SSDA-AT informed Dinh-Zarr that we would like to work with NTSB moving forward to create a system that best addresses tire recall recovery. Dinh-Zarr welcomed SSDA-AT's offer and we hope to work more closely with NTSB moving forward.

To recap, at the end of 2015, NTSB made the following recommendations to reform the tire industry:

1. Seek authority to require all tire dealers to register tires at the point of sale, and then require them to do so.
2. Develop voluntary standards, in consultation with tire industry leaders, for a computerized method of capturing, storing, and uploading tire registration information at the point of sale.
3. Include fields on the tire registration form for the purchaser's e-mail address, telephone number, and vehicle identification number to assist manufacturers in locating and notifying owners of recalled tires.
4. Require tire manufacturers to include the complete tire identification number on both the inboard and outboard sidewalls of a tire.

5. Require tire manufacturers to put the safety recall information for their tires on their websites in a format that is searchable by tire identification number as well as by brand and model; if necessary, seek legislative authority to implement this recommendation.
6. Modify the tire recall search feature on your website to allow users to search for recalls by tire identification number as well as by brand and model.
7. Determine the level of crash risk associated with tire aging since the implementation of Federal Motor Vehicle Safety Standard Nos. 138 and 139; if, based on this determination, it appears that the aging-related risk should be mitigated, develop and implement a plan to promote the tire-aging test protocol to reduce the risk.
8. Develop a consensus document with input from the automotive industry, the tire industry, and safety advocacy groups that addresses tire aging and service life and that also includes best practices for those consumers whose tires are most at risk of experiencing an aging-related failure.
9. Develop, in consultation with automotive and tire industry representatives, a tire safety action plan to reduce or mitigate tire-related crashes by promoting technological innovation and adapting regulations as necessary.
10. Work together to evaluate the effectiveness of current tire safety efforts in influencing consumer tire purchase and maintenance behaviors, and publish the results of the evaluation.
11. To the tire manufacturers (and their subsidiaries) Bridgestone Americas Inc., Continental Tire the Americas LLC, Cooper Tire & Rubber Company, Goodyear Tire & Rubber Company, Hankook Tire America Corporation, Kumho Tire USA Inc., Michelin North America Inc., Pirelli Tire North America Inc., Toyo Tire North America Manufacturing Inc., and Yokohama Tire Corporation:
12. Put the safety recall information for your tires on your websites in a format that is searchable by tire identification number as well as by brand and model.

TIRE REGISTRATION

To give an update, we sent letters to Congressman Frank Pallone (D-NJ) and Congressman Michael Burgess (R-TX) who have been sympathetic to our views on tire registration and will be key players moving forward.

The letter addressed the following:

"Our concern is that this critical study may never be conducted leaving outdated manual collection methods in place and forcing retailers to share raw customer data with direct competitors who are also their suppliers. In the past, we have seen worthwhile authorized programs languish due to the lack of funding. Tire registration and recall recovery are a serious safety issue for motorists, so the Secretary must get everything right if meaningful improvement in recall recovery rates is expected. Congress should commit to pursing modern technological solutions that inform consumers about recalls and get defective tires off the road as soon as possible. Thus we are asking that you contact the Secretary of Transportation and the Administrator of NHTSA to request that specific funding for the study of electronic tire identification be included in their upcoming budget. We appreciate your help with this matter."

Essentially, we are asking them to contact the Secretary of Transportation and the Administrator of NHTSA to request that specific funding for the study of electronic tire identification be included in their upcoming budget. This will be important in ensuring a study does in fact take place. We will keep everyone up to date with actions and developments as they take place.

Obama Administration Proposes $4 Billion For Autonomous Vehicle Technology

In his last State of the Union address, President Obama signaled his intent to invest in a 21st century transportation system. On Thursday, U.S. Transportation Secretary Anthony Foxx revealed part of the president's proposal: a 10-year, nearly $4 billion investment to accelerate the development and adoption of autonomous vehicle technology.

"We are on the cusp of a new era in automotive technology with enormous potential to save lives, reduce greenhouse gas emissions and transform mobility for the American people," said Secretary Foxx.

The president's FY17 budget proposal would provide nearly $4 billion over 10 years for pilot programs to test connected vehicle systems in designated corridors throughout the country, and work with industry leaders to ensure a common multistate framework for connected and autonomous vehicles.

Foxx also unveiled policy guidance that updates the National Highway Traffic Safety Administration's (NHTSA) 2013 preliminary policy statement on autonomous vehicles. The new guidance suggests that the widespread deployment of fully autonomous vehicles is now feasible.

"NHTSA is using all of its available tools to accelerate the deployment of technologies that can eliminate 94% of fatal crashes involving human error," said NHTSA Administrator Mark Rosekind. "We will work with state partners toward creating a consistent national policy on these innovations, provide options now and into the future for manufacturers seeking to deploy autonomous vehicles, and keep our safety mission paramount at every stage."

DOT is committing to the following milestones in 2016:

- Develop guidance on the safe deployment and operation of autonomous vehicles, a common understanding of the performance characteristics necessary for fully autonomous vehicles and the testing and analysis methods needed to assess them.
- Develop a model state policy on automated vehicles that offers a path to consistent national policy.
- Develop new tools for this new era of vehicle safety and mobility, and consider seeking new authorities when they are necessary to ensure that fully autonomous vehicles, including those designed without a human driver in mind, are deployable in large numbers when

they are demonstrated to provide an equivalent or higher level of safety than is now available.

Foxx also encouraged manufacturers to submit rule interpretation requests where appropriate to help enable technology innovation. For example, NHTSA responded to an interpretation request from BMW confirming that the company's remote self-parking system meets federal safety standards.

DOT Announces Agreement with Automakers, Senators Sound Off

On Friday, Jan. 15, the U.S. Department of Transportation (DOT) announced it has reached an agreement with 18 automakers on improving vehicle safety through increased involvement in automotive recalls and cybersecurity best practices. The announcement comes after the White House initiated meetings this past December to push the auto industry to become more transparent regarding safety recalls. The addition of cybersecurity best practices to any agreement on safety is one that the auto manufacturers have been saying they would do for some time, but previous attempts were both vague and weak on consumer protection.

According to POLITICO, one of the first news sources to report the agreement, "The protocol encourages the government and automakers to focus on ways they can proactively identify safety trends and problem spots, while also increasing participation in safety recalls. It also calls on the groups to come up with best practices to mitigate threats posed by hackers and other cybersecurity concerns."

Immediately following the announcement, Senators Richard Blumenthal, D-Conn., and Edward Markey, D-Ma.— two senators who have been critical of the automakers' previous statements regarding developing voluntary cybersecurity standards and best practices — issued a joint statement:

"This proposal does little to advance a commitment to real reform and increased safety requirements and only continues a culture of informality between automakers and regulators that lead to the deaths of hundreds of Americans from defective ignition switches, exploding airbags, vehicles that burst into flames and other deadly defects. From seatbelts to catalytic converters to airbags to fuel economy standards, automakers have proven time and time again that they do nothing voluntarily."

While the Auto Care Association can point to specific examples of the aftermarket being very proactive on safety issues, the association also shares concerns as to whether the automakers will develop standards that best suit the full auto industry and put consumers first.

The terms of the agreement between DOT and the vehicle manufacturers have not been made public yet; however Sens. Markey and Blumenthal promise new legislation in the coming weeks in order to force any agreements made between the agency and automakers to be legally binding.

Protecting Americans From Tax Hikes Act of 2015 (PATH ACT) -- RAFFA Summary

On December 18, 2015, President Obama signed the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), which includes the following important changes to current laws applicable to exempt organizations:

Required Notice of Formation for 501(c)(4) Organizations

Under pre-existing law, organizations other than 501(c)(3) organizations were not required, but could voluntarily file, Form 1024 (Application for Recognition of Exemption) as notice of formation. However, effective December 18, 2015, organizations described within section 501(c)(4) must file a formal notice of formation and intent to operate with the IRS within 60 days of the organization's establishment along with a user fee to be established by the IRS. The 60 day deadline can be extended for reasonable cause. In the notice, section 501(c)(4) organizations should include information such as name, address, taxpayer identification number, date of formation under the state, and a statement of the purpose for the organization. Once the notice is received, the IRS is required to issue an acknowledgement of the notice to the organization within 60 days. Under amended section 6652(c), an organization can be subject to a penalty of $20 for each day the failure occurs beyond 60 days of formation, up to a maximum of $5,000. This provision further requires that organizations formed on or before December 18, 2015 that have never filed Form 1024 or at least one Form 990 (Annual Information Return) to provide the notice within 180 days of the date of enactment.

As the IRS is not required to issue a determination letter on the qualification of an organization under section 501(c)(4), organizations can voluntarily request the IRS provide a determination letter by filing a new form to be established by IRS along with the required user fee. This filing is a separate form than the notice of formation described above and is optional for a section 501(c)(4) organizations seeking recognition as tax-exempt organizations.

Gift Tax Exemptions for 501(c)(4), 501(c)(5), and 501(c)(6) Organizations

Under present law, gift tax is imposed on the fair market value of a transfer of property by gift. However, effective December 18, 2015, no gift tax is imposed on a transfer of property as a gift to Section 501(c)(4), 501(c)(5), and 501(c)(6) organizations.

Payments to Controlling Exempt Organization

Section 512(b)(13) states that a controlling tax-exempt entity should include income derived from interest, rent, royalty, and annuities from a controlled entity (whether taxable or tax-exempt) as unrelated business income. However, under pre-existing law, payments made pursuant to a binding contract in effect on August 17, 2016 (or renewal of such a contract on substantially similar terms), only the excess amounts received or accrued in a taxable year over the arm's length price (determined under section 482) are subject to unrelated business tax and 20% penalty. This special rule is now permanent and the provision is

effective for payments received or accrued after December 31, 2014.

Qualified Charitable Distribution

Normally, distributions from an IRA are taxable and subject to withholding. However, there is a special rule in pre-existing law for qualified charitable distribution which allows a taxpayer over the age of 70 ½ to exclude IRA distributions from gross income up to $100,000 which distributions are directly made to a charitable organization, subject to certain exceptions (i.e. supporting organizations or donor advised funds). This special rule is now permanent and the provision is effective for qualified distributions made after December 31, 2014.

Charitable Contribution Deduction for Contribution of Food Inventory

The PATH Act makes permanent the provisions of Section 170(e)(3)© which allows businesses to claim an enhanced deduction for the charitable contribution of food inventory, subject to certain limitations. Effective January 2016, the new provision increases the deduction limitation from 10% to 15% of net income for businesses other than C-Corporations. Any excess food inventory contributions may be carried forward for 5 years. Also, the new provision establishes several rules related to accounting basis and the valuation of food inventory.

Implications

This year's extender bill makes permanent a number of provisions that had previously been extended on an annual recurring basis. The PATH Act also has created ruled for Section 501(c)(4) organization in response to the IRS' interest in self-declared organizations. In short, 501(c)(4) organizations can no longer self-declare exempt status without working with the IRS. Notice must be sent within 60 days of formation, and existing self-declared section 501(c)(4) organizations have 180 days to send notice. All 501(c)(4) organizations should review registration and operating requirements to make sure they are in compliance with IRS rules.

The act introduced or extended various provisions that are favorable to exempt organizations. Such changes include exclusion of gift tax for transfers of property as a gift made to section 501(c)(4), 501(c)(5), or 501(c)(6) organizations, the exclusion of qualified charitable distributions from an IRA as gross income, enhanced deductions for charitable contributions of food inventory, and favorable treatment of certain payments made by a controlling entity. As the new law provides certain benefits to exempt organizations and donors alike, it is recommended that exempt organizations consider the PATH Act provisions in their own operations.

If you have any questions or would like to discuss these topics in detail, please contact Frank Smith, Partner at fsmith@raffa.com or 202-955-6735 or Aaron Fox, Senior Manager at afox@raffa.com or 202-955-6701.

Our National Affiliates Take On Tax Reform

Passage of the PATH act in December was an immense success for the WOTC team and the odds are good we'll have a breathing space of four years to change Congress' image of WOTC as a "tax extender" and see it as a cornerstone of job opportunity for those who fall on hard times and enter public assistance.

The main threat to WOTC remains tax reform which is unlikely to pass before 2018 at the earliest. But any tax bill that moves this year will have to be lobbied to keep tax writers from using WOTC as a funding source for a corporate rate cut or anything else.

An international tax reform bill is already being written by the Tax Policy Subcommittee of Ways and Means, so we have serious work to do because decisions made in drawing up a bill have a way of becoming policy, and are then very hard to reverse.

Speaker Paul Ryan hasn't lost interest in international tax reform or in reforming anti-poverty programs like EITC-areas he and the President might find appealing for an election year deal.

International tax reform would lower the corporate tax rate; expanding the earned income tax credit (EITC) would show the GOP's compassionate side. Ryan and the President sat down to talk about these things at a private lunch Tuesday.

Ryan has already given Ways and Means Chairman Kevin Brady the go-ahead on international tax reform, and Brady says he's ready to talk earned income tax credit expansion as long as it includes safeguards against abuse.

We'll learn how serious these efforts are when two documents are released in the coming weeks, first the President's budget on February 9 and next, the House Budget Committee's mark for the congressional budget resolution for fiscal year 2017.

The President's budget will present the Administration's latest ideas for international tax reform-it'll be scrutinized on the Hill for big-ticket items like size of the corporate rate cut, how foreign earnings held abroad will be taxed, and so on.

At the same time the Administration will be scrutinizing the House Budget Resolution (written by Republicans) for the bills that budget reconciliation will apply to. Budget reconciliation procedures allow bills to overcome a Senate filibuster and thus assure they reach the President's desk.

If international tax reform is slated for reconciliation, it will be on a fast track-that spells big trouble for WOTC supporters. Sure, odds are stacked against a tax bill becoming law this election year. But do we really want to see an international tax bill marked up, passed out of Ways and Means, and debated on the House floor if it uses WOTC to pay for tax reform?

It's possible WOTC could be left out of an international tax reform bill because there's a large amount of foreign income that can partly fund a corporate rate cut. On the other hand, nothing can change the hard fact that WOTC and other credits are seen as a pile of money up for grabs by tax writers determined to lower the corporate tax rate-this is the greater danger.

Therefore our objective in international tax reform is to keep WOTC from being drawn into the bill as a funding

source by arguing it should be made a permanent part of the tax code since it's a key part of the social safety net.

In fact, there will be a constant danger of tax writers using tax credits and deductions to fund any Ways and Means bill this year. We'll have to organize and fight hard to make sure WOTC isn't used as a funding source in any draft, or even "discussion draft," of these bills.

In sum, your Coalition's overriding objective for 2016 is the same as 2015-to assure we win the support in Congress needed to make WOTC permanent. A strong case for permanent WOTC is the best defense against using WOTC as a funding source.

Objectives For Bills Making WOTC Permanent

We are now in the second session of the 114th Congress-all bills introduced last year carry over to this year. The key bill endorsed by WOTC Coalition remains H.R. 2754, "To amend the Internal Revenue Code of 1986 to make the work opportunity credit permanent," introduced by Congressman Tom Reed (R-NY) on June 12, 2015 and co-sponsored by Ways and Means members Charles B. Rangel (D-NY), Lynn Jenkins (R-KS), Mike Kelly (R-PA), Eric Paulsen (R-MN), and Ron Kind (D-WI), as well as Congressmen Ralph Lee Abraham (R-LA), Carlos Curbelo (R-FL), Rodney Davis (R-IL), Peter T. King (R-NY) and Derek Kilmer (D-WA).

Our fifty-state lobbying plan for the 114th Congress remains in effect. In lobbying the House, the objective is to reach out to targeted congressmen in every state where you have offices or substantial operations and urge them to co-sponsor H.R. 2754. This is an immediate priority.

In lobbying the Senate, the objective is urge our supporters to introduce a bill making WOTC permanent-so far, a companion bill to H.R. 2754 has not been introduced in the Senate and we need to set down a marker that other senators can co-sponsor and rally around. This is an immediate priority.

We should begin with supporters and near-supporters like Senators Portman, Grassley, Roberts, Isakson, Heller, and Scott among Finance Committee Republicans and Senators Schumer, Stabenow, Menendez, Carper, Cardin, Sherrod Brown, Bob Casey, Michael Bennet, and Mark Warner among Finance Committee Democrats. The objective: immediately introduce a companion Senate bill to H.R. 2754.

Objectives In A Bill To Expand The Earned Income Tax Credit

Should a bill to expand the Earned Income Tax Credit start moving in Ways and Means, our objective is to include permanent WOTC as an important complement to EITC. Our brief is that EITC adds income for the working poor, while WOTC enables the non-working poor, veterans, and people with disabilities to escape poverty by finding jobs that allow them to claim EITC. The two programs work together and complement each other. In addition WOTC creates job mobility, for if an eligible worker leaves a job but continues or renews eligibility, his or her new employer may claim WOTC if the change is to an employer they haven't worked for before.

The same reasoning Speaker Ryan uses to support expanding EITC also supports keeping WOTC. Speaker Ryan favors "evidenced-based policy-making" and has introduced a bill mandating it for national policy. In calling for expanded EITC, Speaker Ryan builds on the experience of existing EITC. This idea of building on what has worked through trial and error in the past is called "black box" thinking nowadays, like aviation engineers learn and improve from the errors revealed by black boxes. Nobody would dream of throwing out black box learning and starting from scratch to build a new aircraft; neither is it prudent for Mr. Ryan to call for eliminating WOTC and turning the funds over to states to experiment crafting new anti-poverty programs. It's "evidence-based policymaking" when we build on what we've learned that works to help disadvantaged workers get jobs.

Objectives To Improve WOTC

We must keep our aim on permanent WOTC, but as tax bills move we'll look for opportunity to press ahead on improvements to WOTC that are longstanding objectives: expanding eligibility to non-profit employers, allowing WOTC to be taken against FICA tax (with Treasury offset payment to Social Security), removing the age ceiling for food stamp recipients, and very important, increasing the amount of credit for hiring people with disabilities and DOD issuing a voucher at time of discharge evidencing automatic WOTC eligibility for one year for veterans in the enlisted grades.

Labor Department Issues Guidance On "Joint Employers"

The U.S. Department of Labor's Wage and Hour Division issued an interpretation of "joint employment " that identifies scenarios in which two or more companies jointly employ a worker and are therefore jointly liable for labor violations.

"As a result of continual changes in the structure of workplaces, the possibility that a worker is jointly employed by two or more employers has become more common in recent years. In an effort to ensure that workers receive the protections to which they are entitled and that employers understand their legal obligations, the possibility of joint employment should be regularly considered in [Fair Labor Standards Act] and [Migrant and Seasonal Agricultural Worker Protection Act] cases, particularly where (1) the employee works for two employers who are associated or related in some way with respect to the employee; or (2) the employee's employer is an intermediary or otherwise provides labor to another employer," wrote Wage and Hour Division Administrator David Weil.

The DOL's interpretation of a joint employer will have a much wider impact than the earlier National Labor Relations Board standard issued last year, which now makes more businesses subject to obligations and liability under the National Labor Relations Act—particularly franchises. In fact, Administrator Weil noted that DOL's guidance was issued in part to dispel the "misconception" that joint

employment only deals with franchise relationships. DOL's interpretation may instigate legal actions for unpaid overtime or other labor violations.

EMV And The Chargeback Conundrum

Forbes this week put the spotlight on the liability shift following the October 1, 2015, EMV compliance deadline for U.S. retailers.

"The reason for the mandate is very straightforward," writes Paula Rosenblum of Forbes in her piece, "The Nightmare Continues: Banks Using New Payment Standards To Soak Retailers." "As my partner Brian Kilcourse often describes, banks and the credit card industry pushed for it to transfer risk from the banks to retailers. Consumers had no credit card related risk before, and they still don't. But retailers who are not EMV compliant now assume the liability for fraudulent transactions arising from stolen credit cards."

Banks are getting out of the risk business by shifting liability onto retailers. "Controlling the societal cost of fraud is squarely on the merchants' back—the least enabled stakeholder in the payments ecosystem to implement further structural safeguards," he said.

Four months into EMV compliance in the United States, only 6% of merchants made the mandate deadline and only 8.5% of merchants are EMV ready, noted Greg Buzek of IHL Group. "But it is the stories from frustrated CIOs we heard that are the real kicker," he writes.

"When banks sent retailers that were not EMV compliant the bills for fraudulent transactions as promised, they sent every single chargeback…even the ones the guidelines say the retailers were not liable for!" writes Buzek. "Lost and stolen cards are not supposed to be charged to the retailers for fraudulent transactions. So for instance, if I stole your chip card and went to the store and used it…that is a legitimate card, but I'm not a legitimate user. EMV as implemented as chip and signature would not catch me doing [this] if you had not reported it lost or stolen yet. But because of greed and/or laziness from the banks, all of these charges are being passed on to the retailers."

According to Taylor banks are taking a "charge them all back" approach to chargebacks, which will have dire consequences for small to mid-size retailers, who can scarcely afford dedicated chargeback staff.

Buzek also points out that retailers are now storing Track 2 data so that they have an audit trail to fight the merchant and acquiring bank for fraudulent charges, which is the data retailers had been mandated not to store several years ago as part of the PCI-DSS. As Rosenblum adds, the "data included in those old-fashioned mag stripes."

Rosenblum points out that the retail industry "spent a fortune on complying with a standard (PCI-DSS) that was never going to be adequate for preventing data theft. And it wasn't. Now they're spending another fortune on card readers and software when the banks haven't even cleaned up the card side of the equation. And in managing this untenable situation, they're undoing the other paltry standard they spent a fortune on in the first place."

"The constant mandates from card brands are death by a thousand cuts," Taylor said. "The failure to provide a long-term strategic plan for upgrading the largest payment system in the world is unconscionable and hurts small business the most. Retailers have had three major 'drop everything' payments upgrades mandated to them over the past eight years—and not one of them mandated PIN authentication, the most effective way of reducing fraud. To make matters worse, we will have to invest another few billions on tokenization, mobile and encryption, which we know are just around the corner after we install EMV."

Because You Asked

Question. If a used car dealer's license is revoked, how long must the dealer wait before he/she can reapply for a new license?

Answer. A request for a new license to sell used car after a revocation may be requested after one year. At that time the request will be considered. The association is contacting used oil haulers to determine which is the least expensive. We will keep you informed

Contact us with any questions.

DMV Record Retrieval

DMV record retrieval is available to association members and affiliates at a cost of $12 per record. Additionally, you may order DMV certified paper abstracts of driver's license, vehicle registration, and vehicle title records for an additional fee of $2 per abstract. Please call 516-371-6201.

Attention Inspection Stations

The Association has received a flurry of requests for legal representation for violations of the DMV commissioner regulations known as "clean scanning." that is when a vehicle other that the one to be inspected is substitute for the OBD-II part of the test. We have no defense for these violations. DMV has the ability to trace the OBD-II inspection to the vehicle used for the inspection.

If you cannot pass a vehicle for any reason, get help. That help could come from DMV. This violation almost always results in revocation.

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New York State Governors Proposed 2016/17 Budget

The proposed bills listed below are from the Governor's proposed budget and will have an effect on the motor fuel, service station and or the repair shop industry.

Part K – Increase in the Minimum Wage

Purpose:

This bill would gradually increase the minimum hourly wage from $9 to $15.

Summary of Provisions and Statement in Support:

According to the Governor "A minimum wage ensures that the most vulnerable members of the workforce can participate in and contribute to a robust economy. An increase would improve the standard of living for 2.3 million workers and inject $15.7 billion into New York's economy. New York's minimum wage has not kept pace with increases in the cost of living."

At present, eight states and the District of Columbia have a higher minimum wage than New York, including Connecticut, Vermont, and Massachusetts. New York's current statutory minimum wage of $9, which took effect on December 31, 2015 and was enacted with the FY 2014 Budget. The Governor believes this is insufficient to lift a family of four out of poverty.

What happened to working harder or getting better at your job in order to be worth a higher wage? Under this proposal workers don't receive a salary, they get an entitlement.

This bill would amend section 652 of the Labor Law to increase the minimum wage by $1.50, to $10.50, in New York City and by $0.75, to $9.75, in the rest of the State effective July 1, 2016. Incremental increases would continue until the wage reaches $15 in New York City on December 31, 2018 and in the rest of the State on July 1, 2021.

Eliminate the sunset applicable to the waste tire management and recycling fee

Part T of the budget bill
Purpose:
This bill would eliminate the sunset applicable to the waste tire management and recycling fee.
Summary of provisions and Statement in Support:
Eliminating the December 31, 2006 sunset would ensure that adequate monies continue to be available to DEC for the regulation of waste tire storage facilities and abatement of noncompliant waste tire stockpiles, and to administer and enforce other provisions of Environmental Conservation Law in relation to the collection, treatment, disposal, and management of solid and hazardous wastes.

Section 1 of the bill would remove the December 31, 2016 sunset related to waste tire services accepting waste tires from consumers and posting appropriate written notice.

Section 2 would make permanent (i) the $2.50 fee which is to be collected on each new tire sold, (ii) the requirement that the tire service collect the fee and remit it to the Department of Taxation and Finance 9DTF), (iii) the requirement that each tire service make a return to DTF on a quarterly basis, and (iv) the provisions authorizing additional waste tire management and recycling costs of the tire service. Environmental Conservation Law Article 27, Title 19, enacted in 2003, sets forth New York State's priorities for the management of waste tires, establishes the $2.50 fee charged on each new tire sold, and enumerates the purposes of the fund to be used to abate noncompliant waste tire stockpiles. The requirement to collect the Fee and remit it to the State Tax Department ended on December 31, 2016.

Enact Workers' Compensation Reform

Part G of the bill
Purpose:
This bill amends various provisions of the Workers' Compensation Law (WCL), the Public Authorities Law (PAL) and the Insurance Law to streamline the workers' compensation system to better protect workers, reduce administrative overhead, and lower costs to employers.

Summary of Provisions and Statement in Support by the Governor:
New York's Workers' Compensation Program delivers medical and lost wage benefits to many thousands of injured workers. This process, which has grown to a system of over $7 billion, is complicated and cumbersome, delaying claim settlements and payment, and increasing costs to employers.
The bill would include, among other specific provisions:

- Continuing support for the World Trade Center Volunteer Fund;
- Creating a new pooling agreement freeing employers' committed reserves;
- Redesigning current operations to ensure the system will provide more timely and
- appropriate medical and wage replacement benefits to workers;
- Providing broader and more accessible options for medical care by expanding the list of eligible providers;
- Making hearings more accessible through flexible scheduling and use of virtual hearings; and
- Streamlining Workers' Compensation Board processes and administration to expedite decision making.

The Worker Compensation program would be better service if the State would enforce the provisions of the law that would stop fraudulent claims. Check on claims submitted by hospitals and doctors because is easier to get money out of worker's compensation policies. A strong enforcement effort on those who do not report the correct number of employee must be made. When these issues are address the cost of worker's compensation insurance will come down.

Part W – Expand jeopardy assessments to the cigarette and tobacco tax

Purpose:

This bill would authorize the Department of Taxation and Finance to issue jeopardy assessments for the collection of the cigarette and tobacco excise tax.

Summary of Provisions and Statement in Support According to the Governor:
Where collection would be jeopardized by delay, the bill would provide that the cigarette and tobacco excise tax may be assessed prior to either the filing of a return or prior to the deadline to file a return. The assessment would become due and payable immediately upon notice to the taxpayer. The taxpayer would stay collection efforts by filing a bond with the Tax Department to ensure the payment of tax, penalties, and interest. Seized property would be sold once the assessment is finalized or earlier if the taxpayer fails to attend a hearing, the taxpayer consents to the sale, or where the property is perishable or the expenses of conservation and maintenance would greatly reduce its value.

Currently, there is no provision for jeopardy assessments to assist in collection of the excise tax on cigarettes and tobacco products. The bill was modeled after Tax Law § 288-a (excise tax on gasoline and similar motor fuel) and Tax Law § 1138 (sales tax), which authorize jeopardy assessments for similar collection efforts for other taxes. The authorization of jeopardy assessments would provide a helpful tool for use in the prevention of cigarette and tobacco product excise tax avoidance.

Budget Implication:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it supports revenue collection included in the Financial Plan resulting from the Governor's Cigarette Strike Force's efforts to reduce tax evasion.

The Governor missed the target. What is being done to stop the true tax evader? Millions of dollars each year are lost to bootleggers of tobacco products and motor fuel. What about the tax money lost from the sale of tobacco and motor fuel product on the Native American Reservations? This bill goes after the honest tax payer and not the crooks.

Make permanent and update certain modernization provisions of the Tax Law

Part G
Purpose:
This bill would make permanent tax modernization provisions relating to electronic filing and payment mandates and sales tax compliance tools, and update preparer penalties.

Summary of Provisions and Statement in Support:
b. Sales Tax Compliance.
Part U of Chapter 61 of the Laws of 2011 amended Tax Law § 1137 to authorize the Commissioner to require vendors that failed to collect, truthfully account for, pay over sales tax money, or to file returns as required by law, to take actions the Commissioner deems necessary to ensure that sales tax moneys are paid, including giving notice to such vendors requiring more frequent payment of tax. If directed, vendors are required to set up separate bank accounts into which only sales tax moneys are deposited, at least weekly, and the Department is authorized to debit those accounts.

According to the Governor, since its implementation in 2011, this program has improved vendor compliance. The segregated account provisions would expire on December 31, 2016. This bill would make these provisions permanent, which would allow the Department to continue to safeguard millions in sales tax revenue for the State and localities and reduce the need to pursue costly collection action when sales tax collected by vendors is not remitted timely to the Department. This program provides a powerful incentive to sales tax vendors to become and remain compliant with their sales tax obligations to the State, and significantly mitigates the risk that sales tax vendors will misdirect collected trust taxes to their ongoing operating expenses.
Budget Implications:
Enactment of this bill is necessary to implement the 2016-17 Executive Budget because of the cost saving and efficiencies associated with this bill.

The Governor once again missed the target by failing to provide the enforcement to stop true tax evaders. Bootleggers of tobacco products and motor fuel and the loss of tax revenue from the sale of these products on Native American Reservations contribute to millions of dollars of lost tax revenue. Again, this bill focuses on the honest tax payer and not the crooks.

Paid Family Leave Bill

Purpose:
This bill would authorize Paid Family Leave (PFL) to allow employees, according to the Governor, to bond with an infant or newly-adopted child or to care for a seriously-ill family member.
Summary of Provisions and Statement in Support:
Federal law currently provides for unpaid family leave, which can create a dilemma for those caught between the need to care for a sick relative or newborn and the pressure to return to work and earn money. Moreover, Federal unpaid family leave only covers approximately 60 percent of all workers.

This bill would establish a comprehensive statewide PFL program providing:

- Employees up to 12 weeks of PFL on an annual basis to bond with an infant or newly adopted child or to care for a seriously-ill family member. All private employees would be covered and State and local government employers would be able to opt-in to coverage through collective bargaining or other agreements;
- Job protections and protection against retaliatory actions; and
- A phase-in of PFL benefits over four years, beginning in 2018, when employees would be eligible to receive 35 percent of their average weekly wage to a maximum benefit of 35 percent of the State's average weekly wage. The PFL benefit would be fully phased-in by 2021, as follows:

§ In 2019, the effective rates increase to 40 percent;
§in 2020, to 45 percent; and
§ In 2021, to 50 percent.

Costs to support the PFL program would be established as follows:

- Premiums for PFL policies would be supported through a minimal payroll deduction on all covered employees; and
- PFL coverage will be provided by insurance carriers, the State Insurance Fund (SIF), or self-insured employers. In order to limit premium volatility, the Superintendent of Financial Services will determine whether coverage provided by carriers and SIF will be experience rated or community rated.

Finally, this bill sets forth a dispute resolution process.

What a mess this bill will create. Who thinks of these things?

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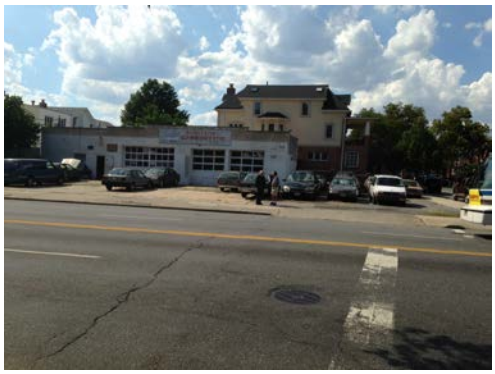

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Phone #	Fax #	E-Mail:	
Contact Person:		Phone # (if different from above)	
Are you happy with the cost and service provided by your carrier/agent?		Yes	No
If yes STOP here… If NO or NOT SURE you may want to look at the following			
Is your coverage insufficient?		Yes	No
Is the service poor to non-existent?		Yes	No
Is the cost too high?		Yes	No
Are you satisfied with your current coverage?		Yes	No
Are you interested in a quote from another insurer?		Yes	No
Is so please check each that apply:			
		Property & Casualty	
		Workers Comp	
		Disability	
		Health	
If you checked one or more of the above please provide the following information:			
Name of Current Insurer:			
Type of Insurance:			
Renewal Date:			
When/How is the best time to contact you?			

If you are interested in learning how you may save on insurance costs
Please fill out and fax to your local association at 518-452-1955

Lawley

Lawley Declares Dividend for 23rd Year

Declared Dividend is 20%

In 2015* the New York State Association of Service Stations & Repair Shops, Inc. is proud to declare a dividend for the Workers Compensation Group #536 of **20%** . This will be the 23rd consecutive year that the group will pay the dividend.

This dividend is in addition to the up front 20% discount that all members could enjoy.

Checks will be processed on 4/17/2015 and mailed directly to your address by The State Insurance Fund.

** Applies to Policy Term 5/1/13 - 5/1/14*

Further Details

Please contact:
Bill Adams at 716.849.8641 or by email at badams@lawleyinsurance.com if you have any questions or concerns.

NYSASSRS & Lawley Partnership

NEW YORK STATE ASSOCIATION OF SERVICE STATIONS AND REPAIR SHOPS, INC
WE DO BETTER TOGETHER!

lawleyinsurance.com | 800.860.5741

GASDA
Legal Service Plan

GASDA'S legal plan provides for consultation services and representation at hearings. The following are included:

- Representation at one small claims proceeding or one administrative hearing per year. Requests for representation must be received at the association's office 20 days prior to the hearing date.

- One-hour consultation on any single issue relating to a member's business.

- Small claims proceeding ONLY. The first two court appearances are covered under the plan. The third and all subsequent appearances are not covered. If the member wants continued representation, the appearance fee is $375 per appearance.

- The legal service attorney will provide legal representation or consultation to GASDA members at the rate of $185 per hour for any issue not included in the legal service plan.

In order to be eligible for Group Legal Service representation, a member's dues in full and all obligations to the Association must be current. For additional information, please call the GASDA office at:

516-371-6201

CIGARETTE SALES TO MINORS
CLERK CERTIFICATION

COMPLIANCE .WITH THE NEW STATE CERTIFICATION OF CLERKS WHO SELL TOBACCO PRODUCTS

CERTIFICATION OF A CLERK WHO SELLS TOBACCO PRODUCTS
POINT REDUCTION CLASS

NEW YORK STATE AMENDED ITS POLICY OF ENFORCEMENT FOR RETAILERS WHO SELL TOBACCO. UNDER THE NEW LAW A POINT SYSTEM HAS BEEN ESTABLISHED. EACH VIOLATION OF A TOBACCO SALE TO A MINOR WILL GENERATE A FINE AND TWO POINTS. THREE POINTS AND THE RETAILER'S LICENSE TO SELL CIGARETTES WILL BE SUSPENDED. HOWEVER, IF THE CLERK HAS RECEIVED A CERTIFICATION BY TAKING AN APPROVED SEMINAR, THE VIOLATION WILL RECEIVE ONE POINT.

THE STATE IS ENFORCING THIS LAW
IN ORDER TO ACCOMMODATE OUR MEMBERS,
WE ARE CERTIFIED TO PROVIDE THIS TRAINING.
PLEASE NOTE DATES, TIME, AND LOCATI0N OF THE NEXT SEMINAR

WHERE:

ASSOCIATION OFFICE
372 Doughty Blvd, Suite 2C
Inwood, New York 11096

WHEN:

The First Monday of every month at 2:00 PM
The Second Wednesday of every month at 10:00 AM

COST:

MEMBERS: $15.00 - NON-MEMBERS $30.00

PLEASE CALL FOR RESERVATIONS AT (516) 371-6201

SPONSORED BY: GASDA/LIPDRA

FREE MONEY

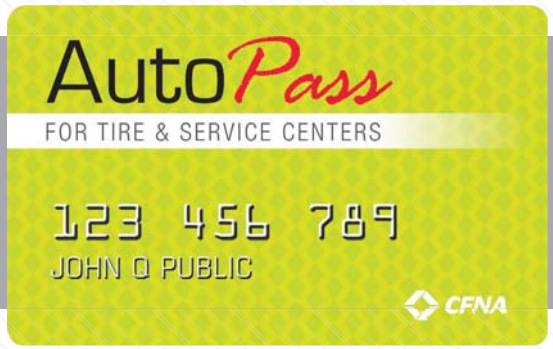
BE A MEMBER OF OUR ASSOCIATION OR AFFILIATES
FILL OUT THIS FORM AND FAX BACK TO US
BUY $7500 IN PARTS IN ONE QUARTER FROM YOUR **NAPA DEALER**
RECEIVE A REBATE CHECK FOR 2% OF YOUR PURCHASES (MINIMUM OF $150 REBATE)
PUT THE MONEY IN YOUR POCKET
NOTE: YOU CAN NOT BE A MEMBER OF THIS AND ANOTHER NATIONAL NAPA PROGRAM

FREE MONEY

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

AutoPass Private Label Credit Card Program



Why Choose CFNA?

Private label credit cards offer consumers a dedicated line of credit for a merchant's products and services. Private label credit cardholders shop more often and spend more on each visit.

Who is CFNA

Credit First National Association (CFNA) is a limited purpose federally chartered private label credit card bank, wholly owned by Bridgestone Retail Operations, LLC. CFNA issues private label credit cards for thousands of automotive retailers throughout the United States.

Card Benefits

The AutoPass card is now the preferred private label credit card for NYASSARS Merchants. Consumers can use the AutoPass card for the purchase of parts, services, accessories and tires.

The AutoPass Program provides:

- Instant credit decisions at the point of sale and online
- Brand impact for every Merchant and their business name is embossed on every card opened
- Generous consumer credit limits
- High customer approval rating
- No annual fees for consumers
- No initial set up fee
- No minimum monthly sales volume required

When

As of July 1, 2015, The AutoPass credit card, issued by CFNA is the preferred private label credit card for NYASSARS Merchants.

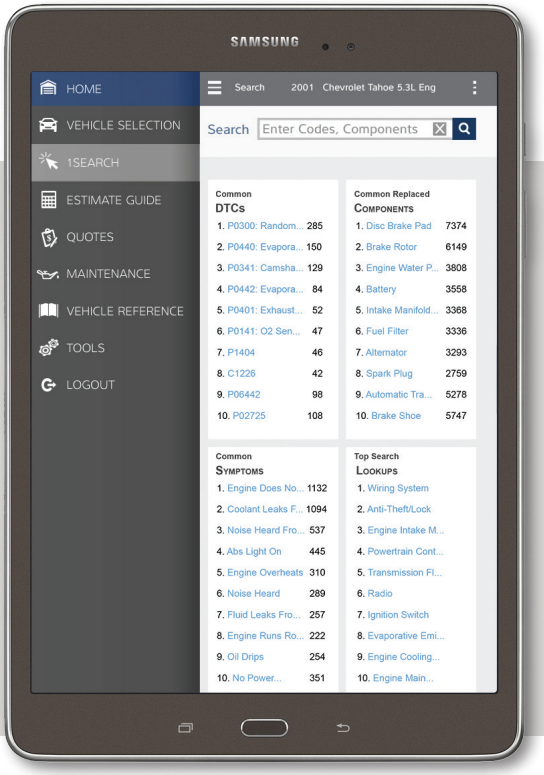
In store advertising collateral

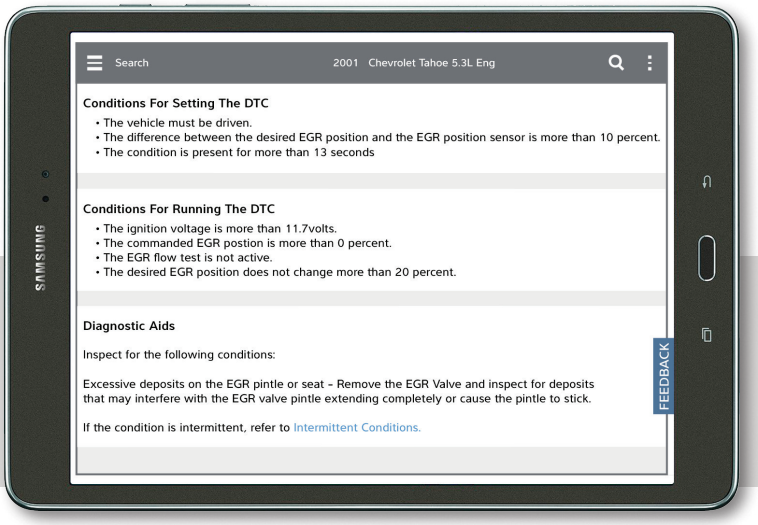
Interested in offering AutoPass and ready to get started? Contact CFNA today at 800.527.6770 or sales@cfna.com

PRODEMAND

FREE TABLET

RECEIVE A FREE TABLET WITH PURCHASE OF PRODEMAND!





PRODEMAND quickly finds OEM information and experience-based Real Fixes together in a single lookup.

LEARN MORE

FOR ONE MONTH ONLY

Every new ProDemand® subscriber will receive a FREE Samsung Galaxy Tab A.

PROMOTION DETAILS

- Applies only to new ProDemand subscriptions or bundles that include new ProDemand subscriptions
- Based on POPDSCT price
- No other discounts can be applied
- Tablet ships 6-8 weeks after 30-day grace period from time order is processed
- Promo code: FREETAB
- Expires April 1, 2016

FREE TABLET DETAILS

- Samsung Galaxy Tab A ($300 value)
- 9.7” screen
- 16 GB of memory
- 1.2 GHz Quad Core Processor
- 1.5 GB LPDDR3 RAM
- Full HD playback and recording

AASP NATIONAL
ALLIANCE OF AUTOMOTIVE SERVICE PROVIDERS

Mitchell1®
In your shop, at your side