
NYS ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

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November 2013

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Judge Halts Enforcement Of NY Surcharge Regulation

A U.S. District Court judge stopped enforcement of a New York State law that assessed criminal penalties to retailers who tacked on a fee for customers paying with credit cards instead of cash, Reuters reports.

U.S. District Judge Jed Rakoff decided for several retailers who had filed lawsuits against the regulation on the grounds that their free speech rights were trampled by not allowing them to tell customers about the fees associated with credit card payments. Rakoff founded his ruling on the First Amendment. The law “perpetuates consumer confusion by preventing sellers from using the most effective means at their disposal to educate consumers about the true costs of credit-card usage.”

Retailers violating the state law could face a 12-month sentence in prison plus a \$500 fine for adding a surcharge to credit card purchases. The judge blocked the enforcement with a preliminary injunction while the case is pending.

New York State Attorney General Eric Schneiderman and Manhattan District Attorney Cyrus Vance said the law’s intention was to protect shoppers from unexpected additions to their checkout tallies. Neither office commented on the ruling as of press time.

A new report issued this week found that lower debit card swipe fees spurs lower prices. Reducing the cost for merchants to swipe debit cards put \$5.8 billion back into the hands of consumers through lower prices, according to the Merchants Payments Coalition.

NYVIP Message 103

The New York State Department of Motor Vehicles has informed us that 1400 inspection stations have not ordered their new equipment to continue performing inspections after December 1, 2013. Next year’s stickers (2015) cannot be purchased until nyvip2 equipment has been purchased. Stations will begin using these stickers in January.

IF YOU NEED HELP CALL THE ASSOCIATION STATE OFFICE AT 518 452 4367

Please find attached NYVIP message 103.

NYVIP MESSAGE No. 103

DATE: 9/25/2013

TO: Emissions Inspection Stations That Have Not Ordered NYVIP2 Equipment

FROM: NYS Dept. Of Motor Vehicles

SUBJECT: Ordering 2015 Inspection Stickers

Please Bring This Message To The Attention Of The Station Owner And/Or Manager

This Message Is For Emissions Inspection Stations That Have Not Yet Ordered NYVIP2 Emissions Inspection Equipment From Systech. If You Have Ordered Equipment, Please Ignore This Message.

2015 inspection stickers will become available for sale in mid-October. If you have not purchased NYVIP2 inspection equipment, you will not be eligible to order 2015 stickers.

As discussed in prior messages, the DMV contract with SGS Testcom will end on November 30, 2013. Your SGS Testcom inspection equipment will not perform inspections after that date and you will be unable to perform inspections without Systech (NYVIP2) equipment. Further, regulations require that an emissions station have the required equipment for its license to be in good standing. Please refer to NYVIP messages 93 and 95 for more information.

If you wish to keep your inspection station license in good standing after December 1 and be eligible to order 2015 inspection stickers, you can still place an order for the NYVIP2 equipment. Although no longer guaranteed to be delivered by December 1, placing the equipment order will ensure that your license remains in good standing and will allow you to order next year’s stickers.

If you plan to remain in the emission inspection program after December 1, 2013, please go to www.NYVIP.ORG and order your NYVIP2 equipment as soon as possible. If you have any questions call Systech at 1-866-OB-TEST (623-8378).

If you plan to leave the inspection program or leave the emissions portion of the inspection program, please contact

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DMV Clean Air at 518-473-0597 for instructions on surrendering or amending your inspection license.

Attention Catalytic Converters Installers and Suppliers

Installation of aftermarket catalytic converters that do not comply with the new state regulations may result in fines for the installer. Penalties range from \$500 for the first violation to up to \$26,000 for each subsequent violation

Beginning January 1, 2014 replacement catalytic converters must be original equipment manufacturers parts (OEM) or new AMCCs certified as meeting the California Air Resources Board's (CARB's) emission standards. This applies to all model year 1993, 1994, 1996 and newer vehicles that are either 50-state certified by the US Environmental Protection Agency (EPA) or CARB Certified. This does not apply to all 1995 and pre-1993 model-year vehicles, and EPA certified vehicles without 50-State certification

It is now illegal to sell, offer for sale, advertise or install used, recycled or salvaged catalytic converters on vehicles in New York State. (Change Effective June 1, 2013). This applies to all vehicle types and model years. This does not apply to the sale of catalytic converters salvaged for recycling purposes.

New AMCCs certified as meeting EPA's basic emission standard may still be installed any model-year vehicle that is EPA certified, but not CARB or EPA 50-State certified; any pre-1993 model-year vehicle; and any 1995 model-year vehicle.

Installers of new CARB certified AMCCs must: Complete a warranty card in triplicate with the original going to the customer, one copy to the installer, and one copy to the manufacturer of the converter, and Retain a copy of the warranty card for a minimum of four years from the date of installation.

Distribution centers located in New York State may continue to supply EPA certified AMCCs for applicable New York State vehicles and for sale outside of New York State.

Vehicle and AMCC Emissions Certification Markings

Vehicle emissions certification information is located on the Vehicle Emissions Certification Information (VECI) label located in the vehicle's engine compartment.

1) Radiator Support, 2) Strut Tower Plate, 3) Hood

Beginning January 1, 2014, new aftermarket catalytic converters for CARB and EPA 50-State certified vehicles must display a certification stamp or laser etching on the catalytic converter shell, showing the CARB Executive Order approval number, part number, date of manufacture, and proper installation direction.

New AMCCs required for CARB and EPA 50-State certified vehicles must also:

- Comply with the vehicle's original emissions certification limits.
- Be compatible with the onboard diagnostic systems (OBD II) on 1996 and newer vehicles.

- Be covered by a 5-year or 50,000-mile warranty for failures related to construction defects, performance defects, and OBD II compatibility problems.

Regulation: Aftermarket Parts Reg. 6NYCRR sub.218-7
www.dec.ny.gov/regs/4244.html

Fact Sheet: www.dec.ny.chemical/87411.html

Frequently Asked Questions:

www.dec.ny.gov/chemical/90781.html

Contact: Jeff Marshall, DEC Division of Air Resources 518-402-8292

Email: DARWeb@gw.dec.state.ny.us

IF YOU NEED HELP CALL THE ASSOCIATION STATE OFFICE AT 518 452 4367

EBT Cards Are Unaffected By Shutdown

Those electronic debit cards some convenience store customers find essential to pay for groceries under the federal Supplemental Nutrition Assistance Program (SNAP), known as the food stamp program, should keep working today despite the federal government shutdown.

Many convenience stores participate in the SNAP program. But those benefits are unaffected by the budget stalemate because funding is provided under the American Recovery and Reinvestment Act and does not expire until October of next year, the U.S. Department of Agriculture (USDA) said in its contingency plans.

In addition, there's another \$2 billion in contingency funding available that could be used to support state administration of the program.

What's affected? There are no funds to support the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) food benefits and administrative costs. States may have some funds available from infant formula rebates or other sources such as spend-forward authority, the USDA said. But those funds will last no more than a week or so. "States would likely be unable to sustain operations for a longer period," the agency said. "Contingency funds will be available to help states, but even this funding would not fully mitigate a shortfall for the entire month of October."

Customers affected by emergencies and on Indian reservations also would not receive any food benefits beyond what's already in inventory. The USDA said there are no funds to support the Commodity Assistance Programs, Commodity Supplemental Food Program, Emergency Food Assistance Program or Food Distribution Program on Indian Reservations.

--Donna Harris, dharris@opisnet.com

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Fire Suppression Code Debate

Assemblyman Anthony Brindisi, D-Utica, joined fire safety experts Monday to warn against a potential change to the three-decade-old requirement that New York state's gas stations maintain fire-suppression canopies over pumps.

"We need to ensure that this vital safety measure continues to be the law in New York state," he told reporters

Monday. Brindisi chairs the chamber's Volunteer Emergency Services subcommittee.

"I like to say that having this suppression system in the gas station is like having a firefighter on duty 24 hours a day, seven days a week," said James Burns of the State Firemen's Association.

In January, the Department of State's Fire Code Technical Subcommittee voted 5-2 to drop the mandate from state code. The proposal is now being considered by the 17-member Code Council, which is in the process of updating New York's Uniform Fire Prevention and Building Code.

"The fire code technical subcommittee's recommendation is just that — a recommendation," said DOS spokesman Laz Benitez. "The Department of State is in its early stages of reviewing this policy, but under no circumstances will the public's safety be put at risk by these efforts to modernize New York's fire code."

Industry groups that represent fuel retailers say that modern technology, including automatic shutoffs that cut the flow of fuel in the event of fire, has reduced the need for canopy suppression systems at the retail level and cite cost of installation and maintenance and incidents of accidental activation as supporting arguments for ending the requirement.

A June letter from James Calvin, president of the state Association of Convenience Stores, to the Division of Code Enforcement and Administration said the systems at retail stations "pose as much danger and chaos as they provide protection, and we believe the costs now outweigh the benefits."

Calvin's letter says that his organization's members "advise me that fire suppression systems are very costly to install, maintain, and recharge. Moreover, they are prone to accidental discharge, which damages cars and clothing, disrupts fueling operations, sparks customer fear and outrage, and ruins business reputations."

He cited a June incident in Newport, Vt., in which a woman was struck and killed by a driver trying to pull away from gas pumps after the suppression system had accidentally discharged.

In an interview, Calvin said he could not say how often such mistaken activations occurred. "If you're looking for empirical evidence, I don't have it," he said.

The Fire Code subcommittee unanimously agreed that currently installed systems should be maintained, and should be removed only if the entire fuel-dispensing system meets the requirements of state code for new construction — including the installation of up-to-date shutoff valves.

New York is one of just a handful of states to require the canopies at all fuel retailers.

Defendants in 7-Eleven Immigration Case Await Trial

The federal probe of immigrant hiring practices at 7-Eleven stores continues, leaving open the possibility that more store operators could be indicted.

So far, nine defendants pleaded not guilty to conspiring to commit wire fraud, stealing identities and concealing and harboring illegal immigrants in a case involving 7-Eleven franchise owners in New York and Virginia. A trial date has not been set.

Federal authorities alleged in June that between 2000 and 2013, the defendants, who owned and operated 14 7-Eleven franchises, hired dozens of illegal immigrants, using more than 20 stolen identities, including those of a child and three dead people. The nine allegedly housed the illegal immigrants at lodgings owned by the defendants, and skimmed portions of their wages, processed through the 7-Eleven payroll system.

Penalties for conviction include 20 years' imprisonment for wire fraud conspiracy and alien harboring charges. The multiple counts of aggravated identity theft carry mandatory, consecutive two-year terms of incarceration.

Also, the federal government has moved to forfeit the franchise rights to all the 7-Eleven stores and five houses in New York worth over \$1.3 million. The Department of Homeland Security says the case constitutes the largest criminal immigration forfeiture in its history.

As the nine were indicted, federal agents executed multiple search and seizure warrants to inspect approximately 30 other 7-Eleven franchise stores. The actions were the initial results of an ongoing investigation into the employment and exploitation of illegal immigrants at 7-Eleven franchise stores nationwide, according to the office of the U.S. Attorney for the Eastern District of New York.

--Joseph Bush, jbush@opisnet.com

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Swipe Fee Cap To Stay In Place Pending Appeal.

Six weeks after ruling against the debit card swipe fee rules that went into effect in October 2011, a federal judge has agreed to keep the current rules in place, for now.

Both the Federal Reserve and retailers had asked U.S. District Judge Richard Leon to keep the current rules in place pending the Fed's appeal of his July 31 ruling, according to Bloomberg.

"Upon consideration of those pleadings, oral arguments and the entire record, I conclude that the [current rules] should remain in place while our Circuit Court reviews my decision," Leon wrote in a ruling entered Friday.

In a court filing in late August, the Fed said maintaining the regulations would provide stability in the debit card marketplace while disagreements on the rules are settled. Craig Shearman, vice president of the National Retail Federation (NRF) agreed with the request, noting "otherwise, we'd be back to the Wild, Wild West of no caps on swipe fees." NRF is a plaintiff in the case.

The Fed is appealing Leon's decision to strike down the swipe fee rules, which have been in place since Oct. 1, 2011. In his ruling, the judge said the Fed disregarded Congress' intent when it decided how much banks can charge retailers to process debit card transactions. As part of the decision,

the Fed was instructed to rewrite the rules governing swipe fees. The current rules, in part, include a 21-cent cap.

A group of retail associations, including NACS, the Association for Convenience & Fuel Retailing; the Food Marketing Institute; the National Restaurant Association; and the National Retail Federation, filed suit in November 2011, claiming they would be "substantially harmed" by the fees set by the Fed.

In his July 31 ruling, Leon wrote: "Upon consideration of the pleadings, oral argument and the entire record therein, the court concludes that the board has clearly disregarded Congress' statutory intent by inappropriately inflating all debit card transaction fees by billions of dollars and failing to provide merchants with multiple unaffiliated networks for each debit card transaction. Accordingly, the plaintiffs' motion is granted and defendant's motion is denied."

IRS Issues New Rulemaking and Guidance on ACA Provisions

The Internal Revenue Service (IRS) released three documents related to the implementation of the Affordable Care Act (ACA). The three documents included new guidance for the delay in "employer shared responsibility" which was released on July 29, a proposed rulemaking for the small employer tax credit released on Aug. 23, and final rules governing the "shared responsibility payment" for individual taxpayers not maintaining "minimum essential coverage" (MEC) which were promulgated on Aug. 30.

The delay guidance reviews the "employer shared responsibility" provisions, mandating that an applicable large employer (50 or more employees) generally must offer affordable, minimum value health coverage to its full-time employees or a shared responsibility payment may apply, if one or more of its full-time employees receive a premium tax credit under the rules governing eligibility. This provision is commonly referred to as the "employer mandate."

The small employer tax credit applies to those employers with no more than 25 employees, who earn less than \$50,000 in a tax year. A business is only eligible for the tax credit for two years. To qualify for the tax credit, an eligible small employer must pay the premiums for each employee enrolled in health insurance coverage offered in an amount equal to a uniform percentage (not less than 50 percent) of the premium cost of the coverage.

Additionally, these proposed regulations will require that, for tax years beginning during or after 2014, the health insurance coverage described in a qualifying arrangement must be a Qualifying Health Plan offered by an employer to its employees through a Small Business Health Options Program (SHOP) Exchange. Comments are due by Nov. 25, 2013. The full Federal Register notice can be viewed.

The Aug. 30 final regulations notice outlines the requirement to maintain minimum essential coverage and provides guidance to individual taxpayers on the liability for the shared responsibility payment for not maintaining

minimum essential coverage. The notice also describes exemptions for qualifying individuals. This notice largely finalizes the notice of proposed rulemaking published in the Feb. 1, 2013 Federal Register.

Mercury Found in Polyurethanes and Wheel Balancing Products Still a Concern, Study Says

A coalition of state environmental association leaders, labeled the Quicksilver Caucus, released findings suggesting that further action should be taken in a number of specific areas in order to remedy both the environmental and health effects associated with mercury exposure. The findings were part of a report published last month, which was commissioned by the U.S. Environmental Protection Agency (EPA) in 2011 to investigate mercury in the environment. The report highlighted "technologies, uses, processes and products where elemental mercury (Hg) is still present, integrated or generated, even if in very small quantities."

The report looked at a total of nine areas, four of which were deemed "high priority," including polyurethane elastomer production and wheel balancing products. The caucus recommended that EPA, the Food and Drug Administration and the Department of Agriculture conduct further research focusing on these areas, expand outreach and education programs, and improve existing federal and state regulatory tools.

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 518-452-4367.

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 than the one to be inspected is substituted 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.

New York State Aftermarket Catalytic Converter Regulation Changes

Read this if you install or supply aftermarket catalytic converters (AMCCs) for sale in New York State.

1. In New York State, you must install or supply AMCCs that comply with new state regulations, or you risk being fined.
2. Fines range from **\$500** for the first violation, up to **\$26,000** for each subsequent violation.
3. **Beginning January 1, 2014**, replacement catalytic converters must either be original equipment manufacturer (OEM) parts, or new AMCCs certified as meeting California Air Resources Board (CARB) emission standards.
 - a. This applies to all model year 1993, 1994, 1996 and newer vehicles that are either "50-State" certified by U.S. Environmental Protection Agency (EPA), or CARB certified.
 - b. This does not apply to 1995 and pre-1993 model-year vehicles, and EPA-certified vehicles without 50-State certification.
4. It is now illegal to sell, offer for sale, advertise or install used, recycled or salvaged catalytic converters on vehicles in New York State. (Change effective **June 1, 2013**)
 - a. This applies to all vehicle types and model years.
 - b. This does not apply to the sale of catalytic converters salvaged for recycling purposes.
5. New AMCCs certified as meeting EPA's basic emission standard may still be installed on:
 - a. Any model-year vehicle that is EPA certified, but not CARB or EPA 50-State certified;
 - b. Any pre-1993 model-year vehicle; and
 - c. Any 1995 model-year vehicle.
6. Installers of new CARB certified AMCCs must:
 - a. Complete a warranty card in triplicate with the original going to the customer, one copy to the installer, and one copy to the manufacturer of the converter.
 - b. Retain a copy of the warranty card for a minimum of four years from the date of installation.
7. Distribution centers located in New York State may continue to supply new AMCCs certified as meeting EPA's basic emission standard for installation on applicable vehicles in New York State (see #5 for applicable vehicles) and for sale outside of New York State.

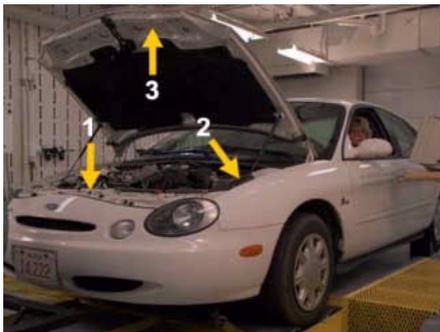


More about New York State AMCC Regulation Changes

Vehicle and AMCC Emissions Certification Markings

Vehicle emissions certification information is located on the Vehicle Emissions Certification Information (VECI) label located in the vehicle's engine compartment. The engine family and emissions certification are used to determine which AMCCs may legally be installed on a particular vehicle.

- 1) Radiator Support
- 2) Strut Tower Plate
- 3) Hood



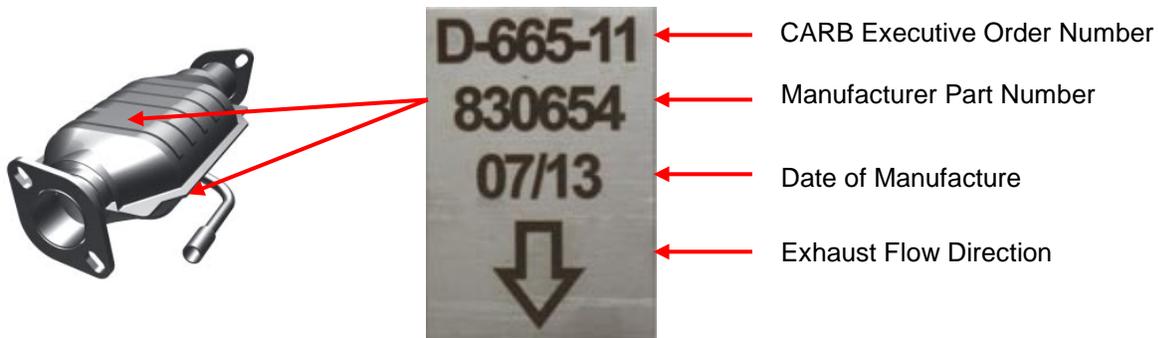
Common VECI label locations

VEHICLE EMISSION CONTROL INFORMATION		
ENGINE FAMILY	EFN 2.8VBT2EA	OBD II
DISPLACEMENT	2.8 L	CERTIFIED
THIS VEHICLE CONFORMS TO U.S. EPA AND STATE OF CALIFORNIA REGULATIONS APPLICABLE TO 2008 MODEL YEAR NEW LEV PASSENGER CARS		
REFER TO SERVICE MANUAL FOR ADDITIONAL INFORMATION TUNE UP CONDITIONS: NORMAL OPERATING ENGINE TEMPERATURE, ACCESSORIES OFF, COOLING FAN OFF, TRANSMISSION IN NEUTRAL		
EXHAUST EMISSIONS STANDARDS	STANDARD CATEGORY	
CERTIFICATION IN USE	TLEV TLEV INTERMEDIATE	
SPARK PLUG Type NGK BFRES-1P GAP 1.1 mm	CATALYST	EFN 2.8VBT2EA

This shows one of several VECI label formats

- Engine Family or Test Group
- Emissions Certification ("50 State"), Model Year and Vehicle Class
- Emissions Certification Level

Beginning January 1, 2014, new aftermarket catalytic converters for CARB and EPA 50-State certified vehicles must display two certification stamps or laser etchings on opposite sides of the catalytic converter shell or heat shield, showing the CARB Executive Order approval number, part number, date of manufacture, and proper installation direction.



More information:

Regulation: 6NYCRR Section 218-7.2(c) www.dec.ny.gov/regs/4244.html

Fact Sheet: www.dec.ny.gov/chemical/87411.html

Frequently Asked Questions: www.dec.ny.gov/chemical/90781.html

Contact: Bureau of Mobile Sources, DEC Division of Air Resources, 518-402-8292

E-mail: DARWeb@gw.dec.state.ny.us



\$afety Group 536

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



DIVIDEND HISTORY

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

DISCOUNT HISTORY

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

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

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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:	

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