
SSRA

Service Station & Repair Shop Association of Central New York
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June 2011

Judge Stays Ruling On Collection Of Cigarette Taxes

One day after a federal appeals court ruled that New York could collect taxes on tribe cigarette sales, a state judge has put a temporary stop to it, the Ithaca Journal reports.

A state Supreme Court judge issued a three-week restraining order on Tuesday, preventing New York from collecting the tax until the two sides meet again in court.

The stay follows the Seneca Nation of Indians' filing a complaint under the State Administrative Procedure Act after Governor Cuomo announced plans to begin collecting the \$4.35 a pack tax on cigarettes sold to non-Indians on tribal land.

"We will now begin the implementation phase as we move to collect these taxes," said Gov. Andrew Cuomo. "I have always said that taxes on cigarettes sold to non-tribal members must be collected because this is revenue rightly owed to the state, and with this decision, my administration will move to do so expeditiously."

New York Attorney General Eric Schneiderman said the decision enables the state to realize around half a million dollars daily from cigarette sales to non-Indian customers by Native American retailers. The governor's budget estimates it will gain more than \$100 million from these collections.

Arguments on the appeal are scheduled for June 1.

Graphic Smoking Posters Remain Up Despite Ruling

Four months ago, a federal judge ruled against a law that required New York City retailers that sell cigarettes to hang graphics of tobacco-related diseases, but many retailers have kept the posters up, the *Wall Street Journal* reports. The three posters depicting cancerous lungs, rotting teeth and a brain damaged by stroke remain on walls and at registers of many supermarkets, bodegas and convenience stores around the city.

Last March, the city said retailers had to display the posters or be fined up to \$2,000. The New York Association of Convenience Stores (NYACS), along with three tobacco companies, sued and in December, a judge agreed with them that the city had no authority to order the postings.

Many retailers are leery of taking the posters down for fear of fines, although the city's Law Department confirmed that New York is not enforcing the law. The city appealed the decision.

The city alerted retailers about posting the images, but has not informed them that they could take down the posters. Trade groups have informed their members, but hundreds of retailers still don't know about the ruling.

Kentucky Attorney General Accuses Marathon of Gouging

Kentucky citizens who think that gas prices are too high might not be wrong, according to Attorney General Jack Conway, who accused Marathon Petroleum Co. LLC of illegally raising the wholesale price of gasoline and other motor fuels in Kentucky markets. The price jump added to the stress of Kentuckians who have been coping with heavy rains and flooding.

"I want to thank Kentuckians who called or e-mailed our office to report the drastic changes in gas prices that reached more than \$4 a gallon at the pump in many communities," said Conway in a prepared statement. "Gas prices jumped about 30 cents overnight. The tips provided by consumers and retailers helped us bring this action that will hopefully provide some relief for Kentuckians who are struggling to put gas in the car and clean up from flooding."

Conway filed a motion for a temporary injunction in Franklin Circuit Court that alleges Marathon violated the state's price-gouging law that was triggered by Gov. Steve Beshear's declaration of a state of emergency on April 26, following storms and flooding in Western Kentucky. The motion asks the court to require that Marathon lower its wholesale prices in all Kentucky markets to no more than the price charged on April 25. The injunction would also apply to Marathon's subsidiary Speedway LLC.

As evidence, the motion used the shift in wholesale prices in Louisville. According to the motion, the wholesale price for regular gasoline there was \$3.25 per gallon on April 25 and jumped up to \$3.48 on April 28, and remained as high as \$3.46 on May 9. The price has since lowered. Kentucky's price-gouging law only permits suppliers to raise prices when they have seen an increase in costs.

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Open Supply Bill

The service station business has changed and is continuing to change. DTW and Rack prices go up and down like a yoyo. What control do you have? If you own your own tanks you have the right to sell unbranded. The process is simple -- you put a sign on you pump announcing that it dispenses a non-branded product. The pump must be supplied by a tank that is dedicated to that pump. Your price sign on the curb can display the lowest price at the station.

What about dealers that do not own their tanks? There is legislation active in the New York State Legislature that will provide these dealers with the same opportunity as dealers who own their tanks. A7663 - S5183. Open Supply.

Just think your supplier is charging you DTW at eighteen to forty cents over rack. You will be able to purchase unbranded and sell it to you customers at competitive prices or force your supplier to lower their prices.

Help yourself, contact your State Legislators and tell them you want A7663 - S5183 passed it law. For help in talking points see attached memo.

MEMORANDUM IN SUPPORT

A7663 – S5183

Assemblymen Predlow – Senator DeFrancisco

The subject bill amends the New York State General Business Law to permit the sale of unbranded motor fuel at service stations. It allow gasoline retailers to purchase and sell unbranded motor fuel in addition to the brand of motor fuel supplied under the terms of a franchise agreement with a refiner.

This legislation changes the General Business Law to invalidate any provision of a franchise agreement with a refiner or supplier that would prohibit a dealer from selling or purchasing unbranded motor fuel.

The purpose of this bill is to create additional competition in the petroleum distribution chain. The price of unbranded gasoline is, in some cases, significantly lower than branded product. This bill would simply provide an opportunity for unbranded fuels to be marketed at branded service stations, which are owned by the dealer and where there is the availability of a tank to be dedicated to the sale of unbranded product. This change increases the availability of unbranded product in the marketplace on the retail level. This bill would provide the consumer with additional choice.

Motor fuel franchise agreements typically include provisions, which permit a service station dealer to use a particular identifying symbol, or a trade name owned or controlled by a refiner. In exchange for that right the dealer or distributor must purchase and sell motor fuel supplied solely by that refiner. Dealers are usually expressly prohibited under such agreements from selling motor fuel from another source including unbranded motor fuels.

This situation limits the availability of unbranded motor fuel to New York's drivers at a time when motor fuel prices are escalating. Unbranded motor fuel often sells at a lower price than branded motor fuel. The availability of unbranded motor fuel would result in additional competition in the market place, and availability of unbranded motor fuel would help to open up competition.

Section 199-j of the State's General Business Law renders null and void any franchise provision, which requires a dealer to purchase or sell products of the distributor other than motor fuel. It also renders null and void any provision of a motor fuel agreement that prohibits a dealer from purchasing or selling alternative motor fuel.

Section 1 of the bill will amend subdivision 3 of section 199j of the general business law by adding supply agreements with distributors to the provision prohibiting purchase of and sale of unbranded motor fuel by franchised distributors and dealers. It also specifies that this applies to dealers who provides environmental pollution insurance coverage for the tanks and pumps of not less than one million dollars in the aggregate and who dedicate a tank for the sale of unbranded motor fuel.

The New York State Association of Service Stations & Repair Shops support the subject bill. In light of the hike of gasoline prices, governments should intervene to regulate this very active market in order to ensure fair and affordable prices for the citizenry. Today, the mediators between the refiners and the consumers are a primary reason behind this unseen price hike since summer 2008. The so-called "Dealer Tank Wagon" (DTW) price is the wholesale price that the lessee-dealer pays, and which has always been higher than the prices charged by jobbers. This has put this category of fuel providers in a competitive disadvantage in exchange for the dealer-refiners.

Motor fuel franchise agreements typically include provisions, which permit a service station dealer to use a particular identifying symbol, or a trade name owned or controlled by a refiner. In exchange for that right the dealer or distributor must purchase and sell motor fuel supplied solely by that refiner. Dealers are usually expressly prohibited under such agreements from selling motor fuel from another source including unbranded motor fuels.

In California, lessee-dealers and their trade union have sued refiners under the California State unfair practice claiming that refuters sell fuel to jobbers at rack prices lower than the DTW. While this is clear unfair pricing, lessee-dealers have been calling for an ability to purchase their gasoline from alternative sources forcing refiners to be involved in competition.

This bill addresses this unfair pricing practice by allowing lessee-dealer to engage in distribution contracts with wholesalers. This would decrease the prices by an average estimated at 15-20 cents per gallon. Further, it would increase New York State competition in the gasoline market, especially in areas near the border of neighboring states where people can cross the borders and purchases their gas in New York.

Currently, the average gas price in New York State is about \$4.15/Gallon, which is one of the highest state averages, making it less and less affordable for people. Many experts see the building price pressures as a serious threat to ongoing economic recovery, particularly if crude stays above \$100 a barrel. The chief economist of the International Energy Agency (TEA), Dr. Fatih Birol, said in March that such a level would spike inflation in the global economy, driving up food prices, transportation and other

consumer products. Therefore, reducing these high prices should be a priority to save the already fragile economic recovery.

The purpose of this bill is to create additional competition in the petroleum distribution chain. The price of unbranded gasoline is, in some cases, significantly lower than branded product. This bill would simply provide an opportunity for such unbranded fuels to be marketed at branded service stations, which are owned by the dealer and where there is the availability of a tank to be dedicated to the sale of unbranded product. Also, significantly, the bill would allow distributors to sell and purchase unbranded motor fuel. This change increases the availability of unbranded product in the marketplace on both the jobber and retail level. This bill would provide the consumer with additional choice.

In addition, this bill includes protections to insure proper labeling of unbranded product and appropriate measures to both guarantee the integrity of branded product and to protect the consumer.

This bill would eliminate a barrier to the distribution of unbranded motor fuel in the marketplace. It would increase the availability of unbranded motor fuel and, as a consequence, increase competition within the current market structure.

In the case of service station dealers, this bill is specifically only applicable to dealers who own the real property, including the tanks and pumps or provides environmental pollution insurance coverage for the tanks and pumps of not less than one million dollars in the aggregate and who dedicates a tank and pump for the unbranded motor fuel. It also goes further to require use of a dedicated tank for unbranded motor fuel. This approach eliminates any legal arguments by the refiner with respect to being forced to sell unbranded motor fuel on premises or using equipment that the refiner owns.

As motor fuel prices rise, dealers are anxious to give consumers cheaper alternatives. Franchise agreements with refiners handcuff dealers from making unbranded fuel available. This bill eliminates a contractual barrier that prevents dealers from offering a lower cost alternative. This bill would also enhance wholesale and retail competition by expanding the opportunity for distributors to sell and purchase unbranded motor fuel. There is a lack of competition at the wholesale level because of limitations imposed by refiners on distributors' ability to sell unbranded motor fuel. Branded motor fuels should rely on their product not market limitations to generate sales. Branded fuels should not be reticent to directly compete against unbranded motor fuel, if the price differential has consumer worth.

There is significant resistance to this legislation by both refiners and distributors who express concerns about the stability of the current distribution system. Clearly, the protection of the status quo as advocated by refiners and distributors does not benefit the consumer. Making the sale of unbranded motor fuel more achievable in the current distribution system introduces a competitive element largely absent from the marketplace. The current price structure has

motivated motor fuel dealers to pursue this legislation to create a more competitive environment with lower prices.

Based on the foregoing, the New York State Association of Service Stations and Repair Shop, it affiliates and member respectfully request the bill be passed into law.

Window Tinting Inspection Bill

The New York State Assembly Transportation Committee has on its agenda Bill A7351 which will require the inspection of tinted windows when a vehicle is having its annual Safety/Emission test. The bill will require extra time and money to add this feature to the inspection procedure. We have opposed this bill telling the legislature we have not had an increase in the Safety Inspection fee since 1985 and there is no accommodation in the bill to increase the fee or pay for the equipment necessary to do the test.

The following is the memo the association has filed:

*MEMORANDUM IN OPPOSITION
BILL NUMBER A7351 – S2542*

The subject bill amends the Vehicle and Traffic Law, in relation to including the examination of tinted or shaded windows in the periodic inspection of motor vehicles. It includes an examination of window tint in the yearly state safety inspection of a vehicle. It requires that any window of a vehicle, which is covered by or treated with any material, which has a light transmittance of less than seventy percent, would be subject to this new law and would fail inspection.

The bill is an attempt to address the issue of glass that is too dark which can inhibit drivers from making necessary eye contact with another driver to understand their intent. It also tries to remove the problem that law enforcement's can have because their ability to observe illegal activity occurring within the vehicle is obstructed.

The New York State Association of Service Stations and Repair Shops, Inc., it five affiliates and 3500 members oppose this legislation. While the goal of the sponsor may have merit placing the burden of enforcing the provisions of the bill are unfair. There is no accommodation to the inspection station for the time to test the tinting nor is there a provision to reimburse the business for the equipment needed to do the testing.

For the above reasons we asked that the bill be defeated.

Inspection Station Geographic Limitations

The following are proposed regulations for DMV limitation of the number of inspection stations per county.

NYS DMV has published in the New York State Register proposed regulations to limit the number of inspection stations per county. The proposal gives the Commissioner the right to determine the maximum number of public official emission inspections stations that may be located in any county. The factors to be used to make the determination are

- the total number of motor vehicles that are registered in any given county of the state
- the total number of official emission inspection stations
- what else the Commissioner finds are materially and

substantially reasons related to making such a determination

- these determinations will be reassessed on an annual basis.

When the maximum number of public official emission inspection stations is reached in any county, the Commissioner may refuse to approve any application for any original public official emission inspection station license. The proposed regulation also provide the DMV the authority (to and) may refuse to approve an application for an amendment for a public official emission inspection stations change of location. These applications will be placed on a waiting list.

If and when the number of inspection stations fall below the maximum in any county, an application for an original license from the list will be reviewed by the commissioner. DMV will post, on its website, a summary of its findings regarding the number of stations that will be permitted in any county.

Exempt from the limitation will be new car dealers.

Also, exempt is an original application for an inspection station license received from a person who purchased a facility from another person. However, the inspection station being sold must be in good standing at the time of the sale. In good standing is defined as;

- the license of the facility has not been suspended or revoked.
- the facility does not owe any outstanding civil penalties.
- the facility has no hearings or appeals pending from the Department of Motor Vehicles, and
- the facility has no litigation pending in which the Department is named as a party.

For an inspection station that wishes to amend their license and change the location of the inspection station, the change of location must be within the same county or within five miles of the current location.

If the commissioner determines that there is a need for an inspection station in a specific geographic region within a county that has reached its limit of stations, at the Commissioners discretion, he/she may approve additional inspection stations.

New car dealers will be required to purchase equipment that can scan the computer for codes. Currently, new car dealers only (have to) need perform a safety inspection on brand new vehicles. However, the Department of Motor Vehicles is issuing an order to create an advisory (commission) scan requirement. The information gathered from these scans will be used to determine how these cars will react in the future to OBD testing.

The regulations are due to become effective on July 15th. Any application received for an inspection station after that date will be subject to the geographic limitations.

Additional note, the current emission inspection program is due to expire in 2013. What configuration the new program will take is unknown at this time. However it may require new equipment. We will keep you informed.

Memorandum In Support

Bill Number: S4170

Sponsor: Senator Alesi

The subject bill amends the New York State General Business Law, in relation to zone pricing of gasoline. It amends chapter 579 of the laws of 2008 correcting an oversight in the original legislation. Specifically the bill prohibits the use of zone pricing as a marketing device for gasoline.

Zone Pricing is a marketing technique currently used by petroleum companies. The company determines geographical price zones based on the demographics of a certain area. For example, if one area typically is more affluent than another, the tank wagon price, in other words, the price per gallon determined by the wholesaler, at which gasoline is offered for sale to the retailers, may be slightly higher in that area, than an area where the clientele is primarily a working class neighborhood. Because the petroleum companies increase the amount charged to the service station dealers for the gasoline in those designated zones, this cost is then passed on to the consumers. Thus, the result of zone pricing is higher prices at the pump for individuals who are assumed to be able to pay more. This legislation would prohibit this discriminatory pricing policy.

Also, some suppliers to control dealer's margins and actions use zone pricing. If a dealer refuses to accommodate pricing or other request by suppliers the dealers station is moved into a higher price zone and the price of motor fuel to the dealer increase causing the station to sell and higher prices.

For the above reasons the New York State Association of Service Stations and Repair Shops, Inc. its affiliates and members support this bill and urge it become law.

Memorandum In Opposition

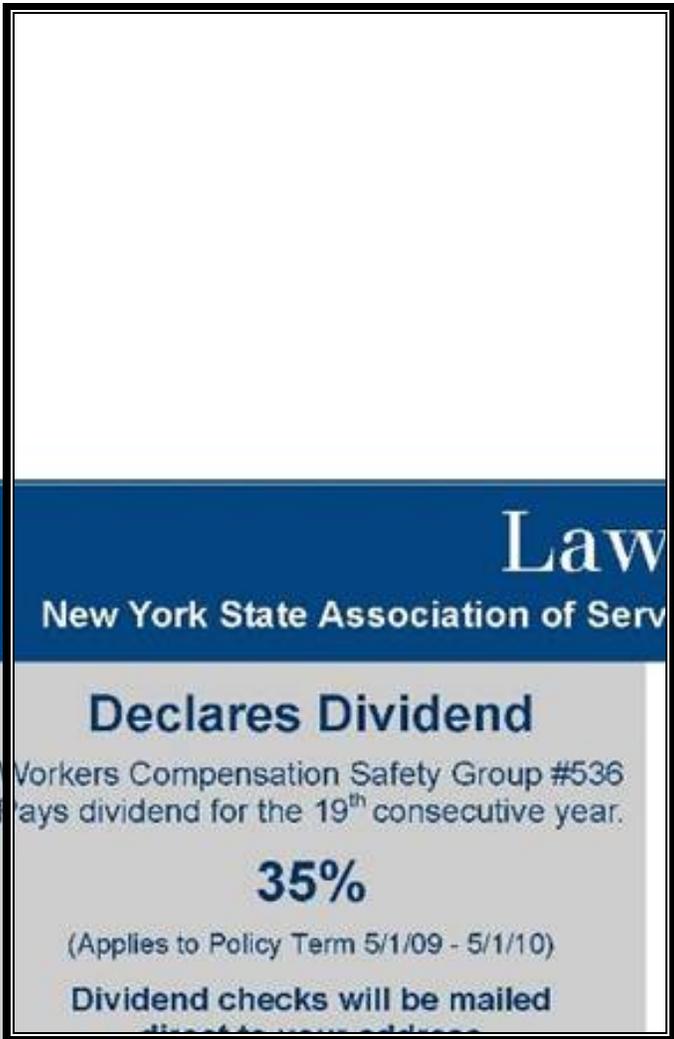
Bill Number: A1160 – S3734

Sponsor: Assemblyman Bing (Ms) Senator Marcellino

This bill will amend the banking law by adding a new Article II-aaa and the general business law by adding a new section 399-yy. The provisions of this article shall apply to any unenclosed automated teller machines located in any building, structure, or space whose primary purpose or function is unrelated to banking activities, where such automated teller machine is available for use only during the regular hours of operation of the building, structure, or space in which such machine is located. It will require that every automated teller machine to be registered in accordance with the provisions of this article.

The sponsors point to identity theft as being a problem They neglect to mention that nowhere in the 93-page FTC on the subject report did the terms "automated teller machine" or "ATM" appear. Once again our industry is faced with unreasonable regulation to solve a problem that doesn't exist while being expected to solve New York State's budget woes by paying another needless fee.

For the above reason the New York State Association of Service Stations and Repair Shops, Inc., its affiliates and members oppose this bill and ask it be defeated.



Lawley

New York State Association of Service Stations & Repair Shops

Declares Dividend

Workers Compensation Safety Group #536
Pays dividend for the 19th consecutive year.

35%

(Applies to Policy Term 5/1/09 - 5/1/10)

**Dividend checks will be mailed
direct to your address**

by The State Insurance Fund

Recent Dividend History

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

Lawley – Group Manager
Workers Compensation
Fund Safety Group #536

Jim Propis
716 849 8235
jpropis@lawleyinsurance.com
lawleyinsurance.com

**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 LOCATION OF THE NEXT SEMINAR

WHERE & WHEN:

Classes will be scheduled upon request.
When sufficient demand for classes in an area exists,
a class will be scheduled

COST:

MEMBERS: \$15.00 - NON-MEMBERS \$30.00

PLEASE CALL FOR RESERVATIONS AT (607) 398-7260

SPONSORED BY: SSRA

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Service Station and Repair-shop Association of Central New York

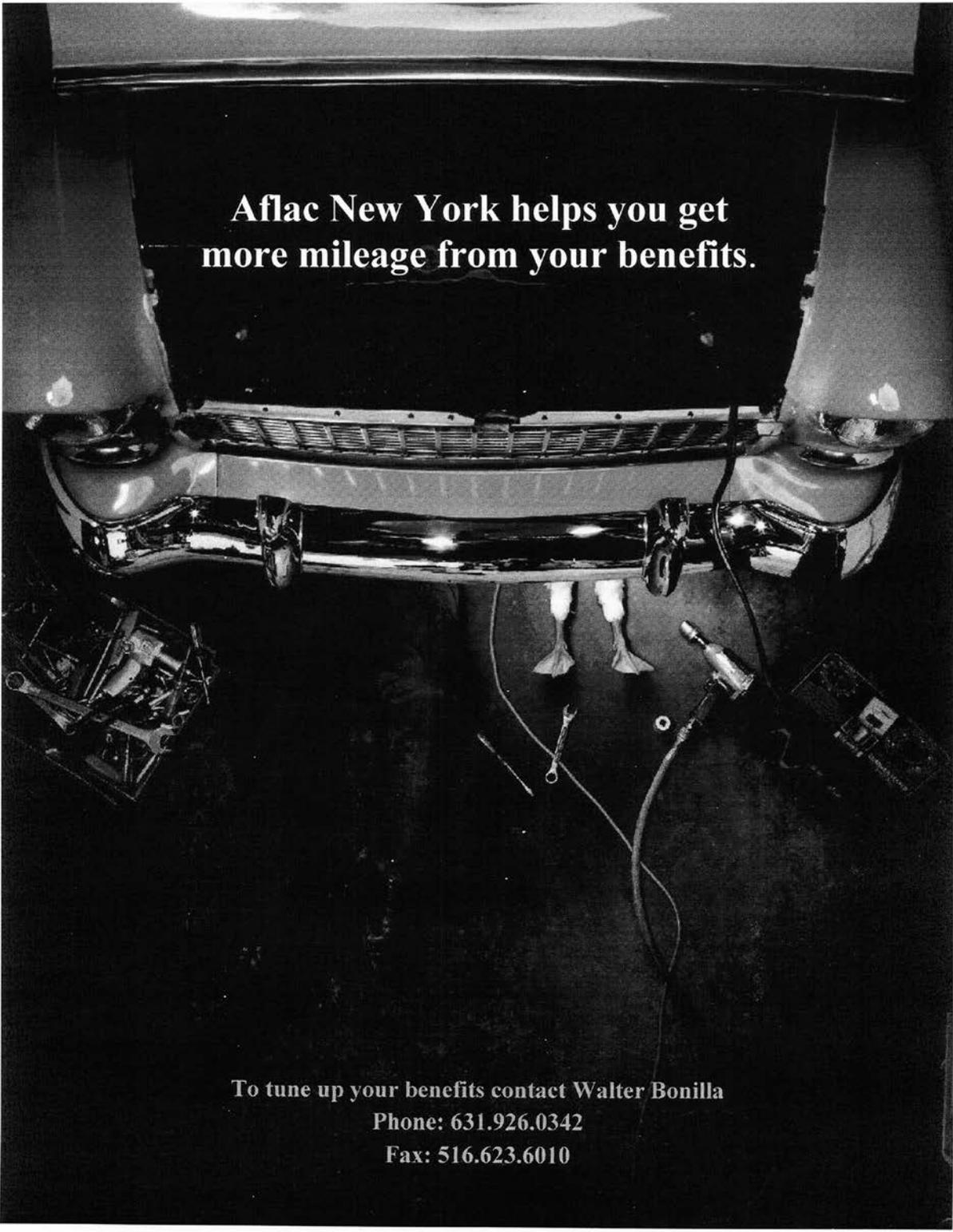
HEALTH INSURANCE PROGRAM

If you are going without health insurance, you are taking a big risk. Now is the best time to stop exposing yourself to high medical costs. Even if you have insurance, you will want to check how our health insurance programs can better suit your needs. Here are some of the benefits of our program:

- **Reduced premiums by being a member of our groups.**
- **Programs provided by a variety of providers.**
- **Choose from a wide selection of plans.**
- **Tailor your insurance to best suit your needs.**
- **Participating employees may choose different plans.**

Let us work with you to find the best program at the best price. We will send you more information, and help you to navigate the selection of plans and options to find the one that is best for you.

**To find out more information call
Ralph Bombardiere at (607) 398-7260**



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Aflac New York offers a wide range of policies that can help cover health events from accidents to hospitalization. You choose the ones that are best for you, your employees, and your business.

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Aflac New York's tax-advantaged plan allows employees to use pre-tax dollars to pay for certain benefit costs, through a Section 125 cafeteria Plan. This plan may also reduce your FICA taxes, helping you counterbalance the challenges you face in today's economic environment.

ATTRACTIVE TO YOUR EMPLOYEES

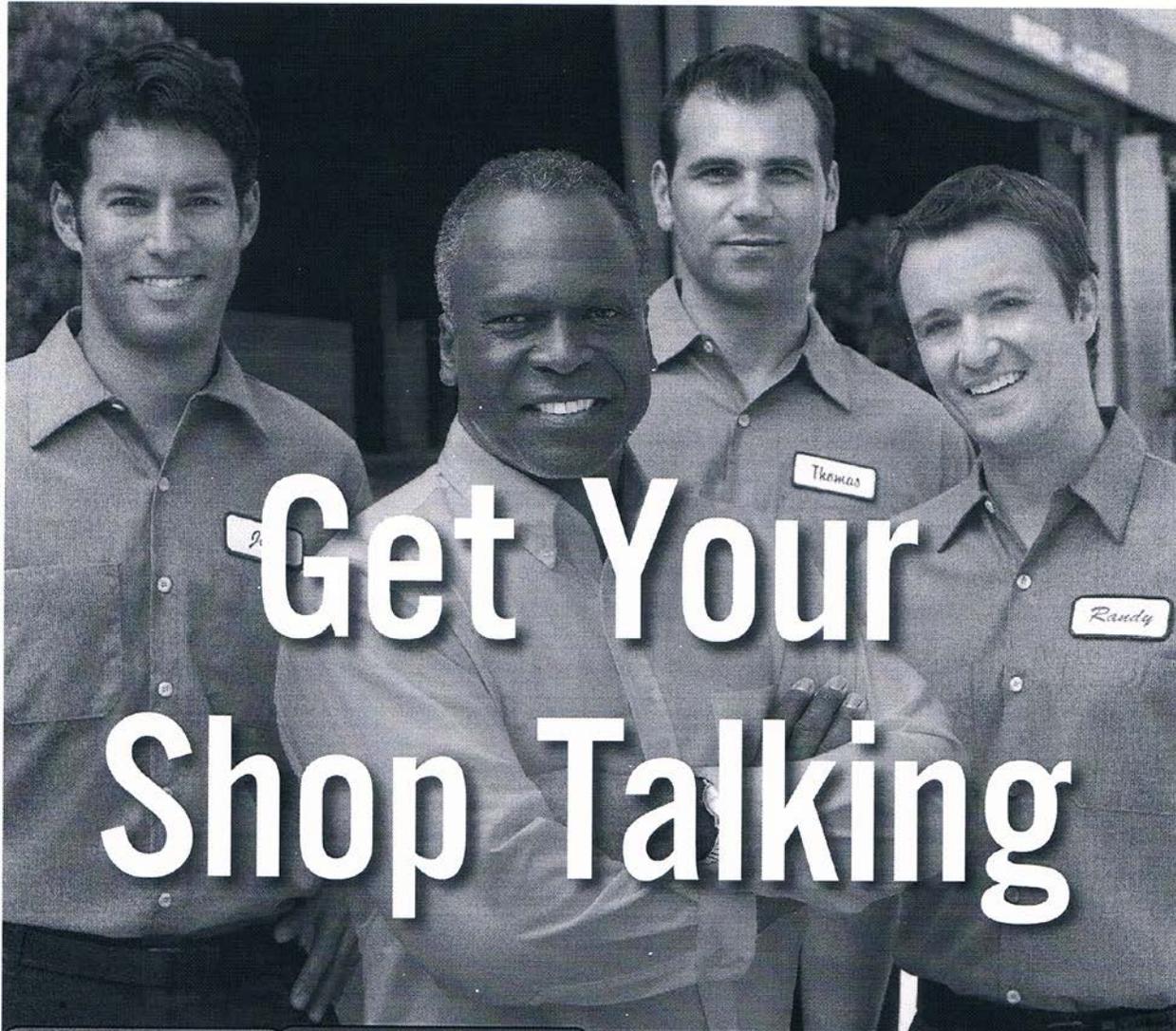
Aflac New York insurance complements your major medical insurance to help you create a more attractive employee benefits package. Our wide range of policies is designed to provide cash benefits to your employees if they become injured or sick. With Aflac New York policies, there are no deductibles, copayments,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

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Shop Management Solutions

Business Performance Services

Business Information Solutions

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Shop Management Solutions

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Keep Your Customers Coming Back

Repair Information Services

Shop Management Solutions

Business Performance Services

Business Intelligence Services

Mitchell1[®] eCRM[™]

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

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



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Business Performance Services

The NAPA Major Account Program

*** **FREE MONEY GIVEAWAY** ***



Want to put more money in your pocket
and do nothing more than you do now?



You already buy parts and supplies for your business so why not buy from NAPA and earn 2% rebate!

The Association and NAPA developed a complete, competitive supply program designed to boost your backroom profits and meet your customer needs. Here's what it includes:

BENEFITS TO ASSOCIATION RETAILER

<u>Quality</u> Products that meet or exceed OEM specifications	<u>Consistent</u> Nationwide Parts Warranty
<u>Customized</u> Pricing -Reduced Parts Costs	<u>Availability</u> -Up to 342,000 Part Numbers
<u>Improved</u> Inventory Turnover	<u>Broader</u> Inventory Coverage
<u>Less</u> Downtime -Higher Gross Profitability	<u>Obsolescence</u> Protection
<u>Increased</u> Field Contacts -700 Factory Representatives	<u>Tailored</u> Local Inventories
<u>Consistent</u> Manufacturers Throughout Our System	<u>Recognized</u> Consumer Brand
<u>More</u> Effective Shop Inventory -Reduced Investment and Higher Productivity	
<u>Prolink</u> Internet based catalog, 24/7 parts availability and pricing	

PROFIT PLAN

Very competitive pricing on NAPA Premium and Value Line products
Special quarterly stocking incentives
Quarterly product discounts to enhance competitive pricing during key selling seasons
Discount on electronically ordered parts from participating stores
Prompt payment discount terms (2% 10, Net 20)

A BRIEF LOOK AT NAPA

Since 1925, NAPA (**National Automotive Parts Association**) has helped businesses expand their parts coverage and maximize turnover and ROI. They offer an unparalleled package for people, products and programs to increase your productivity:

More than 5,800 **NAPA AUTO PARTS** Stores Nationwide

- Strategically located Distribution Centers servicing all 50 states
- Computerized inventory control linked to your station
- Highly trained Factory Reps.
- Training for you and your employees

(O V E R)

Now...what do you have to do to participate in the NAPA Program? It's easy. You just have to:

- Register in **NAPA** Major Account Program with the Association
- Stock a minimum of four product lines
- Designate **NAPA** as first call supplier, and
- Purchase a minimum of \$7,500 per quarter (Average \$2,500 per month)

It couldn't be easier so why not join today. **No risk**...if you don't meet the quota you just don't receive the rebate, nothing lost...but additional profit could be gained!

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:
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FAX this form back to:
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C-Store only 2 years old

Gasoline Sales:

Estimated 600,000 gals

**CStore: \$40,000 per month
not including lottery**

**Lottery: Approximately
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