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## ATTORNEY'S CORNER

Recently, it has come to the attention of your Association that our members may have a serious chink in their armor of protection against theft of monies from their business accounts, a weakness that could leave them holding the bag for any losses and without any recourse against their banks.

Ordinarily, under the banking laws the accounts of individuals have many protections against theft of funds from their bank accounts. Banks are held to a high standard by law when it comes to safeguarding the funds of individual depositors. However, not many small businesspeople are aware that their business accounts do NOT have the same level of protection that individual depositors have. Under the Uniform Commercial Code ("U.C.C.") the banks are only required to protect their business accounts with "commercially reasonable" security protocols. But with cyber crime running rampant these days, just how secure is "commercially secure"? Not necessarily very secure we're afraid. There have been reports that some criminal hackers have been able to so penetrate and procure passwords and other information from small businesses that they even can access your calendar and arrange to have your funds transferred to their accounts when you are away from your business and hence unaware of such illicit activity. Banks have been sued over such losses, which can range from thousands to more than a million dollars. Unfortunately, the standard of "commercially reasonable" security is so broad that it is almost impossible to win such a lawsuit. What to do?

The best protection is to educate your managerial staff to such risks and make them aware of the danger these cyber criminals pose. Forewarned is forearmed. You might also arrange with your bank that funds cannot be transferred from your account over a certain amount without the authorization of two people. In addition, you might be able to designate to your bank a single dedicated computer in your office from which all money transfer requests must originate. It's true that these precautions may seem like a real nuisance to busy business owners. Unfortunately, the benefits of the internet also brings certain dangers which must be guarded against. Failure to do so could destroy your business. It already has done so to some. Don't let this happen to you!

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

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## **Visa Rolls Out Initiatives to Help With EMV Migration**

Visa Inc. is making major changes to its EMV merchant liability policies. Of greatest significance to convenience store retailers, effective July 22, Visa will block all U.S. counterfeit fraud chargebacks under \$25.

“These smaller chargebacks generate a great deal of work and expense for merchants and acquirers, with limited financial impact for issuing banks,” Visa wrote in a statement. “In addition, effective October 2016, issuers will also be limited to charging back 10 fraudulent counterfeit transactions per account, and will assume liability for all fraudulent transactions on the account thereafter. This reinforces the responsibility issuers already have to detect and act on counterfeit fraud quickly. These blocks will stay in effect until April 2018.

“These two changes together will significantly reduce the number chargebacks that merchants are seeing,” continued the Visa statement. “Following these changes, merchants can expect to see 40-percent fewer counterfeit chargebacks, and a 15-percent reduction in U.S. counterfeit fraud dollars being charged back.”

EMV is an acronym for Europay, MasterCard and Visa, the three companies that originally created the security standard. Under EMV liability shift deadlines, c-store retailers needed to upgrade their point-of-sale devices to accept chip-and-PIN cards as of Oct. 1. Similar liability shifts are set to take place on Oct. 1 of this year for ATM machines and Oct. 1 of next year for automated forecourt devices.

In addition to the chargeback changes, Visa stated it has streamlined its testing requirements, amended and simplified the terminal certification process, and committed to investing further resources and technical expertise in a manner that can reduce timeframes by as much as 50 percent. Visa is also making policy changes to help limit exposure to counterfeit fraud liability for merchants who are not yet chip-ready.

According to San Francisco-based Visa Inc., there are more than 300 million EMV chip cards in the U.S. marketplace, with 1.2 million merchants accepting such cards. An average of 23,000 new locations become chip-ready each week.

There is no word yet if Visa’s competitors will alter their EMV merchant liability policies in similar ways.

## **Visa Helps Fuel Retailers See Reduction In Fraud**

More than 35,000 gas stations have implemented Visa Inc.’s Visa Transaction Advisor, a service the global payments technology company stated can reduce fraud by more than half. Specifically, users of the service have seen counterfeit fraud rates decline by 54 percent and lost and stolen fraud chargeback rates decline by 54 percent, according to Visa.

“Visa Transaction Advisor gives fuel retailers a tool for applying Visa’s real-time fraud insights to transactions at the gas pump,” said Mark Nelsen, senior vice president of Risk Products, Visa. “The results we’re seeing in the fuel sector

attest to the power of predictive analytics for many of our merchant partners. It’s an effective model for combatting fraud and one we hope to replicate with other merchant categories.”

After a cardholder inserts the card at the pump, Visa analyzes multiple data sets, such as past transactions, whether the account has been involved in a data compromise, and nearly 500 other pieces of data to create a risk score within milliseconds. This allows merchants to identify those transactions with a higher risk of fraud and perform further cardholder authentication before gas is pumped. Visa research has shown that when a fraudster is asked to go inside and see a store employee to complete a transaction, as a result of Visa Transaction Advisor, they will typically drive away instead.

Visa stated its solution is easy to implement. It uses existing message formats, pump software and hardware to ensure minimal impact to merchants and acquirers. The implementation is typically done at the national brand level, requiring little work from local franchise locations. The service analyzes more than 76 million transactions each month.

“Visa Transaction Advisor provides an extra layer of security at our 15,000 service stations in the United States,” said Mike Swillo, US Credit Card Operations Manager at Shell. “It seamlessly integrates with our other risk management strategies and provides added protection for merchants without inconveniencing our customers. We’re able to provide added security at our fuel pumps, which protects our customers, station operators and the brand.”

Added Rick Steckroth, director of Business Development at Alttona, Pa.-based Sheetz: “What makes Visa Transaction Advisor so effective is it helps block criminals before they can even pick up the pump. This helps us to maintain a great customer experience while still managing for fraud.”

## **Harmful Swipe Fee Legislation Introduced In Congress**

This week, retiring U.S. Rep. Randy Neugebauer (R-TX) introduced legislation that would repeal the Durbin Amendment and the debit swipe fee reforms hailed by NACS and the merchant community. On Wednesday, House Financial Services Committee Chairman Jeb Hensarling (R-TX) circulated a draft of his “Financial CHOICE Act,” which includes a provision to repeal debit reforms. These efforts have strong support from credit card and banking industry groups.

Since the Durbin Amendment took effect in late 2011, it has helped consumers save nearly \$6 billion a year and supported about 37,000 jobs each year.

Senator Richard Durbin (D-IL) responded sharply to the introduction of H.R. 5465, noting in a statement that repealing the debit swipe fee reforms would not only be a windfall for Visa, MasterCard and the nation’s biggest banks, but would also “diminish transparency and competition in the debit card system” and harm millions of consumers and retailers.

“While the big banks and card networks may want to reopen a battle they lost six years ago, Congress’s time would be better spent investigating and reining in the new anti-competitive fees that keep popping up in the credit and debit card industries. Just last week I pointed out that Visa and MasterCard had created blatantly anti-competitive fees to penalize small banks and credit unions and deter them from doing business with other card networks. Continued vigilance by Congress and regulators is necessary to help expose these rigged schemes and ensure that the credit and debit card systems operate fairly for all Americans,” Durbin added.

Durbin’s comments were echoed by Representative Peter Welch (D-VT) who stated, “For years, Senator Durbin and I have sounded the alarm about unregulated interchange fees and the harm it does to consumers, small businesses, and the economy. The repeal of these reforms would roll back the clock on competition and transparency and allow the credit card industry to return to its practice of ripping off consumers and small businesses unabated.”

The Merchants Payments Coalition (MPC) issued a statement that H.R. 5465 would promote more price-fixing and detract from the few market forces that were actually created on debit card fees. “It is unfortunate that Mr. Neugebauer chose to make one of his final acts in Congress an attempt to undermine the free market and instead support price-fixing that benefits the largest of the largest banks and threatens consumers, merchants and the entire economy,” said Doug Kantor, counsel to the MPC and NACS.

Neugebauer’s legislation comes just one week after Rep. Jeb Hensarling (R-TX), chairman of the House Financial Services Committee, announced plans to repeal swipe fee reform and the 2010 Dodd-Frank Wall Street Reform Act, which contains the Durbin Amendment. “The Hensarling proposal would promote more price-fixing and detract from the few market forces that were actually created on debit card fees,” Kantor said.

In a letter sent to Capitol Hill last month, the MPC and more than 140 national and state trade associations asked Chairman Hensarling to protect the Durbin Amendment. The Wall Street Journal reported that Donald Trump met with Hensarling last week to discuss a Republican alternative to the Dodd-Frank law. Trump said he would dismantle nearly all of Dodd-Frank, without giving specifics.

Last week NACS asked members of the c-store industry to contact their member of Congress to voice opposition to repealing debit swipe fee reform. More than 2,000 letters were sent to Capitol Hill.

### **Retailers Attack Proposal To Repeal Debit Card Reform**

Retailers say a federal proposal to repeal debit card reform would encourage the card companies to fix prices.

U.S. Rep. Jeb Hensarling (R-Texas), chairman of the House Financial Services Committee, yesterday announced plans to repeal swipe-fee reform and the Dodd-Frank Wall Street Reform Act.

NACS urged Congress to reject the proposal, saying that debit swipe fee reform has saved consumers nearly \$6 billion and supported more than 37,000 jobs a year. The association said repealing debit reform would “undercut the free market by allowing the giant credit card companies and banks to resume price-fixing of debit card fees.”

The National Retail Federation (NRF) said in a statement that swipe fees on debit and credit cards are many retailers’ second-largest operating cost, behind labor. “These fees threaten small retailers with failure and keep merchants from hiring and expanding, slowing the entire economy,” NRF said.

Under the Dodd-Frank Consumer Protection and Wall Street Reform Act of 2010, the Federal Reserve was required to adopt regulations that would result in debit swipe fees that were “reasonable and proportional” to the actual cost of processing a transaction, the group pointed out. Federal Reserve staff calculated the average cost at 4cts per transaction and proposed a cap no higher than 12cts, NRF noted.

“After heavy lobbying from banks the Federal Reserve Board of Governors eventually settled on 21 cents plus 0.05 percent of the transaction for fraud recovery and allowed another 1 cent for fraud prevention in most cases. The cap, which applies only to financial institutions with \$10 billion or more in assets, took effect in 2011 and totals about 24 cents on a typical debit card transaction,” NRF said.

NACS said the loss of debit reform would be especially hard on convenience store owners. As NACS condemned Hensarling’s plan, it also called attention to a Vermont c-store owner who recently filed for bankruptcy and cited high credit and debit card fees as the primary reason for the store’s failure.

--Donna Harris, dharris@opisnet.com  
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### **C-Store Closes Because Of High Card Fees**

For years, the Quechee Mobil Mart has welcomed visitors to Woodstock, selling them gasoline, convenience store staples and gifts. Sheryl Trainor has owned the business since 1995.

But in mid-May, Quechee Mobil Mart locked its doors and filed for Chapter 7 bankruptcy status—all because of the fees associated with accepting credit and debit cards, Trainor told the Vermont Standard. “The biggest single factor leading to the financial situation at my business was the prevalence of credit and debit card use in today’s society,” she said.

Mike Pearce, who owns Mike’s Store and Mobil gas station, agreed. “Ten years ago, credit card purchases were less than 30% of our business,” he said. “Today, most of our sales are paid for with plastic.”

With credit card companies charging retailers between \$1 and \$4 per transaction, “the profit margins are so low on a lot of our merchandise that on small sales we actually lose money because of the swipe fees,” said Pearce.

“The American public is deceived into thinking that the convenience of not carrying cash and the benefits of cash back and airline points have no negative consequences, only benefits,” Trainor added. “They are wrong.” Trainor pointed out that at her store, credit card fees ranked second after labor costs in terms of expenses.

“In a business where the bulk of my sales (gasoline) yielded little more than pennies per gallon,” Trainor said, “losing half or more of those pennies in swipe fees and other charges to the big banks and credit card companies, guaranteed a broken business model.”

### **Walmart Canada Says ‘No’ To Visa**

Walmart Canada announced on June 11 that it will stop accepting Visa credit cards. “Following an evaluation of credit card transaction fees in Canada and the rest of the world, we have concluded the fees applied to Visa credit card purchases remain unacceptably high,” said the retailer in a statement.

“To ensure we are taking care of our customers’ best interests and delivering on our promise of saving customers money, we constantly work to reduce our operating costs, including credit card fees. Unfortunately, Visa and Walmart have been unable to agree on an acceptable fee for Visa transactions. As a result we will no longer accept Visa in our stores across Canada, starting with our stores in Thunder Bay, on July 18, 2016. This change will then be rolled out in phases across the country,” the statement read.

Walmart Canada noted that it pays more than \$100 million in fees to accept credit cards annually. Customers will still be able to use Interac debit, MasterCard, Discover and American Express.

CBC News reports that Walmart isn’t the first retailer to stop accepting Visa. Grocer No Frills doesn’t accept Visa or American Express, citing the card brands as being too expensive.

A representative from Visa Canada said in a written statement that the company “regrets” Walmart’s decision, and that it will have a “negative impact” on Walmart’s shoppers.

Walmart Canada said the company is holding out hope that it will be able to “reach an agreement” with Visa for lower fees.

### **New Jersey Motor Fuel Taxes**

It is being reported the New Jersey legislature has introduced a bill to increase by 23-cent the gas tax.

It appears there may be a confrontation between the Legislature and the Governor; however it appears that legislators in both parties have reached an agreement on certain core principles that can lead to final passage.

Here’s what’s in the bill says now, and what is expected to be close to what will eventually pass:

- 11-cent increase in the Motor Fuels Tax (the existing tax is 10.5-cents on gasoline and 13.5-cents on diesel)

- Petroleum Gross Receipts Tax: The current rate of 4 cents/gallon was 2.75% of the retail price of gasoline in December 1990. This will now be changed to 7% of today’s retail price, which should be roughly 16 cents (giving us a 12 cent-increase).
- Diesel will also be subject to an additional 3 cent/gallon surcharge.

Therefore, 11 + 12 = 23-cent increase, which will make their total gas tax 37.5 cents. This is still 14 cents/gallon less than PA and most places in NY.

### **EIA Report: Gasoline Demand Touches All-Time Highs**

The latest EIA data pointed to some of the highest weekly gasoline demand figures on record.

For the week ending June 10, weekly gasoline demand came in at 9.762 million b/d, and that matches the all-time high from the week ending Aug. 17, 2007. Gasoline demand as measured by EIA continues its white-hot pace, topping 9.5 million b/d every week since the end of April, and on a year-to-date basis bettering last year by more than 4%.

Strong gasoline demand was a function of the overall 2.6-million-bbl draw. Although the market saw a sizable draw last week, total gasoline inventories are running at a close to 10 million bbl surplus. Although stocks drew down last week, gasoline output, according to EIA, topped 10 million b/d.

Regionally, the draw was largely due to a sizable pull from storage of 2.1 million bbl from Midwest tanks. Also chipping in a solid draw was the West Coast, where inventories were off by 1.6 million bbl last week. Arguably the data looks a bit more bearish on the East Coast as inventories there were up 1.3 million bbl with a 700,000 bbl build in the critical RBOB category.

The distillate build went against the rest of the inventory grain last week, as total U.S. storage levels increased by a marginal 800,000 bbl and have grown in back-to-back weeks. Through most of the regions were flat to slightly lower last week, the East Coast saw a build of 1.3 million bbl. The most interesting aspect of the PADD 1 build is that 1 million bbl of them were in the high-sulfur (500 ppm plus) category.

Although refiners earlier this year may have been shunning making distillate in lieu of gasoline, that appears to be changing as the distillate market makes a recovery. Last week, U.S. refiners pumped out 4.984 million b/d of distillate, representing the highest levels of 2016 and the highest one-week output level since mid-December.

Alongside the higher output was stronger demand, coming in at 3.817 million b/d a week-on-week increase of 240,000 b/d. But compared to last year, current distillate demand measurements from EIA are trailing by 300,000 b/d.

Refinery runs have trailed off slightly, but managed to remain north of 90%, coming in at 90.2%, a 0.7% week on week drop. Inputs of crude oil and other feedstocks were off slightly at 16.508 million b/d.

There were some oddities in the crude oil statistics. The overall crude oil draw of 900,000 bbl was essentially offset by a build of a similar amount at the Cushing storage hub.

Midwest and Gulf Coast were largely flat, and the Canadian wildfire impact on imports into the Midwest has not shown up yet, but analysts expect that to happen in the coming weeks.

The draw in crude oil inventories was limited to PADD1 where stocks dropped by 1.7 million bbl. Refiners in the region could have decided to work down current inventories as the issues in Nigeria are limiting some exports to the East Coast and crude oil imports into the East Coast were down 5.5% week on week.

Additionally, refiners on the East Coast are not likely to take rail deliveries of Bakken crude oil unless they absolutely have to, another possible explanation behind the large East Coast draw.

Meanwhile, domestic crude oil production continues to trickle lower, with output off a bit more to 8.716 million b/d. Production is approaching 1 million bbl lower than a year ago. However, those comparisons are being made against the backdrop of multi-decade highs.

There was one particularly odd data point in the weekly numbers. Total operable capacity declined by 10,000 b/d to 18.307 million b/d, with the drop courtesy of an 11,000-b/d decline in the Rockies in operable capacity.

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### **Governor Cuomo Announces \$12 Million For Downstate Gas Station Resiliency And Storm Hardening**

Governor Andrew M. Cuomo today announced \$12 million for the installation of permanent emergency generators at downstate retail gas stations to ensure they have back-up power capacity after major storms and emergencies. This funding will advance efforts under the Governor's Fuel NY initiative to ensure strategically-located gas stations are operational and able to provide gas to first responders and community residents when power is disrupted. This announcement coincides with the start of the summer hurricane season.

"During Superstorm Sandy we experienced first-hand the crippling effects that gasoline disruptions have on recovery operations," Governor Cuomo said. "As hurricane season approaches, this Fuel NY funding will help prevent this scenario from repeating during future emergencies and ensuring our first responders have the resources to help those in need."

Governor Cuomo launched Fuel NY in his 2013 State of the State address to improve access to gasoline during a severe storm or other major weather event. It was developed as a direct response to gas shortages that occurred during Superstorm Sandy, and includes the nation's strongest back-up power requirements for gas stations in strategic locations.

The \$12 million Permanent Generator Initiative will make grants available on a competitive basis for strategic gas stations to offset costs of purchasing and installing a permanent emergency generator. It is estimated the funding will support installation of permanent generators at up to 200 stations. The initiative uses funds from the Federal

Emergency Management Agency Hazard Mitigation Grant Program.

Under Fuel NY, the New York State Energy Research and Development Authority works closely with the State Department of Agriculture and Markets and the Division of Homeland Security and Emergency Services to enhance the State's preparedness and response capabilities for future storms and energy emergencies. NYSERDA will administer the Permanent Generator grant initiative. To apply for a grant, gas stations should visit <http://www.nyserdera.ny.gov/PON3256>. Applications for funding will be accepted through September 15, 2016.

In addition to the Permanent Generator Initiative to improve downstate access to gasoline during a severe storm or other weather event, under Governor Cuomo, utility regulations and oversight have been tightened and additional state and federal funding secured to better prepare and react to extreme weather events. As a result of these efforts, Long Island electric customers are already benefiting from a \$730 million storm-hardening program, protecting key substations from potential outages and a new modern outage management system to better track outages and communicate with customers. Similarly, Con Edison has been directed by New York State to invest nearly \$460 million to strengthen the company's electric, natural gas and steam distribution system.

John B. Rhodes, President and CEO of NYSERDA, said, "Governor Cuomo's Fuel NY initiative continues to bolster New York's emergency response and preparedness to protect our communities and enhance response capabilities when a weather emergency impacts our state. As part of New York's comprehensive approach, the installation of permanent emergency generators at downstate gas stations will further strengthen the regional fueling network."

Richard A. Ball, Commissioner of New York State Department of Agriculture and Markets said, "Fuel NY is another example of Governor Cuomo's commitment to protecting our communities during severe weather and the Department is proud to partner with NYSERDA and DHSES to ensure the state is prepared in the event of an emergency. These kinds of infrastructure upgrades are key to maintaining the safety of New Yorkers and providing help when it's needed most."

Division of Homeland Security and Emergency Services Commissioner John P. Melville said, "In the event of a disaster or emergency, residents may have to leave an area quickly to find safety while first responders are heading to and working in an area without power. In both situations, access to fuel to operate personal and emergency vehicles is critical to responding to, and recovering from, an emergency event. This grant is another way to help strategically located gas stations cover costs associated with backup power generation during a crisis."

Under Fuel NY, the State also has a system to deploy portable emergency generators to downstate stations that do not have permanent emergency generators in New York City, Long Island, and Rockland and Westchester counties. The installation of permanent generators through this new

\$12 million initiative will speed up electrical power availability to operate gas pumps. Further, it will reduce the need for portable generators and the associated cost and actions to secure, deliver and connect those generators in emergency conditions during the recovery period.

New York has also established the nation's first Strategic Gasoline Reserve, which currently maintains a 2.5-million-gallon fuel supply on Long Island that can be used if storms disrupt critical fuel deliveries to New York. In addition, approximately 2.5 million gallons of gasoline and ultra-low sulfur diesel fuel are stored in strategic fuel reserve terminals in Upstate New York to assist first responders during fuel or energy supply emergencies.

### **Permanent Generator Initiative**

The Permanent Generator Initiative is now open and applications are being accepted. The Program Opportunity Notice along with an application is available at NYSERDA's website: <http://www.nyserda.ny.gov/PON3256>. Please visit this site for more details and for the link to the application.

To complete an application you will need to attach the following items.

- Your official business name & information (same as reported on your taxes)
- Contact information of authorized representative for the gas station – not the contractor
- Gas station operational information
  - Service details such as number of dispensers, fuel types, convenience store size
  - Hours of operation
  - Letter of confirmation if station is used for fueling by local or state authorities or emergency responders
- Project details such as generator size
- A detailed cost quote with labor and material costs. An example quote is included in the Permanent Generator Initiative PON 3256 at: <http://www.nyserda.ny.gov/PON3256>

There is an FAQ document included on the Opportunity page for your convenience. Please email us at [GeneratorGrants@arcadis.com](mailto:GeneratorGrants@arcadis.com) or call us at 855-323-3030 with any additional questions about the program.

Sarah Browne, PE  
Engineer

ARCADIS of NY Inc., an Independent Contractor to NYSERDA

Gas Station Grants Assistance | Phone: 855-323-3030

### **Michigan Bill Restricting Aftermarket Crash Parts Passes Legislature**

House Bill 4344, a 62-page bill updating the 1974 Michigan Motor Vehicle Service and Repair Act, passed the Michigan legislature last Tuesday, May 31. The bill language makes reference to restricting the use of certain

sheet metal and body parts (described in bill text as major component parts), but was clearly crafted to restrict the vehicle repair community's access to a broad range of non-OEM parts. Additional details from the legislation:

- The period covered by the regulation is the term of the vehicle manufacturer's original warranty, or during the first five years of the vehicle manufacturer's original warranty; whichever is less.
- The motor vehicle repair facility shall replace the major component part with one of the following:
  - (a) a new original equipment manufacturer part.
  - (b) a used or recycled original equipment manufacturer part.
  - (c) a part that meets any applicable federal motor vehicle safety standards established under 49 CFR 571, and meets the standards for parts recognized as OEM-comparable quality as verified by the Certified Automotive Parts Association, NSF international or another nationally-recognized automotive parts testing agency.
- The facility must be directed by the owner of the motor vehicle, in writing, for permission to install a part that does not meet subdivision (a), (b), or (c), [above].

In a June 3 action alert, the Auto Care Association encouraged members in the state of Michigan and those that do business in the state to contact the governor's office at 517-373-3400 and request that he veto H.B. 4344

### **Lead-Acid Battery Bill Moves Ahead In California**

Following weeks of successful negotiations with lead-acid battery manufacturers, the Auto Care Association and the California Automotive Wholesalers' Association (CAWA), the California Assembly passed legislation (A.B. 2153) last week that would establish criteria around motor vehicle battery recycling within the state. Specifically, the legislation would require a \$1-per-battery manufacturer fee as well as \$1-per-battery retailer and installer fee, both of which would funnel into a new lead-acid battery environmental clean-up fund. The fund would be used initially to pay for the clean-up of an Exide location in southern California that was found to have been contaminating the soil around the plant.

California Assemblywoman Cristina Garcia, D-Bell Gardens, initiated the call for a state-controlled lead-acid battery recycling program, but battery manufacturers, CAWA and the Auto Care Association stepped in to reform the legislation so as not to harm the existing success of battery recycling in the state.

Along with the \$1-per-battery fees, battery manufacturers would receive credit for each dollar paid in the event they are found to be financially liable for any future battery-related environmental clean-ups. Furthermore, consumers will be ensured a core refund when returning batteries, but restrictions are put into place to also safeguard the retailer or installer. Additionally, retailers and installers would be required to post signage regarding the battery return policy.

A.B. 2153 now moves to the State Senate where both Republicans and Democrats have made it clear that they would like to see some changes in the bill. The Auto Care Association and CAWA will continue to work with meIRS Releases New Online Tool to Help Employers with Healthcare Provision

### **Bill: Recalls Responsibility Of Inspection Stations And Used Car Dealers**

There is a bill being considered in the New York State Legislature that amends Section 304 of the vehicle and traffic law by adding a new subdivision to read;

An official inspection station will need to determine whether there are any motor vehicle safety recalls ordered by the National Highway Traffic Safety Administration that have not been completed for the motor vehicle inspected and, if so, provide notice in writing in a form prescribed by the commissioner to the owner. Delivery of a print-out of the information on the motor vehicle inspected from the website maintained by the National Highway Traffic Safety Administration, [www.safercar.gov](http://www.safercar.gov), or such similar website as may be made available by the National Highway Traffic Safety Administration or designated by the commissioner shall satisfy the requirements of this subdivision.

Upon the sale or transfer of title by a dealer of any second-hand passenger motor vehicle, the dealer will need to execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner with information on any motor vehicle safety recall ordered by the National Highway Traffic Safety Administration that has not been completed for the particular motor vehicle. Delivery of a print-out of the information on the particular vehicle from the website maintained by the National Highway Traffic Safety Administration, [www.safercar.gov](http://www.safercar.gov), or such similar website as may be made available by the National Highway Traffic Safety Administration or designated by the commissioner shall satisfy the requirements of this paragraph.

The General Business Law is also amended by adding a new section 350-8-2 to read;

Section 350-8-2. Disclosures in Advertisements Regarding Second-Hand Vehicles. Each advertisement for the sale or lease of a second-hand vehicle by a dealer needs to include the statement: "Second-hand vehicles may be subject to motor vehicle safety recalls from the National Highway Traffic Safety Administration." For purposes of this section, "dealer" shall have the same meaning as in section four hundred fifteen of the vehicle and traffic law.

This bill sounds like a mine field of violations to us.

### **MEMORANDUM IN OPPOSITION**

**BILL NUMBER: A10326**

**SPONSOR: Assemblyman Castorina**

The subject bill amends the New York State Vehicle and Traffic Law concerning the periodic safety and emission inspections of all motor vehicles registered in the State. This

bill will allow for biennial vehicle inspections of vehicles replacing the current requirement of annual inspections.

This is a classic case of fixing something that is not broken. Not only is it not broken its working will. The inspection is accommodating, convenient, effective and affordable. This is will regulated by the Department of Motor Vehicles and should be left alone.

The bill directed the DMV Commissioner to require that every motor vehicle registered in this state be inspected biennially for safety, and emissions.

According to the sponsor New York is one of only 18 states that mandate scheduled vehicle inspections. The utilization of advanced vehicle safety technologies in vehicle manufacturing has greatly improved the reliability and safety of motor vehicles. It is unnecessary and cumbersome to require that every motor vehicle in the state go through a vehicle inspection annually.

The sponsor does not give credit for New York being on of the states with a successful inspection program that should be a model of other state to plagiarize for the safety and health of their citizens.

This is a bad bill.

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

### **MEMORANDUM IN SUPPORT**

**BILL NUMBER: A7738 – S5639**

**SPONSOR: Assemblymen Magnarelli – Senator DeFrancisco**

The subject bill amends the New York State Insurance Law dealing with collision or comprehensive coverage on motor vehicles. It would protect the rights of insured motorists to have their vehicles repaired at the shop of their choice. It does this by requiring insurance companies to inform the insured of their rights under the law.

The bill amends the State Insurance Law to require insurers to maintain in its files a statement signed by the claimant showing that the claimant is aware of the provisions of this section of law.

An economic impact report prepared for the NYS Auto Collision Technicians Association, Inc., provides evidence that automobile insurance companies in New York State are artificially suppressing payment for labor rates paid to auto body repair shops, and are thereby jeopardizing the safety of drivers on New York roads. The report argues that suppression of labor rates has reduced the quality of repairs completed in many auto body repair shops, and therefore has jeopardized driver safety.

In an effort to reduce costs, automobile insurance companies enter into "preferred" shop agreements with auto body repair shops, such that the preferred shop provides a discount to individuals insured by that insurance company. Automobile insurance companies may then refer claimants to those shops when asked for a referral. Under current law, insurance companies are permitted to pay the lowest price estimate on repairs, as long as the repairs restore the vehicle

to pre-accident condition. History has shown this often does not happen.

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.

*This bill has passed both Houses of the legislature, and now moves on to the Governors Desk.*

### **California Bill Would Remove Tobacco From C-stores**

California convenience stores would have one less sales category under a measure moving through the legislature.

On June 2, the state Senate passed a bill that would restrict tobacco sales to cigar shops. This piece of legislation, known as SB 1400, was introduced by state Sen. Bob Wieckowski (D-Fremont).

The bill now moves to the state Assembly.

Under current California law, retailers selling tobacco products must obtain a license from the state Board of Equalization. Retail locations currently include convenience stores, grocery stores, gas stations, drug stores, airports, hookah lounges and tobacco shops.

Children under 18 are not allowed in tobacco shops unless accompanied by a parent and are therefore not exposed to tobacco advertising. SB 1400 changes the definition for tobacco retail locations to mean a store that generates more than 60 percent of its gross revenues annually from the sale of tobacco products and paraphernalia. If approved, the bill would take effect Jan. 1, 2019.

"This is a huge step forward in protecting California's children because 90 percent of smokers start before they are age 18," said Wieckowski, chairman of the Senate Environmental Quality Committee. "By prohibiting the industry from targeting our state's children with its pervasive marketing in stores frequented by our youth, we will make it harder for Big Tobacco to get another generation hooked on its addictive and deadly products."

### **Norway Plans To Ban Gasoline-Powered Cars By 2025**

Norway is moving to ban the sale of all fossil fuel cars by 2025, The Independent reports. Politicians recently reached an agreement to have all Norwegian cars using green energy within a decade. Ironically, a large amount of Norway's budget comes from the country's petroleum industry. The announcement comes on the heels of a report that Norway will be the first nation to promise to practice zero deforestation.

However, some reports say that the move has yet to be confirmed completely. The Democratic and Liberal parties have agreed to ban gasoline-powered vehicles but the Framstegspartiet, or Progress Party, has yet to sign off on the change. The proposal is even more aspiring than the Labour Party's measure to ban the sale of petrol or diesel cars by 2030. The four parties rule Norway together through a proportional representation system.

Elon Musk, CEO of Telsa Motors, applauded Norway's proclamation, writing on Twitter: "Just heard that Norway will ban new sales of fuel cars in 2025. What an amazingly awesome country. You guys rock!!"

Meanwhile, Germany has partnered with BMW, Daimler and Volkswagen to urge consumers to buy more electric vehicles and hybrids through incentives. Over in Japan, the country now has more electric car charging stations than traditional gasoline stations.

### **Fire Suppression And Service Stations**

The New York State Assembly Government Actions Committee passed a bill (A.8465a) that establishes installation and maintenance standards for gas station fire suppression systems. It now goes before the Assembly Codes Committee. There is a similar bill in the Senate, S6069, but there has been no activity on this bill and it is not consistent with the Assembly bill

This bill overrides the decision that the New York Department of State made when it decided to partially rescind the state's service station fire suppression system mandate.

We believe that fire suppression systems at service stations pose more of a danger than it offers. There are many documented events throughout New York State where these systems are accidentally activated without provocation. This sends a cloud of white powder causing damage to motorist vehicles and a huge expense for cleanup, not to mention the fact that it could also be ingested by any motorist standing near the pumps when the system activates.

Fire suppression systems are expensive to install and even more costly to maintain. They are easily discharged for no reason and create a great deal of damages to cars and motorist property. Such events cost the retailers thousands of dollars in needless expenses.

The New York State Department of State claims it has "conducted extensive research into the cost vs. safety benefits of the systems and concluded that there is a tremendous cost associated with design, installation, and maintenance of these systems with very little measurable benefit provided by them."

The Department decided to adopt the 2015 International Fire Code which requires gas stations to be equipped with gas pump nozzle shutoff valves, gas pump emergency shear valves, and other fire safety protection. Such equipment did not exist in 1984 when New York State first enacted its fire suppression mandate.

The Department of State however requires that any service station not brought up to compliance with the 2015 IFC must maintain the existing fire suppression system.

### **Carbon Monoxide Alarms Required In Commercial Buildings**

The Department of State has adopted a rule that amends the Uniform Code by adding provisions applicable to carbon monoxide alarms in commercial buildings.

*Permanent Effective Date: December 9, 2015*

**\*\* NEW\*\*** Transition Period for Existing Commercial Buildings: June 27, 2015 to June 27, 2016

The "transition period" provides that owners of existing commercial buildings are encouraged to install carbon monoxide detection as quickly as practicable; provides that the owner of an existing commercial building shall not be deemed to be in violation of section 1228.4 if the owner provides the authority having jurisdiction with a written statement certifying that such owner is attempting in good faith to install carbon monoxide detection that complies with the requirements of this section 1228.4 in such owner's existing commercial building as quickly as practicable; and provides that carbon monoxide detection that satisfies the requirements of section 1228.4 must be installed and must be fully operational in all existing commercial buildings by the end of the transition period.

Compliance Date: June 27, 2016

*Chapter 541 of the Laws of 2014*

Recently, Governor Cuomo signed a bill that amends the Executive Law to require that the Uniform Fire Prevention and Building Code address standards for the installation of carbon monoxide detecting devices and requiring that every commercial building and restaurant that has appliances, devices or systems that may emit carbon monoxide or an attached garage be equipped with carbon monoxide detecting devices of such manufacture, design and installation standards as are established by the State Fire Prevention and Building Code Council.

*State Fire Prevention and Building Code Council*

The Department of State and the State Fire Prevention and Building Code Council (Code Council) have developed a rule that will add provisions applicable to carbon monoxide detecting devices to the Uniform Fire Prevention and Building Code (Uniform Code). The rule will apply to all new and existing commercial buildings and restaurants that have appliances, devices or systems that may emit carbon monoxide, or that have an attached garage. These new provisions will be contained in a new Section 1228.4 to be added to 19 NYCRR Part 1228.

*Uniform Fire Prevention and Building Code*

The Department of State adopted a rule that adds provisions applicable to carbon monoxide detecting devices to the Uniform Fire Prevention and Building Code (Uniform Code). The rule applies to all new and existing commercial buildings and restaurants that have appliances, devices or systems that may emit carbon monoxide, or that have an attached garage. These new provisions are contained in a new Section 1228.4 added to 19 NYCRR Part 1228.

**WANTED  
USED TIRE MACHINE**

**CALL 518-452-4367  
TO SELL YOURS**

## **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.

## **Insurance Corner**

*By Kelly Hurley*

### **What is "TELEMEDICINE" or "TELEHEALTH"?**



Organizations and individuals everywhere are looking for ways to increase profitability and reduce their medical costs. You have probably heard by now about the increasing popularity of telemedicine, or telehealth, which can be an employee health benefit (not insurance!) that can be added to your current benefits plan structure which gives your employees the ability to call a real doctor in their state anytime, anywhere if they are sick. The buzz on telemedicine is picking up in the businesses sector as adopters are touting the advantages of adding telemedicine as an employee benefit.

A trip to a primary care physician can cost on average \$100.00 per visit. On top of the out of pocket expense is time away from work. A typical visit to the doctor results in 4 hours away from work. This means lost money, productivity and additional travel expenses for the employee. Higher deductibles and co-pays leave employers with a larger financial burden.

If a plan member, or one of their dependents, gets sick on a night, weekend, or holiday it usually results in a trip to the emergency room or urgent care. These are more costly than a visit to doctor's office. On average, a trip to the emergency room can cost over \$1,000 and the urgent care over \$150.

Telemedicine solves both of these issues with 24/7/365 access to US Board Certified physicians and \$0 cost per consult to the member. When a member, or one of their dependents, is feeling sick treatment is just a phone call or mouse click away. There is no cost to the member for the consult and no claim to the health plan for the employer.

Be a part of this movement into the future of health care! Contact us today for more information on some of our excellent TELEMED providers.

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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

## ARE YOU AN OWNER OR EMPLOYEE IN NEED OF TRAINING?

**DO YOU WANT** TO PROTECT YOUR BUSINESS FROM  
EXCESSIVE FINES

OR

THE POSSIBLE LOSS OF YOUR:

TOBACCO LICENSE

LOTTO LICENSE

ALCOHOL LICENSE?

**DO YOU WANT** TO BE CERTIFIED IN SECTION 609 MOTOR  
VEHICLE AIR CONDITIONING (MVAC)?

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MEMBERS OF OUR AFFILIATES

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THROUGH OUR WEBSITE AT:

**[NYSASSRS.COM](http://NYSASSRS.COM)**

QUESTIONS CAN BE DIRECTED TO (518) 452-4367. WE  
ARE AVAILABLE TO PROVIDE PERSONAL ASSISTANCE.



## Garage Insurance Survey

Name of Business:		
Street Address:		
City:	State:	Zip:
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:		
<input type="checkbox"/>	<input type="checkbox"/>	Property & Casualty
<input type="checkbox"/>	<input type="checkbox"/>	Workers Comp
<input type="checkbox"/>	<input type="checkbox"/>	Disability
<input type="checkbox"/>	<input type="checkbox"/>	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

# **Bradley & Associates, Inc.**

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  - *Quarterly Payroll & Sales Tax Reports*
    - *Year End Reports & Tax Returns*
- 

*Specialized Reports For The  
Service Station Industry*

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# GRANY

## LEGAL PLAN

As a member in good standing of the Association, you are entitled to participate in our group legal service plan. If you are in need of this service, you must first call the Association office at (518) 452-4367. An appointment will be arranged that will be convenient for you and the attorney.

*Covered services available to members include:*

- Defense in Small Claims Court if your business is sued or at Department of Motor Vehicles or at any other New York State Administrative Proceeding hearing. (Once per year.)
- Review of leases, supply contracts and franchise agreements to advise you of your obligation under these contracts. The plan does not include actual negotiation on your behalf. (One hour per issue, up to five hours per year.)
- Consultation on legal questions pertaining to your business. (One hour per issue, up to five hours per year.)

Appeals of judgments against you are not a covered benefit, but are available to members at special contract prices.

Additional legal services will be provided by the designated law firm's standard hourly rate less 15%. Special contract prices have also been negotiated for the following services.

- Residential real estate purchase or sale. The designated law firm will represent you in the sale of purchase of your primary residence and/or a second home or vacation property at the following rates:

Sale	\$295.00
Purchase	\$350.00
- Simple will \$75.00                      Simple will (husband and wife) \$125.00

In order to participate in the plan you must be a member in good standing and must have been a member for ninety days prior to the need for legal service.

**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:

ASSOCIATION OFFICE  
6 Walker Way  
Albany, New York 12205

WHEN:

The First Tuesday of every month at 2:00 PM  
The Third Wednesday of every month at 10:00 AM

COST:

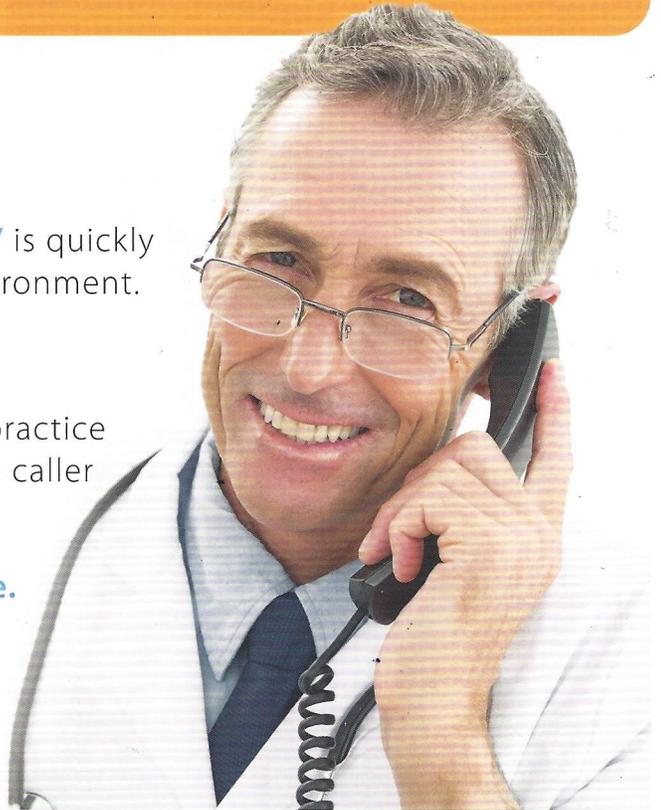
MEMBERS: \$15.00 - NON-MEMBERS \$30.00

**PLEASE CALL FOR RESERVATIONS AT (518) 452-4367**

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- » \$0 consultation cost to speak to a doctor.
- » Avoid wait times at Doctors Office, Urgent Care and ER.
- » Save your co-pay, deductible and claim against your policy.
- » Avoid leaving work to go to the doctor. (national average of 4 hours missed work time)
- » Speak with a doctor anytime day or night.
- » Membership includes all dependents.
- » Get a prescription called into your local pharmacy.

### EMPLOYER GROUPS:

- » Reduce costly visits to the doctor.
- » Reduce claims against your company health benefits policy.
- » AllyHealth includes Unlimited Consults with No co-pay or consultation fee. This is ZERO cost compared to \$140 doctor visits, \$158 urgent care visits and \$750 ER visits.
- » Reduce employee absenteeism and therefore reduce lost productivity.
- » Monthly reports on utilization and productivity savings.
- » Membership includes employee and all legal dependents.

NEW YORK STATE  
SAFETY GROUP 536  
DECLARES



DIVIDEND

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