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# ATEG OF WNY

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## **A Done Deal: RAI-Lorillard Merger Completed**

Reynolds American Inc. (RAI) has completed its acquisition of fellow tobacco company Lorillard Inc. RAI also closed the deal's related divestiture transactions with ITG Brands LLC, a subsidiary of Imperial Tobacco Group plc for approximately \$7.1 billion.

With all the deals sealed, RAI remains the No. 2 player in the U.S. tobacco space — bolstered by Lorillard — and ITG Brands emerges as the new No. 3. Richmond, Va.-based The Altria Group Inc. keeps its title as No. 1.

As a result of the acquisition, Lorillard is a wholly owned subsidiary of RAI, and former Lorillard shareholders will own approximately 15 percent of RAI's common stock.

RAI's operating companies now have key brands across major industry categories: Newport, Camel, Pall Mall and Natural American Spirit in combustible cigarettes; Grizzly in smokeless tobacco; and VUSE in the vapor market.

From the acquisition, former Lorillard shareholders will receive \$50.50 in cash and 0.2909 of a share of RAI common stock for each share of Lorillard common stock they owned.

"As a result of this acquisition, Reynolds American has a significantly strengthened, balanced and diversified portfolio of iconic brands across all key categories — the most balanced in the industry," said Susan M. Cameron, RAI's president and CEO. "The transaction supports RAI's efforts to lead the transformation of the tobacco industry. The synergies, improved operational efficiencies and higher sales volumes generated by this combination will better position RAI's operating companies to fuel continued investment in brand building, research and development and innovation for the long-term future of the company."

The merger of the No. 2 and No. 3 tobacco companies was announced in July. Under the deal structure, Winston-Salem-based RAI bought Greensboro-based Lorillard for roughly \$27.4 billion and kept the Newport brand, which represents 90 percent of Lorillard's existing sales and profitability, as well as the True and Old Gold brands.

United Kingdom-based British American Tobacco, RAI's largest shareholder, maintained its 42-percent ownership in RAI through an investment of approximately \$4.7 billion.

Once the deal closed, Imperial Tobacco acquired the Winston, Kool and Salem brands from RAI and the Maverick and blu eCig brands from Lorillard. These acquisitions build on Imperial's existing U.S. portfolio at Commonwealth-Altadis, which currently accounts for a 3-percent share of the U.S. market, principally through the USA Gold brand.

In addition, United Kingdom-based Imperial acquired Lorillard's infrastructure, which includes the company's manufacturing facility, headquarters offices, research and development facility, and approximately 2,900 employees. Imperial's new U.S. subsidiary will be known as ITG Brands and be based in Greensboro. David Taylor, former chief financial officer at Lorillard, leads ITG Brands as CEO.

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## **Grow America Act Introduced With 24 Co-Sponsors Tire Registration Language Included**

It's time for our members to take action.

Last week, Congressman Peter DeFazio, the chamber's top Democrat on the transportation policy panel, along with 23 other House Democrats, introduced the Grow America Act-. Legislation on the same day passed the House approving a two-month funding patch for highway programs.

The association is concerned with the Grow America Act because of a provision titled "Tire Registration by Independent Sellers" proposes:

(3) The Secretary may initiate a rulemaking to consider requiring a distributor or dealer of tires that is not owned or controlled by a manufacturer of tires to maintain records of the name and address of tire purchasers and lessors and information identifying the tire that was purchased or leased, and any additional records the Secretary deems appropriate. Such rulemaking may also consider requiring a distributor or dealer of tires that is not owned or controlled by a manufacturer of tires to electronically transmit such records to the manufacturer of the tire by secure means at no cost to tire purchasers or lessors.

If passed, the amendment would give the Department of Transportation (DOT) and the National Highway Traffic Safety Administration (NHTSA) the authority to require the distributor or dealer to maintain the records and electronically transmit the information to the manufacturer at no cost to the customer. Based on those assumptions, the association believes that NHTSA intends to reinstate some form of a mandatory tire registration system.

The "Grow America Act" has hundreds of amendments included in the 361 page proposal, including the one on tire registration which is buried on page 189. There is no way that the association can predict which ones will be included as part of the final markup if it even makes it that far. Therefore, we ask our membership to take part in our grassroots efforts to inform members on the House Energy and Commerce Committee to remove tire registration from the "Grow America Act."

The time is now to get involved and fight against this burdensome proposal. If passed, a dealer could be fined up to \$700,000 per location for not registering tires.

The associations lobbying and educational efforts on Capitol Hill are having a positive impact, but we must launch a grassroots effort in the event that GROW AMERICA or any other proposed regulatory solutions surface. The association is also calling for tire dealers to educate themselves so they understand the ramifications of a mandatory tire registration system. Elected officials in the House of Representatives and Senate are approached by lobbyists and special interest groups on a daily basis, but the most powerful voices on Capitol Hill always belong to the voters who put them there.

We urge you to call, write, and reach out to members on the Committees to voice your concerns with Section 4112 in

the "Grow America Act" (H.R. 2410). Specifically, ask that the tire registration language be dropped!

We need your help with outreach, phone calls, and letters in a grassroots campaign to inform the Committee members how important this issue is to residents in their district.

Below is the roster of NYS Representative on the House Energy and Commerce Committee. To contact a member of Congress by phone please call the switch board operator: 202-224-3121 and ask for the office of your Representative.

Please join us in these efforts and contact your Representative today!

The Honorable Chris Collins  
1117 Longworth Office Building  
House of Representatives  
Washington, DC 20515  
202-225-5265  
Fax 202-226-0347

The Honorable Eliot L. Engel  
2462 Rayburn Office Building  
House of Representatives  
Washington, DC 20515  
202-225-2464  
Fax: 202-225-5513

The Honorable Paul Tonko  
2463 Rayburn Office Building  
House of Representatives  
Washington, DC 20515  
202-225-5076  
Fax: 202-225-5077

The Honorable Yvette D. Clarke  
2351 Rayburn Office Building  
House of Representatives  
Washington, DC 20515  
202-225-6231  
Fax: 202-226-0112

## **Government Joins With Utilities To Promote Electric Vehicles**

The U.S. Department of Energy (DOE) and the Edison Electric Institute (EEI) announced this week that they are formally teaming up to promote the spread of electric vehicle technology, under an agreement signed this morning at the electric utility trade group's annual convention, held this year in New Orleans.

The purpose of the memorandum of understanding, which was signed during EEI's annual convention, is to foster pursuit of "key opportunities for collaborative action ... to accelerate plug-in electric vehicle (PEV) and charging infrastructure deployment," according to a report from Energy & Environment News (E&E).

Among the goals included in the agreement are:

- Launch a public-private partnership to create an umbrella effort "under which specific initiatives can be designed and executed."
- Commission an outside study both to assess the economic impact and benefits to ratepayers of transportation electrification and to examine the effectiveness of utility investments in growing the market.
- Explore both opportunities for and barriers to adoption of plug-in electric vehicles, including working with states on Clean Air Act issues and PEV implementation plans.

Given that the U.S. transportation system produces one-third of the nation's carbon emissions, it is "essential that we improve plug-in electric vehicle technology and increase their numbers on the road," Energy Secretary Ernest Moniz, who signed the agreement during a speech at the convention, said in a news release, as reported by E&E.

The agreement follows up on roundtable meetings held in November and February with White House participation. At the first meeting, EEI announced that its members had committed to spending 5% of their annual vehicle fleet budgets on PEVs and related technologies. At the second meeting, specific areas for collaboration were laid out.

### Study Of Pennsylvania Safety Inspections

Four researchers from Carnegie Mellon Institute in Pittsburgh studied the effectiveness of the Pennsylvania safety inspection program and determined:

- Light-duty, passenger vehicles in PA benefit from annual vehicle safety inspections.
- Maintenance performed in the current system represent vehicles that fail inspection.
- 1–2 million vehicles in PA would have failed safety inspections without the program.
- Old, high mileage vehicles show higher failure rates than new, low mileage vehicles.
- Vehicles age one and younger have an average failure rate greater than zero.

The researchers drew the following conclusions:

- State policymakers periodically question the effectiveness of the passenger vehicle safety inspection programs. By considering how the inspection process works and analyzing the state of the vehicle upon entering the inspection rather than leaving, a more comprehensive examination of the current inspection program and its effectiveness can be provided. These compelling findings put into question why safety inspections are not federally mandated along with emission inspections, as safety inspection failure rates remain high.
- The average initial vehicle inspection failure rate range between all databases is about 12–18%, at least an order of magnitude higher than the assumed rate of 2%. After inspection and repairs, the failure rate of vehicles with fail as the final inspection status is much lower, with

only 0.1% of vehicles ultimately failing. Many groups of vehicles are well above this average fail rate, especially vehicles more than three years old or with more than about 30,000 cumulative miles. Vehicles less than one year of age still do not average a zero failure rate and one-year-old vehicles are at or above the believed 2% failure rate. Policy makers must use this information as the basis for policy change, rather than the pass or fail rate with the current inspection program in place (i.e., as a vehicle leaves the inspection station).

- While estimates of the safety inspection program's effect on highway crashes or fatalities in Pennsylvania are outside the scope of this paper, Cambridge Systematics Inc. (2009), previously summarized in the literature review of this paper, estimated 1–2 fewer safety related fatalities per billion VMT in a state with versus without a safety inspection program. Based on this paper's model results, they find Pennsylvania benefits from between 127 and 187 fewer fatalities each year, as a result of the vehicle safety inspection program.
- A larger and more comprehensive data collection system is key to a more effective inspection program and will allow for stronger oversight and improved management. Initially the vehicle safety inspection program was periodically audited by state police officers two times per year per station. These audits have decreased significantly and now vary between attainment and non-attainment emission counties. The paper-based inspection program requires significant program oversight, traveling, and training. A system similar to the CompuSpecctions and e-SAFETY programs, with electronic data collection as well as error checking, would provide more efficient recording of data, as well as data analysis in order to provide on-demand reports of how the program is performing. This study is limited to the available data. Currently, there are few states with vehicle safety inspection programs and even fewer with electronic safety inspection records. Without this information, these results are limited to the state of Pennsylvania. Data from other states would allow this study to be extrapolated to the national level and in return, this would validate the results in Pennsylvania.

### NY Smoking Rates Hit Record Low

New York's smoking rates among teenagers and adults have hit record lows, Gov. Andrew Cuomo announced today. Over the last four years, the smoking rate among high school students has dropped 42 percent to just 7.3 percent of youth who said they smoke. For adults, the smoking rate last year was 14.5 percent, according to state officials, compared to the national average of 17.8 percent.

"With the lowest smoking rate in recorded history, it's clear that New York State is becoming healthier than ever," Cuomo said in a statement.

Between an ad campaign that encourages smokers to quit and the highest cigarette taxes in the nation, New York has touted its anti-smoking efforts.

But health advocates and good-government groups have knocked the state's efforts. In a report last year, the New York Public Interest Research Group found tobacco companies were spending more to lobby against tougher laws in New York, while the state has cut funding for tobacco-control programs.

New York has the highest state cigarette tax at \$4.35 a pack, and New York City has its own \$1.50 tax per pack. As a result, New York in 2013 led the nation in smuggled cigarettes, with about 58 percent of the total cigarette market in the state coming through illegal sales, found a report in February from the Tax Foundation, a fiscally conservative, Washington D.C.-based group said.

New York has sought to stamp out the smuggled smokes and increase funding for cessation programs.

On Monday, Cuomo announced that the state Department of Health has received about \$10 million in federal aid to expand its program. The majority will go to a five-year tobacco control program that will include an education campaign, treatment initiatives and advertising.

New York is also one of five states to get \$1 million over two years for a media campaign focused on health-care providers who work with people with poor people, who statistics have shown smoke more than the general public, Cuomo's office said.

About 25,000 people die prematurely because of cigarette use in New York each year and nearly 570,000 residents have serious diseases linked to smoking, the state said last year. Most adult smokers began when they were teens, health officials have said, so there's a particular focus on keeping young people away from cigarettes.

The state Department of Health found in a 2013 report teen smoking has decreased 56 percent since 2000 in high school youth and decreased 70 percent in middle school youth.

Medicaid and plans under New York's health-insurance exchange cover tobacco cessation services/

For more information, contact the New York State Smokers' Quitline at 1-866-NY-QUITS (1-866-697-8487) or visit [www.NYSmokeFree.com](http://www.NYSmokeFree.com).

### **Federal Gas Tax Increase Off The Table**

Competing funding proposals from President Obama and Congress plus a looming July deadline for the highway trust fund (HTF) to run out of money have shed light on one thing, a federal gas tax increase is off the table and where funding will come from remains in question.

Although President Obama, Democrats, and Republicans can't agree on a bill, they can agree that the federal gas tax will remain unchanged at 18.4 cents per gallon, a price it has maintained since 1993.

Last month, our national affiliate, SSDA-AT, met with Secretary of Transportation Anthony Foxx who has continued to be outspoken on the need for a long-term solution. Foxx is frustrated with Congress' inability to fund

transportation and has asked that members explore any and all options for long-term funding.

Secretary Foxx has pushed urgency and told SSDA-AT, "The federal highway program is in crisis, we can't afford to wait until the end of July." Foxx, like the Obama administration, other Democrats, and Republicans have made it clear that an increased gas tax is not the solution.

Foxx in touting the President's latest proposal (Grow America Act) believes funding should come from other types of business reforms that do not offer a direct tax to the American public, such a corporate overseas tax reform that would come in the form of repatriation.

SSDA-AT was one of the first organizations to support Congressman Delaney's repatriation proposals and most recently, his "Infrastructure 2.0 Act." President Obama adopted a similar repatriation idea in his latest transportation proposal and the idea of funding the highways through tax reform seems to be a growingly appealing option to members in Congress, who could raise the funds needed while avoiding a publically visible tax increase.

The funding situation that places a tag on who should pay what gets very tricky, politically speaking. It seems that most legislators are worried that supporting a certain funding idea will upset their constituency or donors. Many members have co-sponsored various transportation bills to show their support for funding infrastructure, knowing these bills have no chance of passing and with no means of funding attached to the legislation.

SSDA-AT has remained opposed to gas tax increased through the 33 funding extensions.

### **Comprehensive Tax Reform At A Standstill**

2015 began with a great deal of enthusiasm and optimism behind the idea of comprehensive tax reform. Now, halfway through the year, the energy behind tax reform has shifted significantly, with key members from both sides stating that they do not expect to see substantial movement towards comprehensive tax reform before the 2016 presidential elections.

Despite this, the Senate Finance Committee tax reform working groups are still expected to release their work products in late June (they were originally expected to release something in late May but this timeline was pushed back by Committee leadership).

While comprehensive tax reform may no longer be on the table, members on both sides of the aisle, including Senators Rob Portman (R-OH) and Chuck Schumer (D-NY) who are co-chairing the Finance Committee's International Tax working group, have indicated that there still might be the potential for movement on an international tax bill. On the other side of the Hill, House Ways and Means Committee Chairman, Paul Ryan (R-WI), whose Committee has already taken a more piecemeal approach to taxes this year with the passage of select tax bills, has also indicated that he too still sees hope for a limited deal on the international tax system.

Both sides continue to indicate that they want to move on extender items sometime in late summer - early fall thinking that this will give businesses time to budget appropriately for the year. Only in Congress do folks think that giving owners and top level management certainty 6 - 9 months into the business year will allow those businesses to plan properly for that year. However, here at SSDA-AT our view is it is better to get at least 179 and bonus depreciation extended sometime during the year rather than early in the following year or not at all.

### **1,000 Marathon Sites Accept Fuel Discount Program**

More than 1,000 Marathon-branded gas stations are now certified to accept the Drop Tank fuel discount program.

About 80% of Marathon's independent jobbers and dealers enrolled in the program, which uses technology developed by Drop Tank, based in Chicago.

The Drop Tank program makes fuel discounts available in the form of plastic cards or digital codes. The discounts can be used for a variety of promotions, employee incentives and loyalty program rewards. The cards can be co-branded, allowing custom designs for specific promotions. Codes also can be made available to consumers electronically.

The cards and codes are available in various cents-off-per-gallon denominations, either for a single-use, such as up to 20 gallons, or for multi-use, such as up to 100 gallons.

BP also has made Drop Tank's fuel discount program available to its branded distributors.

--Donna Harris, dharris@opisnet.com

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### **More EMV Concerns Emerge**

CPI card group, which produces credit cards for a majority of issuers, has been swamped with orders for new cards equipped with EMV chip technology and is struggling to keep up with demand.

"We are working 24-7," Docia Myer of CPI Card Group told Tampa-based news station WTSP.

As retailers count down to the October EMV liability shift deadline, they're certainly not alone in feeling concern leading up to the big change. "It is without a doubt the biggest change in the way we pay for things this country has ever seen," said Steven Casco, CEO of CardNotPresent.com, during a meeting last month with leading e-commerce and cybersecurity experts.

One major concern of retailers is whether the EMV-enabled payment process, in which a customer "dips" their card into the reader and waits as opposed to the typical "swipe," will take longer and impact business flow at the register. According to CPI Group's Myer, who cited retailer studies, there is in fact a bit of longer delay with EMV cards.

However, those seconds can add up - particularly at busy shopping times like Black Friday, which will be only weeks after the October transition. Only time and real-world experience will tell.

Another concern expressed by experts is the threat of another major card data breach occurring during the period where issuers are switching from magnetic stripe cards to chip cards. As CPI can attest, they are already stretched to their limit producing the new EMV cards in their pipeline. If another breach necessitates the production of even more replacement cards, U.S.-based suppliers might not be able to meet the need for new cards, causing potential problems for consumers.

### **NY State DMV Commissioner Resigns**

"After 34 years of state and county service, Commissioner Fiala is retiring effective today," said a spokeswoman for the state Department of Motor Vehicles in a terse statement.

Fiala's resignation comes after a tumultuous autumn. In October, she was caught speeding, not long after her son — a Broome County legislator — pleaded guilty to hitting a cyclist while drunk. Last month, it came to light that a DMV judge took less than a minute to dispose of two tickets levied against a driver who had fatally struck a three-year old in Queens.

Those incidents were enough for traffic safety advocates to call for Fiala's resignation. Now, some are hoping that Fiala's exit will pave the way for reform at the DMV, which, despite its reputation is an agency often seen as more focused on improving the customer service experience than on driver safety.

"Governor Cuomo needs to make use of this opportunity and appoint a commissioner who is serious about traffic safety," said Transportation Alternatives' Brian Zumhagen. "We need prompt and meaningful action from the next DMV commissioner and the agency's courts to hold reckless and careless drivers accountable when they kill or maim New Yorkers."

In an interview with Gannett Media, Fiala didn't offer specifics about her next role. "One door closes and another opens," she said. "I have several options that I'm weighing right now."

Prior to becoming DMV commissioner in 2011, Fiala was the county executive of Broome County.

There is no word yet from Cuomo's office as to Fiala's successor.

### **Global Partners Completes \$156MM**

#### **Purchase Of 97 East Coast Retail Stations**

Global Partners said on Tuesday that it has completed the acquisition of a portfolio of 97 primarily Mobil- and Exxon-branded owned or leased retail gas stations and seven dealer supply contracts from Capitol Petroleum Group.

The acquisition includes 51 retail locations and seven dealer supply accounts in New York City and 46 retail locations in the Maryland/Washington, D.C., market.

The purchase price, subject to closing adjustments, was approximately \$156 million. The partnership expects the acquisition to be accretive in the first full year of operations.

Global is a midstream logistics and marketing company that owns, controls or has access to one of the largest terminal networks of petroleum products and renewable fuels in the Northeast. Global also is one of the largest distributors of gasoline, distillates, residual oil and renewable fuels to wholesalers, retailers and commercial customers in New England and New York.

The partnership is involved in the transportation of crude oil and other products by rail across its "virtual pipeline" from the midcontinental U.S. and Canada to the East and West coasts for distribution to refiners and others. With approximately 1,600 locations, primarily in the Northeast, Global also is one of the largest independent owners, suppliers and operators of gasoline stations and convenience stores.

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### **Study: Pending Change To Overtime Regs Could Hurt Mid-Management Slots**

A study commissioned by the National Retail Federation (NRF) found that the Obama Administration's plans to revise federal overtime pay regulations probably would "hollow out" low- and mid-level management positions in the retail and restaurant industries and result in a shift toward more hourly and part-time workers.

The Labor Department last month sent a proposed rule to revise the regs to the Office of Management and Budget for the required review. But it could be many more months before it is released and made public.

Under the expected revisions, many employees whom businesses currently categorize as managers under the Fair Labor Standards Act -- and who therefore don't have to be paid overtime for hours worked beyond 40 hours a week -- might have to be re-categorized as non-managers covered by overtime pay protections. That likely would result in those workers getting more money if they continued working the same number of hours.

The upcoming rule also is expected to increase the mandated \$455-per-week minimum salary that employers must pay managers exempt from the overtime pay protections.

The NRF study -- conducted by Oxford Economics, an economic forecasting firm headquartered in Oxford, England -- predicted that when the regulations are changed, employers could:

- reduce some workers' hours to fewer than 40 a week so they don't get paid overtime and the employer would make up for the reduced man-hours by hiring more part-time workers;
- cut bonuses and benefits to boost the managers' base salaries to the new threshold;
- lower hourly rates of pay to compensate for the expense of paying salaried managers more money.

The study said the total number of workers in the retail and restaurant industries probably would grow, but the quality of the jobs would decline because they would be

low-paying, frequently part-time and many workers now in lower-level professional and managerial jobs would find their job status jeopardized.

The study also determined that an increase in the salary threshold for managers would disproportionately affect retailers in rural states, which tend to have lower labor costs and fewer stores. States where businesses and workers would be most negatively affected are Louisiana, Kentucky, Oregon, Oklahoma and Iowa, the study found.

The Obama Administration has argued that many workers who have been categorized by their employers as salaried managers have long workweeks and are underpaid.

--Vincent Taylor, vtaylor@opisnet.com

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### **Proposed SNAP Revisions Could Affect Retailers**

The Department of Agriculture (USDA) has sent to the White House for review a proposed rule that would impose additional obligations on retailers that redeem Supplemental Nutrition Assistance Program (SNAP) benefits. This is generally the final stage of the regulatory process before a rule is formally published. USDA's proposed rule will likely be published later this summer, at which time stakeholders will have the opportunity to provide comments to USDA before the agency issues a final rule. That final ruling is not likely to occur until late 2015 or 2016.

Under the Farm Bill that was passed in early 2014, SNAP retailers will be required to stock at least seven different "varieties" of food items in each of the four "staple food" categories on a continuous basis. The Farm Bill also requires SNAP retailers to stock at least one "perishable" food item in at least three of the four staple food categories. USDA's rule will formally adopt these requirements into law. It is unclear whether the proposed rule will contain additional requirements for SNAP retailers. Until the rule is finalized, however, retailers will not be subject to the Farm Bill's augmented SNAP retailer standards.

The Farm Bill also contained provisions requiring retailers to implement point-of-sale technology systems that will (i) not redeem SNAP benefits for the purchase of ineligible items and (ii) further preclude cashiers from manually overriding this prohibition. USDA will implement this provision in a separate rulemaking at a later date.

### **State Lotteries Nationwide In A Slump**

States throughout the country are facing lower sales of lottery tickets, thanks in part to jackpot fatigue, meaning that states need increasingly bigger jackpots to lure in casual players who buy lottery tickets only when a prize is huge.

People once impressed with a \$100 million payout shrug until it reaches \$300 million. But with fewer people playing, it takes longer to get to those sky-high jackpots, placing state lotteries in an increasingly downward cycle.

An article in USA Today cites New Jersey as an example, as the state saw sales of Mega Millions and

Powerball multistate games down 30% through the end of March. At that pace, says USA Today, sales of those games — which make up about 15% of all lottery sales in the state — would drop by \$130 million this fiscal year. And New Jersey is not alone.

Total lottery sales in 18 states and the District of Columbia decreased in fiscal 2014 compared with fiscal 2013, according to the North American Association of State and Provincial Lotteries, a trade group that represents 52 lotteries across the United States and Canada. Texas led the pack with more than 15% decline in sales. Lower sales also mean fewer funds going into state coffers.

At the same time, New Jersey is banking on sales of in-state games, such as scratch-off tickets (which are up 10%), the new CASH4LIFE game that New Jersey and New York launched that expanded this spring to Pennsylvania and Virginia, and plans for a new instant draw game to launch in August. However, that may not be enough to convince a new generation of lottery players.

"There's a generation that went to the local convenience store, picked up their newspaper, picked up their cup of coffee and picked up their lottery tickets and went off to work," N.J. State Sen. Paul Sarlo told the news source: "The younger generations don't do that anymore."

### **Senators Urge FDA To Delay Menu Labeling**

The Food and Drug Administration's requirement that restaurants start posting calorie counts beginning this December is raising concerns across the political spectrum. Earlier this week, a group of 32 Republican and Democratic senators — including Lamar Alexander (R-TN), the chairman of the Health, Education, Labor and Pensions Committee which oversees the FDA, and Patty Murray (D-WA), the panel's ranking member — signed a letter calling for a one-year delay in implementation of the labeling regulations.

Under the menu labeling regulations issued last year, retail chains with 20 or more locations must post caloric information for standard menu items on menus or menu boards or, for self-service items and foods on display, on signs adjacent to the items. They also must provide additional written nutrition information to consumers upon request. Covered retail food establishments are required to comply with those regulations by December 1, 2015.

"While we recognize the benefit of improved access to nutritional information for consumers, we are concerned that the lack of clear and consistent guidance from the agency will make it difficult, confusing, and burdensome for businesses, particularly smaller businesses, to implement the new requirements," the senators wrote, pointing out that the FDA has yet to issue guidance for complying with the requirements.

Further, the senators' letter continues, "We are concerned that there are still outstanding questions regarding the details of how the final rule will be applied to certain covered entities, specific types of restaurant-type food, standard menu items, menu boards, and other key areas covered by the final rule."

Late last month, a bipartisan group of lawmakers introduced the Common Sense Nutrition Disclosure Act (H.R. 2017), a bill NACS supports. The legislation, sponsored by Reps. Cathy McMorris Rodgers (R-WA) and Loretta Sanchez (D-CA) is a thoughtful, well-crafted approach to requiring convenience stores and other retail food establishments to provide nutrition information to their customers, addressing concerns that food retailers have with the FDA regulations.

While NACS would welcome a one-year delay, H.R. 2017 also includes that provision and the legislation is a much stronger and more effective response to the problems convenience retailers will face under this rule. NACS encourages you to contact your member of Congress to urge them to co-sponsor this legislation.

### **Drug Data Results In More Bad Publicity For Industry**

The convenience/fuel industry got another dose of bad publicity after a poison control center reported an increase in hospitalizations due to the use of synthetic marijuana, which press reports note is sometimes available at gas stations and convenience stores under names like "spice" and "K2."

The New Jersey Poison Information and Education System, a poison control center, said recently that within a week's time, 30 people admitted to hospitals in New Jersey and many more in New York were suffering from the effects of using the drug, which is illegal in most states.

"People are getting very sick from it," an announcement from the poison control center said. "Severe agitation, seizures, renal failure, and other life-threatening reactions are being reported."

The industry has been under pressure to monitor gas stations and convenience stores and to penalize retailers caught selling the drugs. In February, attorney generals from 40 states, the District of Columbia, Puerto Rico and the Northern Mariana Islands signed a letter that went to the CEOs of 10 major oil companies warning them to adopt stricter policies to help stop the sale of illegal synthetic drugs at their gas station networks.

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### **N.J. C-Store Group Supports Self-Serve Option at Retail Gasoline Pumps**

The New Jersey Gasoline, Convenience Store, Automotive Association (NJGCA) is supporting state legislation that would offer drivers the option of self- or full-service at gas stations, reversing its previous stance to oppose such a move.

"Thirty years ago, when motorists and consumers were passionately advocating for self-serve gas in New Jersey, the leadership and members of this organization, myself included, were staunch opponents," said Sal Risalvato, executive director of NJGCA.

"However, the landscape of the gasoline service station industry was vastly different then, with big oil companies

owning and operating many retail locations, and possessing a distinct (financial) advantage in their ability to transition their stations to accommodate a self-serve option," he said.

With the elimination of company-owned locations, gasoline service station owners no longer have to fear this scenario, and have embraced the many benefits that self-serve offers, both to the business owner and the consumer, Risalvato said.

For example, self-service would allow consumers the convenience of fueling up at night, when stations usually close because it is not sure, and/or not financially prudent, to have an attendant on duty, he said.

"Also, how many times have you driven into a gas station and seen pumps blocked off by orange cones? Those cones do not signal broken or out-of-order pumps, but rather they are keeping motorists limited to a certain number of pumps that are manageable to the limited number of employees working," Risalvato said.

If those cones were removed, and self-service was an option, motorists would simply be able to occupy the pumps which would have otherwise been coned off due to the lack of manpower, he said.

An overriding concern of opponents to self-serve is the impact on employment, Risalvato said. There would be no real impact on employment, since the self-serve option would be at pumps that had previously been coned off, he said.

Additionally, in the legislative proposal recently introduced by Sens. Gerald Cardinale and Paul Sarlo, there is a provision which requires full-serve to be offered at all gas stations for the first three years after the enactment of the law, Risalvato said.

This will serve as a trial period, so that station owners and consumers can see self-serve in action and determine their individual preferences. This legislation does not force anyone, business owner or consumers, to do anything different than they already are, he said.

Even once self-service becomes legal, station owners can continue to offer only full-serve, if they choose.

At the end of the three-year period that full-serve is legally mandated, business owners have the option of arranging their business however they believe will be most profitable (all full-service, all self-service, or a combination of both options).

"In addition to the convenience that consumers will experience, we also anticipate a savings that will be passed on to consumers," Risalvato said. "Our estimate, based on conversations with multiple station owners, some of whom own stations in Pennsylvania or New York, is that customers who choose self-serve will save a minimum of 7 cents per gallon, to as much as 20 cents a gallon, with the average falling around 10 cents," he said.

Some skeptics say station owners will "pocket the savings," but the force of competition will prevent from doing so, he said.

Most people are not aware of the transition already taking place in the credit card industry, and the effect it will have on how consumers fill up their tanks, Risalvato said. In order to take advantage of the advances in anti-theft technology, micro-chips are being installed in credit cards, and credit cards will have PIN numbers, just like debit cards, he said.

By October 2017, every gas pump will have to be outfitted with new credit card processors capable of accepting EMV, the new chip-based security standard, Risalvato said. According to the credit card companies, customers will be asked to input their PIN when they use their credit card at the pump.

"Since I don't foresee many motorists providing their PIN to a gas station attendant, motorists wishing to use credit are likely going to be getting out of their cars anyway," he said. "At that point, most would just as well go to the self-serve island, save a few cents a gallon, and pump the gas themselves," Risalvato said.

In 1949, New Jersey passed legislation for only full serve at retail gasoline stations because of fire hazards directly associated with dispensing fuel. The law says that it is in the public interest that gasoline station operators have the control needed over that activity to ensure compliance with appropriate safety procedures.

In the U.S., only New Jersey and Oregon mandate full-service at gasoline retail stations.

--Edgar Ang, eang@opisnet.com

Copyright, Oil Price Information Service

### **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 716-656-1035.

### **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.

## **John Casazza**

It is with great sorrow that we announce the passing of John Casazza a long time employee of the Gasoline & Repair-shop Association of New York. John's illness began in January of 2015 and became increasingly worse as the months passed. Although it became harder and harder to function, John kept trying to come to work, and if he couldn't come in, he would try to help out over the phone. Even toward the end he pestered his daughters to take him to the office.

John Casazza was a dedicated employee, a good and loving father, and a great and loyal friend. Many of you may remember him for the hard work he did while solving your business problems. Whether it was DMV, DEC, insurance, or whatever the issue was, John was there for the members and made sure they were satisfied.

Just the other day a member called and told me that John saved his business by convincing him not to join a trust. This is just one of many examples of how John would take the time to explain the consequences of what could happen by making a wrong business decision. He truly cared and many a member became a friend.

We will miss him, I will miss him, and I hope that wherever he is in this afterlife, he can be where he can continue to help people. That is what did best.

Vaya con Dios (Go with God) John, and thanks for the skate key.

Ralph Bombardiere  
Executive Director



Department of Taxation and Finance

## Minimum Wholesale and Retail Cigarette Prices

As a result of price increases by manufacturers, the minimum wholesale and retail prices for certain brands of cigarettes in New York State have changed.

The minimum price enforcement date for this notice is May 25, 2015.

Minimum wholesale and retail cigarette prices must be determined by referencing manufacturers' list prices. Common list prices for certain standard brands are listed below. When a minimum price change occurs because of a manufacturer's price increase or decrease, the enforcement date of the change is the second Monday after the price change is announced. If a price change is announced on a Monday, that day is considered to be the first Monday. The enforcement date is in effect whether or not a manufacturer notifies the Tax Department of the price change.

After one manufacturer announces a price change, if other manufacturers also change their prices **before the second Monday after the initial price change is announced**, then those subsequent price changes will also be effective for enforcement purposes on the same second Monday.

When a minimum price change occurs because of an excise tax rate change, the enforcement date of the change is the date the rate change takes effect.

To determine the minimum wholesale or retail prices for any cigarette brand, you must refer to the manufacturer's price list. If you are unable to obtain the price list, please ask your supplier for assistance. In addition, Publication 508, *Minimum Price List for Cigarettes*, can help you determine the minimum prices of standard and nonstandard brands of cigarettes in cartons of 200 cigarettes, 10 packs per carton. See *Need help?* on the back for copies of Publication 508.

The New York State minimum prices relating to each of the 10 currently applicable manufacturers' list prices for standard brands are printed in the tables below.

You must charge your customers the minimum price or any price in excess of the minimum price.

You may not offer merchandise for sale as a tie-in with cigarettes if the total price of the items sold is less than the minimum price of cigarettes plus your cost for the other merchandise.

New York State (sales outside New York City)		Minimum sales prices for standard brands*				
Manufacturer's list price ** (per carton)	Agent's basic cost (per carton)	Type of sale				
		Wholesale (per carton)			Retail sales to the consumer	
		Agent to wholesale dealers	Agent to chain stores	Agent to retail dealers	Retail (per carton)	Retail (per pack)
\$38.44	\$81.94	\$82.86	\$83.37	\$85.32	\$91.29	\$9.13
\$41.64	\$85.14	\$86.09	\$86.62	\$88.64	\$94.85	\$9.49
\$41.84	\$85.34	\$86.29	\$86.83	\$88.85	\$95.07	\$9.51
\$44.94	\$88.44	\$89.42	\$89.47	\$92.07	\$98.52	\$9.86
\$45.34	\$88.84	\$89.82	\$90.38	\$92.49	\$98.96	\$9.90
\$45.94	\$89.44	\$90.43	\$90.99	\$93.11	\$99.63	\$9.97
\$47.84	\$91.34	\$92.34	\$92.92	\$95.08	\$101.74	\$10.18
\$52.20	\$95.70	\$96.74	\$97.34	\$99.61	\$106.59	\$10.66
\$54.70	\$98.20	\$99.26	\$99.88	\$102.21	\$109.36	\$10.94
\$58.55	\$102.05	\$103.15	\$103.79	\$106.21	\$113.64	\$11.37

New York City (sales within New York City)		Minimum sales prices for standard brands*				
Manufacturer's list price ** (per carton)	Agent's basic cost (per carton)	Type of sale				
		Wholesale (per carton)			Retail sales to the consumer	
		Agent to wholesale dealers	Agent to chain stores	Agent to retail dealers	Retail (per carton)	Retail (per pack)
\$38.44	\$96.94	\$97.99	\$98.60	\$100.90	\$107.96	\$10.80
\$41.64	\$100.14	\$101.22	\$101.85	\$104.23	\$111.52	\$11.16
\$41.84	\$100.34	\$101.42	\$102.05	\$104.43	\$111.74	\$11.18
\$44.94	\$103.44	\$104.55	\$105.20	\$107.65	\$115.19	\$11.52
\$45.34	\$103.84	\$104.95	\$105.60	\$108.07	\$115.63	\$11.57
\$45.94	\$104.44	\$105.56	\$106.21	\$108.69	\$116.30	\$11.63
\$47.84	\$106.34	\$107.48	\$108.14	\$110.67	\$118.41	\$11.85
\$52.20	\$110.70	\$111.87	\$112.57	\$115.19	\$123.26	\$12.33
\$54.70	\$113.20	\$114.40	\$115.10	\$117.79	\$126.04	\$12.61
\$58.55	\$117.05	\$118.28	\$119.01	\$121.79	\$130.32	\$13.04

\* Minimum prices listed are for standard brands and standard packages (20 cigarettes per pack, 10 packs per carton). See *Computing the minimum wholesale cigarette prices* on the back for the markups for each type of sale listed.

\*\* Consult manufacturer's price list to verify the price for each specific brand.

## Publication 509 (5/15) (back)

Furthermore, it is illegal for any cigarette agent, wholesale dealer, or retail dealer to induce, or attempt to induce, or to procure the purchase of cigarettes at a price less than the minimum price set by law. The Tax Department will issue this publication as notification for changes in the minimum prices each time a manufacturer's price change occurs or a state or city excise tax changes.

**Prepaid sales tax** — The prices below do not include any prepaid sales tax. The prepaid sales tax is paid by the agent at the time the cigarette tax stamps are purchased. The prepaid sales tax is passed along in each subsequent sale down to and including the retail dealer (but is not passed down to the consumer). At the time of delivery, the seller must give the purchaser either Form ST-133, *Certificate of Prepayment of Sales Tax on Cigarettes*, or have the required information included on the invoice.

**State and local sales taxes** — State and local sales taxes must be collected from the consumer at the time of the retail sale. Sales tax must be collected upon the total retail sale price, including sales in New York City (effective September 1, 2003). For more information, see Important Notice N-03-22, *Computation of Sales Tax on Cigarettes Sold Within the City of New York*.

### Computing the minimum wholesale cigarette prices

Publication 508, *Minimum Price List for Cigarettes*, lists the minimum prices for standard and nonstandard brands of cigarettes by the carton (20 cigarettes per pack, 10 packs per carton).

The *basic cost of cigarettes* means the invoice cost of cigarettes to the agent who purchases from the manufacturer, or the replacement cost of cigarettes to the agent, in the quantity last purchased (whichever is lower), less all trade discounts (except discounts for cash), to which is added the full face value of any stamps (excise tax only) that are required by law. (The federal excise tax placed on the manufacturer would be included in the invoice cost of cigarettes from the manufacturer.)

The basic cost of cigarettes **does not** include any sales tax prepaid by the agent at the time the cigarette tax stamps were purchased.

The *cost of the agent* means the basic cost of cigarettes (as defined above) plus the cost of doing business by the agent. Unless otherwise substantiated, the cost of doing business by the agent is presumed to be as shown in the table below:

Percentage (plus 20 cents) of the basic cost of cigarettes per carton (20 cigarettes per pack, 10 packs per carton)	
Agent to wholesale dealers	7½% plus 20 cents
Agent to chain stores	1½% plus 20 cents
Agent to retail dealers	3⅞% plus 20 cents

In determining the prices for nonstandard brands, remember that an agent may not sell cigarettes to wholesale dealers (as defined in the Cigarette Marketing Standards Act (CMSA)) below the basic cost of cigarettes plus 7½% and 20 cents per carton (20 cigarettes per pack, 10 packs per carton). An agent or wholesale dealer may not sell cigarettes to a registered chain store below the basic cost of cigarettes plus 1½% and 20 cents per carton (20 cigarettes per pack, 10 packs per carton). An agent or wholesale dealer may not sell cigarettes to a retail dealer below the basic cost of cigarettes plus 3⅞% and 20 cents per carton (20 cigarettes per pack, 10 packs per carton).

Anyone selling at a price less than the *cost of the CMSA retail dealer* minimum sales price must have proof on file that the customer was eligible for the lower purchase price. The *cost of the CMSA retail dealer* is presumed to be a 7% markup of the *agent-to-retail-dealers* price.

The selling price of cigarettes sold by one licensed cigarette agent to another, when the cigarettes are either picked up at the seller's warehouse or delivered to the purchaser's warehouse, is not required to include the cost of doing business by the agent, but it may not be less than the basic cost of the cigarettes.

If an agent sells cigarettes to a chain store with 15 or more outlets (excluding vending machine operators), the cigarettes are delivered to a central warehouse owned and operated by the chain store, and the chain store delivers the cigarettes to its outlets, the agent's selling price is not required to include the cost of doing business by the agent (that is, the agent's presumptive 1½% plus 20 cents minimum markup is not required). However, the price may not be less than the basic cost of cigarettes.

**Custom stamping** is the affixing of cigarette tax stamps by one agent for, or on behalf of, any other agent. It also includes the sale of stamped cigarettes by one agent to another agent. **Custom stamping** is prohibited without the prior written authorization of this department. Send your request to: NYS Tax Department, TDAB-FACCTS-Cigarette Tax Unit, W A Harriman Campus, Albany NY 12227. See also Cigarette Tax Regulations (Title 20 NYCRR section 74.3(a)(3)). Violations of this provision may result in the revocation or suspension of the agent's license under Tax Law Article 20.

A licensed agent who sells cigarettes at retail is considered to be a CMSA retail dealer. The cost of the agent for those retail sales must be the same as the *cost of the CMSA retail dealer*.

### Computing the minimum retail cigarette prices

To compute the minimum retail selling price for cigarettes (standard, nonstandard, generic, or subgeneric brands), 20 cigarettes per pack, 10 packs per carton, you may use Publication 508.

Anyone making retail sales of cigarettes must first determine the *agent-to-retail-dealers* minimum selling price and increase that amount by at least 7%.

If a retail dealer does not know the manufacturer's list price for computing the minimum retail cigarette price, the retail dealer should mark up the cartons or packs of cigarettes 7% above its invoice cost (excluding any prepaid sales tax).

If you need help determining the legal minimum wholesale or retail selling price of cigarettes, contact your supplier or call the New York State Business Tax Information Center at the number listed under *Need help?* below.

**Civil penalties** — Violations of the CMSA may result in the suspension of an **agent's** or **wholesale dealer's** license or the imposition of a fine not to exceed \$20,000, or both, for a first offense. Subsequent violations within three years may result in license revocation, suspension, or suspension plus a fine not to exceed \$50,000.

**Criminal penalties** — Violations of the CMSA by **wholesale** or **retail dealers** are a Class B misdemeanor and may result in fines of up to \$500 (or double the amount of the gain from the commission of the offense) or up to three months imprisonment, or both.

## Need help?



Visit our Web site at [www.tax.ny.gov](http://www.tax.ny.gov)

- get information and manage your taxes online
- check for new online services and features



### Telephone assistance

**Miscellaneous Tax** Information Center: (518) 457-5735

To order forms and publications: (518) 457-5431

**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.



## 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



# NEW YORK STATE ASSOCIATION OF SERVICE STATION & REPAIR SHOPS, INC

## *Declared Dividend is 20%*

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

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

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

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

### Further Details

***Please contact:***

Bill Adams at 716.849.8641 or by email at

[badams@lawleyinsurance.com](mailto:badams@lawleyinsurance.com) if

you have any questions or concerns.

### ***NYSASSRS & Lawley Partnership***





**2316 Delaware Avenue - Box 130  
Buffalo, NY 14216**

**Phone: (716) 656-1035  
Fax: (518) 452-1955**

**FREE MONEY**

REPAIR-SHOP & GASOLINE DEALERS ASSOCIATION  
RSGDA – NAPA PROGRAM

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**