

NEW YORK STATE ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

July 2012

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INSIDE THIS ISSUE

⇒ NYS LEGISLATIVE UPDATE.

ENCLOSED YOU WILL FIND THE ASSOCIATION' POSITION MEMOS ON JUST A FEW OF THE 300 BILLS WE MONITOR EACH YEAR.

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MORE INSIDE

Memorandum In Opposition

BILL NUMBER S2542 – A7351

SPONSOR Senator DeFrancisco –
Assemblymen Den Dekker

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

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

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

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

Despite our objections this bill passed both houses. We intend to ask for a large inspection fee increase from DMV if the bill is signed by the governor.

Memorandum In Opposition

BILL NUMBER: A9683 – S7082

SPONSOR: Assemblymen Simanowitz –
Senator Gallivan

The subject bill amends the New York State Vehicle and Traffic Law and claims to create the proper tire repair act. What it does is increase the price of repair a flat by three times what its cost is now.

This proposal adds a new article, 12-D, to the vehicle and traffic law that the sponsor say describes the proper method when repair a flat tire. If this bill were to become law it would be cheaper to purchase a new tire than have the flat repaired.

This legislation will create standards that must be followed for a motor vehicle repair shop to perform a tire repair. The allegation is that improper tire repairs will create a safety problem for motorists. The bill memo does not give any examples where a repaired tire caused an accident.

The repairs and how a repair should be made must be left to the professionals who repair tires every day. They will know when a repair outside the repairable area warrants a new or different type of repair. The are time when the tire should be removed from the rim/wheel assembly to repair damage to the tire inner liner. The technicians who perform these repairs know when and how a repair demands the tire is removed from the rim.

When tire is removed from the rim the price of repair escalates. A \$10.00 repair becomes a \$25.00 repair. The tire will need to be balanced and wheels with sensors

attached to the rim will need to replace and the computer re-calibrated.

Legislating how to repair a flat tire is like telling a brain surgeon where to drill.

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

Tire Repair Guidelines

The primary authority for radial truck tire repair is definitely the Rubber Manufacturers Association (RMA) wall chart. (A sample of the chart can be downloaded for free at website www.rma.org under the Publications tab.) Since RMA guidelines reflect a unanimous consensus among the tire companies, they are virtually indisputable from a legal perspective. As far as commercial tire dealers are concerned, the only type of repair that can be installed in the field is referred to as a puncture, or nail hole, repair.

Puncture repairs are limited to the crown area of the tire, which is the center of the tread approximately 1 to 1.5 inches in from each shoulder. Puncture repairs are also restricted by size and cannot be larger than 3/8 of an inch in diameter. And while truck tires have no finite limits with regards to the number of nail hole injuries that can be repaired, the RMA wall chart says, "The number of repairs may be limited by application, economics, and/or manufacturers' recommendations." Regardless of the number of repairs, the repair units cannot overlap (see photo 1) and if the repairs are directly across from each other so that the same radial body cable is injured more than once, the tire cannot be

repaired in the field. The reason is that the cable in between the injuries becomes a "floater" that is not anchored by either bead. This creates instability that often leads to a belt separation when repaired with puncture repair materials.

Step by step

As far as procedures are concerned, RMA is very clear on the necessary steps for a puncture repair. While each step in the process is important, there are a few that are vital to restoring the original condition of the tire.

The first is removing the damage using a carbide cutter mounted on a low speed drill with a recommended tool speed of 1,200 rpm or less.

You'll never find the words "hand-reamer" or "drill bit" in any credible tire repair resource. A carbide cutter is specially designed to cut the damaged steel belt and body cables flush with the surrounding rubber. This stabilizes the area so the void can be filled with a cured rubber insert, which is the second key step.

The RMA is specific on the requirements for filling the void. If the material is not vulcanizing material or a cured rubber stem, then it doesn't meet industry recommendations. The final step is to seal the injury on the innerliner with a repair unit.

Notice I didn't use the word "patch." Repair units are divided into two categories: rubber-reinforced and fabric-reinforced.

While I personally lean toward a fabric-reinforced repair unit in a truck tire, I will acknowledge that the rubber-reinforced variety perform equally as well in the field.

Regardless, the repair material manufacturer has a specified repair unit for every size injury. If that guideline is not followed, then the tire repair will definitely be considered improper

Patch-Only Repairs

It's also important to note that there are exactly zero advocates of the old "patch only" repairs. Even the smallest hole in the deepest tread block will allow water and moisture into the injury, which leads to corrosion in the belts. This is a virtual death sentence for every radial truck tire because a field technician has no idea how much corrosion is in place under the tread.

I'm willing to bet that more casings are lost to patch-only repairs than any other type of improper repair. Sure, they hold air and get the driver back on the road. But the end result is either a scrap casing or a blowout. Failing to remove the damaged cables creates the type of instability that leads to belt and sidewall separations.

No matter how you look at it, when patch-only repairs are installed in the tread or sidewall, technicians roll the dice with the lives of the drivers and everyone else on the road. Again, no credible resource in the tire industry recommends fixing the leak only with a patch and it's pretty easy to spot on the mangled carcass after a failure.

Plug-Only Repairs

Another improper repair that anyone can identify is an on-the-wheel or "plug only" repair. They have the same number of supporters as the patch-only camp, but the consequences are much more severe. When the tire is not removed from the rim, the technician cannot inspect the inside of the tire. What appears to be a simple nail on the

outside of the tread may cause extensive damage to the inside of the tire.

And when the technician gets lucky and manages to install the plug without creating another hole on the innerliner, the broken cables in the injury channel are still subjected to corrosion and instability because they are not trimmed back to solid rubber.

You will find universal agreement among the tire manufacturers, tire repair material manufacturers, tread rubber manufacturers and industry organizations like the RMA and the Tire Industry Association (TIA). Everyone agrees that the tire must be removed from the rim so the injury can be inspected on the inside of the tire.

Crowning Touch

Finally, injuries in the crown area that are larger than 3/8 of an inch as well as those located in the shoulder and sidewall must receive a section repair that requires additional time, tools and equipment not typically found in the average commercial tire dealership. Section repairs are most commonly associated with retread plants where the technicians are trained to use special tools to remove the damage and fill the void with raw rubber so it can be cured in a press or chamber. A large reinforced repair unit is also installed on the innerliner of the tire and the tread design is regrooved after the raw rubber has cured. Like the patch-only repair, a section repair is easy to spot on the tire so any half-hearted attempt to fill the void will be obvious to an accident investigator

Memorandum No Position

Bill A3782– S4040

Sponsor Assemblyman Morelle – Senator Seward

The subject bill amends the New York State Insurance Law concerning service contracts. It allow a seller or supplier of windshield repair or paintless dent removal services to offer service contracts for the (i) repair chips or cracks in a motor vehicle windshield, but not including services that involve the replacement of the entire windshield, and (ii) repair or removal of dents, dings or creases from a motor vehicle without affecting the existing paint finish using paintless dent repair techniques, but not including services that involve the replacement of vehicle body panels, or sanding, bonding or painting.

The definition of "service contract" to include windshield repair and paintless dent removal services and allows providers of service contracts, at least thirty days prior to the effective date of an initial provider fee, or change in a provider fee, file the amount of the provider fee with the superintendent and such filing shall be open to public inspection; and provided further that the provider fee shall not exceed the amount filed.

Service contracts are popular products with consumers because it gives them peace of mind, knowing that they have managed the cost of future repairs of their vehicles, Allowing the provision of windshield repair and paintless dent removal service contracts be sellers and suppliers of such services will give consumers the option of purchasing such coverage in lieu of bearing the risk of repair Through the purchase of these contracts, consumers will not have to bear the cost of repairing cracks or chips in their vehicle windshields, or removing small dents, dings or creases from their motor vehicles.

This bill also provides the superintendent of insurance with the necessary oversight to make sure that the cost of these service contracts are of a reasonable nature.

The New York State Association of Service Stations and Repair Shops Inc., has no position on this bill at this time.

Memorandum In Opposition

Bill A2541 Assemblymen Pretlow

The subject bill amends the environmental conservation law, in relation to used oil filters. It attempts to prohibit the disposal of used oil filters into the environment and claims it will encourage the recycling of the filters and the waste oil contained therein.

The bill:

- Define used oil filter, used oil filter transporter, used oil filter processor, and source-separated.
- Provides for the Commissioner DEC to establish rules and regulations to govern used oil filter generators, transporters, and processors.
- Calls for service establishments or other on-premises oil-changing operations to maintain facilities for source-separated, used oil filters.
- Establishes requirements regarding fees and signs.
- Prohibits the knowing disposal of used oil filters in landfill.
- Requires used oil filter transporters to maintain complete records.
- Requires the registration of used oil filter processors.
- Defines regulated waste and used oil filters.
- Requires transporters and processors to submit an annual report to the

Department.

- Includes used oil filters within the existing recycling of used oil penalty section of the current law.
- Requirement service facilities to accept used oil from the motoring public and to post a sign that says, "We accept used Oil Filters from the Motoring Public at no Charge."

Current laws and regulations prohibit disposal of used oil and require the industry to accept used oil from the motoring public. This legislation adds and additional burden to repair shop businesses and will not provide the protection it claims.

Many oil changes are done by the "do-it yourself motorist." These filters will undoubtedly end up in the trash. Placing additional requirements on oil changing facilities will increase the cost of the product and service that will need to be passed on to the consumer. This increases in cost and places these businesses at a disadvantage. The higher the prices the more likely motorist will do-it themselves putting more un-drained oil filter into the environment. This bill will be counter-productive. The recycling of used oil filters is NOT a growing and profitable enterprise for the oil change retailer. While there may be profits for business that manage used oil filters in New York State it is an expense for retailers.

For the above reasons the New York State Association of Service Stations and Repair Shop, Inc., it five affiliates and 3500 members oppose this bill and ask that if be defeated.

Memorandum In Opposition
BILL NUMBER: A9927A

SPONSOR: Assemblymen Dinowitz (MS)

The subject bill amends the New York State General Business Law and Agriculture and Markets Law to specify requirements for motor fuel-pricing advertising. The bill attempts to ensure that motorists are able to make informed decisions with respect to motor fuel purchases by requiring gasoline station operators to disclose in a clear and conspicuous manner any discounts or price reductions. NEW YORK STATE LAW ALREADY PROVIDES THIS PROTECTION.

The current law would be changed to require dealers offering fuel to the public at different prices to maintain a roadside sign containing the higher of the prices offered and a notice explaining the conditions of the discount or price reduction. NOT ALL SERVICES STATION HAVE ROAD SIDE SIGN AND MANY ARE NOT ALLOWED BY LOCAL CODES TO INSTALL THESE SIGNS

The bill also provide that failure to comply shall subject any person or firm to a civil penalty of up to five hundred dollars for a first offense, up to one thousand dollars for a second offense, and up to ten thousand dollars for a third or subsequent offense. REMARKABLE, THE STATE CAN COMMIT A CRIME AND STEAL MONEY WITHOUT USING A WEAPON.

The sponsor complains that gas prices averaging over four dollars a gallon in many areas of the State, motorists are feeling significant pain at the pump. THIS IS TRUE. WHY NOT INITIATE AN INVESTIGATION INTO WHY THE PRICES ARE SO HIGH AND PASS A LAW THAT WILL STOP THE PRICE GOUGING AT THE WHOLESALE LEVEL.

Some motorists have reported being lured to a particular gas station by the promise of reduced price fuel, only to find that the price listed on the roadside sign only applies to cash purchases. Motorists depend on roadside signs to determine which gas station to patronize, using such signs to quickly comparison shop among competing stations. MOTORIST CAN SEE THE PUMP TOP SIGN FROM THE STREET. THESE SAME MOTORISTS WHO WILL COMPLAIN NO MATTER HOW BIG THIS SIGN ARE.

Over the past several months, as an increasing number of stations have begun offering reduced prices to customers that pay cash, motorists have reported instances of unclear and unreadable discount disclosures. In some instances, the words "cash" and "credit" are posted in a font so small the words are nearly impossible to read unless the motorists is directly under or beside the sign. CURRENT LAW PROVIDED THAT THE SIGNS ARE AT LEAST TWELVE INCHES WITH NINE INCH LETTERS.

Similar practices have been documented in the past. In August 2008, the Attorney General revealed the results of an investigation showing that nearly one-third of gas stations operating in Nassau and Suffolk counties engaged in deceptive practices. The Attorney General's investigation identified instances where gas stations engaged in deceptive advertising by listing the lower cash prices on their street-view signage without disclosing that the price was only for cash transactions. This practice can result in motorists being lured to the pumps only to find out that if they choose to use a credit card they will be charged a higher price. IF THIS IS TRUE

WHY DIDN'T THE ATTORNEY GENERAL INTRODUCE LEGISLATION IN THE NEXT THREE SESSIONS TO CORRECT THIS ALLEGE PROBLEM, BECAUSE THERE WAS NONE – GOT HIS PRESS AND WENT HOME.

In order to protect consumers and to provide regulatory guidance to gasoline station operators, this bill would require operators that offer discounts to display gasoline prices on a sign clearly visible from the street and conspicuously post the higher price and the conditions of the discount. This legislation is based on California law. IT'S NOT BROKE LEAVE IT ALONE.

The subject bill amends the New York State General Business Law to address current laws, rules and regulations already in existence for signs on service station relating to motor fuel pricing. More specifically the bill deals with the spread in prices between cash and credit card sales.

THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKET HAS ENFORCED REGULATIONS FOR MOTOR FUEL PRICING AND USING ITS WEIGHTS AND MEASURE ENFORCEMENT ARM HAVE BEEN VERY EFFECTIVE. THIS BILL IS BURDENSOME AND UNNECESSARY.

Specially the bill focuses on a difference in pricing between cash and credit and if and when this spread become allegedly excessive. If the prices spread is above five percent the bill triggers several enforcement requirements with which the station owner may or may not be able to comply.

A SINGLE DEALER WHO, TRYING TO MAKE A POINT, CREATED A SPREAD IN CASH CREDIT PRICE AT HIS STATION OF \$1.00, TRIGGERED THE

BILL. THE POINT WAS THAT THE MAJOR OIL COMPANIES ABANDONED DEALERS AND LEFT THEM AT THE MERCY OF THE CREDIT CARD COMPANIES. THIS BILL'S ATTEMPT TO RESOLVE A NONEXISTENT, NON REOCCURRING PROBLEM IS LIKE TRYING TO KILL A FLEA WITH A SLEDGE HAMMER. IMAGINE THE LEGISLATURE PUTTING IN BILLS TO RESOLVE ALL OF NEW YORK MINISCULE PROBLEM WITH LEGISLATION. WHAT A MESS.

DURING THE PERIOD THE DEALER WAS DISCOUNTING ONE DOLLAR FOR CASH, THE CASH PRICE WAS BETWEEN TWENTY AND THIRTY CENTS LOWER THEN THE OTHER STATIONS IN THE AREA. THE LINES TO PURCHASE GASOLINE WENT AROUND THE STATION. THER SHOULD HAVE BEEN SOME GRATITUDE FOR THE LOWER PRICES.

If the differential in prices is about the five percent than the dealer would need to install a price sign with the lettering cash – credit at least one third the size of the pricing lettering on the street sign.

THE BILL DOES NOT PREEMPT LOCAL LAW. THEREFOR A STATION OWNER WOULD NEED TO COMPLY WITH STATE AND LOCAL LAWS WITH WHICH THEY MAY CONFLICT.

The penalties for noncompliance are \$500 for the first offence and \$1000 for the second offence and \$10, 000 for the third offence.

THE LEGISLATURE SHOULD BE INVESTIGATING THE MONOPOLY IN THE CREDIT CARD PROCESSING INDUSTRY AND THE RELATIONSHIP

BETWEEN MAJOR OIL COMPANIES AND THE PROCESSORS.

WHAT IF THE PROCESSING COMPANIES INCREASE THEIR FEE? THE STATION WOULD HAVE NO CONTROL OF THE SPREAD. PERHAPS THIS BILL COULD PLACE A CEILING ON PROCESSING FEES.

If there is a local zoning ordinance prohibiting signs, a waiver will need to be issued by Ag and Markets. WHAT BUREAUCRATIC DEBACLE WILL THIS CREATE? WHAT ABOUT STATIONS THAT DO NOT HAVE OR WANT A STREET SIGN? WILL THIS BILL MANDATE ONE BE INSTALLED?

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

Memorandum In Opposition

BILL NO: S6194 Revised 01/13/12

SPONSOR: Senator Marcellino

The subject bill amends several New York State Laws to abolish a number of advisory Board, Committees and Councils. The New York State Association of Service Station and Repair Shops oppose the bill because it eliminates the Petroleum Bulk Storage Council.

The purpose of the bill if to commissions, boards and committees that are no longer necessary to provide the services they once did while also decreasing current state bureaucracy and consolidate their responsibilities. This is not true of the

Petroleum Bulk Storage Council. Its existence is important to survival of many service stations in New York.

The New York State Association of Service Stations and Repair Shops oppose the elimination of one of these committees, the New York State Bulk Storage Council due to its importance to the industry and that it is currently in the process of developing regulations for the future.

The New York State Department of Environmental Conservation has always ignored the Council and has not used it to the full advantage that the legislature had proposed. Without the Council, DEC will initiate regulations that will force many service stations out of business in this state.

Rather than eliminate the Council the legislature should be seeking to strengthen it so that it has some authority over DEC decisions. Small business in New York needs help and we are among those businesses.

Memorandum In Support

BILL NUMBER: S5418A

SPONSOR: Senator Grisanti

The subject bill amends the Navigation Law to enable the Department of Environmental Conservation to fairly allocate responsibility for a cleanup among the dischargers who may be responsible spill/contamination at a location. Its intention is to have responsible parties share in the remediation costs. It also and establishes a new liability limitation that would provide incentives to parties to clean the contaminated sites.

The bill;

- would to allow a party that the

Department has deemed a discharger of a petroleum spill to be able to present evidence that another party is solely responsible for the discharge

- require the DEC to consider and make a determination upon that evidence.
- allow for the State Comptroller's Administrator of the spill fund to represent the State at meetings with more than one discharger and to apportion liability among more than one discharger at a meeting or hearing
- include a liability limitation incentive to parties who agree to perform a spill cleanup.
- allows the Administrator to promote and arrange a settlement between the claimant and multiple dischargers
- allows an alleged discharger to present evidence to the Administrator that another party may be wholly or partially responsible for the claim.

Often, more than one discharger is held responsible for the cleanup of an oil spill site. Under current laws and regulation the liability is placed on the clean up costs from a single discharger. This results in burdensome and costly litigation among responsible parties. Many times the legal fees are higher than the cleanup. Also, the responsible parties receive poor legal advice and litigation allows DEC to use the State Spill Fund to pay for the remediation. This usually results in higher cost for the cleanup since DEC does a poor job of overseeing the cost of the cleanup. All too often, a single discharger cannot afford the heavy cost of third party litigation. Where the single discharger is a subsequent owner of a contaminated site, these costs can be unforeseen and in this way the current scheme can be devastating to New York State businesses.

The New York State Association of Service

Stations and Repair Shops, Inc., its affiliates and member feel this bill levels the playing field and allows the agencies to consider evidence presented by the first named discharger that others either are fully or partially responsible and bring all the potentially responsible dischargers to the table at once. In addition, the bill provides a new incentive in the form of the liability limitation to parties who cooperate with the agencies and proceed with the remediation. We believe these amendments help make remediation procedures more efficient and less costly.

For the above reasons we support this bill and urge it be passed into law.

Memorandum In Opposition

BILL NUMBER: S4736-A8019

SPONSOR: Senator Golden – Assemblymen Castro

The subject bill amends the New York State Tax Law to increase the presumed "cost of the agent" relating to cigarette marketing standards. It will increase the presumed "cost to the agent" for purposes of cigarette marketing.

The bill amends Section 1 subparagraph (B) of paragraph 1 of subdivision (b) of section 483 of the tax law, as amended by chapter 1 of the laws of 1999. It provides that the presumed cost of doing business by the agent selling to a wholesale dealer shall increase from seven-eighths of one percent of the basic cost of cigarettes plus two cents to seven-eighths of one percent of the basic cost of cigarettes plus fourteen cents for a standard pack of 20 cigarettes. For sales to chain stores, the presumed cost of doing business shall increase from one and one-half percent of the basic cost of cigarettes

plus two cents to one and one-half percent of the basic cost of cigarettes plus fourteen cents for a standard pack of 20 cigarettes. For sales to retail dealers, the presumed cost of doing business shall increase from three and seven-eighths percent of the basic cost of cigarettes plus two cents to three and seven-eighths percent of the basic cost of cigarettes plus fourteen cents for a standard pack of 20 cigarettes.

The justification for the bill, according to the sponsors is that the increased cigarette and tobacco excise taxes and the burden of prepayment of cigarette sales taxes, which have increased eightfold since the inception in addition to a variety of other factors, have caused the "presumed cost of doing business" of the tax agents to require an adjustment of 12 cents to the 15 year old handling fee of 2 cents per pack of 20 cigarettes. This will enable the remaining tax agents to remain in business and help secure tax collection.

The New York State Association of Service Stations and Repair Shops, Inc., its affiliates and members oppose this bill. The bill only address supplier up the supply chain but provides for no relief for those segments of the chain that really need help while increase the cost of the products to a point where sales will be lost to other states and non tax paying retailers. We urge the legislature to defeat this bill.

Memorandum In Support

BILL NUMBER: S1200 – A6999

SPONSOR: Senator Griffo – Assemblymen Russel

The subject bill amends the New York State Tax Law to establish a biodiesel tax Exemption. It expands tax exemption on all

blends of biodiesel in New York State.

Section of current law amends paragraph 7 of subdivision (a) of section 301-b of the tax law to change the current exemption for B20 to include all biodiesel blends. The amount of the exemption is based on the percentage of biodiesel per gallon. Section two provides for an immediate effective date with provisions. Existing law, Chapter 109 of the laws of 2006 provides an exemption for B20 and no other blend.

In 2006, New York State enacted Chapter 109, which provided a partial B20 biodiesel exemption. B20 is a blend of 20% biodiesel and 80% diesel. This legislation would expand the exemption to include any blend of biodiesel. New York should make every effort to foster the development and support the growth of the renewable fuels industry in the state.

The New York State Association of Service Station and Repair Shops, Inc., its affiliates and members believe that not only is the price of motor fuel artificially high but taxes need to be reduced as well. This is a small step in the right direction. We urge this bill be passed into law.

MEMORANDUM IN SUPPORT

A.7775 (Thiele)

S.4170 (Alesi)

This memorandum is submitted on behalf of our client, the New York State Association of Service Stations and Repair Shops, Inc., in support of the subject bill. This measure would implement an agreed-upon chapter amendment to Chapter 578 of the Laws of 2008, which enacted the zone pricing statute. It also extends enforcement of zone pricing to a wholesaler or dealer.

This bill would clarify and enhance legislation enacted to prohibit zone pricing of gasoline. This bill would include refiners and retailers as parties prohibited from engaging in zone pricing. Their inclusion in the bill would extend this prohibition to all parties in the gasoline supply chain. It also clarifies the definition of zone pricing as arbitrary price differences which are based on geographical location without regard to terminal price or additional costs.

This legislation provides that a retailer or wholesaler who has been injured by zone pricing may bring an action to enjoin such unlawful act. It specifically provides that no damages of any nature would be recoverable in such action. This limitation insures that the motivation for such an action is to balance the marketplace.

Arbitrary pricing differences on motor fuel based on the geographic location continue to be a problem in many market areas throughout New York State. Neither the price of the commodity, motor fuel, nor other legitimate business expenses account for these price differentials.

The volatile market in motor fuel with significant price fluctuations has underlined many of these pricing inconsistencies in the marketplace. The zone pricing statute was enacted by the Legislature to provide an effective method to prevent such market conduct and to protect consumers from unfair pricing.

Based on the foregoing, it is respectfully requested that this bill be favorably acted on.
Whiteman Osterman & Hanna LLP
Legislative Counsel to the New York State
Association of Service Stations and Repair
Shops, Inc.

Memorandum In Opposition

Bill Number A6173-S3631

Sponsor Assemblymen Weprin – Senator Adams

The subject bill amends the New York State General Business Law in an alleged attempt to protecting consumers from price gouging and product tampering of gasoline. It is directed at service station selling motor fuel from price gouging and product tampering of gasoline by mandated that a sign be posted with the telephone number where to place a complaint. The bill is directed at any person owning or operating a premise or facility with four or more gas dispensing nozzles for the retail sale of motor fuels for use in motor vehicles. The motorist or consumer complaints is based on,

- overcharging for gasoline or
- product tampering of gasoline

The bill requires dealers to provide clear and conspicuous notice on consumer complaint contact information by causing signs to be posted at all service desks, gas dispensing areas and other appropriate areas as necessary. The sign needs to contain information, including, but not limited to, a telephone number and mailing address of the state consumer protection board.

The sponsor's cite the consistent rise of gas prices for added need for consumers to feel they are still receiving an adequate product that has been priced at a fair market value and has not been physically tampered with.

This bill is unnecessary and redundant. There is sufficient protection under current law to protect the motorist. The State Agriculture and Markets and County Weights and Measures Department constantly monitor service stations for

quality and quantify violations. Recently New York City Consumer Affair proudly announced that it had completed inspection of all the stations in the City and had ninety-seven percent compliance. Also, the price gouging law is already in place. If there is a shortage of product the State Attorney has authority to act. If there is no crises than the customer unhappy with the price at one station need only drive to the next. There is no shortage of competition.

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

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 drivers license, vehicle registration, and vehicle title records for an additional fee of \$2 per abstract. Please call 518-452-4367.

STAY IN TOUCH

The Association website is

www.nysassrs.com

Our e-mail address has changed to:

state@nysassrs.com

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DIVIDEND HISTORY

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

DISCOUNT HISTORY

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

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

Lawley
INSURANCE



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Special pricing on merchant services.

An exclusive benefit for New York State Association of Service Stations and Repair Shops (NYSASSRS) — only from Bank of America

Merchant Services

We're pleased to offer you and other members of your organization some of the industry's most flexible and efficient payment processing options available, along with valuable savings.

Specially negotiated discount rates

Fast access to cash — with funds deposited into your account as soon as the next business day.¹

Point-of-sale payment options — virtually every point-of-sale payment option — credit, debit, electronic benefits transfer (EBT), gift cards and fleet (WEX and Voyager). And, for check payers, our TeleCheck Electronic Check Acceptance® helps you reduce the risks of accepting checks while minimizing processing costs.

Internet and telephone payment capability — for safe, secure shopping, whether online, by phone, by mail or in any card-not present environment.

Safety and security — to protect your business and your customers' information. Our systems support you through enhanced security and procedures, which help you comply with card organization rules and regulations.

Gift cards and loyalty programs — for reduced costs, and increased loyalty, sales and profits with our simple, user-friendly programs. Our full range of services includes card production, implementation and program interface.

Terminals and point-of-sale solutions — a comprehensive variety of affordable terminals and peripherals that offer adaptability for changing needs.

Payroll cards — with the security and control of electronic payroll.

One statement — and one customer service number for the convenience of your business.

24/7 technical support — to answer sudden questions or respond to unexpected needs. Expert help is as close as the web or your phone.

Program can support these card types:



Please contact your Bank of America Merchant Services sales representative at 1.877.899.9123.

¹ After deposit of transactions. Must have a Bank of America Business Checking account. Exceptions may apply. Only valid on Visa®, MasterCard® and Discover® transactions.

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RSGDAofWNY

Repair Shop and Gasoline Dealers Association of Western New York

Member Legal Services Plan

Administered by
KENNEY SHELTON LIPTAK & NOWAK, LLP

Dues paying members in good standing with the Association are entitled to participate in our group legal services plan that provides the following services:

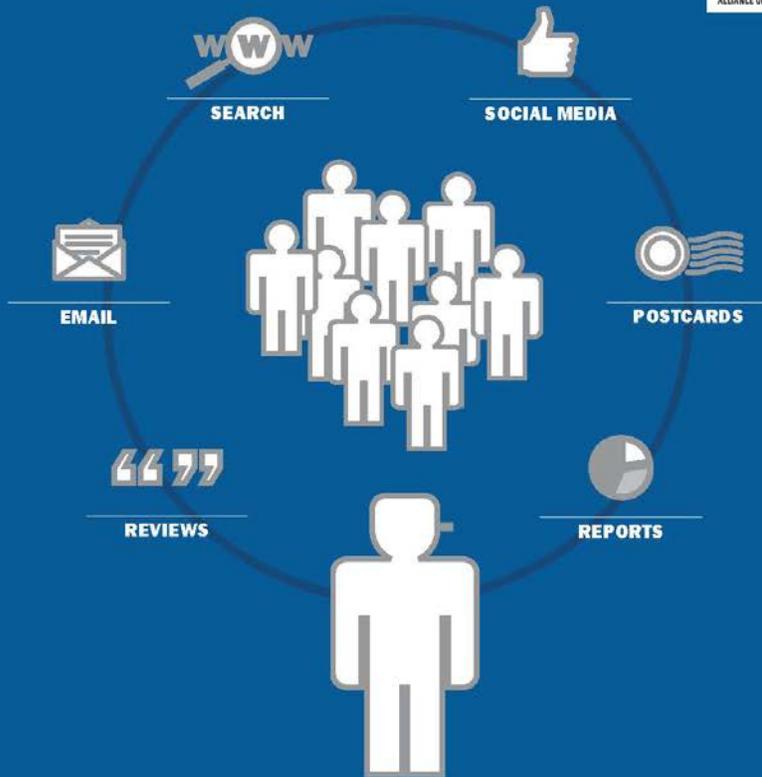
- Five billable hours of legal services for representation and defense at Department of Motor Vehicles or any other New York state Administrative Proceeding or Hearing for repair-shop related issues, and in Small Claims Court, if your business is sued. The Plan does not include representation in any court other than Small Claims or in any matter where the member is charged with a misdemeanor or felony.
- Additional legal services for covered services as listed above, and representation in business-related matters brought in any court other than Small Claims, will be provided at the law firms standard hourly rate (\$200) less 25% member discounted rate (\$150).
- One hour of free consultation per year for business-related transactions, including leases, supply contracts, and franchise agreements.
- Real estate (residential) purchase or sale at a flat fee rate:
Sale \$400
Purchase \$400
- Estate planning at a flat fee rate:
Simple will (single) \$100
Simple will (husband and wife) \$150

In order to participate in the plan, you must be a dues paying member, in good standing, and must have been a member for at least ninety days prior to the need for legal services.

If you are in need of this service, you must first call the association office at (585) 423-9924 or (716) 656-1035. The association will then contact the law firm to relay your information. You will be contacted by the law firm, personally, to schedule an interview.

The law firm of Kenney Shelton Liptak and Nowak, LLP was chosen to administer the RSGDAofWNY legal plan based on their knowledge and familiarity with the needs of our industry.

**To become a dues paying member of RSGDAofWNY
and be eligible for legal services, call (716) 656-1035**



SOCIALCRM: SHOP MARKETING MADE SIMPLE

**AASP Members Receive
\$15/month off SocialCRM**

Includes new SocialCRM sales and upgrades of existing eCRM customers to SocialCRM. It does not include a discount on new sales of the eCRM product level.



Please Contact Your AASP Sales Representative
to Schedule a Mitchell 1 Presentation



SEARCH

GO WHERE NEW CUSTOMERS CAN FIND YOU

Our Customer Review System allows your customers to create reviews of your service, which are automatically verified as authentic customer reviews. These reviews, with keywords added to optimize performance, create Search Engine-friendly links – driving your search visibility upwards, where new customers can find you.



EMAIL

STAY CONNECTED TO CURRENT CUSTOMERS

Turn first-time customers into loyal, profitable customers automatically. Mitchell 1's Social CRM integrates seamlessly with your shop management system, calculating mileage history and combining that with specific maintenance schedules to determine next recommended services. Includes:

- Email matching with your customer database
- Ongoing automatic email service reminders
- Target market promotions
- Customizable large-format postcards, artwork, and logos



POSTCARDS



SOCIAL MEDIA

IT'S TIME TO GET SOCIAL MEDIA WORKING FOR YOU

Your dedicated support agents will set up your Facebook page for maximum word-of-mouth marketing. Compelling content, AutoNetTV™ videos and Customer Reviews will be automatically pushed to your Facebook page on a regular basis to keep your shop visible and your customers engaged. Facebook links will be included in the Thank-You emails and on your customer's personalized vehicle maintenance website, OwnerAutoSite.com.



REVIEWS

GIVE YOUR SHOP A REPUTATION BOOST

Your customer reviews are posted to the web, complete with Overall Satisfaction Star Ratings, Review Comments, and Recommend scores. The Customer Review System can also verify which reviews are from actual customers, which studies prove are typically higher than unverified reviews. With ReScore, you can ask for a follow up review once you've had the opportunity to resolve a customer concern.

- Automated low score alerts
- Review customer verification
- Links to your shop's website
- Respond to customer reviews



REPORTS

SAY HELLO TO MARKETING CRUISE CONTROL

Your Mitchell 1 Support Agent will work with you to set up your SocialCRM service and monitor its performance with our extensive Summary Reports. Your support agent will:

- Set up Facebook page and create automatic feeds of video and review content
- Help you choose automatic Email and Postcard campaigns
- Review your Summary Reports and recommend tuning your program for maximum return on your investment
- Help you create coupons and send targeted email blast campaigns



Q1 2012

	Promo Price	AASP Price
<u>Manager</u>		
Manager, Single User	\$0 S&I \$109/mo	\$99/mo
Manager, Multi User	\$0 S&I \$135/mo	\$125/mo
ManagerPlus, Single User	\$0 S&I \$139/mo	\$129/mo
ManagerPlus, Multi User	\$0 S&I \$175/mo	\$165/mo

TEAMWORKS

Manager, Single User w/OnDemand5.com	\$0 S&I \$209/mo	\$199/mo
Manager, Multi User w/OnDemand5.com	\$0 S&I \$259/mo	\$249/mo
ManagerPlus, Single User w/ OnDemand5.com:	\$0 S&I \$239/mo	\$229/mo
ManagerPlus, Multi User w/OnDemand5.com:	\$0 S&I \$295/mo	\$285/mo

Other Products available as bundles or individually

OnDemand5.com	\$0 S&I \$159/mo	\$149/mo
Medium-Truck.net	\$0 S&I \$129/mo	\$119/mo
Tractor-Trailer.net	\$0 S&I \$235/mo	\$225/mo
SocialCRM	\$0 S&I \$199/mo	
SocialCRM - AASP Members Only	\$15.00/mo Off Promo Price	
	1st Quarter 2012	

Please contact your local Mitchell1 Representative for more info.

To find your local representative, or submit a lead, go to: www.m1leads.com/aasp

- **Prices should not be shared as an example only. Prices may vary depending on the product needs of the Repair Shop Customer.**
- All products come with a 30 day cancellation policy from Mitchell1.
- All products require 12-month agreement. After initial 12 months, each renewal period is 12 months with 30-day guarantee period commencing on renewal date.
- All products offered as software only; customer must provide hardware.
- All products include on-site training and installation.
- Network set up, installation and installation of all multi-user products is the responsibility of customer. Obtaining the services of a Network Professional to set up the network and install all multi-user products is highly recommended.
- Promotional pricing ends March 31, 2012.



Let your energy bill *pay you back*

Enjoy all these great benefits when you switch your energy supplier to Energy Plus®



\$50 Activation Bonus
after two months of active service for your business' electric accounts*



Earn 3% Cash Back
every year on the supply portion of your business' electric bill*



Earn even more Cash Back
when you enroll your natural gas account*



No commitment
when you enjoy the same service without risks, fees, or long-term commitments

▶ IS THERE ANY COST TO ENROLL OR CANCEL?

Not at all! There is no cost to enroll with Energy Plus and you can cancel service at any time without penalty. Give Energy Plus a try risk-free today.

▶ FOR YOUR BUSINESS AND HOME.

Energy Plus provides energy to both homes and businesses throughout New York so you can enroll all your energy accounts. Members with electric residential accounts are also eligible to receive a \$25 Activation Bonus and 2% Cash Back annually on the supply portion of their electric bills. Homes and businesses receive an additional \$25 Activation Bonus and up to 3% Cash Back on natural gas supply charges every year.* Sign up both your business and home today!

▶ NO INTERRUPTION TO YOUR SERVICE.

The best part is that nothing about the way your service is delivered will change. Your local utility will continue to deliver your energy, read your meter, handle service emergencies, and send your monthly statement. You'll be earning Cash Back while still enjoying the safety and reliability of your current service.

Select the **Green Option** to support 100% wind power

▶ HOW DO I EARN CASH BACK?

Once you select Energy Plus, you will receive a Cash Back rebate check automatically after every 12 months of service. Your Cash Back rebate will be 3% of your annual electricity supply charges for home accounts and 5% for business accounts. Earn even more Cash Back when you enroll your natural gas account. Home accounts receive 2% Cash Back and business accounts receive 3% Cash Back on your annual natural gas supply charges.

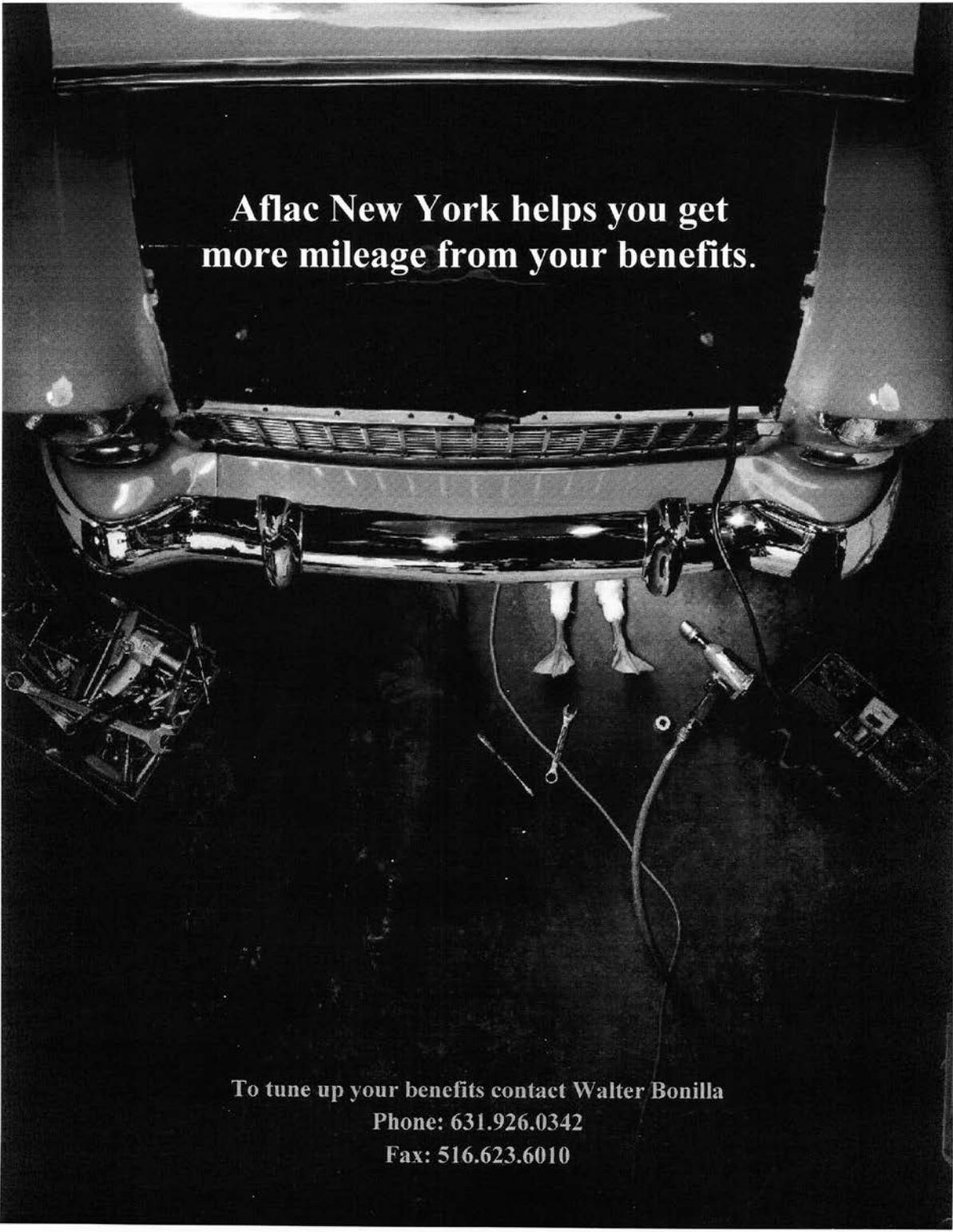


To learn more or enroll, visit this special offer page at www.EnergyPlusRewards.com/NYSASSRS59

or call 855-388-5274 and mention Offer Code "SER-0059"

ENERGY PLUS

*If enrolling an electric account, a \$50 Activation Bonus for business accounts or a \$25 Activation Bonus for residential accounts will be awarded after completing 2 billing cycles of active electric service with Energy Plus. If enrolling a natural gas account, a \$25 Activation Bonus check for business accounts or a \$25 Activation Bonus check for residential accounts will be awarded after completing 2 billing cycles of active gas service with Energy Plus. Active accounts are defined as those (i) that are billing more than \$0 and (ii) for which Energy Plus has not received a request on behalf of the customer to discontinue (drop) their service. Please note, if you enroll both electric and gas accounts, it is possible your services will start on different dates - so your bonuses may be awarded on different dates. Members will receive a Cash Back rebate check after every 12 billing cycles of service for active accounts. The Cash Back rebate will be 3% of the annual supply charges per business account and 2% per residential account. Account eligibility for a natural gas Activation Bonus requires a minimum of 500 annual therms or ccf's, based on historic usage as estimated by your utility at the time of enrollment.
Electricity service is provided through Energy Plus Holdings LLC and natural gas service is through its affiliate Energy Plus Natural Gas LLC. The Energy Plus rate is variable and therefore subject to change each billing cycle. Current and historical rates should not be taken as a guarantee of future rates and Energy Plus makes no warranty, express or implied, regarding specific savings.
If you are currently on a Budget Billing plan, your monthly budget billing amount may be adjusted as a result of enrollment with Energy Plus. In addition, your utility may perform a true-up upon enrollment with Energy Plus.
Depending on various factors, including season, this true-up could result in a charge, or a credit.
Electricity offer valid for NY residents excluding areas serviced by the Long Island Power Authority (LIPA). Natural gas offer valid for NY residents with heating accounts in areas serviced by Consolidated Edison, National Grid (Keyspan NY), National Grid (Niagara Mohawk), Orange & Rockland and National Fuel Gas. Energy Plus reserves the right to discontinue or modify the program and other offers cannot be combined with this offer. Your local utility company will continue to deliver your electricity and/or natural gas, as applicable. Offer not valid for government entities.



**Aflac New York helps you get
more mileage from your benefits.**

To tune up your benefits contact Walter Bonilla
Phone: 631.926.0342
Fax: 516.623.6010



HERE'S HOW AFLAC NEW YORK CAN HELP:

Many industries-like specialized auto repair and customization-require highly skilled talent that is not easy to find and retain. Great benefits are a top priority for these talented professionals when considering where to work. With Aflac New York, you can provide a wide range of benefits that gives them coverage in the areas they need most, and with a brand they know and want. You can attract and retain new talent by providing the kind of benefits they'd expect from a bigger company, helping your business stand out from the crowd.

THE BEST PART ABOUT AFLAC!

NO DIRECT COST TO YOUR COMPANY

Aflac New York's insurance policies are paid entirely by your employees; therefore, adding value to your employee benefits plan without incurring direct costs.

OFFERS A WIDE RANGE OF POLICIES

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

POTENTIAL TAX SAVINGS

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

ATTRACTIVE TO YOUR EMPLOYEES

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

Join the 16,500 companies* that Already include Aflac New York as an essential part of their benefits package. Find out more:

Walter Bonilla 1.631.926.0342 walter_bonilla@us.aflac.com

American Family Life Assurance Company of New York (Aflac New York)



The NAPA Major Account Program

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



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



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

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

BENEFITS TO ASSOCIATION RETAILER

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

PROFIT PLAN

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

A BRIEF LOOK AT NAPA

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

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

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

(O V E R)

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

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

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

Name of Your Business:		
Business Address Street:		
City:	State:	Zip:
Phone:	Fax:	E-mail:
Name of NAPA Dealer:		
NAPA Street Address:		
City:	State:	Zip:
Phone:	Fax:	
Additional NAPA Dealer(s) you do business with:		
Name of NAPA Dealer:		
NAPA Street Address:		
City:	State:	Zip:
Phone:	Fax:	
Name of NAPA Dealer:		
NAPA Street Address:		
City:	State:	Zip:
Phone:	Fax:	

FAX this form back to:
518 452-1955