
GASDA_{EST. 1931} – LIPDRA_{DISS. 1999}

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ATTORNEY'S CORNER

In the old days a service station was a great place to hang out.. Young guys interested in cars (and the occasional young gal, too) were a common sight on the premises. Car talk and exhaust were always in the air. Like so many other relics of a simpler time, things have changed. More and more I am seeing repair shops being forced to pay heavy fines and recurring bills for folks who, according to the owners of the business, were never employed by the shop but were simply hangin' out when they suffered an injury while on the property. Of course, the injured individuals claimed they were employed off the books, and the Workers Compensation Board and the Disability division of the Labor Dept. tend to find in their favor. The law is written to be liberally construed in favor of an injured worker. Then come the fines and forced payment of medical bills and other expenses. If someone doesn't work for you on the books but is allowed to loiter in the bays or at the station, you are taking a BIG risk of being at risk for tens of thousands of dollars (and sometimes more) in government mandated fines and payments. If they're not working for you - clear 'em out!

It's also very common these days for the lease of your business to provide that you, the tenant, are responsible for all repairs of the premises except for structural repairs - and sometimes even for structural repairs and the roof. If you bring in contractors to do any work on your premises, even just fixing a door, please make sure they have their own Workers Comp and Disability insurance. If the contractors don't and one of their workers becomes injured while performing the task for which the contractor was hired, you could be held responsible under your Workers Comp and Disability insurance. Wouldn't that be a kick in the head. Ben Franklin was right when he wrote "An ounce of prevention is worth a pound of cure." Keep it in mind for your business.

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

Check Out Our New Website

GASDA is pleased to announce its new website www.GASDA-NY.com. Come, check out the website, where you can read our newsletter online, get training links, register for the trade directory and more.

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ATTORNEY'S CORNER
HEMPSTEAD TOWN MEETING

What a day! Five hours at a meeting of the Town Board of the Town of Hempstead, on Long Island, fighting against a Resolution which would amend Sec. "336.G.(3) of Article XXXIII of the Building Zone Ordinance", which Resolution would prohibit coin operated or other fee-based air compressors at gasoline service stations located in the District. Thanks to a lot of angry Dealers staying for the full length of the hearing the measure was not voted on, but was put off for another day's decision. Not a victory yet, but not a defeat either. We'll be back another day. Several representatives from GASDA testified against the Resolution, including Executive Director Ralph Bombardiere, Associate Executive Director Wayne Bombardiere and, yours truly, GASDA counsel, Larry Culley.

It's times like these I would like to bring to the attention of Dealers who ask, "What are you guys doing for me?" This is the work a lot of members of Dealer Associations rarely see - the rallying of the troops to attend hearings like this, the testimony about the defects in the proposed law, the endless walking the halls of legislatures in cities and counties, in states, and in Washington D.C. to stop legislation harmful to our industry. Dealers don't ask for money from government. They just want a level playing field. They would like government not to be rolling marbles under their feet.

This Town Board of Hempstead is a cute piece of work. On every resolution but ours they voted lock-step for "aye". The ayes have it. Aye, aye, aye, aye..... ai yi yi! One attendee who has attended 187 consecutive board meetings said the only time he ever heard a "no" vote when a Board member who was redistricted out of his cushy job voted against that. But not to worry - they made him a judge!

Dealers, you had better wake up. If you've been making a decent piece of change from an air machine, the movement is on by government not only to take away your profit on a legitimate service you offer, but to force you to buy new "free air" machines at a cost of thousands of dollars, and it's a machine that you must maintain at your own cost, paying for all repairs, replacements, hoses, valves, compressors, etc. From a modest profit maker air will now become a significant expense.

This plague of government mandating that you provide free services to the public - remember after Sandy many localities requiring service stations to purchase generators at their own cost to provide electricity? - this plague is not staying in the downstate area. It will spread to the rest of the state and to other states, too. That's why the Executive Director of the New Jersey Dealers Association, Mr. Sal Risaluate, appeared in Hempstead to testify against the Resolution. He knows that the garbage that builds up in New York will soon spill over to his state unless it's nipped in the bud. Sal spoke eloquently, asking why the politicians on the Board were rooting against business to succeed. That's what a lot of these politicians do. The Town Supervisor, Anthony J. Santino, even said that the free air bill would be "a nice break for the taxpayer." That's how these bums think! You give up your money so he can claim credit with the taxpayers (of which you're one too). And don't think that they won't be handing out violations with hefty fines every time they find a "free" air machine broken or inoperative. A nice fundraiser for the Town, no?

Guys, as I said, you'd better wake up. Support your Dealer's Associations as they fight bad legislation like this. Your Association doesn't just need your membership fees, it needs your time and energy also. These Associations are run by Dealers for Dealers. Help them and you're only helping yourself!

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California Lawmakers Vote To Raise Smoking Age To 21

California lawmakers sent a bill to Gov. Jerry Brown to increase the state's legal age to purchase or use tobacco products, including electronic cigarettes, from 18 to 21.

The Sacramento Bee reports the nation's most populous state "is on the brink of becoming only the second after Hawaii to bar [all] teenagers from lighting up, dipping or vaping."

"We can prevent countless California youth from becoming addicted to this deadly drug, save billions of dollars in direct health care costs and, most importantly, save lives," said state Sen. Ed Hernandez, author of the bill.

Opponents of raising the legal tobacco age from 18 to 21 maintain that people can make adult decisions when they turn 18 and "live with the consequences," notes the news source, adding that 18-year-olds can register to vote, join the military, sign legally binding contracts and do most legal activities except purchase alcohol. The bill was amended to allow members of the military to continue buying cigarettes at age 18.

The news source writes that the California Senate vote came just over a week after the San Francisco Board of Supervisors voted to raise the city's legal tobacco buying age to 21, joining more than 100 other U.S. cities that have increased the tobacco purchase age in recent years.

Breaking Down USDA's New SNAP Rule Proposal

New eligibility standards could be coming to the federal Supplemental Nutrition Assistance Program (SNAP) and cause trouble for convenience stores.

The new eligibility standards recently set forth in a proposed rule are "problematic." The standards were published by the U.S. Department of Agriculture's Food and Nutrition Service (FNS) in the Federal Register on Feb. 17.

SNAP provides nutrition assistance to low-income individuals and families. According to NACS, in order to accept SNAP benefits, a retailer must meet certain eligibility requirements, including so-called "depth of stock" requirements that stipulate the minimum number of food items a retailer must offer for sale at any given time.

As expected, FNS' proposed new rule will implement statutory provisions of the 2014 Farm Bill, which NACS supported, that requires retailers to stock more varieties of products in four "staple food" categories: meat, poultry or fish; bread or cereal; vegetables or fruits; and dairy.

Specifically, retailers must stock no fewer than seven different varieties of food items in each of the four staple food categories. Prior to the 2014 Farm Bill, retailers had to stock three different varieties in each staple food category, the association explained. In addition, retailers will be required to offer at least one perishable food item in three of the categories, rather than two.

NACS, however, believes the FNS has also included several changes in its proposal that go "significantly beyond the statutory requirements in the Farm Bill." Notably, the proposal would make it so that "multiple ingredient" items,

such as macaroni and cheese or cold pizza, would not be counted in any staple food category and would not go toward a retailer's "depth of stock" requirements.

This is a dramatic change from current rules, which permit multiple ingredient items to be counted in one staple food category depending on the main ingredient. For instance, since the main ingredient in mac and cheese is pasta, now it could count as one item in the bread and cereals category.

The proposal would also add a "stocking requirement" whereby retailers would always have to have six different units of any food item in a store at any given time.

Public comments on the proposed rule must be submitted by April 18.

Proposed SNAP Rule Could Make C-Stores Ineligible

This week NACS told policymakers about industry concerns with a proposed rule published by the U.S. Department of Agriculture that includes problematic new eligibility standards for retailers participating in the Supplemental Nutrition Assistance Program (SNAP).

"The proposed [SNAP] rule would make tens of thousands of small businesses ineligible to participate in the Program. Small businesses will be harmed and SNAP beneficiaries, who rely on these small stores in both urban and rural environments, will lose options they need to feed their families," wrote NACS in a letter to the chairman and ranking member of the House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, and the chairman and ranking member of the House Agriculture Committee.

As previously reported by NACS, on February 17, the U.S. Department of Agriculture's Food & Nutrition Service (FNS) published a proposed rule altering eligibility requirements for retailers participating in SNAP. While the proposal codifies the 2014 Farm Bill provisions, which NACS supported, it also makes other changes to retailer eligibility requirements that Congress never intended to address in the 2014 Farm Bill. The proposal would impede neighborhood retailers' ability to participate in the program, which in turn would hinder food accessibility for SNAP recipients that use their benefits at these small format retail locations.

"It appears that FNS is trying to push small retailers out of the SNAP program altogether, for no sound public policy reason," NACS wrote to Congress, adding that Food, Nutrition and Consumer Services Undersecretary Kevin Concannon recently testified before the House Appropriations Committee that there are more small stores participating in SNAP "than we really need."

The USDA's SNAP proposal codifies the 2014 Farm Bill "depth of stock" provisions, which require retailers to stock 7 varieties of products in each of the four "staple food" categories. Problematically, the proposal also includes several changes that were neither required nor envisioned by the 2014 Farm Bill.

The proposal redefines the term “staple foods” and limits the items that may count as staple foods for depth of stock determinations. Under the proposal, multiple ingredient items (e.g. soups or frozen dinners) would not count towards depth of stock requirements. The proposal also expands the definition of “accessory foods” to include foods consumed between meals, like snacks (e.g. hummus and pretzel packs).

Because accessory and multiple ingredient foods may not be counted as staple foods for depth of stock determinations—the proposal essentially narrows the universe of acceptable foods that a retailer can stock to participate in SNAP, ultimately raising the stocking numbers beyond the numbers established by Congress.

Next week in Washington during the NACS Government Relations Conference, industry stakeholders will be communicating to members of Congress and their staffs that convenience stores play a fundamental role in SNAP, particularly for low-income Americans who live in rural or urban environments. By making it increasingly difficult for small format retailers to participate in SNAP, the proposal would essentially punish SNAP beneficiaries by requiring them to travel outside of their local neighborhoods where larger format retailers may not exist.

Residents Sue Over Gas Pump Credit Card Holds

Two Tennessee residents have filed lawsuits against the biggest U.S. diesel retailer over the holds banks require when using pay-at-the-pump purchases with a credit card, The Associated Press reports. The lawsuits accuse Pilot of \$75 to \$500 holds that last from hours to days on the credit cards of customers filling up.

Jeff Lenard, NACS vice president of industry initiatives, said that the hold policy is standard across the convenience store industry because banks mandate the practice to ensure purchases are paid for. With the exact amount of purchase not known when a customer inserts his credit card at the pump, banks make retailers place a hold, the amount of which usually covers a maximum fill-up cost. For passenger vehicles, that amount is around \$75, but for tractor trailers, the hold amount can be significantly more.

After the transaction is complete, the retailer alerts the bank as to the exact payment, but the banks have control over when to release the hold. Lenard pointed out that customers wanting to avoid a hold should pay with their debit cards and PIN, because that triggers a real-time transaction and usually means a hold releases immediately.

The lawsuit is asking for damages and a court order to forbid Pilot from “excessive” holds on customer credit cards. Pilot had no comment on the lawsuit.

ExxonMobil Launches Mobile Payment Platform

ExxonMobil announced this morning that it is the first major retailer in the fuel space to accept mobile payments at its pump.

Through use of the Speedpass+ mobile payment application as well as Apple Pay, the major will now accept mobile payments at the pump at more than 6,000 Exxon- and Mobil-branded stations throughout the country.

ExxonMobil plans on having the mobile payment system available at more than 8,000 stations by the middle of 2016.

The mobile payment application allows customer to authorize payment at the gas pump securely using cloud-based technology. Exxon and Mobil station customers can choose to use Apple Pay as a default payment from within the Speedpass+ app.

The Speedpass+ mobile payment app can be downloaded for free and can be linked to checking accounts or other major credit and debit cards. In the announcement, ExxonMobil noted that when a customer uses Apple Pay, they will still receive all the rewards and benefits their credit and debit cards offer. Customers using the system can get a receipt emailed to them, get a physical one at the pump or both. Also, a customer's purchase history is recorded in the app, a feature that is helpful for tracking business expenses, ExxonMobil points out.

Customers will be able to identify which stores have the mobile payment systems in place within the app.

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U.S. Tops List Of Countries Victimized By Skimmers

The United States leads the list of the top countries reporting losses due to skimming crime, according to the European ATM Security Team (EAST) fraud update in the first quarter of 2016.

The top three countries reporting losses from skimming remain the U.S., Indonesia and the Philippines, EAST said today.

The data, which overwhelmingly deals with ATM fraud, is also relevant to card fraud at gas stations, since thieves can use some of the same tactics at the pump or at point-of-sale terminals inside stores. Many gas stations also offer ATMs on site.

EAST sometimes receives reports of skimming attacks at other terminals such as those at gas stations. The group noted in its most recent poll that seven countries reported skimming at unattended payment terminals at gas stations.

EAST said card skimming at ATMs was reported in 20 countries attending its meeting in February. The data for EAST's "European Fraud Update for 2016" is primarily from updates by representatives of 19 countries in the Single Euro Payments Area and four countries outside that area.

Criminals' use of "throat inlay skimming devices" at ATMs appears to be on the rise, the group said. Three countries reported skimming attacks employing throat inlay devices, which are placed inside the card reader throat in front of the shutter.

EAST also noted:--ATM malware attacks were reported by three countries and two of them said thieves successfully

used "black-box" devices to allow unauthorized cash dispensing.

--Ten countries reported ram raids and ATM burglary.

--Ten countries reported explosive gas attacks, one of them for the first time.

--One country reported the use of explosive liquid (nitroglycerin) to blow open an ATM safe, the first time this type of incident was reported to EAST.

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Oil Rig Counts Continue To Decline

Baker Hughes Incorporated announced that the international rig count for February 2016 was 1,018, down 27 from the 1,045 counted in January 2016, and down 257 from the 1,275 counted in February 2015. The international offshore rig count for February 2016 was 225, down 17 from the 242 counted in January 2016, and down 99 from the 324 counted in February 2015.

The average U.S. rig count for February 2016 was 532, down 122 from the 654 counted in January 2016, and down 816 from the 1,348 counted in February 2015. The average Canadian rig count for February 2016 was 211, up 19 from the 192 counted in January 2016, and down 152 from the 363 counted in February 2015.

The worldwide rig count for February 2016 was 1,761, down 130 from the 1,891 counted in January 2016, and down 1,225 from the 2,986 counted in February 2015.

The Baker Hughes Rotary Rig Counts are totals of the number of drilling rigs actively exploring for or developing oil or natural gas in the U.S., Canada and international markets.

Nine Gas Stations Penalized For Tank Violations; One Shut Down

Eight gas stations in Alaska, Oregon and Washington have agreed to pay civil penalties and to make improvements to their tank systems to settle allegations they violated federal law on underground petroleum storage tanks, according to the U.S. EPA.

EPA said the gas stations faced higher penalties for repeat violations, and several were blocked from receiving fuel shipments.

As part of the settlements, the retailers did not admit to wrongdoing. A ninth station -- Shell Gas Station in Hoquiam, Wash. -- remains in violation of the law and closed after EPA prohibited fuel deliveries, the agency said. EPA alleges the station repeatedly failed to properly monitor tanks and piping, resulting in a petroleum release on the property.

Under the Resource Conservation and Recovery Act's UST regulations, facilities that store petroleum and certain other hazardous liquids underground must install and maintain line leak detector systems on underground piping, as well as conduct line tests.

Four Alaska stations agreed to penalties for allegations they failed to provide an adequate line leak detector system on underground piping by delaying required annual line tests -- Holiday Alaska #631 of Anchorage (\$10,650); Holiday Alaska #637 of Anchorage (\$6,390); Tesoro Refining & Marketing Company #77 of Palmer (\$6,390); Tesoro Refining & Marketing Company #54 of Girdwood (\$6,390).

In Oregon, 76 X-Press in Tigard agreed to a \$13,520 penalty for allegedly failing to properly monitor tanks and piping, resulting in a petroleum release on the property, EPA said. K&J Petroleum of Portland agreed to pay \$6,390 for alleged failure to provide an adequate line leak detector system on underground piping.

And two stations -- TJ's Gas Station of Sheridan, Ore., (\$6,390) and Chevron Gas Station in Mill Creek, Wash. (\$3,400) -- agreed to penalties to settle allegations that they repeatedly failed to provide an adequate release detection method for tanks that are routinely used to store product.

EPA said that in 2015, failure to properly monitor tanks and underground piping contributed to more than 6,800 new petroleum spills across the U.S. Last year, EPA stiffened its UST regulations by increasing emphasis on properly operating and maintaining underground tank equipment.

"Underground fuel tank owners and operators must be knowledgeable and safely operate their systems to prevent harmful releases," said Peter Contreras, manager of EPA's Groundwater Unit in Seattle.

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Much Of Gulf's Dealer Business Sold To Multi-Brand C-Store Chain

The evolution of Gulf Oil, no longer owned by the Haseotes family, continues. OPIS has learned that what Gulf calls its "Assured Dealer Business" has been sold to fast-growing Petroleum Marketing Group (PMG), which has now acquired stations or contracts to supply stations over a network of more than 1,000 sites.

The sale of the 200+ strong Gulf dealer business comes less than three months after private equity group ArcLight Capital Partners bought Gulf, through two affiliates. The purchase of Gulf Oil LP was consummated by Chelsea Petroleum Products Holdings LLC in late December. At the same time, ArcLight created another affiliate, known as Blue Hills Fuels LLC, which bought the dealer business. Blue Hills has now sold that dealer segment to PMG.

The face-down transaction involves a number of single-site dealers, although there are also occasions where individual owners might have 10 or more sites. Most of the properties are Gulf stations spread throughout New England, New Jersey and New York, but the deal also involves ExxonMobil stations that were sold when the major divested its retail in the Long Island market. Sources say that Gulf will continue to supply the Gulf-branded stations, but it's expected that PMG will deliver fuel to the ExxonMobil accounts, since PMG is already an ExxonMobil jobber.

Reports indicate that the properties move moderate to high volumes throughout the Northeast with estimates of annual sales of more than 1 million gal persite. In all, more than 200 stations are involved, almost all of which paid dealer tankwagon prices posted by Gulf.

Prior to this deal, PMG already owned, operated or supplied over 800 sites across Maryland, Virginia, Washington, D.C., and New Jersey with annual fuel volumes exceeding 1 billion gal. The company flies flags that include Shell, Exxon, Mobil, BP, Sunoco, Citgo, Gulf and Crown and is headquartered in Woodbridge, Va. This deal should represent an expansion into New York and New England.

PMG's president and majority owner is Hossein Ejtemai, who was a small CITGO and Chevron jobber back in 2000. The first big deal came when the company bought about 150 Crown stations in Maryland and Virginia. The PMG team was always acquisitive -- back in 2005, execs told OPIS that it planned to add 100-150 outlets over a five-year time span, although the suggestion was that much of the expansion would be in the Carolinas. Instead, most deals worked by PMG have been to the north, with purchases of a slew of stations from Maryland-based Eastern Petroleum back in 2010.

Now that PMG has over 1,000 sites and well over 1 billion gallons worth of annual fuel sales, there is speculation that the company could pursue a path toward public ownership, via the master limited partnership structure. However, no papers have been filed with the Securities and Exchange Commission on the matter, and observers sense that any Initial Public Offerings of MLPs might be scorned by Wall Street, given the problems of many upstream and midstream partnerships.

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Gas Consumption Expected To Remain Below 2007 Peak

Based on estimates in the U.S. Energy Information Administration's (EIA) most recent Short-Term Energy Outlook (STEO), vehicle travel in the United States in 2015 was almost 4% above its 2007 level, but gasoline consumption has not exceeded its previous peak in 2007.

EIA notes that improvements in light-duty vehicle fuel economy are largely responsible for this outcome.

The STEO forecasts gasoline consumption to average 9.23 million barrels per day (b/d) in both 2016 and 2017, about 0.6% below its 2007 level. In contrast, vehicle travel is expected to grow to levels 5% and 7% above the 2007 level in 2016 and 2017, respectively.

EIA reports that lower gasoline prices and changes in the economy affect vehicle travel growth. Furthermore, the combination of an increasing share of the baby-boomer generation reaching retirement and continued increases in vehicle fuel economy is expected to limit growth in gasoline consumption for the forecast interval and beyond.

Study: Graphic Cigarette Warning Labels May Backfire

A University of Illinois study found that adding graphic warning labels to cigarette packaging may not push smokers to quit. In fact, it could have the opposite effect.

According to researchers at the school, many people perceive the graphic images as a threat to their freedom, choice or autonomy, and they respond accordingly.

"What we found is that most people don't like these warning labels, whether they are smokers or nonsmokers," said Nicole LaVoie, a doctoral student in communications and the lead author of the study, published online by the journal *Communication Research*.

"It makes them angry, it makes them express negative thoughts about the packaging, that they're being manipulated," LaVoie said. "Ultimately, it also makes them think that the source — the government in this case, mandating these labels — is being overly domineering, is being too much in their business."

The strongest response of this kind came from study participants who measured high in psychological reactance, a personality trait that makes them more prone to negative and resistant thoughts when they perceive they're being told what to do, she said.

In turn, this trait can produce something close to a boomerang effect, according to Brian Quick, a professor of communication and one of three co-authors of the paper, who has studied psychological reactance theory with other health issues.

"If these individuals see things as freedom threats, they are going to be more attracted to perform the threatened behavior," Quick explained.

Since smokers tend to be somewhat higher in this trait, LaVoie said, "we might actually be doing harm to a group that might need the most help if they're battling an addiction to smoking."

The participants in the study were 435 undergraduates between the ages of 18 and 25, with a median age of 20. Smokers were 17.5 percent of the sample and nonsmokers (no smoking within the previous month) were 82.5 percent.

All study participants were given a cigarette package of the same popular brand, along with a questionnaire designed to measure certain personality traits, as well as their reaction to the package. Half of the smokers and half of the nonsmokers were given packages with graphic warning labels with one of seven images, and the other half were given packages with a text-only label like the ones now in use.

The Food and Drug Administration (FDA) released new warning labels for cigarette packaging in June 2011. However, after going several rounds in the courts, the agency said in 2013 it would scrap those nine warnings and start over again. One month later, in April 2013, the U.S. Supreme Court let stand a 2009 federal law that requires warning labels on cigarettes and expanded marketing restrictions on tobacco products. The FDA has yet to implement new warning labels.

Legislative Alert

While much of the attention and coverage of the 2016 elections has thus far been focused on the Presidential elections, particularly with the commencement of the party primaries, the Senate will be a critical ground for both parties in 2016.

Due to the present districting of the House of Representatives, there is almost no chance of Democrats being able to pick up enough seats to become the majority in the House. However, in the Senate there is far less certainty. The outcome of a handful of Senate races will determine whether the Republicans will continue to control both chambers of Congress, or whether we will return to a time where control of the chambers is split. To add some further excitement, there is also the potential that the Senate will be split 50-50 and control will come down to the party of the Vice President (who is tasked with being the tie breaker in the event of a split Senate).

While there are a number of contingencies and developments yet to come, including, in some cases, the selection of candidates, it is already becoming clear which will be the Senate races to watch. Just as the breakdown of which Senate seats were up for election in 2012 favored the Republicans, this year the breakdown favors the Democrats.

Here's the summary of what the 2016 Senate elections look like at this time:

There are currently 54 Republicans in the Senate, 44 Democrats and two Independents both of whom caucus with the Democrats. The Democrats therefore need to pick up five seats if they want to have a definitive majority in the Senate. If the Democrats are able to pick up four seats and the Democratic Presidential candidate wins, the Democrats will also take control of the Senate based on the tie breaking vote of the Vice President.

There are thirty-four Senate seats up for election in 2016. Ten of these seats are currently held by Democrats while twenty-four are currently held by Republicans.

Six of the thirty-four seats up for election are open while the remaining twenty-eight presently have incumbent candidates. Of the six open seats, three are presently held by Democrats (CA, NV, MD) and three are held by Republicans (LA, FL, IN).

Of the ten Democratic seats up for election in 2016, eight of them are (at this time) considered safe seats for the Democrats (CA, CT, MD, NY, HI, OR, VT, WA).

Of the twenty-four Republican seats up for election in 2016, sixteen of them are (at this time) considered safe seats for the Republicans (AL, AK, AR, GA, IA, ID, IN, KS, KY, LA, MO, OK, ND, SC, SD, UT).

There is a chance that the Democrats will have a fight on their hands in defending Senator Michael Bennet's seat in Colorado, a traditional swing state. However, no well-known or notably viable Republicans have announced their candidacies for the seat so the competitiveness of the race remains difficult to gauge.

On the Republican side, in Arizona there is the chance that Senator John McCain will face interparty challenges to his reelection which could bruise or even take him out of the

race. Representative Ann Kirkpatrick has already declared and is the consensus candidate on the Democratic side. Thus, the competitiveness of this seat remains to be seen and will hinge largely on what happens during the Republican primary contest.

As a bottom line - there are seven seats that are expected to be very competitive and on which the control of the Senate will most likely hinge.

The only one of these seven most competitive seats currently held by Democrats is the seat in Nevada being vacated by retiring Minority Leader Harry Reid. At this time, the leading Democrat running for the seat is former Attorney General Catherine Masto and the leading Republican running for the seat is Representative Joe Heck.

Of the six Republican seats expected to be highly competitive, all will have incumbents except for Florida. At this time, it is unclear who the candidates on either side will be to fill the seat presently held by Senator Marco Rubio, who declared last spring that he will not be seeking reelection.

The five incumbent Republicans who are presently expected to have serious races on their hands are as follows:

- In Illinois, Senator Mark Kirk, who won President Obama's former Senate seat in 2010, is expected to face a tough race. In 2010, a year that was very favorable overall for Republican candidates, Senator Kirk only beat his Democratic opponent by a close vote of 48% to 46.4%. Senator Kirk is expected to face Democratic Representative and Iraq war veteran, Tammy Duckworth, in the general elections this fall.
- In New Hampshire, Senator Kelly Ayotte, who was also elected during the 2010 Republican wave, is expected to face Democratic Governor Maggie Hassan in her bid for re-election. In 2010, Senator Ayotte won the seat previously held by Republican Senator Judd Gregg by solid margin of 60.1% to 36.8%. Governor Hassan was first elected in 2012 and won re-election in 2014 by a vote of 52.6% to 47.4%.
- In Ohio, Senator Rob Portman, also a product of the 2010 elections, is expected to face Democrat and former Ohio Governor Ted Strickland. In 2010, Senator Portman defeated his Democratic opponent by a solid margin of 56.9% to 39.4%. Prior to Senator Portman's election, this seat was held by Republican Senator George Voinovich.
- In the well know swing state of Pennsylvania, Senator Pat Toomey, is expected to face a challenge to the seat he won in 2010, though it is yet unclear who the Democratic candidate will be. In 2010, Senator Toomey defeated his Democratic opponent by a vote of 51% to 49%. Senator Toomey's seat was previously held by Senator Arlen Specter who switched from a Republican to Democrat in 2009 while in office.
- In Wisconsin, Senator Ron Johnson is expected to face former Senator Russ Feingold whose seat Senator Johnson won in 2010 by a vote of 52% to 47%. With 2010 having been a close race and, again, a good year

for Republicans, this will certainly be an interesting rematch to watch.

As can be ascertained from the above, the biggest races will be faced largely by first-term Republican incumbents in traditionally swing states. In a Presidential election year, these types of races are often impacted by the top of the ticket.

We will continue to monitor and report on the upcoming elections as the landscape continues to develop.

Associations Calls On Copyright Office To Clarify Consumer Ownership Of Vehicle Software

The Association submitted comments last week to the U.S. Copyright Office requesting the agency make clear that when purchasing a vehicle, the consumer also purchases the software used in that vehicle. The comments were developed in response to a request for public comments on a study that examined how copyright law applies to software-enabled consumer products.

Specifically, the Auto Care Association called on the Copyright Office “to clarify that federal copyright law should expressly permit lawful repair of products whose physical operation relies on software, regardless of whether the software must be altered or reproduced for such repairs to occur. Copyright should not diminish the right to repair granted under patent law.”

Copyright law should further “acknowledge and accommodate fair uses and noninfringing uses of such embedded software, including reproduction and decompilation for lawful purposes such as facilitating interoperability, accessing or altering non-copyrighted elements in the software, developing replacement software, and customizing product performance.”

The Association took issue with claims by vehicle manufacturers that consumers must accept licenses for embedded software in order to, in fact, use the vehicle once purchased: “Where the software is integral to the physical operation of parts or systems of motor vehicles, manufacturers should be preempted from imposing copyright-based license restrictions on the right to use and repair products that the consumer owns... Clarifying that the purchaser of the vehicle owns the copy of the embedded software will promote competition and consumer rights in a manner fully consistent with the promotion and purposes of copyright law.”

NAFTA Agency Releases Best Practices Report for Lead-Acid Battery Recycling

The Commission for Environmental Cooperation (CEC), formed as part of the North American Free Trade Agreement (NAFTA) to address shared environmental issues among Canada, Mexico and the United States, released a technical guidelines on lead-acid battery recycling last Wednesday, Feb. 17. The report grew out of a 2013 study that found government regulations covering secondary lead smelters in North America did not provide equal levels

of environmental and health protection. Some of the technical guidelines include:

- A high-level overview of the economics of spent lead-acid batteries (SLAB) recycling and the consolidation of the industry in North America;
- The differences in how the collection infrastructure works in Canada, Mexico and the United States, and identifies the key players in the SLAB supply chain;
- The key environmental and safety hazards associated with each activity and offers recommendations on environmentally sound management (ESM) practices that should be considered for implementation;
- Occupational health standards and minimum requirements for emergency plans; and Best practices for auditing and reporting.

According to the CEC, the principal target audience for the guidelines includes management and operational staff at companies that collect, handle, transport and process SLABs. The agency also believes that other organizations such as governments and environmental organizations will benefit from the content.

Safety Agency Finalizes Vehicle Lighting Standard Fix

On Feb. 8, the National Highway Traffic Safety Administration (NHTSA) published a final rule updating the Federal Motor Vehicle Safety Standard (FMVSS) for lamps, reflective devices and related equipment. The regulation in question, FMVSS No. 108, had an outstanding change proposed in 2012 to fix the regulation for reflective devices on vehicles less than 30 feet long.

Certain vehicles less than 30 feet long are required to have side lamps, but due to an oversight in a 2007 regulatory change, the details of those requirements remained incorrect and the intended revisions were not incorporated. As of this final rule, FMVSS No. 108 reads as it was originally intended, with the appropriate changes made to both the photometric requirements and equipment testing metrics in question.

The regulation will be effective as of Aug. 8, 2016, with optional early compliance.

Fact Sheet Prohibition Of Used Catalytic Converters/ New Aftermarket Catalytic Converter Standards

6 NYCRR Part 218, Emissions Standards for Motor Vehicles & Motor Vehicle Engines Section 177 of the Federal Clean Air Act (42 USC 7507) provides the general authority for states to adopt the State of California's low emission vehicle (LEV) program standards. New York State first adopted California's motor vehicle emissions standards program in 1990 with implementation beginning with model year 1993 vehicles. These standards are incorporated in 6 NYCRR Part 218, (link leaves DEC's website) Emissions Standards for Motor Vehicles & Motor Vehicle Engines.

Pursuant to regulatory revisions completed in 2012, the New York State Department of Environmental Conservation

(Department) adopted California's aftermarket catalytic converter requirements. These requirements include a) the prohibition of installing used catalytic converters, and b) standards for new aftermarket catalytic converters. These requirements can be found under subdivision 218-7.2(c). (link leaves DEC's website) New York's aftermarket catalytic converter requirements apply to all model year 1993 and newer on-road motor vehicles, with the exception of the 1995 model year vehicles, certified by the California Air Resources Board (CARB) including vehicles with 50 state certification. Use of an EPA certified new aftermarket catalytic converter is still permitted on federally certified (not CARB or 50 state) and pre-1993 model year vehicles. Distribution centers located in New York State may continue to supply EPA certified aftermarket catalytic converters for applicable NYS vehicles and for sale outside of New York State.

Prohibition of Used Catalytic Converter Sales

Pursuant to 6 NYCRR Part 218-7.2(c)(2), (link leaves DEC's website) and effective June 1, 2013, it is unlawful for any person to sell, offer for sale, advertise, or install any used, recycled, or salvaged catalytic converter on any vehicle in New York State. This prohibition applies to all vehicle types and model years. A used catalytic converter is not a new aftermarket catalytic converter, or a replacement part as defined below. This prohibition does not apply to the sale of used catalytic converters for recycling purposes.

New Aftermarket Catalytic Converter Standards

Pursuant to 6 NYCRR Part 218-7.2(c)(1), (link leaves DEC's website) and effective June 1, 2013, it is unlawful for any person to sell, offer for sale, advertise, or install any new aftermarket catalytic converter for use on 1993, 1994, 1996 and newer CARB and EPA 50 state certified vehicles in New York State unless that new aftermarket catalytic converter has been certified by CARB. However, in accordance with a letter from the Department, the Department exercised enforcement discretion for the remainder of 2013 not to enforce the new aftermarket converter requirements against persons who installed a federally-certified converter in violation of 6 NYCRR Section 218-7.2(c). (link leaves DEC's website)

A new aftermarket catalytic converter is defined as being constructed of all new materials and is not an original equipment catalytic converter. New aftermarket catalytic converters for CARB and EPA 50 state certified vehicles will be required to:

- Display a certification stamp or label on the catalytic converter shell. The label or stamp must display the CARB Executive Order approval number, the part number, date of manufacture, and proper installation direction.
- Comply with a vehicle's original emissions certification limits.
- Be compatible with the onboard diagnostic systems (OBD II) on 1996 and newer vehicles.
- Be covered by a warranty for a period of 5 years or 50,000 miles of use. The warranty will cover failures

related to construction defects, performance defects, and OBD II compatibility issues.

Reporting Requirements

Manufacturers of aftermarket catalytic converters are required to submit semi-annual warranty information reports to the Department. The reports are identical in format and content to those submitted to California and must contain the manufacturer's name, a description of each class or category of California certified new aftermarket catalytic converters including model year and series, the cumulative number and percentage of catalytic converters covered by the CARB Executive Order, and the number of each type of catalytic converter produced for sale. The lone exception is the inclusion of New York sales data rather than California sales.

If confirmed warranty claims for new aftermarket catalytic converters in New York State exceed 4 percent or 100 claims, whichever is greater, the manufacturer is required to submit additional information in the warranty information report. This required information includes the type of failure, the probable cause of the failure, and an evaluation of the impact on vehicle emissions.

Installers of aftermarket catalytic converters are required to complete a warranty card in triplicate with the original going to the customer, one copy to the installer, and one copy to the manufacturer of the converter.

Enforcement

Manufacturers of aftermarket catalytic converters are required to submit semi-annual warranty information reports to the Department. The reports are identical in format and content to those submitted to California and must contain the manufacturer's name, a description of each class or category of California certified new aftermarket catalytic converters including model year and series, the cumulative number and percentage of catalytic converters covered by the CARB Executive Order, and the number of each type of catalytic converter produced for sale. The lone exception is the inclusion of New York sales data rather than California sales.

If confirmed warranty claims for new aftermarket catalytic converters in New York State exceed 4 percent or 100 claims, whichever is greater, the manufacturer is required to submit additional information in the warranty information report. This required information includes the type of failure, the probable cause of the failure, and an evaluation of the impact on vehicle emissions.

Installers of aftermarket catalytic converters are required to complete a warranty card in triplicate with the original going to the customer, one copy to the installer, and one copy to the manufacturer of the converter. Part 218 (link leaves DEC's website) violations at a minimum of \$500 for a first violation, and up to \$26,000 for each subsequent violation. This penalty structure is identical to the one which is used to enforce new vehicle sales under Part 218. (link leaves DEC's website) A violation would be each non-compliant converter sold and/or installed. Failure to maintain complete records or submit reports may also result in a violation. The Department periodically conducts audits

at facilities to ensure compliance with the requirements of Part 218. (link leaves DEC's website)

The new aftermarket catalytic converter standards became effective June 1, 2013. The Department did exercise its authority to utilize enforcement discretion with respect to certain provisions of 6 NYCRR Part 218 concerning aftermarket catalytic converters. In order to ensure a smooth transition, the Department did not enforce the provisions of Section 218-7.2(c)(1) until January 1, 2014. The Department's enforcement of the aftermarket catalytic converter standards for the period January 1, 2014 to December 31, 2015 has resulted in:

- 279 aftermarket catalytic converter audits conducted
- 99 potential violations of the aftermarket catalytic converter standards discovered
- 67 Notices of Violation issued
- Fines ranged from \$500 to \$3,000
- \$28,500 in penalties collected

As a vehicle owner, what are my options if my vehicle's catalytic converter needs to be replaced after June 1, 2013?

For the subject model year CARB and EPA 50 state certified vehicles, all catalytic converter replacements should be either an original equipment manufacturer (OEM) replacement part or a CARB certified new aftermarket catalytic converter. Federally certified new aftermarket catalytic converters may still be used on vehicles with a federal only certification. Used, salvaged, or recycled catalytic converters cannot be installed after June 1, 2013 on any vehicle.

To allow for a period of transition, DEC will not enforce the prohibition on the installation of EPA certified catalytic converters on CARB and EPA 50 State certified vehicles until January 1, 2014. However, DEC strongly encourages the installation of OEM and CARB certified catalytic converters, which provide greater emission reductions and may have a longer warranty than other catalytic converters.

Other Information

The Department has developed additional guidance including a Frequently Asked Questions fact sheet.

Any questions related to compliance with Part 218 (link leaves DEC's website) should be directed to:

NYS Department of Environmental Conservation
Division of Air Resources
Bureau of Mobile Sources
625 Broadway
Albany, NY 12233-3255
Telephone: (518) 402-8292
Email: dar.web@dec.ny.gov

Judge Approves New York City's Salt Warnings

A Manhattan judge upheld a city requirement that some restaurants provide warning labels for salty foods, the New York Times reports. The city's Board of Health approved the measure in September, but a lawsuit filed by the National Restaurant Association halted the Dec. 1 implementation.

With a new start date of March 1, the ordinance mandates that restaurants with 15 or more U.S. locations post a saltshaker image next to menu items with at least 2,300 milligrams of sodium. A few chains with New York locations, including Applebee's Regal Entertainment Group and Subway, have added the salt warnings.

The National Restaurant Association will appeal the judge's decision. It also intends to seek "emergency interim relief" from the Appellate Division of the New York courts that would stay enforcement of the law pending that court's decision.

"We believe [the] decision by the court to uphold this arbitrary, onerous and costly mandate is a blow to small business owners and undoes the very uniformity we worked for in advocating for a national federal menu-labeling standard," said Angelo Amador, the NRA's regulatory counsel, in a statement.

Because You Asked

Question: What are the inspection regulations if a windshield is tinted?

Answer: There is nothing in the inspection regulations regarding windshield tint, at this time. However the sticker must be properly affixed to the windshield, not the tint. So the area for the sticker cannot have tint.

Vehicle and traffic section 375 12-a. b. (1) Addresses tint that may be a traffic violation.

Contact us with any questions.

DMV Record Retrieval

DMV record retrieval is available to association members and affiliates at a cost of \$12 per record. Additionally, you may order DMV certified paper abstracts of driver's license, vehicle registration, and vehicle title records for an additional fee of \$2 per abstract. Please call 518-452-4367.

Attention Inspection Stations

The Association has received a flurry of requests for legal representation for violations of the DMV commissioner regulations known as "clean scanning." that is when a vehicle other than the one to be inspected is substitute 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.

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BRONX ASKING
\$75,000
TO TAKE OVER AS IS**

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718-653-5100**

BANKRUPTCY AUCTION

Bid Deadline and Auction Date TBD - Subject to Bankruptcy Court Approval

303 Maple Avenue, Smithtown, NY



Property Details

Lot Size:	13,068 Sq. Ft. / .30 of an Acre
Building Size:	1,570+/- Sq. Ft.
Current Use / Zoning:	Retail Fuel & Service Station / Zoned "NB", Neighborhood Business District
2014 Property Taxes:	\$19,617.40
Description:	Located at the corner of Maple Avenue and Route 111 (Smithtown Islip Road) in a predominantly commercial and residential neighborhood. Site includes snack shop and three (3) auto-repair service bays (currently being subleased month-to-month) as well as four (4) pumps providing eight (8) fueling positions. Site has one (1) 6,000 gallon and two (2) 8,000 gallon double-wall fiberglass tanks. Formerly branded as Sunoco.

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SHOP AVERAGES OVER \$85,000 PER MONTH
INSPECTION STATION RENT IS \$6000 PER MONTH

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POSSIBLE OPTION WITH LANDLORD TO PURCHASE PROPERTY

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EQUIPMENT INCLUDES:

TWO POST LIFTS, DRIVE ON LIFT, INSPECTION SYSTEM, A/C MACHINE,
AMMOCO BRAKE LATHE, 2000 CHEVY PICKUP WITH PLOW, VERSUS SNAP ON
SCANNER PLUS MUCH MORE TOTALING APPROXIMATELY \$65,000
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PLEASE CONTACT WAYNE
AT THE GASDA OFFICE
516-371-6201 EXT.101**

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EXCESSIVE FINES

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



Garage Insurance Survey

Name of Business:		
Street Address:		
City:	State:	Zip:
Phone #	Fax #	E-Mail:
Contact Person:		Phone # (if different from above)
Are you happy with the cost and service provided by your carrier/agent?		Yes No
If yes STOP here...		
If NO or NOT SURE you may want to look at the following		
Is your coverage insufficient?	Yes	No
Is the service poor to non-existent?	Yes	No
Is the cost too high?	Yes	No
Are you satisfied with your current coverage?	Yes	No
Are you interested in a quote from another insurer?	Yes	No
Is so please check each that apply:		
<input type="checkbox"/>	<input type="checkbox"/>	Property & Casualty
<input type="checkbox"/>	<input type="checkbox"/>	Workers Comp
<input type="checkbox"/>	<input type="checkbox"/>	Disability
<input type="checkbox"/>	<input type="checkbox"/>	Health
If you checked one or more of the above please provide the following information:		
Name of Current Insurer:		
Type of Insurance:		
Renewal Date:		
When/How is the best time to contact you?		

If you are interested in learning how you may save on insurance costs
Please fill out and fax to your local association at 518-452-1955



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 if you have any questions or concerns.

NYSASSRS & Lawley Partnership





GASDA

Legal Service Plan

GASDA'S legal plan provides for consultation services and representation at hearings. The following are included:

- Representation at one small claims proceeding or one administrative hearing per year. Requests for representation must be received at the association's office 20 days prior to the hearing date.
- One-hour consultation on any single issue relating to a member's business.
- Small claims proceeding ONLY. The first two court appearances are covered under the plan. The third and all subsequent appearances are not covered. If the member wants continued representation, the appearance fee is \$375 per appearance.
- The legal service attorney will provide legal representation or consultation to GASDA members at the rate of \$185 per hour for any issue not included in the legal service plan.

In order to be eligible for Group Legal Service representation, a member's dues in full and all obligations to the Association must be current. For additional information, please call the GASDA office at:

516-371-6201

**CIGARETTE SALES TO MINORS
CLERK CERTIFICATION**
COMPLIANCE WITH THE NEW STATE CERTIFICATION OF
CLERKS WHO SELL TOBACCO PRODUCTS

CERTIFICATION OF A CLERK WHO SELLS TOBACCO PRODUCTS
POINT REDUCTION CLASS

NEW YORK STATE AMENDED ITS POLICY OF ENFORCEMENT FOR RETAILERS WHO SELL TOBACCO. UNDER THE NEW LAW A POINT SYSTEM HAS BEEN ESTABLISHED. EACH VIOLATION OF A TOBACCO SALE TO A MINOR WILL GENERATE A FINE AND TWO POINTS. THREE POINTS AND THE RETAILER'S LICENSE TO SELL CIGARETTES WILL BE SUSPENDED. HOWEVER, IF THE CLERK HAS RECEIVED A CERTIFICATION BY TAKING AN APPROVED SEMINAR, THE VIOLATION WILL RECEIVE ONE POINT.

THE STATE IS ENFORCING THIS LAW
*IN ORDER TO ACCOMMODATE OUR MEMBERS,
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WHERE:

ASSOCIATION OFFICE
372 Doughty Blvd, Suite 2C
Inwood, New York 11096

WHEN:

The First Monday of every month at 2:00 PM
The Second Wednesday of every month at 10:00 AM

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

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