
NYS ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

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July 2009

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A8948 – Morelle

Reduces Tobacco Registration Fee

Bill A8948, introduced by Assemblyman Morelle, would reduce the proposed tobacco registration fee to the lowest amount for service station convenience stores. Section one of the bill provides that the application fee for filling stations, as defined by the tax law, shall be \$1,000, regardless of whether or not the gross sales of the business exceed \$1 million. Section two of the bill provides for an immediate effective date.

A8817 – Magee

Reduces Tobacco Registration Fee

An act to amend the tax law, in relation to the registration fee for retail tobacco dealer registration. It adjusts the annual registration fee for retail dealers of cigarettes or tobacco products and vending machines selling cigarettes or tobacco products, revising the registration fee for retail establishments selling cigarettes or tobacco products to \$200 per year. An additional surcharge of \$100 for an establishment with one point on its tobacco enforcement record and an additional surcharge of \$200 for an establishment with two points on its tobacco enforcement record would be added on. It also would amend the tax law to revise the registration fee for vending machines through which cigarettes or tobacco products are sold to \$200 per year, rather than \$250, \$625, or \$1,250 depending on gross sales under existing law. This is a marked reduction vs. the existing budget.

Attention Affiliates and Members

During the 2009 Legislative session, the Governor and the Legislature increased the fee for the Tobacco Retail license from \$100 per year, to a minimum of \$1000 and up to a maximum of \$5000 per year. The formula used to determine the amount of the fee is:

- \$1,000 for businesses with gross sales exceeding \$1 million
- \$2,500 for businesses with gross sales exceeding \$1 million but less than \$10 million.
- \$5,000 for businesses with gross sales exceeding \$10 million

Last year the corporate filing fee increased from \$100 per year, to \$5000 per year, depending on the gross sales of the business. C, S and LLC corporate filing fees are affected. The law became effective January of 2009. Many of you may have already paid the higher fee.

The tobacco fee and the filing fee affect service stations with convenience stores whose gross sales have escalated due to the high price and the volume of motor fuel. The filing fee affects service stations with a repair shop.

There are two bills in the legislature aimed at reducing the tobacco fee. One bill returns the fee to \$100, with a surcharge of \$100 for each violation the station has for the sale of a tobacco product to a minor, of \$100 per violation. Unfortunately, with the New York Senate recovering from turmoil, the chances of a legislative fix are unlikely.

Under these circumstances, the association feels that the only possible relief from these two outrageous fee increases is through the courts.

We are therefore asking for a donation of \$200 per station, affected by these filing fees, to fund the lawsuit. If you interested in trying to have the fee increase reduced, or even eliminated, please make out your check to;

The New York State Association of Service Stations
and Repair Shops, Inc. Legal Fund
6 Walker Way
Albany, New York 12205

Also, fill out and return the requested information so that we can maintain a method of keeping you updated on the progress of this action.

If sufficient donations are received we will retain attorneys and commence a lawsuit. On what grounds the lawsuit can be brought will be determined by the attorneys. Our state attorney, Fred Altman, has researched the corporate filing issue and is ready to file the suit. He has said that it will be a tough fight.

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We will also try to join with other groups affected by these fees.

Please contact the association office at 518 452 4367 if you have any questions.

Ralph Bombardiere
Executive Director

List below the name and address of each station:
Operator Name:
Telephone Number:
E-Mail Address:
Initial Contribution Amount \$

Support for Right to Repair Garners New Support

Right to Repair legislation received vocal support from the consumer rights community as Consumer Reports indicated their support for H.R. 2057, currently before the House Energy and Commerce Committee.

“Consumer Reports agrees, in principle, with the Right to Repair Act, as it restricts its scope to ‘repair,’ which would increase repair options for car owners,” Liza Barth stated supporting the bill in her May 15, 2009 blog post on ConsumerReports.org.

Barth continued, explaining the current necessity for Right to Repair legislation: This legislation comes at an interesting time for consumers and automakers. A “Cash for Clunkers” proposal currently being considered in Washington could cause the demand for servicing old cars to be reduced, thus further impacting the smaller shops. In addition, many dealerships are closing, giving consumers fewer choices as to where to get their vehicles serviced. This bill would allow more flexibility in choosing a place to service your car and could save you money.

A recent Consumer Reports survey found that people are more satisfied with service from an independent shop than those who went to a dealer. We also found it helps to shop around for car maintenance. Prices can vary greatly between dealerships and independent shops.

Three new legislators added their names as co-sponsors of the Motor Vehicle Owners’ Right to Repair Act (H.R. 2057): Reps. Barbara Lee, D-Calif.; John Lewis, D-Ga.; and David Price, D-N.C. The bill was introduced by Rep. Edolphus Towns, D-N.Y., in the House. The addition of the three legislators brings the total number of sponsors for H.R. 2057 to 30.

You can see the entire list of sponsors and send a message in support of Right to Repair by visiting www.righttorepair.org.

Fraudsters Continue To Exploit Telecommunications Relay Services (TRS)

The Department of Motor Vehicles has received the following scam alert, courtesy of the FBI, which describes how automobile repair shops are being targeted for fraud. We wish to pass this on to you so that you will be informed. The alert was issued by the Internet Crime Complaint Center (IC3), in which the FBI is a partner.

The IC3 continues to receive complaints pertaining to scam artists using Telecommunications Relay Services (TRS) to defraud U.S. businesses and consumers. Under Title IV of the Americans with Disabilities Act, all telephone companies must provide TRS for individuals with hearing impairments or speech impairments.

This IC3 alert is to make the public aware of the continuing abuse of TRS to exploit U.S. businesses. Recent reports indicate scam artists are using TRS to exploit auto repair shops. The scam entails the fraudster using TRS to request services for a vehicle. The fraudster claims the vehicle has to be shipped to the auto repair business and requests the repairs and shipping fees be charged to a credit card. Unbeknownst to the business, the credit card is fraudulent or stolen; however, the charges initially go through without any complications. The business is then directed to wire the money to the shipper to cover the shipping costs. It is not until the shipper’s money is wired that the business is notified of the fraudulent credit card; therefore, the business bears the loss.

Individuals who receive a communication, such as the one described above, are encouraged to file a complaint at www.ic3.gov.

House Passes Landmark Greenhouse Gas Bill

By a close 219-212 vote, the House of Representatives passed the American Clean Energy and Security Act (H.R. 2454) on the afternoon of Friday, June 26. The bill would put mandatory caps on greenhouse gas emissions, aiming to reduce 17 percent by 2020 from 2005 levels. Forty-four Democrats broke ranks with party leaders and voted against the bill, while only eight Republicans voted in favor of the ground-breaking legislation.

In order to obtain the votes necessary to obtain passage, Rep. Henry Waxman, D-Calif., was forced to make last-minute deals with legislators from agriculture states. Specifically, an amendment was added on the House floor that would move responsibility for establishing an offset program for agriculture and forests from the Environmental Protection Agency to the Department of Agriculture. The bill further exempts them from the bill’s emissions caps.

The bill now moves to the Senate, where its chances of passage are far from certain. Senator Barbara Boxer, D-Calif., chairperson, Senate Environment and Public Works Committee, has said that she will use the House-passed bill as a starting point for development of a Senate bill. Boxer expects to begin committee consideration sometime after the July 4 recess.

Bill to Ensure Availability of Competitive Replacement Crash Parts Introduced in Congress

Legislation (S. 1368, H.R. 5638) was introduced last week in both the House and Senate that will ensure consumers continue to have access to affordable collision repair parts. Introduced by Senator Sheldon Whitehouse, D-R.I. and Rep. Zoe Lofgren, D-Calif., the Access to Repair Parts Act would create an exemption in design patent law for automotive parts that need to look the same as the original equipment parts in order for a collision repair to be completed, while still protecting the manufacturer's design protection on the first sale of the vehicle.

According to the Quality Parts Coalition, of which AAIA is a member, consumers who after an accident need an exterior collision repair part (e.g., a bumper, fender or hood) to fix their car, have long benefited from a choice between a part produced by or for the manufacturer of the car and an alternatively supplied part. However, because of a recent International Trade Commission (ITC) enforcement decision, Ford successfully enforced its design patents on a number of exterior auto repair parts thus threatening to limit access to alternatively supplied parts, restrict consumer choice and raise prices.

"By exempting auto repair parts under the patent laws, this bill will preserve competition in the car parts market and ultimately lead to lower prices for consumers, at a time when every little bit helps," said Whitehouse, a member of the Senate Judiciary Committee. "I also recognize that the top priority right now in the patent arena is passage of the Patent Reform Act. I am a co-sponsor of that important legislation and am determined to help ensure passage of that bill as soon as possible."

President Announces Task Force To Help Communities Impacted by Loss of Automotive-Related Jobs

An executive order was signed by President that would create a Cabinet-level task force directed at assisting communities and workers impacted by the loss of automotive jobs. The task force is tasked with providing leadership and development of policies and programs to ensure a coordinated federal response to issues that have a distinct impact on automotive communities and workers. It also will advise the president on how legislation and policy proposals may affect auto workers and communities, and work with state, local business and labor officials on ideas for improving efforts to revitalize auto communities.

The White House Council on Automotive Communities will be CO-chaired by Labor Secretary Whiled Solis and Assistant to the President for Economic Policy Larry Summers, and will be composed of other cabinet secretaries and department heads. The executive director of the task force will be Ed Montgomery.

State Attorney Generals Object To Elimination Defect Liability Provisions In Car Company Bankruptcy Filing

Eight State attorneys general have filed an objection with the US Bankruptcy Court in New York, regarding the elimination of successor liability from the terms of the

General Motors (GM) bankruptcy. The complaint argues that the court overstepped its authority by eliminating past tort liability for Chrysler and is protesting a similar request by General Motors as part of its bankruptcy filing.

The attorneys general have called out this provision as an evisceration of states' rights stating that "these offensive provisions, taken as a whole, divest consumers of substantial legal rights, without any regard for state laws that may, when a claim is eventually made, be read to hold otherwise." A copy of the complaint filed by attorneys general from Connecticut, Kentucky, Maryland, Minnesota, Missouri, Nebraska, North Dakota and Vermont can be found in www.safetyresearch.net/Library/CT_Objection_20090619.pdf.

According to a study released by the research firm Safety Research & Strategies, about 3,400 individuals will die or be injured in a General Motors or Chrysler vehicle due to an automotive defect in the companies first year post-bankruptcy. Entitled Public Safety at Risk: Bankruptcies Leave Legacy of Defects, Injuries and Deaths, the study found that the elimination of responsibility for past liability under the terms of the bankruptcy filings by both manufacturers will mean that hundreds of pending death and injury claims will be eliminated. Yet, the study finds, the automotive defects will continue to manifest themselves in the 40 million GM and Chrysler vehicles built before Chapter 11, which will remain in the US fleet.

According to the study, the average combined casualties-per-year for both companies is 3,415. These claims can be expected to continue at the same pace resulting in approximately 3,400 new casualties each year during the next couple of years. The study points out that "if neither company is responsible for the past and future claims involving 40 million vehicles, few will file death or injury claims. If death and injury claims data do not reflect the status of real-world problems on the road, safety is compromised. And, if GM and Chrysler no longer bear the liability for uncorrected defects, the automaker has few motivations to fix the pre-bankruptcy problems."

EPA Expands List of VOCs Controlled For Spray Paint Emissions Rule

The U.S. Environmental Protection Agency (EPA) has expanded the list of volatile organic compounds (VOCs) in aerosol paint that are included in determining whether a spray paint meets federal reactivity standard. The new final rule amends regulations promulgated in March 2008, which established national standards for the emissions of VOCs through the use of aerosol spray paints. Under those rules, companies must determine compliance with federal standards for spray paints by measuring the reactivity of the VOCs used in their products in creating ground-level ozone.

The final rule also amends the definition of VOCs to clarify that substances that have a minimal reactive potential, such as ethane, methane and methyl chloride, must also be counted by paint manufacturers in determining compliance. The rule includes revisions to recordkeeping requirement as it relates to companies that agree to assume the reporting responsibility for a regulated entity.

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Senate Health Care Reform Consideration Under Way, Draft Legislation Introduced in House

The Senate Health, Education, Labor and Pensions Committee began the mark-up of a 615-page health care reform bill, which was introduced last week by Sen. Edward Kennedy, D-Mass. The consideration of the Affordable Health Choices Act was largely marked by bipartisan disagreement over quality health care provisions in the bill, including comparative effectiveness research, which Republicans feared would lead to rationed care. Another contentious aspect of the plan was the price tag. A preliminary analysis by the Congressional Budget Office estimated that the bill would cost \$1 trillion over 10 years, while insuring an additional 16 million people.

Republicans argued that the estimated cost is already too high and doesn't even include some key provisions, such as a public insurance option or an employer mandate, that are likely to be included in the final bill.

Sen. Max Baucus, D-Mont., chairman of the Senate Finance Committee, the other Senate committee with jurisdiction over health care reform, is looking to trim the expense of the bill that his committee will be considering from \$1.6 trillion to \$1 trillion, even if the move delays consideration. The finance bill would expand Medicaid coverage to include individuals earning up to 133 percent of the federal poverty level, and an employer mandate. Consideration of the bill may be postponed until after the July 4 recess.

House Democrats also released their 852-page draft health care reform bill last week. Key provisions of the reform effort include the creation of a public health care plan option, subsidies for low-income individuals to help them obtain coverage, a requirement for everyone to have insurance and for employers to offer it, and the implementation of private health insurance reforms.