

---

---

# RSGDA

**REPAIR SHOP & GASOLINE DEALERS ASSOCIATION**  
**(585) 423-9924 -- (716) 656-1035 – rsgda@nysassrs.com – www.nysassrs.com**

February 2015

---

## Attorney's Corner

We are very gratified to introduce to you in this issue of our bulletin GASDA's new attorney, Larry Culley, who is succeeding GASDA's retiring attorney, Ken Geller, to whom we offer thanks for his longtime service and our best wishes. Larry is an attorney very experienced in our industry and he will be offering legal advice and opinions in the regular bulletin feature, the Attorney's Corner. Welcome aboard, Larry!

As the new attorney for GASDA, I would like to bring to your attention the serious matter of so called "Clean Scanning" during the N.Y.S. emissions testing procedure when vehicles are being inspected. This is an illegal "short cut" which is guaranteed to inflict high monetary penalties and a lengthy suspension or even revocation of your invaluable inspection license. During the emissions testing, if an inspector substitutes a non-polluting "donor vehicle"

for the vehicle that is supposed to be inspected, even as little as twice a month over half a year, he will be found out by DMV's computers and penalized. The emissions testing computer "talks" via codes to the DMV computers during the process, and even a single substitution of a donor vehicle will be noted.

Guys, your inspection license is too valuable to take this risk despite the temptation to please a customer who doesn't want to pay for the repairs necessary for the vehicle to pass inspection. Don't you think that a deli, a hardware store or other businesses wouldn't love to have a law requiring that customers must come in on a regular basis to spend money and be familiarized with what their business can provide?! You have that law working for you and no new inspection licenses are now being issued. Don't risk your inspection license, because I'm telling you now that it will be very difficult, if not impossible, to help you at the hearing if you're brought in on a "Clean Scan" case. If you're reading your bulletin, as you always should, you have been warned.

## INSIDE THIS ISSUE

- 1 *Attorneys Corner*
- 1 *Supreme Court Declines Swipe Fee Case*
- 1-2 *Paid Sick Leave To Return Again*
- 2 *Safety Agency Wants To Know Costs Of Repairing TPMS In Older Vehicles*
- 2-3 *Cigarette Smugglers Still Love New York And Michigan, But Illinois Closing In*
- 3 *Analysts Predict Gas Sub-\$2 Gas This Month*
- 3 *Oil Price Drop Takes Toll On U.S. Biofuels Industry*
- 3-4 *Electric Vehicles Stars Of The Show In Detroit*
- 4 *Federal Gas Tax Increase Builds Momentum*
- 4 *NYC Bans Single-Use Styrofoam Products*
- 4-5 *Changes TO OSHA Recordkeeping Rules*
- 5 *Wage Theft Reform Legislation Enacted*
- 5-6 *Smoking Rates Highest Among Millennials*
- 6-7 *Affordable Care Act (ACA): 2015 TIA Outlook*
- 7 *EPA Announces Ozone Regulation Proposal That Could Be Costliest Regulation Ever*
- 7 *European Union Agrees to Cap Card Fees*
- 8 *DMV Record Retrieval*
- 8 *Attention Inspection Stations*

## Supreme Court Declines Swipe Fee Case

The highest court in the land will not take on the case of debit card swipe fees.

The U.S. Supreme Court has rejected a challenge from retailers who claim the Federal Reserve allows banks to charge businesses too much for handling debit card transactions, according to The Associated Press.

The court's decision lets stand a federal appeals court ruling that upheld the Fed's cap of about 21 cents plus 0.05 percent of the transaction on debit card swipe fees. The cap has been in effect since October 2011.

"The court's decision is disappointing because it leaves merchants and their customers paying far more than intended by Congress," NRF Senior Vice President and General Counsel Mallory Duncan said. "Federal agencies have flexibility in implementing our nation's laws, but do not have the discretion to blatantly ignore the wishes of elected officials and the clear language of the statute. The court's ruling means retailers will keep paying billions of dollars more than they should, and that fee-hungry banks will continue to rake in unearned profits that ultimately come out of consumers' pockets. We will continue to press the issue."

## Paid Sick Leave To Return Again?

Legislation is set to be introduced on both the Federal and state levels to require employers to provide a set number of sick and safe days for their employees.

Although the exact language for this year's bill has not been released at this time, TIA has opposed similar versions of this legislation in the past. TIA believes that one size does not fit all in workplace regulation and that Government should not manage the workforce of the private sector. Employers should be able to manage their workforces and create wage and benefit programs that balance economic stresses with employee needs, not government.

### **Safety Agency Wants To Know Costs Of Repairing TPMS In Older Vehicles**

On January 13, the National Highway Transportation Safety Agency (NHTSA) released a request for comments seeking to reinstate the collection of data on the maintenance and repair of tire pressure monitoring systems (TPMS) in older vehicles. Previous data showed that the effectiveness of TPMS in preventing severe under inflation was dramatically low in vehicles 6 – 7 years old.

The agency would like to survey drivers and businesses regarding the outage rates and repair costs of TPMS in order to increase reliability and effectiveness in older vehicles. The public can provide comments to NHTSA on the proposed data collection prior to it being approved.

If you are a business that repairs TPMS and have comments to provide NHTSA on cost of repairs and reliability, please view the full proposal at <http://www.gpo.gov/fdsys/pkg/FR-2015-01-13/html/2015-00304.htm> for instructions. Comments are due by February 12, 2015.

### **Cigarette Smugglers Still Love New York And Michigan, But Illinois Closing In**

*By Michael D. LaFaive, Todd Nesbit, Ph.D., and Scott Drenkard, published on Jan. 14, 2015*

In the newest iteration of our annual cigarette smuggling study, we find that New York remains America's number one smuggling state for inbound, illegal traffic at 58.0 percent of the total market. That is, of all the cigarettes consumed in the Empire State in 2013 — legal and illegal — 58 percent were smuggled in. We also estimate that nearly 25 percent of the Michigan cigarette market is comprised of contraband smokes.

Something should be done about the nation's rampant smuggling problem. High excise taxes on cigarettes have led to all sorts of unintended consequences: smuggling; violence against people, police and property; product and tax stamp counterfeiting and even the financing of terrorist groups. Policymakers can roll back this illicit trade — if interested — by cutting taxes, or adopting smarter and more intensive police tactics or both.

Our smuggling study — conducted this year in concert with the Washington, D.C.-based Tax Foundation — is constructed to compare adult smoking rates per capita with legally paid sales. The difference between the two by state has to be explained, and we believe the difference is from

cross-border activity, most of which is illegal smuggling of two varieties: casual and commercial.

Casual smuggling occurs when individuals cross state lines to buy cigarettes or do so on the Internet and typically for personal use. Some states permit a modicum of cross-border traffic for personal use and our study sweeps that traffic into its smuggling estimate. Commercial smuggling involves long-haul, large shipments from lower tax states such as North Carolina or Virginia.

### *Smuggled Cigarettes Make Up more than One-Third of Consumption in Some States*

The top five inbound smuggling states are New York (58 percent), Arizona (49.3 percent), Washington (46.4 percent), New Mexico (46.1 percent) and Rhode Island (32 percent). The top cigarette smuggling states in the other direction — that is, exporters — include New Hampshire (28.7 percent), Idaho (24.2 percent), Delaware and Virginia (22.6 percent and tied for third) and Wyoming (21 percent). For every 100 cigarettes consumed in New Hampshire in 2013, an additional 28-plus were smuggled out.

The top states for inbound casual contraband smuggling were New York and Washington, while Vermont and New York had the highest rates of inbound commercial smuggling.

New York ranks so high in both the casual and commercial smuggling because it has very high excise tax rates (state and city) and is located close to low-tax Virginia. The model used for this study would report higher rates for some northern states if it were not for the fact that it subtracts out exports smuggled to Canada.

### *Smuggling Increasing in Illinois after Tax Hikes*

The biggest smuggling rate increase came from Illinois, which moved up 16 places in our rankings to 14th among the 47 states in our analysis. We estimate that in 2013 almost 21 percent of cigarettes consumed in the Land of Lincoln were illicit.

We attribute this sizeable increase in smuggling to recent increases in cigarette excise taxes at the state, county and city levels. Since 2012, the state of Illinois, Cook County (in which Chicago is located), and the city of Chicago raised the excise taxes they impose on cigarettes by \$1, \$1 and 50 cents, respectively. At \$6.16, Chicago now has the highest state-local cigarette excise taxes in the nation, according to Campaign for Tobacco Free Kids.

To make smuggling matters worse, Cook County is also home to the cities of Evanston and Cicero, which impose their own excise taxes. With relatively low-tax Gary, Ind., only 30 miles from downtown Chicago, profit incentives for smuggling are at an all-time high.

A study performed before recent tax hikes using 2007 data examined discarded cigarette packs in the Chicago area to estimate the degree of smuggling that occurs in the area. By examining the packages, researchers could determine from the tax stamp where the cigarettes had originated. According to the author, 29 percent of discarded packs collected in Chicago came from Indiana, and just 25 percent bore the city of Chicago's tax stamp, meaning smuggling across municipal lines is a problem as well.

### *Smuggling in Michigan Persists*

Michigan exported cigarettes equal to 3 percent of its total market to Canada in 2013. And that is just cigarettes. In January 2014 a semi-tractor containing 30,000 pounds of illegal, loose tobacco was confiscated by Canadian officials at the Ambassador Bridge (which connects Detroit and Windsor, Ontario). Loose tobacco trafficking is also an unintended consequence of high taxes on cigarettes. Roll-your-own products cost less whether the product is purchased legally or otherwise.

### *Cigarette Smuggling Funds Organized Crime and Terrorism*

Over the past six years we have seen many other unintended byproducts from excessively high taxes on a legal product: violence against police, people and property, too. Perhaps the most offensive is seeing the illicit trade in cigarettes be used to generate profits for terrorist cells operating globally and in the United States.

In 2013, the In Amenas hostage crisis in Algeria (which resulted in 39 foreign-born hostages being killed) was led by an al-Qaeda-associated terror group led by Mokhtar Belmokhtar, sometimes known as “Mr. Marlboro” for his large-scale cigarette smuggling operation.

In 2011 a federal judge resentenced Mohamad Hammoud for his role in “providing material support to the foreign terrorist organization, Hezbollah.” with profits from his North Carolina to Michigan smuggling cell from 1995 to 2000. There have been other smuggling-terror connections to Michigan, too.

In May, 2010 another smuggler plead guilty to several charges in addition to cigarette smuggling. He apparently purchased cigarettes in Tennessee and shipped them to Detroit, Michigan where counterfeit tax stamps were affixed to each packet and resold. His profits were apparently sent overseas. He was also recorded via wiretap trying to recruit for “al-Qaeda and revealing a desire to target a shopping mall in an act of a holy war,” according to one published report.

### *Conclusion*

Rampant smuggling — and its related ugliness — can be thwarted to a degree by cutting taxes, improving law enforcement operations, or both. We strongly suggest the former route. Higher excise taxes are the root of the problem so lower ones should be at the forefront of a solution.

### **Analysts Predict Gas Sub-\$2 Gas This Month**

Americans will save \$120 billion on gasoline this year, as fuel prices keep falling, with few indications they will rise anytime soon, said Tom Kloza, chief oil analyst at Oil Price Information Service (OPIS).

In an announcement this week, Kloza revised his U.S. forecast for regular unleaded gasoline, saying the average price per gallon will drop below \$2 for the month of January, due to an “unprecedented” sell-off in crude oil values that has yet to run its course. In his analysis, Kloza said it is not likely that the sell-off will be followed by the typical “ricochet” higher.

With a prediction of a 2015 average price for regular unleaded gas of \$2.49 per gallon, about \$1.10 per gallon less than in 2014, consumers will save more than \$120 billion over the course of the year, based on likely consumption patterns.

Diesel prices also fell, to under \$3 per gallon across the country, and Kloza estimates that those prices will not move above that number for the remainder of the year.

### **Oil Price Drop Takes Toll On U.S. Biofuels Industry**

With gasoline and oil prices reaching their lowest levels in five years, “greener, cleaner alternative fuels are taking a hit,” writes the Business Times.

The news source writes that biodiesel producers are “slashing prices and margin” to stay competitive, as the price of diesel is 20% lower than it was a year ago.

Asheville, North Carolina-based Blue Ridge Biofuels, which makes biodiesel from used restaurant cooking oil, says sales at its four retail gas stations in the area are down 40% since July. “There is another station across the street,” Woody Eaton, Blue Ridge's chief executive, told the news source, adding that customers “can see the price difference.”

The biofuels industry is still tiny, but government mandates have underpinned its growth in recent years. Production of biodiesel has risen steadily, climbing to nearly 1.8 billion gallons in 2013 from 1.1 billion gallons in 2012, according to the National Biodiesel Board.

But it will be difficult for any new production to come online this year given the business climate, said Joe Gershen, vice chairman of the California Biodiesel Alliance.

For ethanol, the news source writes that low corn prices advanced U.S. ethanol production to record levels in 2014, along with strong margins for producers. “We still see a positive margin, but not nearly what we saw last calendar year and last quarter,” Jim Seurer, CEO of Glacial Lakes Energy LLC, an ethanol producer based in Watertown, South Dakota, commented, adding that he has no immediate plans to scale back production as long as margins remain positive.

Natural gas as an alternative for diesel fuel in heavy duty trucks is also waning – the slimmer price differential between the two fuels “means it will take longer for truckers to recover the roughly \$50,000 added cost of a natural gas truck,” notes the news source.

Heavy duty truck brands such as Freightliner, Volvo and Mack also expect demand for natural gas trucks to slow. Sales will likely be steady during 2015 across the industry, after growing about 50% per year since 2012.

### **Electric Vehicles Are The Star Of The Show In Detroit**

Even as gas prices hit their lowest point in five years, the North American Auto Show opened this week with lots of buzz about electric cars. New models introduced at the show offer more than double the range of most of the current electric vehicles at price points meant to appeal to a wide range of consumers.

The big news from day one of the show was GM's unveiling of the new Chevy Bolt EV, a plug-in electric car aimed at middle America, with a price tag around \$30,000 and about a 200-mile range. While GM didn't say when it would be available, analysts suggest likely 12 to 18 months. The Bolt is hoping to compete with the much-heralded Tesla Model 3, which is scheduled to roll out with a 2017 model in the \$35,000 range. Much has been made of the Bolt, which represents a risk for GM, but also a sign that the manufacturer is taking a long view, banking on increased adoption of electric vehicles.

GM also introduced a new 2016 model of the Volt, the gas/electric hybrid that first hit the pavement in 2010, featuring an EPA-rated 50-mile range for the battery pack (compared to 36 miles for the current model). A reviewer for Scientific American magazine described the redesigned Volt as "impressively unremarkable," suggesting that will boost its appeal for many Americans who are not impressed by some of the more "futuristic" flourishes of other electric vehicles.

At the same time, sales of the Nissan Leaf, which gets 84 miles per charge, were up 34% last year according to recent reports.

### **Federal Gas Tax Increase Builds Momentum**

With gasoline prices reaching their lowest levels in years, talk is brewing in Congress that it may be time to increase the federal gas tax for the first time in more than 20 years.

The Hill reports that leading Republicans are now saying that a gas tax hike must not be ruled out. The GOP has long opposed increasing the current 18.4-cents-per-gallon gas tax as a means for replenishing the Highway Trust Fund.

"I just think that option is there, it's clearly one of the options," said Sen. Inhofe (R-OK), the new chairman of the Senate Committee on Environment and Public Works. Senate Finance Chairman Orrin Hatch (R-UT) and Sen. John Thune (R-SD), chairman of the Commerce, Science and Transportation Committee, also said they were open to the possibility of raising the tax.

"Comments this week from Sens. Inhofe, Hatch and Thune signal a growing recognition that the gas tax is a fair and consistent way to fund our infrastructure needs," Association of Equipment Manufacturers spokesman Michael O'Brien told The Hill.

Hatch said that some Republicans could support a gas tax increase if it was paired with tax cuts elsewhere. "Personally, I think we're going to have to change the rhetoric on that," he told The Hill, adding, "People who use the highways ought to pay for them. That's a small price to pay to have the best highway system in the world. And that may be where we're going to have to go."

Meanwhile, House Republicans may not share the same support as their more conservative Senate counterparts.

"My guess is there's far more interest in the Senate than there is in the House," said Rep. Kevin Brady (TX).

House Speaker John Boehner (R-OH) commented: "A highway bill is critically important ... It's a priority for this year. How we'll fund it ... We are going to have to work our way through this."

### **New York City Bans Single-Use Styrofoam Products**

The de Blasio Administration today announced last week that beginning July 1, 2015, New York City foodservice establishments, stores and manufacturers may not possess, sell or offer for use single service Expanded Polystyrene (EPS) foam articles or polystyrene loose fill packaging, such as "packing peanuts."

The city's Department of Sanitation (DSNY) determined that EPS Foam cannot be recycled, which led to the ban. DSNY also determined that there currently is no market for post-consumer EPS collected in a curbside metal, glass and plastic recycling program. As a result of the ban, manufacturers and stores may not sell or offer single-use foam items such as cups, plates, trays or clamshell containers in the city. The sale of polystyrene loose fill packaging, such as "packing peanuts" is also banned.

"While much of the waste we produce can be recycled or reused, polystyrene foam is not one of those materials," said Sanitation Commissioner Kathryn Garcia. "Removing polystyrene from our waste stream is not only good for a greener, more sustainable New York, but also for the communities who are home to landfills receiving the city's trash."

Local Law 142, passed by the City Council in December 2013, required the sanitation commissioner to determine "whether EPS single service articles can be recycled at the designated recycling processing facility at the South Brooklyn Marine Terminal in a manner that is environmentally effective, economically feasible, and safe for employees." Under the law, if EPS is not found to be recyclable, it must be banned.

The law allows businesses a six month grace period from the July 1 effective date – January 1, 2016 – before fines can be imposed. Non-profits and small businesses with less than \$500,000 in revenue per year may apply for hardship exemptions from the Department of Small Business Services (SBS) if they can prove that the purchase of alternative products not composed of EPS would create undue financial hardship. SBS will begin accepting applications for hardship waivers in March 2015.

### **Changes TO OSHA Recordkeeping Rules**

This is to keep you apprised of the recent changes in OSHA recordkeeping rule. OSHA's revised recordkeeping rule includes two key changes:

First, the rule expands the list of severe work-related injuries that all covered employers must report to OSHA. The revised rule retains the current requirement to report all work-related fatalities within 8 hours and adds the requirement to report all work-related in-patient

hospitalizations, amputations and loss of an eye within 24 hours to OSHA.

As of January 1, 2015, all employers must report:

- All work-related fatalities within 8 hours.
- All work-related inpatient hospitalizations, all amputations and all losses of an eye within 24 hours.

You can report to OSHA by:

- Calling OSHA's free and confidential number at 1-800-321-OSHA (6742)
- Calling your closest OSHA Area Office during normal business hours
- Using the new online form that will soon be available at [http://www.osha.gov/report\\_online/index.html](http://www.osha.gov/report_online/index.html)

Second, the rule updates the list of industries that are exempt from the requirement to routinely keep OSHA injury and illness records, due to relatively low occupational injury and illness rates. The previous list of industries was based on the old Standard Industrial Classification (SIC) system and injury and illness data from the Bureau of Labor Statistics (BLS) from 1996, 1997, and 1998. The new list of industries that are exempt from routinely keeping OSHA injury and illness records is based on the North American Industry Classification System (NAICS) and injury and illness data from the Bureau of Labor Statistics (BLS) from 2007, 2008, and 2009. Note: The new rule retains the exemption for any employer with ten or fewer employees, regardless of their industry classification, from the requirement to routinely keep records.

The final rule will allow OSHA to focus its efforts more effectively to prevent fatalities and serious work-related injuries and illnesses. The final rule will also improve access by employers, employees, researchers and the public to information about workplace safety and health and increase their ability to identify and abate serious hazards.

For more information, please see the attached OSHA Fact Sheet and the following link: <http://www.osha.gov/recordkeeping2014/index.html>

If you have any questions, please feel free to contact me.

Ronald Williams  
U.S. Department of Labor-OSHA  
Syracuse Area Office  
3300 Vickery Rd.  
Syracuse, NY 13212  
(315)451-0808 x302  
Fax: (315)451-1351

### **Wage Theft Reform Legislation Enacted**

We wanted to update you on the "wage theft" reform bill signed by Governor Cuomo on Sunday that should provide all private sector employers in New York some welcomed relief.

This reform bill passed the legislature with broad, bipartisan support in June. It repeals the Labor Law mandate that, each January, employers notify and receive written acknowledgement from all in-state employees about their

rate of pay, allowances, pay day and other information – a notice that largely replicates information that is also required to be on each and every pay stub issued during the prior year.

This reform bill also included amendments intended to improve compliance with wage laws and enhance enforcement in cases of wage theft.

As passed, the legislation would take effect 60 days after being signed by the governor. However, the Department of Labor has made clear that it will not require annual notices in 2015, citing an agreement with the legislature to move up the bill's effective date.

*A phone call to the New York State Labor Department confirmed that employers will not be required to file annual LS59's. They will however be required to do so with each new hire*

### **Smoking Rates Highest Among Millennials**

A new survey found that not only do Millennials have the highest smoking rate, but they are also more likely to hide the fact they smoke.

According to the survey conducted by Ipsos Public Affairs on behalf of Swedish Match, the highest rates of smoking are among 18- to 34-year-olds (23 percent), just ahead of 35- to 54-year-olds (22 percent) and also higher than those age 55 and older (17 percent).

In addition, 21 percent of the Americans surveyed say they are current smokers, with 23 percent saying they have quit and 42 percent saying they have never had a cigarette, a figure that jumps to 54 percent among college graduates. Among those who quit smoking, 56 percent said they did so due to fear of health complications, with 32 percent giving up cigarettes due to cost.

The findings are part of a national poll of more than 1,000 American adults that was conducted from Sept. 27 to Oct.1.

Of those who do smoke, only 15 percent say they hid/hidden the habit from their co-workers. However, 36 percent of smokers aged 18 to 34 said they conceal their cigarette use at work.

"This survey underscores the significant generational and educational differences in Americans' attitudes toward smoking," said Chris Lemmon, senior brand manager at Swedish Match. "Curiously, the smoking rates among Millennials — the generation that has grown up with anti-smoking messages — are actually higher than older age groups, and yet one in three of them hide their cigarette use at work, which likely speaks to the stigma still associated with smoking."

The survey also found the amount of time Americans spend smoking varies widely, but 62 percent of smokers say they spend at least an hour a day smoking. One in four indicated they spend at least three hours a day smoking. Broken down further, more than one-third of women and retirees spend at least three hours a day smoking.

The survey also looked at electronic cigarettes, finding that while 58 percent of smokers surveyed said there was not

a stigma associated with e-cigarettes, 37 percent don't use e-cigarettes because the health impacts of them are still unknown. Another 18 percent believe them just to be a "fad." More than one-quarter of the smokers surveyed say they use e-cigarettes.

### **Affordable Care Act (ACA): 2015 TIA Outlook**

TIA does not believe that there are enough votes to repeal "Obamacare," but we do believe that it will be the focus of much of our upcoming legislative effort.

We expect that there will be a number of important developments related to the Affordable Care Act (ACA or ObamaCare) in 2015. The following is an overview of what we see in this area in the coming year.

#### *Actions for Repeal or Amendment:*

With the Republicans assuming majority control in the Senate come January and retaining their majority in the House, we would not be surprised to see an ACA repeal vote coming out of either or both chambers (the House has already voted to repeal the ACA over 50 times). However, President Obama would surely veto such a bill and, at this time, there is clearly not enough support in the Senate to override a presidential veto.

Instead of outright repeal, we expect the legislative focus on ACA to be targeted towards specific reforms and amendments. We believe that targeted reforms are more likely to garner bi-partisan support, though it is yet unclear whether President Obama will be amenable to any amendments or whether any amendment efforts will invoke a guaranteed veto.

The most significant and likely amendment efforts that we expect to see are:

- **Amending the Definition of Full-Time Employees for the Purposes of the Employer Mandate:** We expect to see efforts to amend the ACA to define full-time employees as individuals who work 40 hours or more per week.
- **Eliminating the Medical Device Tax:** The ACA imposes an excise tax on manufacturers and importers on the sale of certain types of medical devices. Concerns have been raised that this tax could impede innovation and hurt small business, specifically the small device manufacturers. We expect to see efforts to eliminate the medical device tax this year.
- **Eliminating Excise Tax on High Cost Health Plans ("Cadillac Tax"):** The so called "Cadillac Tax" is scheduled to go into effect on January 1, 2018. The Cadillac Tax is a 40% tax on health insurance premiums that exceed certain thresholds (currently set at \$10,200 for individuals, \$27,500 for families). For fully insured plans, this tax will be paid by the insurer though most expect that the cost will be passed through to the consumers. The stated purpose of this tax is to raise money for other parts of the ACA and to try to eliminate high cost plans and equalize health insurance coverage. Supposedly, great coverage leads to overuse of doctors and medical treatments

- **Net Investment Income Tax:** One of the major revenue raisers included in the ACA was the net investment income tax which went into effect on January 1, 2013. The net investment income tax is an additional 3.8% tax on net investment income for individuals, estates and trusts whose income falls over certain thresholds (\$200,000 for single and head of household, \$250,000 for married filing jointly, \$125,000 for married filing separately, and \$12,150 for estates and trusts). There has been some push to repeal the net investment income tax and we expect these efforts to carry over to 2015. However, we believe that the likelihood of this tax being eliminated is extremely low.

*SUPREME COURT UPCOMING KING V. BURWELL DECISION* At this point, the Supreme Court's 2015 decision in the case of King v. Burwell is the most significant ACA issue to watch.

The King v. Burwell case challenges whether the IRS can make federal subsidies available to individuals in states that did not establish their own state insurance exchanges but instead send individuals onto the federal exchange. The ACA clearly authorizes subsidies for individuals with certain household incomes that obtain health insurance through a state exchange. The ACA also directs states to establish health insurance exchanges and permits the federal government to establish and offer an exchange in states that fail to establish their own exchanges. However, the ACA is silent on whether subsidies are available for individuals who enroll in health insurance through the federal exchange in the absence of a state established exchange.

The outcome of this case could be very significant as 36 states have not established their own exchanges. The penalties under the employer mandate are directly tied to an employee who is not offered the mandated health insurance receiving a subsidy on the exchange. Thus, if there can be no subsidies for individuals on the federal exchange, there will be no employer mandate penalties in states that do not have a state exchange. In the event that the subsidies are struck down, we expect that the legislatures in states without exchanges will face pressures from both sides about whether or not to establish an exchange. While many larger companies may be happy to be rid of the employer mandate penalties and would therefore prefer that there be no state exchange, individuals who might otherwise be eligible for a subsidy are likely to push the other way. We have heard that some state governments that do not have their own exchanges are already trying to figure out if there is a way to create a "shell" state exchange and if so, how fast that can be accomplished. This decision may also impact the individual mandate in these 36 states as well.

At this point it's really anyone's guess how this case could come out. Most think it will be a split court decision with Justice Roberts having the deciding vote. If the subsidies are struck down it will surely complicate things depending on how the decision is crafted and how the states respond.

*Discrimination Regulations - Do We Expect Them Out of the IRS in 2015?*

The health care law imposed the non-discrimination rules that are applicable for self-insured health care plans to fully insured health care plan. The effective date of the non-discrimination rules for insured health plans is the first plan year after regulations are issued by IRS. Our sources indicate that it is unlikely that IRS will be able to come out with the non-discrimination regulations this year. The IRS is having problems trying to draft regulations that make sense under the Internal Revenue Code section that the non-discrimination rules fall under.

### **EPA Announces Ozone Regulation Proposal That Could Be Costliest Regulation Ever**

On Dec. 17, the Environmental Protection Agency (EPA) published their new National Ambient Air Quality Standards proposal lowering the ozone standards to 65 – 70 parts per million (ppm) from the current 75 ppm. Based on EPA data, at 65 ppm, the proposal would mean that nearly 80 percent of counties in the United States would be out of compliance with the regulation. Such action would require the adoption of increased regulation of manufacturers and of their products in order for states and counties to be able to meet attainment goals.

The National Association of Manufacturers (NAM) estimates that the regulations that will be promulgated as a result of the new standard will burden businesses with trillions of dollars in compliance costs, at a rate of roughly \$19,500 per employee.

The proposal is in the initial comment stage, and concerned organizations have until March 17, 2015 to file comments with EPA. Over the course of the comment period, the NAM has created a web page dedicated to the ozone issue where blogs will be posted to help businesses understand the proposal and how it will impact them from efficiency and cost perspectives.

To view the NAM site on the ozone proposal, along with press releases, blogs, and other background information, visit <http://www.nam.org/ozone/>.

To read the full EPA proposed rule, along with instructions on how to provide comments, visit <http://www.gpo.gov/fdsys/pkg/FR-2014-12-17/html/2014-28674.htm>

### **European Union Agrees to Cap Card Fees**

An initial deal to cap the fees charged to merchants when consumers use debit or credit cards across the 28-nation European Union has been reached by negotiators from EU governments and the economic committee of the EU parliament.

The cap would apply to both cross-border and domestic card-based payments and should result in lower costs for consumers, the parliamentary statement said this week. Currently, such interchange fees for card-based payments, paid by the merchant's bank to the bank that issued the card, are not transparent and differ between EU countries.

"These fees are charged by banks belonging to card schemes such as Visa and MasterCard (so-called four-party schemes, involving an issuing bank, a merchant's bank, the retailer and the card user), which together control the lion's share of the market," the statement said.

For cross-border debit card transactions the negotiators agreed on a cap of 0.2% of the transaction value. For domestic transactions, EU countries can apply the cap of 0.2% to the annual weighted average transaction value of all domestic transactions within the card scheme, the parliamentary statement said. For credit card transactions, the agreed cap is 0.3% of the transaction value.

Under the initial deal, the new rules would not apply to the so-called three-party card schemes such as Diners and American Express, which involve only one bank, provided the card is both issued and processed within the same scheme. Commercial cards used only for business expenses would also be exempt from the new capping rules.

The legislation now needs to be endorsed by EU governments and by the Economic and Monetary Affairs Committee, before being put to a vote by the full Parliament next year. If approved, the caps will take effect six months afterward.

### **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 585-423-9924.

## **Attention Inspection Stations**

The association has received a flurry of requests for legal representation for violations of the DMV commissioner regulations known as "clean scanning." that is when a vehicle other than the one to be inspected is substituted for the OBD-II part of the test. We have no defense for these violations. DMV has the ability to trace the OBD-II inspection to the vehicle used for the inspection.

If you cannot pass a vehicle for any reason, get help. That help could come from DMV. This violation almost always results in revocation..

# \$afety Group 536

*With a Financial history like this you have lots of reasons to smile.*

## Dividend History

20%	2012-2013
20%	2011-2012
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

## Discount History

20%	2014
25%	2013
25%	2012
25%	2011
20%	2010
20%	2009
20%	2008
25%	2007
25%	2006
25%	2005
20%	2004
20%	2003
20%	2002

**Lawley**



**New York State Insurance Fund**

*Workers' Compensation & Disability Benefits Specialist since 1914*

# REPAIR-SHOP & GASOLINE DEALERS ASSOCIATION

144 Fairport Village Landing # 308  
Fairport, NY 14450  
rsgda@nysassrs.com

(585) 423-9924

BILL ADAMS  
*President*

JIM CAPUTO  
*Vice President*

DON GLADSTONE  
*Treasurer*

RALPH BOMBARDIERE  
*Executive Director*

## **FREE MONEY** REPAIR-SHOP & GASOLINE DEALERS ASSOCIATION RSGDA – NAPA PROGRAM

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

**FAX** this form back to:  
518 452-1955

# RSGDA

## LEGAL PLAN

As a member in good standing of the Association, you are entitled to participate in our group legal service plan. If you are in need of this service, you must first call the Association office at (585) 423-9924. An appointment will be arranged that will be convenient for you and the attorney.

*Covered services available to members include:*

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

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

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

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

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

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

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

CERTIFICATION OF A CLERK WHO SELLS TOBACCO PRODUCTS  
*POINT REDUCTION CLASS*

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

**THE STATE IS ENFORCING THIS LAW**  
*IN ORDER TO ACCOMMODATE OUR MEMBERS,  
WE ARE CERTIFIED TO PROVIDE THIS TRAINING.*  
*PLEASE NOTE DATES, TIME, AND LOCATION OF THE NEXT SEMINAR*

WHERE:

Shadow Lake Golf Course – Woodlands Room  
1850 Five Mile Line Road  
Penfield, NY

WHEN:

First Thursday of every month at 4:00 PM

COST:

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

**PLEASE CALL FOR RESERVATIONS AT (585) 423-9924**

**SPONSORED BY: RSGDA**

# **RSGDA**

Repair Shop and Gasoline Dealers Association

## **HEALTH INSURANCE PROGRAM**

**If you are going without health insurance, you are taking a big risk. Now is the best time to stop exposing yourself to high medical costs. Even if you have insurance, you will want to check how our health insurance programs can better suit your needs. Here are some of the benefits of our program:**

- **Reduced premiums by being a member of our groups.**
- **Programs provided by a variety of providers.**
- **Choose from a wide selection of plans.**
- **Tailor your insurance to best suit your needs.**
- **Participating employees may choose different plans.**

**Let us work with you to find the best program at the best price. We will send you more information, and help you to navigate the selection of plans and options to find the one that is best for you.**

**To find out more information call  
Ralph Bombardiere at (585) 423-9924**