



SSDA News

Service Station Dealers of America and Allied Trades

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LEGISLATIVE UPDATE

By Roy Littlefield

SSDA-AT is gearing up our efforts to make a difference in 2014 in the halls of government. And it's a good thing because the challenges will be great! We have made a difference and we are continuing to make a difference. We have issued more press releases, stories and op-ed pieces. We have seen a tremendous increase in coverage in the general press, the trade press, and state association

newsletters. And we have participated in national press conferences, hosted Capitol Hill legislative receptions, testified on over a dozen issues (over a dozen on both the Federal level

and the state levels), are active on numerous advocacy conditions, have grown the PAC and are now attending some 40-50 political fundraisers on the Federal and state levels.

To more clearly define and better tell our story, we developed over a dozen position papers which we circulate to Congressional offices on Capitol Hill to state legislators, Federal and state regulators, state associations, our supplier members, and to the trade press. We also produce 2 newsletters: a weekly legislative summary highlighting both our efforts and the happenings on Capitol Hill; and a monthly compilation of

legislative and regulatory initiatives in the states that have an impact on the industry. .

What a mess we have in the nation's capital! It is a personal embarrassment to admit that we are part of the process. The voting booths across America in November 2014 will hold the answer to the question "who are the winners and



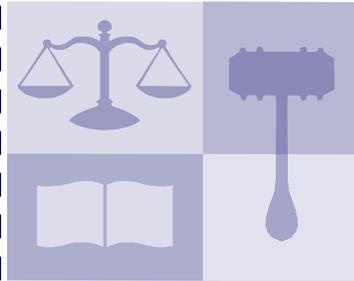
losers?" in the ongoing budget debate. Until then, we still have to muddle along and speak out for the good of the industry. Congress has temporarily averted the twin crises of the shutdown and debt ceiling defaults.

There is no "grand deal" for tax reform and entitlement reform. But it appears to us there is a slight possibility for some expedited consideration of tax reform.

We have a unique opportunity to speak out in 2014 as Congress debates the long-term highway bill, which touches so many aspects of our industry. I serve as Treasurer of the American Highway Users Alliance (AHUA) - Washington's most respected group on transportation issues. The chairman of the AHUA is former Governor Bill Graves, who is President of the American

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GENERAL COUNSEL CORNER



Immigration Alert: The Need to Document Immigrant Employees

By Peter H. Gunst
pgunst@lawyers.com

“Mistakes or missing information, whether intentional or not, and which might have nothing to do with a worker being in the country illegally, can lead to stiff penalties.”

As if service station dealers didn't have enough to worry about, they must now be increasingly concerned about maintaining proper documentation to prove that they are not employing illegal workers.

In May of this year, employers were required to use an updated version of the federal I-9 form to prove the eligibility of new workers.

The forms appear simple, with newly hired employees required to complete and sign Section 1 of Form I-9 by their first day of employment, and the employer then completing Section 2, which requires that it attest to examining documents provided by the employee to establish his or her legal employment status and to certify the employee's first day of employment, among other things.

But mistakes can be costly. As one commentator has warned:

Mistakes or missing information, whether intentional or not, and which might have nothing to do with a worker being in the country illegally, can lead to stiff penalties. Employers can be fined from \$110 to \$1,100 per violation for failure to comply with the form's requirements, according to U.S. Citizenship and Immigration Services. Penalties can even be steeper, up to \$6,500 per violation, for participating in document fraud, or up to \$16,000 for knowingly hiring an unauthorized worker.

Consider the fate of small Washington state contractor Ketchikan Drywall Services, Inc. (“KDS”). This company had only four permanent employees but also hired numerous temporary employees. Although its problems arose from failure to maintain proper records prior to the release date of the newly amended I-9, the lessons drawn from its predicament are equally applicable now.

When Immigration and Customs Enforcement (“ICE”) served an administrative subpoena on KDS, it soon became apparent that KDS's practices in obtaining and maintaining I-9 forms were far from ideal. Failures to comply with ICE regulations resulted in an initial fine of \$286,624, which was reduced to \$173,250 by the administrative judge.

How did this come about? First, ICE, as was its right, examined Form I-9s going back three years. This expanded the number of violations to 271.

Second, no one at KDS had any I-9 compliance training until two years prior to the audit, so that many of its older forms were deficient.

Third, although KDS did collect substantial documentation authenticating its employees' work status, it failed to fully complete many I-9 forms, and also failed to produce those forms in response to the

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New Pennsylvania Gas Tax Will Raise Prices at Pump

Pennsylvania's new transportation law will raise wholesale fuel taxes Jan. 1, and companies that supply gas and diesel in Pennsylvania say razor-thin profit margins leave them little choice but to pass on the entire cost increase to the pump.

That point has at times gotten lost amid mixed messages from Gov. Tom Corbett and some lawmakers. In various ways, they have suggested that the cost may not entirely be passed down to consumers, or that it shifts the tax burden to "oil companies," never mind the fact that integrated multinational oil companies are barely involved any more in distributing gas in the United States.

That work is largely left to petroleum trucking companies or companies that own gasoline stations, convenience stores or truck stops, which collect the tax that will rise, Pennsylvania's Oil Company Franchise Tax.

One supplier claimed: "Our margins are extremely minimal with gasoline, and any increase in cost, like any other product, ultimately gets passed on in the retail price."

John J. Reilly, president of Reilly & Sons in the Philadelphia suburb of Exton, said fuel distributors like his — he distributes to six gas stations — cannot just absorb the cost of doing business.

"Unfortunately, if it's going to go up 10 cents, it's going to go up 10 cents to people we supply," Reilly said. "Nobody can eat a penny today, much less 10 cents."

Profit of pennies

Jeff Lenard, a vice president of the National Association of Convenience Stores in Alexandria, Va., said gas stations typically make a profit of about 3 cents per gallon, and that's before paying corporate profits taxes. Distributors say they make less than that.

The good news this winter for tax-averse consumers is that the federal Energy Information Administration expects the average East Coast gas price to drop by perhaps 20 cents per gallon, thanks to rising U.S. crude oil production and low seasonal demand. Prices were hovering around \$3.40 a gallon in much of the state Thursday, according to AAA's data.

Under the law, signed Monday by Corbett, higher taxes and fees will unfold over the next five years to collect an additional \$2.3 billion to \$2.4 billion a year. That's roughly 40 percent of the \$5.7 billion the Pennsylvania Department of Transportation is planning to spend this year on state and local roads and bridges and mass transit systems.

The effect on Jan. 1 will be a 9.5 cent per gallon tax increase on unleaded and a 13 cent per gallon tax increase on diesel, according to PennDOT. If the law were fully in effect today, gas taxes would go up by 28.5 cents per gallon, based on the average wholesale price set by the Department of Revenue for 2013.

No illusions

Revenue officials did not mince words in an April 2012 briefing paper it issued for the oil and gas exploration industry. In it, it said that "liquid fuels and fuels taxes are borne by the consumer."

The law does repeal a 12-cent per gallon tax that gas station owners pay to the state. To offset that loss, the law increases the rate of the Oil Company Franchise Tax, which is imposed on the sale of fuel to gas stations.

Then it expands the Oil Company Franchise Tax over the next three years to apply to the full cost of the gas, rather than the \$1.25 per gallon to which it is currently limited. That change will generate nearly \$2 billion a year extra, according to legislative budget analysts.



Letter to the Editor

Dear SSDA-AT,

The American energy revolution has changed our energy outlook from scarcity to abundance, but our energy transportation infrastructure must keep pace with the new reality.

Our energy transportation network was designed largely to move imported crude oil inland from the Gulf Coast. Now that imports are down and production is surging in the Bakken region, Pennsylvania and neighboring areas, and Canada, new investments in pipelines, storage, processing, rail and marine components will be critical to ensure resources have access to high-value markets. Infrastructure constraints have forced some producers to sell at a discount, which has led to lost revenues for royalty owners as well as local, state and federal governments. For instance, each \$1 discount for Bakken crude can lead to revenue losses of up to \$3 million each month in North Dakota.

The American people understand the importance of energy infrastructure, including the Keystone XL pipeline, to energy security, job creation and economic growth. According to a new Harris Interactive survey of registered voters:

83% support increased development of the country's energy infrastructure

88% agree that increased development of energy infrastructure is good for American consumers

93% agree that increased energy infrastructure development would help create jobs

89% agree that energy infrastructure development would strengthen America's energy security

After five years and four favorable State Department assessments, support remains strong for construction of the Keystone XL pipeline, which would transport 830,000 barrels of oil per day from Canada and North Dakota's Bakken region to U.S. refineries:

63% would like to import more oil from Canada than from other foreign countries

69% support building the Keystone XL pipeline (KXL)

72% agree that KXL is in the national interest

In order to fully capitalize on production gains and ensure crude oil and natural gas are transported efficiently to refineries, then on to businesses and consumers, our energy infrastructure system must be updated. With strong support from the American people and guaranteed gains in jobs and economic growth, investing in America's energy infrastructure is smart energy policy and smart economic policy.

Sincerely,

Jack Gerard
President and CEO
API



Minimum Wage Increases Push Ahead in Maryland

By Roy Littlefield, IV

For those who had been fighting for a minimum wage increase, the battle has been won in Montgomery and Prince George's Counties. The Montgomery County Council and the Prince George's County Council both passed bills that will significantly increase the minimum wage. In Montgomery County, the 59 percent increase will be phased-in over the next four years as will the Prince George's County bill. In both jurisdictions, the rate would be \$8.40 per hour on October 1, 2014, \$9.55 per hour on October 1, 2015, \$10.75 per hour on October 1, 2016, and \$11.50 per hour on October 1, 2017. In both Counties, the minimum wage does not apply to an employee who is under the age of 19 years and is employed no more than 20 hours per week. Luckily, the passed legislation did not include indexing for future increases.

WMDA (Washington DC, Maryland, Delaware Service Station & Automotive Repair Association, a State Affiliate of SSDA-AT) opposed a minimum wage increase on the county levels and will continue the fight on the state level for the following reasons. First, during the nationwide economic downturn, association members, and small businesses in general, did not lay off workers while big business had no problem with giving out pink slips. In fact, small businesses are the engine that keeps the economy slowly moving toward recovery. The proposed minimum wage increase might accomplish what the economic downturn could not—job loss in small business. In addition, just 2 employees working 40 hours a week at minimum wage would cost an employer \$19,760.00 in 3 years.

Furthermore, WMDA members must post their price for product on the street by state law (because they are gas stations), and competition will not allow that to be recovered. WMDA members train cashiers, food workers, and future mechanics how to handle money, interact with customers, food service safety, auto repair, and language skills. As the employees progress, they move up the ladder to

become managers, or they move on to fulfill other career aspirations. People tend to underestimate the importance of this education while getting paid. The proposed legislation could also displace current county residents with residents from other counties and other states that might be able to obtain these jobs because they are better qualified. This could put a burden on the county with residents out of work. WMDA believes that minimum wage legislation belongs at the federal level or at the very least the state level, so the playing field is the same for everyone. Small business owners should not be singled out by county and told what to pay when most of them have every penny they own invested in their business.

In Maryland, many Democrats are making minimum wage their top legislative priority this session. Their motivation and message will be the will of the people and they have already begun conducting polls to show they have support for an increase.

Although Maryland prides itself in trying to become the first progressive state to make the change to such a high minimum wage, the state needs to be careful about regional inequalities. With the bordering states of Virginia, Pennsylvania, and Delaware that will keep the minimum wage of \$7.25, this could cause more qualified workers from those states to enter Maryland looking for the higher paid jobs, which could cause



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Michigan DOT Director Talks Autonomous Vehicles at House T&I Hearing on Capitol Hill

Michigan Department of Transportation Director Kirk Steudle joined several transportation and technology experts at a House Transportation and Infrastructure subcommittee hearing to discuss autonomous vehicles, focusing on the technology's benefits and the next steps to move the technology forward.

Steudle said that the ultimate goal is and should remain delivering the "safest and most efficient transportation system imaginable, and it may be possible to achieve this goal with accident-free vehicles, vehicles that can drive themselves." Steudle's second point was that acceptance and use of the autonomous vehicle technology would be "challenging and evolutionary," prompting many years of further research, development, and testing. Finally, Steudle stressed the fact that there are tasks to complete today in order to move forward with the driverless vehicle technology to prepare for future use, such as encouraging NHTSA to make its decision on requiring connected vehicle technology for passenger vehicles (expected by the end of the year), protecting the 5.9 GHz bandwidth for the connected vehicle program, funding research to better understand all operating scenarios associated with the technology, and supporting cooperation between state transportation departments, the U.S. Department of Transportation, and global automakers.

Aside from Steudle, witnesses included National Highway Traffic Safety Administrator David Strickland, General Motors Vice President of Sustainability and Global Regulatory Affairs Mike Robinson, Nissan Technical Center North America Senior Manager of Technology Planning Andrew Christensen, Dr. Raj Rajkumar of the Carnegie Mellon University, and Eno Center for Transportation President and CEO Dr.

Joshua Schank. The hearing, held by the House T&I Subcommittee on Highways and Transit, was led by Subcommittee Chair Tom Petri (R-WI). Petri kicked off the hearing by expressing his hope for the technology, as well as what he hoped to gain from the hearing.

"Vehicles and the infrastructure they utilize are becoming increasingly integrated with computer technology which has the potential to revolutionize highway safety and mobility in America," Petri said in his opening statement. "In order to see these benefits come to fruition, federal and state officials should begin planning for the benefits and challenges that autonomous vehicles will bring to the future of our nation's surface transportation system. I hope today's hearing will provide our Committee Members with insight into this important issue."

Strickland echoed Steudle's assertion that safety is and will remain top priority when it comes to considering autonomous vehicles and that autonomous vehicles could be an excellent tool in making the nation's roadways safer.

"The promise of advanced vehicles that can avoid crashes is extremely bright," Strickland said. "While there are certainly risks with any emerging technology, I firmly believe that, when this risk is properly identified, understood, and mitigated, we can minimize it and fully reap the potential benefits."



Massachusetts Considers Pilot Program to Tax Cars for Miles Traveled

Legislation was introduced in Massachusetts to establish a pilot program to impose a vehicle mileage user fee. The bill is intended to supplement the gas tax and implement alternative ways to raise transportation revenue for the state. The pilot program would include at least 1,000 drivers of trucks, passenger and commercial vehicles. These drivers would have on-board vehicle-mileage-counting equipment installed on their vehicles that can report the number of miles traveled. Payments would be collected from participants. As gas tax revenues decrease due to a more fuel-efficient fleet of vehicles,

states are looking for new sources of funding for pet projects.



Wyoming DOT Moves Up 19 Highway Projects, Made Possible through Fuel Tax Increase

Wyoming Department of Transportation officials recently announced the department will start 19 highway projects in 2014 instead of later years thanks to funding from the state's new 10-cent fuel tax increase that took effect in July.

WYDOT estimates it will generate an additional \$47.5 million revenue annually, which will result in a 15 percent increase in WYDOT's construction budget for fiscal year 2014. These 19 projects are among 52 outlined by WYDOT to begin construction during the next three fiscal years.

"We're happy to have this long-term funding source that we can count on and plan around and use to benefit the highway system," said WYDOT Director and American Association of State Highway and Transportation Officials Vice President John Cox in a statement. "The approach specified by the Legislature will help with improvements in highway conditions around the state."

WYDOT anticipates other projects moving up in

the future as well. In fact, WYDOT officials say "the tentative plan for using the additional fuel tax money the department will receive includes another 16 projects in fiscal year 2015 and 18 projects in fiscal year 2016."

"There was an identified need for this work, but the projects had been delayed in the State Transportation Improvement Program because of funding constraints," said WYDOT Assistant Chief Engineer Gregg Frederick. "We had already done some preliminary engineering but now we're accelerating the design to bring those projects into fiscal years 2014, 2015, and 2016."



Kentucky Transportation Cabinet Uses Public Survey to Develop Long-Term Transportation Plan

Kentucky citizens want the state to focus on maintaining and improving Kentucky's current highway system, focusing on bridges and roadways, but they also want to see additional multimodal options for some of their trips, according to a recent survey conducted by the Kentucky Transportation Cabinet. KYTC announced the results of its survey, which will help to develop the state's long-term transportation plans.

"We asked for your opinions and you shared your ideas," said KYTC Secretary and American Association of State Highway and Transportation Officials President Mike Hancock in a statement. "Now, it's time to put what you said to use."

The survey found that maintenance of bridges topped the list of important transportation issues for respondents, with "improving safety along roadways in Kentucky" a close second. When asked how strongly respondents would support various transportation funding options, respondents seemed most supportive of government bonds/borrowing (averaging an approval of 3 out of a possible 4), tolls (about 2.75 out of 4), and an increased sales tax for transportation projects (scoring about 2.25 out of 4).

"While raising taxes is never a popular

topic of discussion, there interestingly seems to be growing sentiment that tolls on roads and bridges may be acceptable in certain situations," according to the survey report.

More than 16,100 individuals from across the state participated in KYTC's first "Your Turn" survey, designed to gain an understanding of citizens' concerns, issues, and comments with Kentucky's transportation system. It was the first public involvement activity to go along with the updating of Kentucky's Long-Range Transportation Plan. The document serves as a policy guide for the goals, objectives, and strategies to address the major challenges and opportunities facing the state in the next two decades.



Caltrans Completes \$417 Million Tunnel Bore Project Ahead of Schedule, Under Budget

The California Department of Transportation opened to traffic the \$417 million fourth bore of the Caldecott Tunnel, which connects Alameda and Contra Costa counties, roughly a month ahead of schedule and millions under budget.

The fourth bore of the Caldecott Tunnel provides congestion relief to residents and workers in the East Bay by ending the daily process of switching the traffic direction of the third bore to accommodate travel. The new bore includes wide travel lanes, shoulders, bright lighting, emergency exits, and various safety systems.

The project, which has been in the works for four years, was the recipient of one of the nation's largest American Recovery and Reinvestment Act grants (totaling about \$194 million). Other funding sources for the project were the Contra Costa Transportation Authority, which contributed \$125 million; a 2012 voter-approved state transportation bond (Proposition 1B), contributing \$11 million; and Bay Area bridge tolls, which contributed the remaining balance.

"We have a new world-class tunnel that will go a long way toward easing traffic bottlenecks and improving safety for

motorists," said Caltrans Director Malcolm Dougherty in a statement.

The project, initially slated to cost \$420 million, was completed \$3 million under budget and a month before its projected December opening.

"In a country where so many issues are so divisive, more and more people are coming to see what those who travel the Caldecott today will see: a remarkable work of engineering, the hard work of the thousands of men and women who helped build it, and the effective partnership that improved a critical transportation resource," said U.S. Department of Transportation Secretary Anthony Foxx.



Right to Repair Passes New Jersey General Assembly

Great News! We have achieved another victory in our fight to pass Right to Repair legislation in New Jersey. On Thursday, the General Assembly approved Right to Repair with **58 YES votes, 15 NO votes & 6 abstentions**. The bill had bipartisan support and received significantly more votes than in previous sessions when it passed the Assembly by a slimmer margin. We are very fortunate that this legislation has the unwavering support of its Assembly sponsors, Assemblymen Gusciora and Moriarty. When the bill was first heard in the Assembly Consumer Affairs Committee, Chairman Moriarty made it very clear that, one way or another, he would ensure that car manufacturers provide independent mechanics with the information that they need to repair their customers' cars. The car manufacturers continue to insist that they will produce a Memorandum of Understanding (MOU) declaring that they will comply with the terms of the Massachusetts Right to Repair legislation on a national scale, which would therefore eliminate the need for NJ or any other state to further pursue this legislation.

Up to this point, the car manufacturers have not held up their end of the bargain, and although we are thrilled at the Assembly's passage of Right to Repair legislation, there is still no official version introduced in the Senate. This legislation will likely

not complete the legislative process by the end of this session, which is January 14, 2014 at 12:00 noon. However, we will have the bill reintroduced immediately at 12:01 PM on January 14th, and luckily for us, we will have the opportunity to make some changes to the bill, which will include stronger language to cover commercial vehicles and heavy-duty trucks, as many of our members have commercial accounts and regularly service these vehicles. As always, we will keep you informed of the progress that the bill makes in the new session, and we will let you know when we need YOUR help and support to make this legislation a reality.



DEC Makes Two Arrests in Westchester County for Fraudulent Motor Vehicle Inspections

The New York State Department of Environmental Conservation (DEC) arrested the owner and operator of J&K Valhalla Automotive LLC in Valhalla, a licensed New York State motor vehicle inspection station, and an employee at the station on December 19th for 643 fraudulent vehicle inspections, DEC Commissioner Joe Martens announced today. DEC's Bureau of Criminal Investigation led the investigation in partnership with the New York State Department of Motor Vehicles (DMV) and the Westchester County District Attorney's office.

DEC Environmental Conservation Officers charged Kelvin Ganpat and Michael Klimek with 30 felony charges, including: possession of a forgery device (a class D felony), forgery in the 2nd degree (a Class D felony) and offering a false instrument for filing in the 1st degree (a class E felony).

"Poorly maintained or malfunctioning motor vehicle emissions control systems contribute to poor air quality and can impair respiratory health," Commissioner Martens said. "DEC is working with other agencies to stop these practices and prevent perpetrators from padding their pockets. Greed at the expense of public health and our environment will not be tolerated."

Westchester District Attorney Janet DiFiore said, "By illegally and fraudulently circumventing the vehicle safety and emissions inspection process, these defendants endangered the vehicle operator as well as all motorists on our roads. A cooperative effort by law enforcement on

the state and county level enabled investigators to turn the technological tables on these defendants by isolating and identifying their fraud, thereby holding them accountable for their actions."

The New York Vehicle Inspection Program (NYVIP) requires annual onboard diagnostic (OBDII) emissions inspections for most model year 1996 and newer light duty vehicles. During an OBDII inspection, certified inspectors must physically connect state-approved emissions equipment to a standardized connector in the vehicle being inspected. When vehicles failed inspections at J&K Valhalla Automotive, the defendants used a fraudulent device to bypass the procedure, allowing them to falsely indicate the vehicle passed inspection. They then issued fraudulent inspection stickers at a cost of \$150 rather than the normal \$37 per inspection.

Anyone with information on this or other environmental crimes are urged to contact the NYS Environmental Conservation Police at 1-877-457-5680 or 1-800-TIPP-DEC or report an environmental violation online on the DEC's website. (From Ralph Bopmbadiere at



Minimum Wage Increases Push Ahead in Maryland

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Maryland workers to be displaced because there will be higher demand for more qualified workers if the pay is higher. Although Maryland wants to increase wages for the citizens of their state, such an increase could cause qualified workers in neighboring states to benefit more than in-state workers.

Minimum wage is a sensitive issue that involves the well-being of citizens who are earning very little income to support their families. On the other hand, no matter how viewed, a minimum wage increase is bad for businesses who will force employers to make tough decisions that may result in eliminating positions, decreasing work hours, reducing benefits, and raising prices at the risk of losing customers. Businesses would like legislators to understand that the minimum wage is a starting wage and should not be considered a “living wage.” The minimum wage is essential for employing young, inexperienced, and entry-level workers. The ultimate cost of an increase goes far beyond the starting wage. An increase in the minimum wage forces a corresponding increase in hourly wages for other employees at a business because it brings the starting wage closer to the wages of veteran staff. For example, an employee who makes \$13 per hour expects proportionate increases as the starting wage rises from \$7.25 per hour to \$11.50 per hour. With so many small businesses operating on such small profit margins, an increase during a tough economic climate may have detrimental consequences.

With two counties in Maryland now having passed minimum wage increases and the state of Maryland and the Federal government proposing a minimum wage increase,

such a rise is coming and will continue to come on many levels. With an economy that has been slow to recover, I am not sure that such increases are timely to businesses. It is my hope that these businesses that are already making only small profit margins can absorb the increased costs to keep their employees employed. We will see what type of impact such an increase has on the economy in the coming months. For the sake of business, workers, and America’s future I hope the experience of an increased minimum wage is a positive one, but I will hold my reservations.



LEGISLATIVE UPDATE

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Trucking Association; and the Coalition chairman is former Congressman and former Secretary of Transportation, Norman Mineta. And in February, I will become President of the Small Business Legislative Council, a coalition of 47 national small business associations like SSDA-AT. That gives us a unique platform to discuss small business issues with the media, on Capitol Hill, and with the White House.

For example, what we are looking for in a debt ceiling deal are some “firm” commitments to tax reform and entitlement reform. We have been saying for the last year and three-quarters that we need some language that provides an incentive to accomplish tax reform by a date certain. We are not sure what “incentive” one puts in place to finish tax and entitlement reforms by a certain date. Our guess is that with the dilly-dallying on tax reform to this point, a realistic date certain is probably sometime next year. We need to leave some room for it to leak past whatever deadline is created but still allow room to get it done before the congressional elections next November. Finance Chairman Max Baucus (D-MT) will retire at the end of his term and the Congress and Ways and Means Chairman Dave Camp (R-MI) is subject to House majority internal chair term limits in the next Congress.

We are a bit open-minded about what would be acceptable entitlement reform. We have publicly supported the recommendations of the Simpson-Bowles Commission. The key is something that reverses the growth curve. With respect to tax reform, we have already offered a lot of opinions. While the tendency is to look at tax reform through the prism of pass-through entities (S Corporations, Partnerships and Sole proprietors), we think the

better view would be to reshape the prism to a more distinct small business versus big business perspective. We probably will not get that, but the ultimate litmus test will be how corporate and individual rates line up and the trade off with the elimination of deductions and credits. At the end of the day, some sort of cash accounting based system with no inventories, immediate write-off of capital equipment purchases and a low marginal rate for those companies with \$10 million or less in gross receipts would be a nice outcome. You can throw a lot of deductions and credits out the window then.

As we speak out in 2014 for SSDA-AT, for the small business community, and for the nation, we will keep the following core principles in mind:

- We all have a patriotic duty to make America better off tomorrow than it is today.
- Don't disrupt the fragile economic recovery.
- Cut and invest to promote economic growth and keep America competitive.
- Cut spending we cannot afford - no exceptions.
- Demand productivity and effectiveness from Washington.
- Reform and simplify the tax code.
- Don't make promises we can't keep.

The problem is real, and the solution will be painful.

We propose a six-part plan to put our nation back on the path to fiscal health, promote economic growth, and protect the most vul-

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LEGISLATIVE UPDATE

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nerable among us. Taken as a whole, the plan will:

- Achieve nearly \$4 trillion in deficit reduction through 2020, more than any effort in the nation's history.
- Reduce the deficit by 2.3% GDP by 2015 (2.4% excluding Social Security reform), exceeding the President's goal of primary balance (about 3% of GDP).
- Sharply reduce tax rates, and cut backdoor spending in the tax code.
- Cap revenue at 21% of GDP and get spending below 22% and eventually to 21%
- Ensure lasting Social Security solvency, prevent the projected 22% cuts to come in 2037, reduce elderly poverty, and distribute the burden fairly.
- Stabilize debt and reduce debt to 60% of GDP by 2023 and 40% by 2035.

In 2014, we will continue to be very active on the state legislative level with bills that address:

- Used tires
- Tire aging
- Retread restrictions
- Tax increases
- Minimum wage increases
- Right-to-Repair

On the Federal level, we will take a stand on the following issues:

Highway Bill

Congress will attempt again in 2014 to enact a 5-year Federal Aid Highway bill. While we support a long term bill, we are opposed to many of the committee staff proposals being circulated, including (in no particular order):

- A significant motor fuel tax increase with indexing for future adjustments that will only go up.
- The increased privatization of highways, which will lead to more (and higher) tolls.
- A national weight distance tax on truckers, which would also eliminate the FET on new truck tires.
- A vehicle miles driven tax on ALL passenger vehicles.
- The reinstatement of the FET on tread rubber used in the retread process.
- The reinstatement of the FET on passenger tires.
- An increase by 10% on the FET on new truck tires.

Estate Tax

While we actively lobbied Congress to raise the exemption from \$1 million to \$5 million and to lower the top tax rate from 55% to 35%, there is a strong effort to make permanent the earlier threshold and tax rate. We are working with Senator John Thune (R-SD), Congressman Kevin Brady (R-TX) and Congressman Mike McIntyre (D-NC) to permanently repeal the estate tax by opposing an amendment to the upcoming Budget Resolution.

Work Opportunity Tax Credit (WOTC)

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We are an active member in a lobbying coalition to make the WOTC permanent and increase the effectiveness of work opportunity tax credits. We lobbied for the expanded WOTC credits for hiring returning veterans. Small businesses in the automotive and trucking aftermarkets are among the highest users of WOTC.

Retroactive Liability Provisions of Superfund

With SSDA-AT members involved in Superfund clean-ups in over 30 states after they followed the letter of the law in their disposal of used oil, used tires, used batteries, and used filters, we continue to pressure Congress to repeal the grossly unfair retroactive liability provision of Superfund.

Lawsuit Abuse

With the tort liability price tag for small businesses running over \$100 billion, with small businesses paying \$35.6 billion of their tort costs out of pocket, and noting that small businesses bore 81% of business tort liability costs while taking in only 22% of revenue, SSDA-AT is lobbying for the passage of the "Lawsuit Abuse Reduction Act" to reduce frivolous suits.

Right to Repair

While realizing some initial success on the state level in Massachusetts, SSDA-AT will continue to push on both the state and Federal levels for right to repair legislation that will require vehicle manufacturers to provide the same service information and capabilities

to independent shops as they do to their authorized dealer network.

Card Check

We continue to push back against "card check" legislation that would make it easier for workers in any business to unionize.

Marketplace Fairness

We support current proposed legislation to allow states to collect sales tax on Internet sales that cross state lines.

Comp Time

We are supporting the Working Families Flexibility Act, which would amend the Fair Labor Standards Act to allow employers to offer private sector employees the choice of paid time off in lieu of cash wages for overtime hours worked.

Our success in 2014 depends on you! SSDA-AT have had incredible success in the legislative arena because of the power of grass roots politics. I have always said that you are the experts and that nobody can tell your story as well as you can. My job is to plug your expertise into the right place at the right time.

The strategy works... but it depends on your involvement. Together, we can and will make a difference in 2014!

Rep. Blumenauer Introduces Bills to Raise Gas Tax, Set up VMT Pilot Program

Rep Earl Blumenauer (D-OR) this week introduced two bills aimed at raising revenue to more robustly invest in the nation's aging transportation infrastructure.

Joined by representatives from the transportation, commerce, and construction fields, as well as Congressional colleagues, Blumenauer introduced H.R. 3636, or the Update, Promote and Develop America's Transportation Essentials (UPDATE) Act. The bill would phase in a 15-cent-per-gallon federal gas/diesel tax increase over the next three years, which would raise the federal gas tax from 18.4 cents to 33.4 cents per gallon. The bill also would index the gas tax for inflation.

"The gas tax hasn't been increased since the beginning of the Clinton administration," Blumenauer said in a statement. "Today, with inflation and increased fuel efficiency for vehicles, the average motorist is paying about half as much per mile as they did in 1993. It's time for Congress to act. There's a broad and persuasive coalition that stands ready to support Congress. We just need to give them something to support."

Blumenauer estimates the UPDATE Act would generate \$170 billion in revenue for transportation infrastructure investment over the next 10 years.

To coincide with introduction of the UPDATE Act, Blumenauer also brought forward H.R. 3638, the Road Usage Fee Pilot Program Act of 2013. H.R. 3638 would allow Congress to create a national VMT pilot program to study how the system would work on a large-scale level. Oregon has been a leader in the matter of mileage-based user fees, as the Oregon Department of Transportation has conducted multiple VMT pilots, the most recent of which began in November 2012. ODOT officials focused on "choice, transparency, ease of use, and protection of privacy" for the most recent pilot.

In addition, Oregon's state legislature passed in July a measure that would make available to the public a voluntary mileage-based user fee system in place of a state fuel excise tax. The program allows up to 5,000 drivers the option of trying the system.

Blumenauer told Washington, D.C. publication *The Hill* that a VMT system is a long-term solution to the funding gaps that inevitably occur with the gas tax.

"As we extend the gas tax, we must also think about how to replace it with something more sustainable," Blumenauer said, according to *The Hill*. "The best candidate would be the vehicle miles traveled fee being explored by pilot projects in Oregon and implemented there on a voluntary basis next year."



GENERAL COUNSEL CORNER

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ICE audit in a timely manner.

Fourth, KDS failed to adequately monitor its employees' completion of Section 1 of the forms, and also failed to ensure that all Section 1s were completed by the employee in a timely manner.

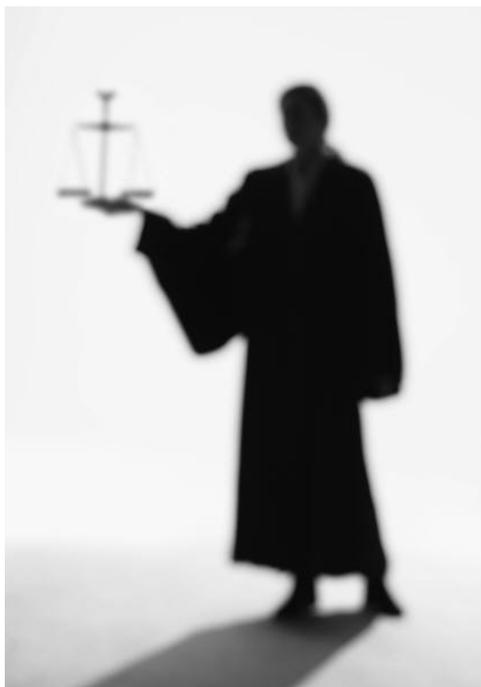
KDS attempted to seek relief from the penalty imposed upon it by filing a petition for review in the United States Court of Appeals for the Ninth Circuit in *Ketchikan Drywall Services, Inc. v. Immigration and Customs Enforcement*, 725 F.3d 1103 (9th Cir. 2013). But the three-judge court unanimously rejected its appeal.

In sum, the Ninth Circuit held that the administrative judge properly accepted ICE's penalty guidelines to calculate fines, despite the technical nature of the majority of KDS's failures to obtain and maintain completed forms. In so doing, it held KDS strictly responsible for its employees' errors in filling out Section 1, and deferred to the administrative judge's broad discretion in determining proper penalties.

The lesson is clear. Failure to comply with Form I-9 requirements can be extremely costly to a small businessperson.

pgunst@agtlawyers.com

To access more articles by the Service Station Dealers' legal counsel, please visit the "Service Station Dealers: Legal Issues" section of the Astrachan Gunst Thomas, P.C. website at:
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1532 Pointer Ridge Place, Suite G
Bowie, Maryland 20716

Phone: 301-390-0900

Fax: 301-390-3161

E-mail: mgates@wmda.net

2013-2014 SSDA-AT Officers

President: Peter Kischak, New York	914-698-5188
1st Vice President: Fred Bordoff, New York	718-392-9605
2nd Vice President: Billy Hillmuth, Maryland	301-390-0900
Treasurer: Hugh Campbell, Pennsylvania	724-863-3524
Past President: Dave Freitag, Ohio	419-217-0870

For more information on SSDA-AT, please contact::

Marta Gates, Managing Director

mgates@wmda.net ♦ 301-390-0900 ext. 115