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# NYS ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

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January 2007

## 2007, A Look Ahead

2007 is here and 2006 is gone. The problems that the repair shops, service station industry face will become greater this year. What we expect:

- A. The Right to Repair Act failed on a federal level in 2006 and there will need to be renewed efforts in 2007. The problems of getting information and purchasing tools will get worse, especially if the threat of legislation is removed. We will be working in Albany and Washington to pass a bill that will provide our industry the same opportunities as the auto manufacturer's dealerships.
- B. Motor fuel pricing relief is needed. The market is so volatile that it has become impossible for dealers to make a consistent profit. The motoring consumer looks at the service stations as the culprits. We need to inform the legislators and attorney generals to look for the problem and resolve it and it not us. The new democratically controlled House and Senate has already said that they want to pass a retailer price-gouging bill. They need to be told to look up the chain.
- C. A bill restricting Zone Pricing has to be introduced and passed in the legislature. The wholesale pricing practices of supplier are unfair and discriminatory. Something needs to be done.
- D. The unfair sales tax on automotive car washes needs to be corrected. Sales tax is required on credit card payments but not on cash payments. We though there were a restriction of charging for credit.
- E. The initiative to require the repair industry of accept used oil filters from the motoring public and recycle them must be stopped or made acceptable to the industry.
- F. Inspection and enforcement practices by the Department of Environmental Conservation on service stations and repair shop must be changed. They are discriminatory, inconsistent of the regulations and the fines issued are uncountable.
- G. Credit card fees are out of control. The issue must be brought to the attention of those that can make changes.
- H. The threat of an unreasonable price gouging laws in both Albany and Washington is real. The Governor Elect of New York and the new democratically controlled congress in Washing ton will make it one of their priorities to pass a law aimed and punishing those they thinks are price gouging not those who really are.
- I. The new governor has already said he want to amend the bottle deposit law to increase the kind of containers that will require deposits. Included will be bottled water and juices. Do you have the room to take in more containers?
- J. We have not had an increase in the safety inspection fee since 1995. This is a heavy lift but it is about time.
- K. New contacts will need to be made at five of the state's six agencies. We will need to include, the Attorney General's Office, the Health Department, the State Liquor Authority and the Consumer Protection Board. Each of these State Offices enforces regulations that affect our industry. With the new administration, the heads of these offices will be changed.
- L. Counties and municipalities are constantly trying to top the State and Federal Government to make already bad laws worse. These groups must be monitored.

The year has just begun and we are busy already.

## Changes to Prepaid Taxes on Motor Fuel

As of January 1, 2007 the state has recalculated the Petroleum Business Tax, formerly known as the Gross Receipts Tax, on gasoline and diesel fuel. This portion of the prepaid taxes on motor fuel will increase 0.7 cents per gallon across the board. The Petroleum Business Tax on gasoline and gasohol will rise from 15.90 to 16.60 cents per gallon. The tax will increase from 14.15 to 14.85 on diesel motor fuel.

Pre-paid taxes in cents per gallon of gasoline are:

- Federal Excise 18.40
- State Excise 8.00
- Petroleum Business 16.60

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- Pre-Paid Sales (Reg 1) 14.75
- (Reg 2) 14.00
- Test Tax 0.05
- NYS Spill Comp Fund 0.0019

The total prepaid tax on gasoline will be 57.8019 cents/gallon in the downstate Region 1 and 57.0519 in upstate Region 2.

Pre-paid taxes in cents per gallon of gasohol are:

- Federal Excise 13.30
- State Excise 8.00
- Petroleum Business 16.60
- Pre-Paid Sales (Reg 1) 14.75
- (Reg 2) 14.00
- Test Tax 0.05
- NYS Spill Comp Fund 0.0019

The total prepaid tax on gasohol will be 52.7019 cents/gallon in the downstate Region 1 and 51.9519 in the upstate Region 2.

Pre-paid taxes in cents per gallon of diesel fuel are:

- Federal Excise 24.40
- State Excise 8.00
- Petroleum Business 14.85
- Pre-Paid Sales (Reg 1) 14.60
- (Reg 2) 12.10
- Test Tax 0.05
- NYS Spill Comp Fund 0.0019

The total prepaid tax on diesel is 61.9019 cents/gallon in the downstate Region 1 and 59.4019 in the upstate Region 2.

Actual taxes due will fluctuate with the retail price as a result of the sales tax component. Due to the wide variety of sales taxes throughout the state, we are no longer publishing sales tax charts. Should you require a chart for a specific sales tax rate, please contact the Association.

### **Orange, Schenectady County Rescind Gas Sales Tax Cap**

With great fanfare, only a few months ago, Orange and Schenectady Counties opted in to the State cap on petroleum sales tax. Politicians held press conferences, talking of savings to the motoring public of 3-4 cents per gallon. Our Association applauded them for doing the right thing by refusing to take a cut of the windfall profits being enjoyed by major oil companies, and giving taxpayers a well deserved break.

Now these same politicians have rescinded the tax cap in Orange and Schenectady County. Effective December 1, 2006, the break for motorists ended. No fanfare, no parades, and no speeches accompanied this change. Instead in Grinch-like style, the politicians purloined their constituent's pockets like a thief in the night. In March, Albany County is also planning to rescind its tax break. Saratoga County has announced plans to do the same at an unspecified date.

It may be too late for the motorists in these four counties, but we must remain vigilant that the other 10 counties that capped their taxes do not follow suit. Those counties are Cayuga, Chautauqua, Columbia, Hamilton, Jefferson, Oneida, Oswego, Rockland, and Seneca County.

### **Bills Introduced For The 2007 Legislative Session**

The following is a summary of bills, which have been prefiled for the 2007 legislative session. In all, as many as 300 bills will be introduced this year impacting the service station, repair shop, and convenience store industries. These are merely the first seven that we will be monitoring.

A00043 -- Lafayette -- Provides that the commissioner of motor vehicles and the superintendent of insurance shall study an ad valorem fee system for registration of vehicles.

LAST ACT: 01/03/07 referred to transportation

A00044 -- Lafayette -- Requires every motor vehicle repair shop to notify its customers of the customer's, his representative's or his insurer's right to inspect the repairs performed on customer's motor vehicle; requires motor vehicle repair shops to return all replaced parts to the customer, unless subject to exchange or warranty.

LAST ACT: 01/03/07 referred to transportation

A00048 -- Lafayette (MS) -- Requires the commissioner of motor vehicles to accept and investigate complaints against a motor vehicle repair shop for up to ninety days or three thousand miles after completion of repairs made to a motor vehicle or thirty days after discovery of a faulty repair, whichever is later; provides that every motor vehicle repair shop shall provide a clear disclosure of the manner and time limits for the filing of complaints with the commissioner.

LAST ACT: 01/03/07 referred to transportation

A00072 -- Weisenberg -- Relates to towed motor vehicles by the owner of a private lot; defines terms; requires an owner of a private lot to post a sign in a conspicuous sign which shall include information including, but not limited to, the name, address and telephone number, indicating the place where any unauthorized motor vehicle shall be towed; imposes penalties.

LAST ACT: 01/03/07 referred to transportation

A00085 -- Clark (MS) -- Provides that any person storing a hazardous substance shall furnish the department of environmental conservation with information on the storage facility, repairs or replacements, hazardous substances stored, storage and handling practices, or results of tests, monitoring and inspections.

LAST ACT: 01/03/07 referred to environmental conservation

A00101 -- Lafayette (MS) -- Provides for real property circuit breaker credit and special excess automotive fuel amount assistance fund for additional funding to the low income home energy assistance program.

LAST ACT: 01/03/07 referred to ways and means

S00040 -- DeFrancisco -- Enacts the "public employee wellness act"; requires the appointment of a public employee wellness coordinator in certain state departments and agencies; requires reports to be prepared by such wellness coordinators; establishes an advisory committee on public wellness. LAST ACT: 01/03/07 referred to health

### **Inspection Connection Fee Reduction**

Under contract with the New York State Department of Motor Vehicles (NYSDMV), SGS Testcom Inc. is the provider of NYVIP equipment and information management for the New York Vehicle Inspection Program (NYVIP). Your inspection station has a contract with SGS Testcom for those services.

This message is to inform you that effective December 1, 2006, the per-call connection fee will decrease to \$0.338, from \$0.365, a net decrease of 2.7 cents per call. The new reduced fee will be reflected in your January 2007 bill.

This connection fee is for each phone call your NYVIP unit makes for an inspection. Safety inspections, including Heavy Duty, Trailer and Motorcycle inspections make one phone call. Low Enhanced and OBD II emissions inspections make two calls per inspection.

If you have questions, you may call the Help Desk at 1-866-469-8477

### **Cumberland Farms want to Extend use of Exxon Brand**

Published reports indicates that Cumberland Farms is speaking with ExxonMobil about extending their agreement for the use of the Exxon name. The current arrangement is schedule to end in February 2010.

With a few years left on the current agreement Cumberland is looking for an extension of the supply arrangements so it can grow the brand. Cumberland currently has stations in seven-states. In order to continue to offer the brand to new distributor and dealers it feels it need to know that they will be able to offer the Exxon brand in the future.

Distributors who would like to offer the brand want a seven or 10 year-commitment. Cumberland Farms, who also offer the Gulf brand, wants to extend the license by another seven years, with two more seven-year options. The company has not announced a specific times frame but it has been rumored they want to resolve the issue with Exxon in the next six months. The alternative to retaining the Exxon brand is to offer the Gulf brand. Cumberland is concerned that other brands will begin soliciting their customers.

Cumberland/Gulf sells approximately 500 million gallons a year of Exxon-branded gasoline through about 500 jobbers, dealer-owned sites, as well as 11 company-operations on the Massachusetts Turnpike. The company has 35 jobbers on its books and 60 direct dealers.

The company's current deal with Exxon, they pay a 2.5cents a gallon fee for the use the brand name and to cover the cost of processing Exxon credit card sales at Gulf locations. The discussions with Exxon/Mobil will include lowering the fee.

While Cumberland would like the fee to come down, they feel that the Exxon brand has a value and may be worth 2.5cents.

Cumberland's interest in continuing the Exxon brand comes as a surprise to some. Many felt that Cumberland was anxious to brand their Exxon stations Gulf.

### **NYVIP Unit Warranty**

*The following message was sent by DMV to inspection stations over the NYVIP unit. We are reprinting it here as a service to our members with inspection stations.*

Your NYVIP unit is covered under warranty for the expected life of the program. Please see your Station Participation Agreement for details of warranty coverage. Unfortunately, some stations have lost this benefit and have voided their warranty or been charged for items that should have been covered by improperly attempting to service or modify the unit themselves. Please review the following procedures and issues that were provided by SGS Testcom and share this information with your inspectors to ensure you maintain warranty coverage.

1. If you are experiencing a problem with the NYVIP unit, call the SGS Testcom Help Desk IMMEDIATELY at 1-866-469-8477. DO NOT attempt to fix the problem yourself. Also, please remain available to assist the Help Desk representative with troubleshooting the machine.
2. To speed up the troubleshooting process, please leave any error messages on screen. In many cases, this will help the SGS Testcom representative pinpoint the problem.
3. ANY alterations or repairs to ANY of the NYVIP unit cables will void their warranty and may void the NYVIP unit's warranty as well. If altered parts are sent back (for warranty replacement), the facility will be billed for the replaced items.
4. Repair of printers by a non-authorized individual is NOT covered under warranty. You will be charged for any repairs needed as a result of improper services performed on the NYVIP unit.
5. Any damage to the NYVIP components caused by spills of liquids, sprays or other foreign materials will NOT be covered under warranty.
6. DO NOT open the computer case. If tampered with, the warranty may be voided. NOTE: Only an IBM Technician is allowed to work on the inside of the NYVIP PC itself.
7. Purchase ONLY SGS Testcom approved parts/components (printers, cables, etc) for use with the NYVIP unit. Any parts you supply are NOT covered by SGS Testcom's warranty, and installation without prior approval may void the warranty. (Refer to Pg 7 in the Station Participation Agreement)
8. Installing of any additional software on the NYVIP unit is strictly prohibited and can void your contract with SGS Testcom.
9. DO NOT send warranty parts back on your own. If not picked up by our designated carrier within 1 week, call the Testcom Helpdesk for assistance.
10. If it is determined that a Technician must visit your facility, please have the NYVIP unit in an easily accessible area. The IBM Technician will not work on the NYVIP unit if it is in a dangerous or inaccessible area.

If you have any questions, please call the SGS Testcom Help Desk at 1-866-469-8477.

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### **Gas Retailers Get Gouged**

The Democratic 110th Congress is looking to pass legislation that eliminates the possibility of gas price-gouging at stations when it controls Capitol Hill in January, said Federal Trade Commission (FTC) chairwoman Deborah Platt Majoras at a discussion at the American Bar Association's fall conference.

Majoras told the audience of lawyers that her contacts believe there is a plan to have legislation aimed at anti-competitive gas-gouging on the books by the end of 2008. She added that such a measure has bipartisan support and it would not be surprising if Congress passed this legislation.

The head of the House Energy and Commerce Committee, Rep. John Dingell (D-Mich.), already hinted at holding committee hearings on possible price gouging by the gas retailing industry, the report stated.

However, Majoras noted that the FTC found no instances of gas-gouging among gas retailers in the U.S. so far. High gas prices in 2006 were attributed to two factors, the first being that the Organization of Petroleum Exporting Countries (OPEC) has a hand in determining the price of crude oil, and second, that demand for gasoline has been continually high despite an escalating price, Majoras said at the conference.

In May, Majoras testified at a Senate Commerce Committee hearing on the issue and commented that retailers "might let the gas run out rather than raise prices and risk facing prosecution.