GRANY

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6 WALKER WAY, ALBANY, NY 12205
(518) 452-4367 – grany@nysassrs.com – www.nysassrs.com

Newsletter To Go Paperless In November

Starting with the November issue of the bulletin, it will no longer be available in print. Instead it will be available only over the web, in both word and adobe reader (pdf) formats. The website address is

www.nysassrs.com/bulletin.html

The move to the web format is designed to better serve you by allowing us to bring you the news in a more timely fashion.

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Inside This Issue

Attention Affiliates and Members

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

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

Businesses that fail to file Form DTF 719 will have their license expire after December 31, 2009. Should a business fail to file the form on or before September 20th there is no guarantee that their new license will arrive by January 1, 2010.

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

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

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

We are therefore asking for a donation of $200 per station, affected by these filling fees, to fund the lawsuit. If you are interested in trying to have the fee increase reduced, or even eliminated, please send your station information along with your check to made out to:

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

We have retained attorneys and will commence a lawsuit in State Court on the tobacco issue. Our first goal is an injunction against the fee increase, Our state attorney, Fred Altman, has researched the corporate filing issue and is ready to file the suit. He has said that it will be a tough fight. We have joined with other groups affected by these fees to make our voices louder.

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

Tobacco Registration Fee Reduction Bill
Bill Number: A8817 – S6083
McGee – Stachowski

The subject bill amends the New York State Tax Law concerning the registration fee for a retail tobacco dealer license. It decreases the annual registration fee for retail dealers of tobacco products and vending machines.

The bill revises the unreasonable registration fees for retail businesses that sell cigarettes and other tobacco products to $200 per year. It also places a surcharge of $100 for an establishment with one point on its tobacco enforcement record and an additional surcharge of $200 for an establishment with two points on its tobacco enforcement record. Vending machines that dispense tobacco products would be registered at $200 per year, rather than the $250, $625, or $1,250 depending on gross sales fees prescribed under existing law.

The 2009-10 budget bill A.158B increased the annual registration fee that retail establishments selling tobacco products pay to the state Department of Taxation and Finance. The 2009 fee was $100 per store. Under the recently approved budget, however, the 2010 fee is $1,000, $2,500, or $5,000 per store depending on the store's gross sales of all products, not just tobacco. Service station's gross sales are artificially inflated because of the high price per gallon of motor fuel with very little of the amount being profit for the retailer.

Retailers were originally told that the purpose of this fee is to maintain a registry of retail tobacco dealers for taxation and enforcement purposes, not to generate extra revenue for the state budget or penalize tax collecting businesses for selling tobacco to adult customers in accordance with state and local regulations.

Increases of 900%, 2,400% or 4,900% in these small business fees are outrageous, particularly in the midst of the worst economic recession in 40 years. Moreover, as New York State struggles to retain jobs, this fee hike is specifically designed to force 5,000 to 10,000 retail stores to discontinue selling tobacco, sacrificing a major product that drives customer traffic and contributed to their overall success.

Supporters of this fee increase claim that having fewer licensed tobacco retail outlets would help stop smoking. Ridiculous! It would only drive more smokers to buy from unlicensed sources of tobacco, such as tribal stores, the Internet, and the black market - further reducing state excise tax and sales tax revenue.

Also, the reduction of customers going to convenience stores to buy tobacco products would result in a decrease of outlets that sell New York State Lottery tickets. The reduction of tobacco taxes and lottery sales will offset any increase in revenues realized for the increase in the tobacco fee.

The legislature must come to realize that small business is the heart of New York's business community. Draconian taxes and fees will not help us emerge from this recession. The Association fully supports this initiative and requests it be made law.

Cash for Clunkers Crosses Finish Line,
Long-Term Effects Remain Uncertain

The federal $3 billion "Cash for Clunkers" program has ended, though many dealerships pulled the plug on the program several days earlier. Some dealerships, many currently owed in excess of $1 million, voluntarily ended the program expressing concerns about being repaid in a timely fashion, or possibly at all, if the remainder of the program's $2 billion extension runs out before Monday evening. Others, in the wake of immense sales volumes and reports of a large percentage of applications being rejected by the government, are simply taking the day to fulfill all their filing requirements before the deadline.

Hailed as a success by the administration, the months and years to come will provide more insight into the program's legacy, as roughly 700,000 cars and trucks are expected to be traded in under the program. Due to what many have indicated might be little more than a time-shifting of new car sales, numbers for the coming months will likely be drastically lower than those seen under the program. Many repair shops have already noted that customers have opted to trade in cars that would have otherwise been brought in for service or repair.

Miles Driven Increases Again for June,
May's Figures Revised Downward

New data released by the Federal Highway Administration in their monthly Traffic Volume Trends indicate that vehicle miles traveled (VMT) rose 2 percent in June to 256.7, up from 251.8 billion a year ago. June would have marked the third straight monthly gain, but new figures were released for May to reflect a 0.2 percent decline, rather than the initially reported 0.1 percent increase. The April increase in VMT snapped a 16-month streak of declining figures.

Despite the recent increases, cumulative miles driven for the year are still off 6.1 billion, or 0.4 percent, through the first six months of the year compared to the same period last year. All regions and all types of roads posted VMT gains.

Zone Pricing
Bill Number A234 – S3766
Assemblyman Bradley – Senator Monserrate

The subject bill amends the New York State General Business Law, in relation to zone pricing of gasoline. It amends chapter 579 of the laws of 2008 correcting an oversight in the original legislation. Specifically the bill prohibits the use of zone pricing as a marketing device for gasoline.

The legislation known as "the consumer protection and fair and equitable motor fuel pricing act of 2008," prohibits zone pricing of motor fuel, and provides remedies for the violation of the law by the Attorney General. Violations of the law can generate a civil penalty of not more than $10,000.

Zone Pricing is a marketing technique currently used by petroleum companies. The company determines geographical price zones based on the demographics of a certain area. For example, if one area typically is more affluent than another, the tank wagon price, in other words, the price per gallon determined by the wholesaler, at which gasoline is offered for sale to the retailers may be slightly higher in that area, than in an area where the clientele is primarily a working class neighborhood.

Because the petroleum companies increase the amount charged to the service station dealers for the gasoline in those designated zones, this cost is then passed on to the consumers. Thus, the result of zone pricing is higher prices at the pump for individuals who are assumed to be able to pay more. This legislation would prohibit this discriminatory pricing policy.

Also, some suppliers control dealer's margins and actions by using zone pricing. If a dealer refuses to accommodate pricing or other requests by suppliers, the dealer's station is moved into a higher price zone and the price of motor fuel to the dealer increases causing the station to sell at higher prices.

The bill takes effect on the 60th day after it become a law; provided however, that the attorney general promulgates, on an emergency basis, all rules and regulations necessary for the timely implementation of this act on its effective date.

For the above reasons the New York State Association of Service Stations and Repair Shops, Inc. its affiliates and members support this bill and urge it become law.

We Need Your Examples

Recently the Association received the following information concerning zone pricing abuse from a downstate dealer:

- On August 20, 2009, the wholesale price of motor fuel at a Mobil station in, Jamaica, Queens: Super $ 2.39, Special $ 2.24, Regular $ 2.18.
- On August 20, 2009, the wholesale price of motor fuel at the Mobil station in Rego Park Queens: Super $2.31, Special $2.16, Regular $2.10.
- Please note up to $0.08 difference in wholesale price for product of the same brand supplied by the same company
- On August 21, 2009, the wholesale price of motor fuel at a Mobil station in, Jamaica, Queens: Super $ 2.39, Special $ 2.24, Regular $ 2.18.
- On August 21, 2009, the wholesale price of motor fuel at the Mobil station in Rego Park Queens: Super $2.34, Special $2.19, Regular $2.13.
- After the dealer complained the company raised the price of the cheaper product station instead of lowering the price of the higher priced product.

If we are to convince legislators to support and pass the zone pricing bill, we need more examples. If you have any, please contact the Association

Climate Bill's Domestic Fuel Costs

A new report finds that federal legislation designed to reduce global warming could radically lower domestic fuel production.The proposed climate bill being considered in Congress would radically lower domestic fuel production, The Wall Street Journal reports. According to a study commissioned by the oil industry, by 2030, U.S. refining production might decline 17 percent from current levels if Congress approves the climate bill with no changes.

That fall would increase U.S. reliance on foreign imports, perhaps for as much as 19.4 percent of its refined fuel, nearly double the amount of today's imports. The American Petroleum Institute ordered the study to assist in its argument that emissions restrictions will burden U.S. refineries. The report, by EnSys Energy, emphasized the not-so-rosy future for refiners.

Supporters of the climate change bill, sponsored by Reps. Ed Markey (D-MA) and Henry Waxman (D-CA), say it will bring in millions of jobs in renewable energy and help guide the country away from dirty fuels. In June, the House approved the bill by a narrow margin.

The bill would price greenhouse gas emissions with a fixed number of "allowances" for emissions. Companies would then pay for emissions beyond their allowance. The legislation also makes refiners purchase permits for almost 50 percent of U.S. carbon dioxide emissions, but the industry would only get around 2.25 percent of the total emissions allowances. The electric sector, which also produces a lot of greenhouse gases, would receive more allowances.

"Equity is really what we're asking for," said API President Jack Gerard. If America puts a cost on carbon emissions, domestic production would drop, the study found.

FDA Establishes Tobacco Committee

The Family Smoking Prevention and Tobacco Control Act, legislation, giving the U.S. Food and Drug Administration (FDA) power to regulate the tobacco industry, has led to the establishment of the Tobacco Products Scientific Advisory Committee (TPSAC).

The TPSAC recommendations to the FDA on health and other issues relating to tobacco products. The committee will also identify the effects nicotine yield alteration; research the impact of menthol's use in cigarettes; and advise applications on the descriptor "light," on tobacco products.

The TPSAC will consist of 12 members. There will be nine voting and three non-voting members, and of the nine voting members, seven will be health care professionals. One will be an officer or employee of a state, local government or the federal government, and the last will be a representative of the general public, the FDA stated.

The three non-voting members will be identified with industry interests, including one representative of the tobacco manufacturing industry, one from tobacco growers and one from the small business manufacturing industry.

GRANY
Gasoline & Repair Shop Association of New York
Affiliated with the NYS Association of
Service Stations and Repair Shops, Inc.
6 Walker Way
Albany, NY 12205-4946

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MasterCard, New Zealand Agree On Interchange Fees
Now, Credit Card Issuers Can Individually Set The Interchange Fees.

MasterCard joins its competitor, Visa, in settling with the New Zealand Commerce Commission (NZCC) regarding claims the credit card company violated the Commerce Act, the Wall Street Journal reports.

Yesterday, MasterCard signed an agreement with NZCC that will require the credit card company to change the way it does business in New Zealand. Earlier this month, Visa settled with NZCC on similar terms.

Now, credit card issuers can each decide how much to charge for interchange fees for transactions using their cards. MasterCard has set a maximum interchange rate.

The commission also pointed out that the agreement allows merchants to assess those surcharges directly to consumers. Retailers must let consumers know about any additional costs for using credit cards or specific types of cards. The charges have to have a reasonable correlation to the retailer's costs of processing the MasterCard payments.

In addition, merchants will be able to add incentives for other types of payments.

"The agreed changes to the MasterCard rules will boost competition in the provision of credit card services to retailers in New Zealand," said NZCC Chairman Mark Berry. "The Commission is pleased that MasterCard has agreed to settle the Commission's claims on the same basis as Visa."