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# NYS ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC. *STATE INSURANCE FUND SAFETY GROUP 536 MEMBERS*

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6 WALKER WAY, ALBANY, NY 12205  
(518) 452-1979 state@nysassrs.com www.nysassrs.com

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## **S.973 (Alesi) Zone Pricing Reported Out of Committee**

The Senate Consumer Protection Committee reported bill S.973 to the Senate Calendar. The bill would amend the General Business Law so as to prohibit zone pricing of gasoline. It defines zone pricing to mean arbitrary price differences within the same market area based on what consumers are likely to pay or where the effect is to injure competition. It includes a penalty of five thousand dollars for each day or part thereof during which the violation continues. The civil penalties provided by this law shall be recoverable in an action instituted by the Attorney General on his / her own initiative.

Under "Zone pricing," the petroleum company determines geographical price zones based on the demographics of a certain area. The wholesale prices are higher in an area where the supplier feels they can charge such prices. For example, if one geographic area is more affluent than another, the tank wagon price is likely to be higher. This cost is then passed on to the consumers. Thus, the result of zone pricing is higher for individuals who are assumed able or willing to pay more.

A second possible use of zone pricing is to charge different tank wagons to two stations in the same area, giving significant competitive advantage to the station with the lower wholesale price. This tool has been used in the past, driving one station out of business, and transferring their customer base to the second station.

This legislation would prohibit both of these discriminatory pricing policies. The Association will monitor this bill closely.

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## **www.nysassrs.com Has A New Look**

In order to better serve its members, the State Association has completely overhauled its web site. The changes however are much more than a simple facelift. The Bulletin Board (see insert) is designed to keep the industry better informed of issues as they break. Convenience Stores, Repair Shops, and Service Stations all have their own page to peruse for the latest news that they need. There are links to our affiliate web sites, as well as to New York State and United States regulatory agency web sites, ensuring that our web site is a portal to all the places you want to go to keep your business in tune. Each week the billtrack, a summary of legislation we are monitoring in the New York State Senate and Assembly is updated. You may want to check out our classifieds for a deal on property or equipment.. With back issues of newsletters, articles on labor issues and an insurance corner and much more, we invite you to come visit us on the web. You may just want to make us your home page.

## **A.159 (Destito) Prohibiting Insurers from Owning Stake In Repair Shops**

The bill, which in the Assembly Committee on Transportation, prohibits insurers providing collision or comprehensive auto insurance in New York State from owning or acquiring any proprietary interest in an licensed motor vehicle repair shop.

Automobile insurance companies in New York are embarking on a program of directing repairs on vehicles they insure to selected repair facilities. One insurance company has purchased a building and is operating a repair shop, contrary to State law. This leaves the insured in a position of accepting a repair that is performed by the insurance company, which may or may not be of poor quality. It also harms independent repair shops, which have been doing repair for many years. The legislator in its wisdom does not permit insurance companies to direct repairs to any specific facility. This is a new concept and could grow and cause unfair business practices by many insurance companies.

The bill attempts to prevent what could become a national trend of insurance company ownership and control of a collision repair shop industry. This trend could cause major problems for the motoring public who will eventually be forced to go to a repair shop which is owned and operated by the company that insures their vehicle.

The association strongly supports enactment of this legislation and will monitor it closely.

**A.188 (Lafayette) - S.1556 (LaValle),  
Extending the Time Frame for Faulty Repair Complaints**

The subject legislation has been sent to the Transportation Committee in both houses. It authorizes the Commissioner of the Department of Motor Vehicles to accept complaints against a motor vehicle repair shop up to 90 days or 3,000 miles after the completion of repairs or 30 days after the discovery of a faulty repair, whichever is later. While the bill appears to prevent complaints more than six years after the repair, the legislation actually authorizes the Commissioner to accept complaints anytime, extending liability beyond reasonable limits and encouraging unnecessary litigation.

The Commissioner of DMV may already accept complaints up to 90 days or 3,000 miles after the completion of repairs, whichever is later (15 N.Y.C.R.R. §82.10). This legislation would extend, until 30 days after the discovery of a “faulty repair”, the right to file a complaint with the Commissioner. Because consumers already have sufficient time after a repair to file a complaint with the Commissioner against a motor vehicle repair shop, this legislation is simply not necessary.

The effect of applying a discovery based statute of limitations to motor vehicle repairs would be to extend liability beyond reasonable limits, even if there were an outer limit of six years. No other small business engaged in repairs is subjected to such a statute of limitations for repairs.

The Motor Vehicle Repair Shop Registration Act was intended to provide consumers with a less expensive method of seeking to rectify complaints than undertaking litigation. Because consumers believe under the law they have a right to complain about a faulty repair, it may increase the chances they will bring litigation over a repair, regardless of the cause. In addition, the Commissioner is authorized to assist in settling disputes between the complainant and the repair shop. Repair shop owners, who are also licensed by the Commissioner, will continue to be placed in an awkward position of forced settlement. Increasing the possibility of litigation in this area is both unnecessary and costly to businesses in New York State. At a time when New York State is attempting to encourage businesses to stay in New York, this legislation seeks to impose yet another obligation and cost on businesses in New York.

For these reasons, the Association opposes this legislation.

**S.2365 at request of the Governor - Indian Land Claim Settlements**

This bill authorizes the settlement of the Seneca-Cayuga Tribe of Oklahoma, Cayuga Indian Nation, Stockbridge-Munsee, Oneida Tribe of Indians and Akwesasne Mohawks Indian land claims; recognizes negotiated settlement of these land claims and jurisdictional status of land.

Since 1974, the Association has been seeking a relief for businesses from loss of revenue due to untaxed sales of tobacco and motor fuels to non-Indians on Indian reservations. Most of

our membership, in areas near tribal lands, have been forced to close their doors due to the existence of this unfair playing field. This tax cheating epidemic drains more than one-billion dollars in sales annually from licensed non-Indian retailers, and deprives the state of more than five-hundred-million dollars a year in cigarette tax revenue alone.

The tribal agreements outlined in Senate Bill 2365 are supposed to be three-legged stools, resolving long-standing land claim, casino, and taxation disputes. In reality, S.2365 rewards years of open defiance of the tax law by granting certain tribes millions of taxpayer dollars, gambling casinos, free hydropower and free SUNY tuition. Elsewhere in the state, the Tax Department padlocks the door, seizes the assets, and throws those in jail who commit such blatant tax evasion.

The Governor has proclaimed, "Each of the agreements will ensure a level playing field for Indian and non-Indian vendors." However, the three out-of-state tribes that will get new casinos in Sullivan County don't currently operate stores in New York. Rather than restoring a level playing field there, it will bring new competitors into that retail market. The other two tribes – the Cayuga and the Mohawk – likewise agree to collect and remit taxes on sales at their Catskills gaming facilities, but not at the retail outlets they currently operate upstate. The proposed compact with the Cayugas, which the bill would ratify, says the state and tribe "shall negotiate a tax parity compact" covering their sales of cigarettes, gas, et cetera. But the term "tax parity" is left undefined. Nobody seems willing to say what "tax parity" really means. It doesn't mean a level playing field.

If there truly were a level playing field, the tribes would not only collect and remit state and local taxes on cigarettes, they would get a tobacco license from the Tax Department, abide by the state minimum pricing law, remove self-serve displays of tobacco, sell only cigarettes bearing state tax stamps, submit to undercover health department inspections to detect sales to minors, and incur fines and license suspension for underage sales. If there were a level playing field, the tribe would register its underground fuel tanks with DEC, periodically test them for tightness and report the results to DEC, allow the sealer of weights and measures to test the gas pumps to assure consumers that a gallon is a gallon, and collect and redeem nickel deposits on beverage containers.

In 1997, New York State initiated an effort to collect taxes from Native Americans on sales to non-Indians. Their efforts were greeted with violence. The administration backed off as a result of fears that the violence would escalate. We cannot reward those who blatantly refuse to accept the law of the land. We cannot negotiate what is rightfully ours for the promise that it will stop being taken from us. It is time to enforce the laws which are on the books. It is time to collect billions of dollars in past due taxes on all Native American sales to non-Indians inside New York States borders.

Thirty years is more than long enough for New York State to ignore the disruption of its economy by criminals. The New York State Association of Service Stations and Repair Shops strongly opposes enactment of this legislation.

## **New York State Service Stations Benefit from Pollution Assessment Program**

Pass by a service station or convenience store and invariably one thinks of handy shopping, quick snacks and unfortunately, rising gas prices. But what isn't always seen is the commitment many owners of these stations have to developing and maintaining environmentally responsible enterprises that efficiently reduce the potential for contamination of the air, water and land, and help conserve natural resources.

The New York State Association of Service Stations, supported by a grant from Empire State Development, is undertaking a pollution prevention program for service stations, auto repair shops and related businesses to further aid retailers in this industry meet these commitments.

This new program, called the "Pollution Prevention," or "P2" Program, is intended to identify possible changes in equipment, processes or other practices that can prevent pollution and save business owners money.

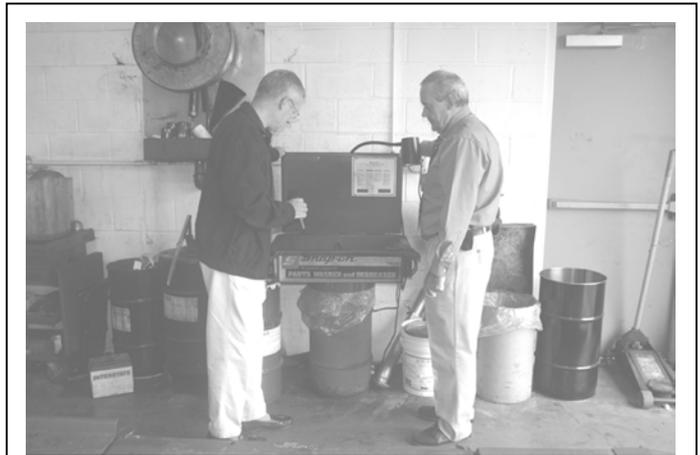
Together with WOH Environment and Energy Solutions, TRC Solutions, Allen Engineering and the New York State Economic Development Council, they have designed the program with simple goals:

- Save money for business owners by reducing the potential for normal business operations to produce waste, consume unnecessary energy or otherwise damage the environment;
- Recognize businesses that participate in the program and encourage them to continue operating in an environmentally friendly manner; and,
- Demonstrate that the program works by totaling up the dollars saved and the amount of pollution prevented.

P2 is a completely voluntary program, free of charge to service station dealers who are members of the New York State Association of Service Stations and Repair Shops and affiliated trade groups. The assessment is not a compliance audit. It simply encourages good business practices that protect the environment and save proprietors money.

Participation requires only a few hours of the business proprietors' time. It begins with a call to schedule a convenient time for an assessor to visit. Once the proprietor has provided, in advance, background information about their business goals and operations, they meet on-site at their business locations with the P2 experts who will conduct a P2 Assessment of their business. The assessor — a professional environmental consultant — develops his/her recommendations by reviewing the information provided by the business owner or manager, and then inspecting and assessing the facility using a basic "checklist" that has been developed for reviewing customary items.

Independent observations are made about such items as materials usage and handling, the structure and practices in the building, energy usage, and cleaning and waste disposal practices. Once the assessment is completed, recommendations for improvement are then given to the business owner or manager, with an explanation, for consideration. The P2



*P2 Project Director, Peter Lanahan, discusses aspects of the Pollution Prevention Program assessment with Bruce Mance, proprietor of Guilderland Mobil, Inc., and member of the New York State Association of Service Stations & Repair Shops, Inc.*

Assessment Team is available to answer any questions the business owner or manager may have on the report, recommendations, and implementation. These recommendations can materially add to the bottom line of a small business.

Each recommendation is supported by a rationale that includes the estimated initial costs of adopting the recommendation and the projected long-term savings, as well as an outline of the potential environmental benefits that can result.

While these recommendations will be encouraged, there is no obligation that they be adopted. WOH Environment & Energy Solutions contractors and trade association field representatives are available to assist the business owners in obtaining State grants or private sector funding necessary or helpful in making investments in new equipment or adopting any process changes explained in the recommendations. One such funding program — the Environmental Investment Program — is administered by Empire State Development. Another is called the Energy Smart program, operated by the New York State Energy Research and Development Authority.

"The service station/repair shop industry of today is light years away from when I was in business. We thought of marketing first, second and third. But today we think of our environment obligations first. It's too expensive not to," said Ralph Bombardiere, Executive Director of the New York State Association of Service Stations & Repair Shops, Inc.

There are numerous examples where P2 programs have helped protect the environment and save money. At ITT Automotive-Fluid Handling Systems in Gates, NY, an environmentally friendly wash system replaced one using hazardous chemicals. The new process and other innovative process changes saved more than \$600,000 annually in utility charges, disposal costs, labor and materials. Smaller businesses also benefit. Bob's Transmission and Clutch in Simi Valley, CA, switched from solvent to aqueous parts cleaning, saving \$7,600 after 8 months, with an initial investment of \$5000 for the new unit.

NEW YORK STATE ASSOCIATION OF  
SERVICE STATIONS AND REPAIR SHOPS  
6 Walker Way  
Albany, NY 12205

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### **Pollution Assessment Program (cont.)**

The value of the P2 Assessment is estimated to be several hundreds of dollars, which includes the time of the assessor to do the review and write a report, plus the travel costs and the overhead of running the P2 Program. However, the assessment is free to members of the New York State Association of Service Stations and Repair Shops under the Empire State Development program as they are committed to helping their members protect the environment and save money for small businessmen and women. "The Association is proud that it is able to provide this program. Now all that is needed is for the industry to get on board and take advantage of this extraordinary program where there is a win-win situation for not only the Association, but each and every individual who participates," said Mr. Bombardiere.

A number of auto repair shops in the eastern half of New York State have participated in this process during the last few months. The P2 Assessment teams have noted recommendations in areas such as Material Use and Storage, Air and Water Pollution Control, Lighting Equipment and Heating Systems. Examples include:

- exchanging T-12 fluorescent lighting with T-8 fluorescents
- replacing existing heating systems with more efficient models
- installing occupancy sensors and/or mechanical timers
- substituting an environmentally friendly and less expensive coated magnesium chloride salt for calcium chloride salt
- posting stickers or placards around fueling islands to discourage topping off" tanks, eliminating the potential for fuel spillage
- the installation of drum and bulk storage containment

In recognition of the community benefits of membership in the P2 Program, the New York State Association of Service Stations and Repair Shops recognizes program participants by awarding them a special logo for display in customer areas, and also publicizes each member's participation the program through news articles and special events.

A free telephone service — 1-800-801-9112 — has been established where any member of the New York State Association of Service Stations and Repair Shops, Inc. can schedule an assessment. Members may also contact their Field Representative at the Association for assistance in scheduling an assessment.