GRANY

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ATTORNEY'S CORNER
By Larry Culley

There is a very important issue which has been arising more and more lately, primarily in N.Y.C., but in danger of spreading elsewhere.

In N.Y.C., the Department of Consumer Affairs has declared war against the sale of tobacco products, items which can form a significant portion of the revenue in a Dealer's convenience store, snack shop or even a kiosk. First, if you have two or more violations issued against your City tobacco license you can have your City tobacco license revoked. Recently, a sales clerk of a member of GASDA committed a violation in July, 2015, by the sale of a loose cigar, which is also forbidden by N.Y.C. regulations. More than two and a half years later another sales clerk of the member sold cigarette rolling papers to a minor in an undercover sting operation. Based on that second violation occurring within three years of the prior violation the member had his license revoked. The Administrative Law Judge found that the member had not done enough to prevent a reoccurrence of a tobacco license violation at the member's shop during the past two and a half years and used this as a basis for revocation, a very harsh and unwarranted punishment, and one that might cost the member a great deal of money. The decision is being appealed but no one can predict the outcome.

In addition, N.Y.C. has recently revised its tobacco laws, rules and regulations to provide that the outlets which sell tobacco products within the City will be cut in half. This will be accomplished by forbidding current tobacco license holders to transfer their licenses when they seek to sell their businesses or otherwise terminate their operations at their licensed locations. Of course, any facility which has its license revoked will not be permitted to acquire another tobacco license until perhaps the day (if it ever comes) when N.Y.C licensed tobacco outlets are reduced by 50%.

Currently, these onerous tobacco products regulations only apply in N.Y.C. But, like everything else bad for business, you can be sure that other cities and counties in N.Y.S. are watching developments with interest with an eye toward introducing these regulations in their own bailiwicks. Big Nanny doesn't want the average guy or gal to enjoy a drink or a drag to relax at day's end. Instead of waiting for usage to perhaps drop over time by the citizen's own volition, Big Nanny will cram these regulations down your throat whenever it gets the chance. Be vigilant, wherever you reside or conduct business in N.Y.S. Protect your business or Big Nanny will be coming for you! Always remember: If you are in business and are NOT politically active you ARE a fool!

The contents of this column are not intended as legal advice. I give no legal advice without an appointment and interview with a client.

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Labor Poster Scam

One of our members had an individual enter his station, who approached the cashier, flashed a badge, and told the employee he was from the Labor Department. The individual told the employee the facility needed Labor Posters and that he would sell them to him for $50. The employee purchased one.

Obviously this individual was not from the Labor Department.

The Clock Is Counting Down

On Menu Labeling Enforcement

With the May 8 enforcement date of the Food and Drug Administration's (FDA) new menu labeling requirements drawing near, many retailers are asking a single question: Will I be ready in time?

Establishments that are covered by the new regulations include chains with 20 or more locations that have the same name and sell prepared food, with similar food sold at each site. This includes c-store chains such as Sheetz or Wawa, but Kantor noted the FDA could also take the position that otherwise-unaffiliated, non-chain stores that share a branded fuel must also comply.

If the c-store is separately branded with its own unique brand different than the fuel brand, however, the FDA has said it would be considered a separate establishment. Likewise, "a facility within a facility," such as a branded foodservice franchise like Subway, is considered to be separate. But if that brand exists at 20 or more locations, the franchisee is responsible for being in compliance.

A typical point of confusion is toppings vs. condiments. The former is required to have calorie information, while the latter is not. To determine whether something is a topping, retailers should consider: whether it is on display or listed on the menu; whether it is self-serve; whether a customer asks for it; and whether it carries an extra charge, which is a key divider.

Kantor stressed that retailers must also remember that dispensed beverages are covered under the FDA requirements. "Absolutely yes," he said. Dispensed beverages are more complicated, as the average soda fountain includes multiple beverages and multiple sizes.

Retailers have flexibility in how they present calorie counts on displays or menus, but the font must be the same size as the item name or price, and the color must be conspicuous and not designed to blend in with the background. Combination meals that have multiple calorie counts can be presented with a slash between them for two options, or as the low/high range if there are more than two options.

Certain products may come down to a judgment call. Kantor used the example of Dunkin' Donuts: its coffee by the pound does not have a calorie count listed, as it is not viewed as an immediate-consumption product, but its Box O' Joe does include a calorie count, as it is generally brought elsewhere to be consumed in the immediate future.

Packaged foods and beverages may be sold alongside prepared food, such as when potato chips are displayed in a bin attached to a warmer to encourage bundling. However, the nutrition labeling is the responsibility of the manufacturer, not the retailer. And some manufacturers don't print this information on the item packaging due to size. If such products are standard items, retailers must be able to provide the nutrition information.

For the actual labeling, retailers must display the calorie counts, but should be able to provide upon request additional information such as sodium and calories from fat or sugar, which are on a typical nutrition facts label.

"The key is people need to be able to see the information before they've made their final decision," Kantor said.

To calculate nutrition information, retailers can rely on nutrient databases, cookbooks, laboratory analyses, nutrition facts on the labels of packaged foods, and "other reasonable means," as well as information from suppliers. They should always retain such documentation.

Ultimately, if penalties are incurred due to noncompliance, whoever has "authority or supervisory responsibility" over the preparations will be responsible. For franchisees, Kantor advised them to check their franchise contracts for more information on this.

American Express Trims Discount Rates

In April, all major credit card companies will no longer ask for signatures for transactions made with chip cards, Fox News reports. The change has been coming slowly since cards with security chips first appeared in the United States two years ago.

Experts have touted chip cards as more secure than magnetic strip cards, since the technology makes counterfeiting the cards extremely difficult. Signature authentication, which has been around for years, hasn't added to card security. "We assign a value to the signature. We think there are some sort of legitimacy to signing a receipt. The reality is it's just not a robust form of security," pointed out Bankrate.com analyst Robert Barba.

Cybersecurity expert Alan Brill, Kroll senior managing director, added that financial firms already have security systems to prevent fraud, so having signature authentication is unnecessary. Card companies make "risk decisions a million times an hour," he said, while their "systems dynamically do a good job" at reducing fraud.

Customers already prefer debit cards to credit cards, according to a recent study. Debit cards typically have personal identification numbers (PINS) associated with them, rather than signatures. National Retail Federation spokesman Craig Shearman said that "a chip and a PIN provides a full amount of security."

Apps, Loyalty Programs Keep Gas Prices Low

Loyalty programs and smartphone apps can give consumers savings at the pump, TCPalm reports. That's good news for drivers, as gas prices start to creep up ahead of the summer driving season.

"There is no commodity that people are more price sensitive toward than gas prices," said Jeff Lenard, NACS spokesman. "It goes beyond a couple cents a gallon. There's a real emotional connection to gas prices."

During the past three years, gas prices have hovered under $3 per gallon for much of the United States, but now are ticking up. AAA noted that the national gas price average of $2.66 is 11 cents higher than two weeks ago, and the highest average in close to three years. "If consumers can save a few cents a gallon, it feels like victory," Lenard said.

Apps like GasBuddy and GetUpside provide ways for consumers to save while filling up. “People turn to us constantly to help them find cheap gas and save money on gas,” said Allison Mac, director of marketing and communications for GasBuddy, which recently announced a partnership with Shop Your Way from Sears.

Plenti, BP Driver Rewards, Cumberland Farms’ SmartPay, Shell Fuel Rewards, Speedway Speedy Rewards, RaceTrac Rewards, Sheetz, Wawa and 7-Eleven all offer rewards to loyalty card customers, either at the pump or in-store or both.

Sunoco Completes Conversion of 207 C-Stores to Single Commission Agent

Sunoco LP, a nationwide fuel distributor, said that it has completed the conversion of its 207 retail sites located in certain West Texas, Oklahoma and New Mexico markets to a single commission agent.

With this conversion complete, Sunoco's transition out of the majority of its convenience store operations in the continental U.S. is effectively complete. Sunoco will continue to operate sites along the New Jersey and New York toll roads along with its retail operations in Hawaii.

Under the commission agent model, Sunoco owns, prices and sells fuel at the sites, paying the agent a fixed cents-per-gallon commission.

In addition, Sunoco continues to own approximately two-thirds of this portfolio in fee and will receive rental income from the commission agent, who will conduct all operations related to the convenience store and any related restaurant locations.

Sunoco LP is a master limited partnership that distributes motor fuel to approximately 9,200 convenience stores, independent dealers, commercial customers and distributors located in more than 30 states. Sunoco LP's general partner is owned by Energy Transfer Equity.

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FTC Approves Final Order Restricting 7-Eleven's Purchase of Sunoco Stores

The Federal Trade Commission approved a final settlement of its anti-trust charges against 7-Eleven Inc.'s Tokyo-based parent in the $3.3 billion acquisition of 1,100 Sunoco gas stations.

The FTC said in its complaint that the purchase proposed by Seven & i Holdings Co. would undermine competition in 76 local markets across 20 metropolitan statistical areas.

Its final order requires 7-Eleven to sell 26 retail fuel sites it owns to Sunoco, is required to keep 33 gas stations 7-Eleven initially intended to buy, according to an announcement.

Sunoco is instead going to convert those stations from company-operated units to commission agent sites and will "have full control over fuel pricing and supply at all of these locations," the FTC said.

The commission said it approved the order 2-0 after a public comment period.

--Donna Harris, dharris@opisnet.com

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Sunoco to Acquire Upstate N.Y. Wholesale Fuels Business

Sunoco LP is making good on its plan to become a leading national fuel distributor.

The company inked a definitive agreement to purchase certain assets from Superior Plus Corp. for approximately $40 million plus working capital adjustments.

The transaction consists of a network of approximately 100 dealers, several hundred commercial contracts and three terminals, which are connected to major pipelines serving the Upstate New York market.

The wholesale fuels business sells approximately 200 million gallons of fuel annually through multiple channels. The three terminals have a combined 17 tanks with 429,000 barrels of storage capacity.

The acquisition is subject to customary closing conditions and is expected to close this month.

The deal builds on Sunoco's strategy to shift its focus from retail to fuel. The company embarked on the transformation a year ago when it reached an agreement to sell more than 1,000 retail locations to Irving, Texas-based 7-Eleven Inc., as CSNews Online previously reported.

The 7-Eleven transaction included a 15-year take-or-pay fuel supply pact with a 7-Eleven subsidiary, under which Sunoco will supply approximately 2.2 billion gallons of fuel annually. This supply agreement has guaranteed annual payments to Sunoco, provides that 7-Eleven will continue to use the Sunoco brand at currently branded Sunoco stores, and includes committed growth in future periods.

As a result, Sunoco moved roughly 20 percent of its wholesale fuel volume to 7-Eleven. Sunoco's branded distributors account for 31 percent of the volume, followed

EPA Determines Current Emissions Standards Are Not Appropriate

Greenhouse gas (GHG) emissions standards for cars and light trucks for model years 2022-2025 and Corporate Average Fuel Economy (CAFE) standards are getting a facelift.

After completing the Midterm Evaluation (MTE), the U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt determined the current standards are not appropriate and should be revised — a process the agency will conduct with the National Highway Traffic Safety Administration (NHTSA).

"The Obama administration's determination was wrong," Pruitt said. "Obama's EPA cut the Midterm Evaluation process short with politically charged

expediency, made assumptions about the standards that didn't comport with reality, and set the standards too high."

In addition, the agency is still reviewing emission standards in California, according to Pruitt.

Under the Clean Air Act (CAA), EPA sets national standards for vehicle tailpipe emissions of certain pollutants. Through a CAA waiver granted by EPA, California can impose stricter standards for vehicle emissions of certain pollutants than federal requirements. The California waiver is still being re-examined by EPA, according to the agency.

“Cooperative federalism doesn't mean that one state can dictate standards for the rest of the country. EPA will set a national standard for greenhouse gas emissions that allows auto manufacturers to make cars that people both want and can afford — while still expanding environmental and safety benefits of newer cars," Pruitt said. "It is in America's best interest to have a national standard, and we look forward to partnering with all states, including California, as we work to finalize that standard."

RE-ESTABLISHING THE MTE PROCESS

As part of the 2012 rulemaking establishing the model year 2017-2025 light-duty vehicle GHG standards, EPA made a regulatory commitment to conduct an MTE of the standards for model year 2022-2025 no later than April 1, 2018. The evaluation would determine whether the standards remain appropriate or should be made more, or less stringent.

The Obama administration issued a final determination on Jan. 12, 2017, days before leaving office. Since then, the auto industry and other stakeholders sought a reinstatement of the original MTE timeline, according to the EPA.

In March 2017, the EPA and the U.S. Department of Transportation re-established the MTE process and in August the agency reopened the regulatory docket and asked for additional information and data relevant to assessing whether the GHG emissions standards remain appropriate, including information on: consumer behavior, feedback on modeling approaches, and assessing advanced fuels technologies.

The EPA also held a public hearing on this topic.

INDUSTRY REACTION

In October, Growth Energy submitted comments to the EPA in support of the use of higher biofuel blends. The organization also filed comments in August with the National Highway Traffic Safety Administration to inform its preparation of an environmental impact statement to analyze the potential environmental impacts of new CAFE standards for model year 2022-2025 light-duty vehicles.

"For several years, Growth Energy has strongly emphasized the fact that fuels and engines are a system and that high-octane fuels — such as ethanol blends like E25-E30 — should be part of this discussion," Growth Energy CEO Emily Skor said.

"We have provided a wealth of data to show that midlevel ethanol blends can be used by automakers to produce smaller, more efficient engines that will help meet future vehicle standards. We will continue to remain engaged with automakers and government stakeholders to ensure that biofuels are part of any long-term plan for engine efficiency and greenhouse gas reduction," she added.

The American Coalition for Ethanol (ACE) CEO Brian Jennings called the decision an opportunity for high-octane fuel to play a role in helping automakers reduce GHG emissions from automobiles.

"The previous administration refused to acknowledge the inescapable link between tailpipe emissions and fuel, overlooking the role fuels with a higher octane rating than today's gasoline could play in reducing GHG emissions and improving fuel economy," Jennings said.

He added ACE members are encouraged that Pruitt changed course and sought information on the potential for high-octane blends. The coalition also noted Bill Wehrum, assistant administrator with the EPA's Office of Air and Radiation, brought up ethanol's octane benefits in his meeting with ACE members during its recent Washington, D.C. fly-in.

"Some might argue [the EPA's] decision means EPA will eventually relax GHG standards allowing more gasoline use and tailpipe pollution, but not if the new standards pave the way for E25-30 high-octane fuel in future engines," Jennings explained. "Ethanol-enriched, high-octane fuel enables automakers to simultaneously reduce GHG emissions and improve fuel economy. We are confident E25-30 blends will be the most affordable way to thread that needle."

ACE also outlined steps for the EPA to take during its next rulemaking process to enable high-octane fuel to play a role in helping automakers meet future GHG standards, including:

Approve an alternative certification fuel with 25-30 percent ethanol and a minimum octane of 98-100 Research Octane Number (RON) so automakers can begin testing future engines on a high-octane blend.

Establish a minimum octane performance standard for fuel in the range of 98-100 RON.

Restore credits to automakers for the manufacture of flexible fuel vehicles and consider a new incentive for future engines designed to achieve optimal efficiency on high-octane fuels.

For too long, our light-duty vehicle fuel economy and GHG emission regulations have focused exclusively on the vehicle. We have repeatedly encouraged EPA, NHTSA and the California Air Resources Board to also consider the important impact of fuels on fuel economy and emissions," said Bob Dinneen, president and CEO of the Renewable Fuels Association (RFA).

According to Dinneen, RFA also submitted information to the EPA — providing evidence that high-octane, low-carbon ethanol blends in optimized engines would be the lowest-cost means of achieving compliance with future fuel economy standards.

"We are glad to see EPA took notice of that information, and we again urge EPA and NHTSA to use the upcoming rulemaking to establish the roadmap to broad commercialization of high-octane fuels in optimized internal combustion engines," he said. "As we pointed out in

previous submissions to the agencies, higher octane fuel would unleash and enable a wide pallet of low-cost engine technologies that offer proven fuel efficiency and GHG emission improvements at a low cost for consumers."

D.C. Circuit Rules in Favor of the Center for Tobacco Products

The U.S. Court of Appeals for the District of Columbia ruled that the federal Center for Tobacco Products (CTP) may charge retailers with more than one regulatory violation when multiple violations are observed during a single inspection. The court also ruled that the CTP may issue warning letters following the first failed inspection without providing an opportunity for a hearing at that time, provided that the retailer ultimately has an opportunity to be challenge the charged violations—even if that opportunity does not arise until months or years after the first failed inspection.

The appeal was brought by Orton Motor,. Orton was charged in 2015 with three violations of the Tobacco Control Act regulations—one violation arising out of a failed inspection in July 2013 and two violations arising out of a May 2015 inspection. Orton argued that the statute's escalating-penalty schedule and notice requirements limited the agency to charging one violation per inspection, regardless of whether the agency's investigator observed multiple regulatory infractions at the time. Orton also argued that it was unlawful and against due process to count the violation observed during the July 2013 inspection toward the penalty calculated two years later in 2015 when Orton was not given an opportunity to have a hearing to challenge the violation in 2013. An Administrative Law Judge with the FDA agreed with Orton, but the FDA Appeals Board did not. The D.C. Circuit, unfortunately, agreed with the Appeals Board.

The court's opinion gave substantial deference to the CTP's interpretation of the law.

Altria Leads First Round of List Price Hikes for 2018

Altria Group Inc. is leading the pack when it comes to the first cigarette list price hikes of the year, and this one is higher than expected.

Wells Fargo Securities LLC's industry contacts are reporting that Altria's Philip Morris USA is implementing a 9-cent increase on each cigarette pack — or 90 cents per carton — across all its brands, including Marlboro.

The 2-percent to 3-percent hike is higher than the tobacco company's typical 7-cent to 8-cent jump, according to Bonnie Herzog, managing director of tobacco, beverage and convenience store research at Wells Fargo Securities.

he increase goes into effective with shipments on or after March 25 and, from a timing perspective, falls in line with Altria's typical practice of raising cigarette list prices every six months, she noted.

"We had been anticipating this price increase based on feedback in our 'Tobacco Talk' surveys and therefore maintain our [earnings per share] estimates on Altria despite the slightly higher per pack pricing as we expect Altria to promote a little more aggressively to improve Marlboro share," Herzog explained.

She added Reynolds American Inc., an indirect wholly owned subsidiary of British American Tobacco plc, and ITG Brands LLC, the U.S. subsidiary of Imperial Brands, are expected to follow suit — but the increases are not expected to be as high.

The trend of increasing list prices "is important given ongoing secular declines in volume, which will likely face even greater pressure under the Food and Drug Administration's effort to lower nicotine levels in combustible cigarettes, an event we continue to view to be several years away given the complexities of issues ahead," Herzog said.

Richmond-based Altria Group Inc. is the parent company for Philip Morris USA, John Middleton, U.S. Smokeless Tobacco Co., Nu Mark and Ste. Michele Wine Estates. The brand portfolios of Altria's tobacco operating companies include Marlboro, Black & Mild, Copenhagen, Skoal, MarkTen and Green Smoke.

DMV Record Retrieval

DMV record retrieval is available to association members and affiliates at a cost of $12 per record. Additionally, you may order DMV certified paper abstracts of driver's license, vehicle registration, and vehicle title records for an additional fee of $2 per abstract. Please call 518-452-4367.

Attention Inspection Stations

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

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

All Petroleum Bulk Storage Facilities

YOU WERE REQUIRED TO DESIGNATE A CLASS A AND/OR B AUTHORIZED OPERATOR TO NYS DEC NO LATER THAT OCTOBER 11, 2016

THIS WAS MORE THAN A YEAR AGO

If you have not done this you are now subject to a $500 penalty from NYS DEC. This may now be unavoidable

If you have not reported this information to NYS DEC as of yet do so immediately. Communicate this information to DEC at operatortraining@dec.ny.gov

Or call the association office

Publication 509

(4/18)

Department of Taxation and Finance

Minimum Wholesale and Retail Cigarette Prices

As a result of price increases by manufacturers, the minimum wholesale and retail prices for certain brands of cigarettes in New York State have changed.

The minimum price enforcement date for this notice is April 2, 2018.

Minimum wholesale and retail cigarette prices must be determined by referencing manufacturers' list prices. Common list prices for certain standard brands are listed below. When a minimum price change occurs because of a manufacturer's price increase or decrease, the enforcement date of the change is the second Monday after the price change is announced. If a price change is announced on a Monday, that day is considered to be the first Monday. The enforcement date is in effect whether or not a manufacturer notifies the Tax Department of the price change.

After one manufacturer announces a price change, if other manufacturers also change their prices **before the second Monday after the initial price change is announced**, then those subsequent price changes will also be effective for enforcement purposes on the same second Monday.

When a minimum price change occurs because of an excise tax rate change, the enforcement date of the change is the date the rate change takes effect.

To determine the minimum wholesale or retail prices for any cigarette brand, you must refer to the manufacturer's price list. If you are unable to obtain the price list, please ask your supplier for assistance. In addition, Publication 508, *Minimum Price List for Cigarettes,* can help you determine the minimum prices of standard and nonstandard brands of cigarettes sold by the carton (20 cigarettes per pack, 10 packs per carton). For copies of Publication 508, see *Need help?*.

The New York State minimum prices relating to each of the seven currently applicable manufacturers' list prices for standard brands are printed in the tables below.

You must charge your customers the minimum price or any price in excess of the minimum price.

You may not offer merchandise for sale as a tie-in with cigarettes if the total price of the items sold is less than the minimum price of cigarettes plus your cost for the other merchandise.

New York State (sales outside New York City) **Minimum sales prices for standard brands***

Manufacturer's list price ** (per carton)	Agent's basic cost (per carton)	Type of sale				
		Wholesale (per carton)			Retail sales to the consumer	
		Agent to wholesale dealers	Agent to chain stores	Agent to retail dealers	Retail (per carton)	Retail (per pack)
$42.54	$86.04	$87.00	$87.54	$89.58	$95.85	$9.59
$46.54	$90.04	$91.03	$91.60	$93.73	$100.30	$10.03
$50.24	$93.74	$94.77	$95.35	$97.58	$104.41	$10.45
$50.84	$94.34	$95.37	$95.96	$98.20	$105.07	$10.51
$56.74	$100.24	$101.32	$101.95	$104.33	$111.63	$11.17
$57.10	$100.60	$101.69	$102.31	$104.70	$112.03	$11.21
$63.78	$107.28	$108.42	$109.09	$111.64	$119.46	$11.95

New York City (sales within New York City) **Minimum sales prices for standard brands***

Manufacturer's list price ** (per carton)	Agent's basic cost (per carton)	Type of sale				
		Wholesale (per carton)			Retail sales to the consumer	
		Agent to wholesale dealers	Agent to chain stores	Agent to retail dealers	Retail (per carton)	Retail (per pack)
$42.54	$101.04	$102.13	$102.76	$105.16	$112.52	$11.26
$46.54	$105.04	$106.16	$106.82	$109.32	$116.97	$11.70
$50.24	$108.74	$109.90	$110.58	$113.16	$121.08	$12.11
$50.84	$109.34	$110.50	$111.19	$113.78	$121.75	$12.18
$56.74	$115.24	$116.45	$117.17	$119.91	$128.30	$12.83
$57.10	$115.60	$116.82	$117.54	$120.28	$128.70	$12.87
$63.78	$122.28	$123.55	$124.32	$127.22	$136.13	$13.62

* Minimum prices listed are for standard brands and standard packages (20 cigarettes per pack, 10 packs per carton). See *Computing the minimum wholesale cigarette prices* on the back for the markups for each type of sale listed.

** Consult manufacturer's price list to verify the price for each specific brand.

Furthermore, it is illegal for any cigarette agent, wholesale dealer, or retail dealer to induce, or attempt to induce, or to procure the purchase of cigarettes at a price less than the minimum price set by law. The Tax Department will issue this publication as notification for changes in the minimum prices each time a manufacturer's price change occurs or a state or city excise tax changes.

Prepaid sales tax – The prices listed in the *Minimum sales prices for standard brands* chart do not include any prepaid sales tax. The prepaid sales tax is paid by the agent at the time the cigarette tax stamps are purchased. The prepaid sales tax is passed along in each subsequent sale down to and including the retail dealer (but is not passed down to the consumer). At the time of delivery, the seller must give the purchaser either Form ST-133, *Certificate of Prepayment of Sales Tax on Cigarettes,* or have the required information included on the invoice.

State and local sales taxes – State and local sales taxes must be collected from the consumer at the time of the retail sale. Sales tax must be collected upon the total retail sale price, including sales in New York City (effective September 1, 2003). For more information, see Important Notice N-03-22, *Computation of Sales Tax on Cigarettes Sold Within the City of New York*.

Computing the minimum wholesale cigarette prices

Publication 508, *Minimum Price List for Cigarettes*, lists the minimum prices for standard and nonstandard brands of cigarettes by the carton (20 cigarettes per pack, 10 packs per carton).

The *basic cost of cigarettes* means the invoice cost of cigarettes to the agent who purchases from the manufacturer, or the replacement cost of cigarettes to the agent, in the quantity last purchased (whichever is lower), less all trade discounts (except discounts for cash), to which is added the full face value of any stamps (excise tax only) that are required by law. (The federal excise tax placed on the manufacturer would be included in the invoice cost of cigarettes from the manufacturer.)

The basic cost of cigarettes **does not** include any sales tax prepaid by the agent at the time the cigarette tax stamps were purchased.

The *cost of the agent* means the basic cost of cigarettes (as defined above) plus the cost of doing business by the agent. Unless otherwise substantiated, the cost of doing business by the agent is presumed to be as shown in the table below:

Percentage (plus 20 cents) of the basic cost of cigarettes per carton (20 cigarettes per pack, 10 packs per carton)	
Agent to wholesale dealers	7/8% plus 20 cents
Agent to chain stores	1½% plus 20 cents
Agent to retail dealers	3 7/8% plus 20 cents

In determining the prices for nonstandard brands, remember that an agent may not sell cigarettes to wholesale dealers (as defined in the Cigarette Marketing Standards Act (CMSA)) below the basic cost of cigarettes plus 7/8% and 20 cents per carton (20 cigarettes per pack, 10 packs per carton). An agent or wholesale dealer may not sell cigarettes to a registered chain store below the basic cost of cigarettes plus 1½% and 20 cents per carton (20 cigarettes per pack, 10 packs per carton). An agent or wholesale dealer may not sell cigarettes to a retail dealer below the basic cost of cigarettes plus 3 7/8% and 20 cents per carton (20 cigarettes per pack, 10 packs per carton).

Anyone selling at a price less than the *cost of the CMSA retail dealer* minimum sales price must have proof on file that the customer was eligible for the lower purchase price. The *cost of the CMSA retail dealer* is presumed to be a 7% markup of the *agent-to-retail-dealers* price.

The selling price of cigarettes sold by one licensed cigarette agent to another, when the cigarettes are either picked up at the seller's warehouse or delivered to the purchaser's warehouse, is not required to include the cost of doing business by the agent, but it may not be less than the basic cost of the cigarettes.

If an agent sells cigarettes to a chain store with 15 or more outlets (excluding vending machine operators), the cigarettes are delivered to a central warehouse owned and operated by the chain store, and the chain store delivers the cigarettes to its outlets, the agent's selling price is not required to include the cost of doing business by the agent (that is, the agent's presumptive 1½% plus 20 cents minimum markup is not required). However, the price may not be less than the basic cost of cigarettes.

Custom stamping is the affixing of cigarette tax stamps by one agent for, or on behalf of, any other agent. It also includes the sale of stamped cigarettes by one agent to another agent. **Custom stamping** is prohibited without the prior written authorization of this department. Send your request to: NYS Tax Department, TDAB-FACCTS-Cigarette Tax Unit, W A Harriman Campus, Albany NY 12227-2992. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*. See also Cigarette Tax Regulations (Title 20 NYCRR section 74.3(a)(3)). Violations of this provision may result in the revocation or suspension of the agent's license under Tax Law Article 20.

A licensed agent who sells cigarettes at retail is considered to be a CMSA retail dealer. The cost of the agent for those retail sales must be the same as the *cost of the CMSA retail dealer*.

Computing the minimum retail cigarette prices

To compute the minimum retail selling price for cigarettes (standard, nonstandard, generic, or subgeneric brands), 20 cigarettes per pack, 10 packs per carton, you may use Publication 508.

Anyone making retail sales of cigarettes must first determine the *agent-to-retail-dealers* minimum selling price and increase that amount by at least 7%.

If a retail dealer does not know the manufacturer's list price for computing the minimum retail cigarette price, the retail dealer should mark up the cartons or packs of cigarettes 7% above its invoice cost (excluding any prepaid sales tax).

If you need help determining the legal minimum wholesale or retail selling price of cigarettes, contact your supplier or call the New York State Miscellaneous Tax Information Center (see *Need help?)*.

Civil penalties – Violations of the CMSA may result in the suspension of an **agent's** or **wholesale dealer's** license or the imposition of a fine not to exceed $20,000, or both, for a first offense. Subsequent violations within three years may result in license revocation, suspension, or suspension plus a fine not to exceed $50,000.

Criminal penalties – Violations of the CMSA by **wholesale** or **retail dealers** are a Class B misdemeanor and may result in fines of up to $500 (or double the amount of the gain from the commission of the offense) or up to three months imprisonment, or both.

Need help?

Visit our website at ***www.tax.ny.gov***

- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Miscellaneous Tax Information Center:	518-457-5735
To order forms and publications:	518-457-5431
Text Telephone (TTY) or TDD equipment users	Dial 7-1-1 for the New York Relay Service

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WORKING CONDITION
1. 60000 LBS
2. 9000 LBS

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SARATOGA SPRINGS, NEW YORK

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518 584 3091

Lawley
INSURANCE | EMPLOYEE BENEFITS

Lawley Declares Dividend for 26th Year

NEW YORK STATE ASSOCIATION OF SERVICE STATION & REPAIR SHOPS, INC

Declared Dividend is 30%

In 2018* the New York State Association of Service Stations & Repair Shops, Inc. is proud to declare a dividend for the Workers Compensation Safety Group #536 of **30%**. This will be the 26th consecutive year that the group will pay the dividend.

In addition to this dividend, members will enjoy as much as a 25% upfront discount on their renewal premiums.

Checks will be processed at the end of March 2018 and mailed directly to your address by The State Insurance Fund.

** Applies to Policy Term 5/1/16 - 5/1/17*

Further Details

Please contact:
Bill Adams at 716.849.8641 or by email at badams@lawleyinsurance.com if you have any questions or concerns.

NYSASSRS & Lawley Partnership

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FREE MONEY

BE A MEMBER OF OUR ASSOCIATION OR AFFILIATES
FILL OUT THIS FORM AND FAX BACK TO US
BUY $7500 IN PARTS IN ONE QUARTER FROM YOUR **NAPA DEALER**
RECEIVE A REBATE CHECK FOR 2% OF YOUR PURCHASES (MINIMUM OF $150 REBATE)
PUT THE MONEY IN YOUR POCKET
NOTE: YOU CAN NOT BE A MEMBER OF THIS AND ANOTHER NATIONAL NAPA PROGRAM

FREE MONEY

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

FAX this form back to:
518 452-1955

ARE YOU AN OWNER OR EMPLOYEE IN NEED OF TRAINING?

DO YOU WANT TO PROTECT YOUR BUSINESS FROM EXCESSIVE FINES
OR
THE POSSIBLE LOSS OF YOUR:
TOBACCO LICENSE
LOTTO LICENSE
ALCOHOL LICENSE?

DO YOU WANT TO BE CERTIFIED IN SECTION 609 MOTOR VEHICLE AIR CONDITIONING (MVAC)?

THE NEW YORK STATE ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS
OFFERS ON-LINE COURSES THAT NOT ONLY PROVIDE TRAINING AT YOUR CONVENIENCE, BUT AT VERY COMPETITIVE PRICES FOR BOTH MEMBERS AND NON-MEMBERS OF OUR AFFILIATES

ALL INFORMATION AND MATERIALS ARE PROVIDED THROUGH OUR WEBSITE AT:
NYSASSRS.COM

QUESTIONS CAN BE DIRECTED TO (518) 452-4367. WE ARE AVAILABLE TO PROVIDE PERSONAL ASSISTANCE.

Garage Insurance Survey

Name of Business:			
Street Address:			
City:	State:	Zip:	
Phone #	Fax #	E-Mail:	
Contact Person:		Phone # (if different from above)	
Are you happy with the cost and service provided by your carrier/agent?		Yes	No
If yes STOP here… If NO or NOT SURE you may want to look at the following			
Is your coverage insufficient?		Yes	No
Is the service poor to non-existent?		Yes	No
Is the cost too high?		Yes	No
Are you satisfied with your current coverage?		Yes	No
Are you interested in a quote from another insurer?		Yes	No

Is so please check each that apply:

		Property & Casualty
		Workers Comp
		Disability
		Health

If you checked one or more of the above please provide the following information:
Name of Current Insurer:
Type of Insurance:
Renewal Date:
When/How is the best time to contact you?

If you are interested in learning how you may save on insurance costs
Please fill out and fax to your local association at 518-452-1955

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GRANY

LEGAL PLAN

As a member in good standing of the Association, you are entitled to participate in our group legal service plan. If you are in need of this service, you must first call the Association office at (518) 452-4367. An appointment will be arranged that will be convenient for you and the attorney.

Covered services available to members include:

- Defense in Small Claims Court if your business is sued or at Department of Motor Vehicles or at any other New York State Administrative Proceeding hearing. (Once per year.)

- Review of leases, supply contracts and franchise agreements to advise you of your obligation under these contracts. The plan does not include actual negotiation on your behalf. (One hour per issue, up to five hours per year.)

- Consultation on legal questions pertaining to your business. (One hour per issue, up to five hours per year.)

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

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

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

Sale	$295.00
Purchase	$350.00

- Simple will $75.00 Simple will (husband and wife) $125.00

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

CIGARETTE SALES TO MINORS
CLERK CERTIFICATION

COMPLIANCE .WITH THE NEW STATE CERTIFICATION OF CLERKS WHO SELL TOBACCO PRODUCTS

CERTIFICATION OF A CLERK WHO SELLS TOBACCO PRODUCTS
POINT REDUCTION CLASS

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

THE STATE IS ENFORCING THIS LAW

IN ORDER TO ACCOMMODATE OUR MEMBERS,
WE ARE CERTIFIED TO PROVIDE THIS TRAINING.
PLEASE NOTE DATES, TIME, AND LOCATI0N OF THE NEXT SEMINAR

WHERE:

ASSOCIATION OFFICE
6 Walker Way
Albany, New York 12205

WHEN:

The First Tuesday of every month at 2:00 PM
The Third Wednesday of every month at 10:00 AM

COST:

MEMBERS: $15.00 - NON-MEMBERS $30.00

PLEASE CALL FOR RESERVATIONS AT (518) 452-4367

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