NYS ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

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ATTORNEY'S CORNER

I've been alerting members about the pitfalls of performing improper inspections since I started working with your Association. As you know, not only are proper emissions and safety inspections required by law, but it gives the Dealer an excellent opportunity to earn money by performing needed repairs, the need for which are brought out during the inspection procedure. Your inspection license is valuable and in limited supply -- you know it and I know it, or you wouldn't be paying $30,000+ for inspection machines, which is often the going price these days. But even I had not realized the exposure you could face if you perform an improper inspection.

In Vermont, recently, a woman had her vehicle inspected and then drove her car from the shop. Two months later she was killed due to an allegedly faulty brake that should have been detected during the inspection procedure. Steven Jalbert, one of 5,900 technicians in the state licensed by the Vermont Department of Motor Vehicles, failed to test the brakes, remove a wheel, put the vehicle on a lift or test it on the road. AJ's Sunoco in Barre, VT, where Jalbert is employed, was using an out-of-date manual. "When you go in an you pay the fees to have your vehicle inspected, you're depending on that inspection mechanic to take the time to go through and examine that vehicle and tell you 'yes that vehicle is safe to drive", Glen Button, director of enforcement at the Vermont DMV stated. The prosecutor has now charged Jalbert with manslaughter! States copycat each other. How long do you think it will be before some D.A. in New York will similarly charge an inspector with manslaughter if an accident ensues after an inspection? Would you like to bet your own freedom from a prison cell on that? My standing advise is: DO INSPECTIONS RIGHT OR DON'T DO THEM AT ALL! So, how lucky do you feel today?

On another matter involving inspections, please be advised that if you become aware of any missing inspection stickers, immediately report this to the Police. You are required to do this by the Commissioner's regulations. If you fail to do so and the loss is later discovered you could be charged by the DMV for selling the missing stickers. In addition, mail any damaged or even almost wholly destroyed stickers to the DMV so you can get a credit on the damaged or destroyed stickers. Why pass up good money? If you don't need that money please donate it to your Association. We'll use it to protect you.

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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Cuomo Proposes $15 Minimum Wage

Gov. Andrew Cuomo, joined by Vice President Joseph Biden, announced a push to make New York the first state to adopt a $15 per hour minimum wage. The announcement comes after Acting State Labor Commissioner Mario J. Musolino signed a Wage Order designating $15 an hour as the statewide minimum wage for fast food workers.

"Raising the minimum wage to $15 an hour will bring fairness to 2.2 million working New Yorkers," said Cuomo, adding that $15 an hour "will be the highest statewide rate in the nation and will herald a new economic contract with America, and it's about time."

The governor said the state will phase in the new wage so businesses can plan accordingly. "We have heard and we reject the political argument that has been made that raising the minimum wage will cost jobs—we believe the exact opposite. We believe that raising the minimum wage is actually going to spur the economy, because the families that get that money are going to spend that money."

USA Today writes that franchise owners, however, say the increase singles them out. Pat Pipino, owner of a Ben & Jerry's ice cream shop in Saratoga Springs, said some franchise owners could be forced out of business by the minimum wage increase. He also predicted businesses may be forced to raise prices or cut employment to absorb the higher labor costs. "By executive fiat, with the stroke of a pen, our financial model goes to pot," he told the news source.

State Senate Republicans will also create problems for Cuomo's plan. "Raising the wage floor in New York that far that fast could lead to unintended consequences such as severe job losses and negatively impact many businesses that are already struggling just to keep their heads above water," Republican Senate Leader John Flanagan told the news source.

New York City Mayor Bill de Blasio has long supported the $15/hour minimum wage, and stated last week following the governor's plan that he would "urge Albany to act quickly."

For now, the $15/hour minimum wage hike will be phased in for fast food workers over three years in New York City and over six years elsewhere in the state. So far Los Angeles, San Francisco, Oakland and Berkeley in California, and Seattle have approved phased-in minimum wage increases that will increase the hourly rates to $15, or about $31,200 a year, reports The New York Times.

Only 1 In 5 Cards Prepared For EMV Shift

Retailers have spent billions upgrading their point-of-sale systems to process new chip cards ahead of the looming Oct. 1 liability shift deadline. As of July, approximately 295,000 merchants are ready to receive chip cards—a 19% bump from June's compliance numbers. In addition, nearly 37,000 ATMs have EMV chip-readability.

However, Visa announced recently that as of July, less than 18% of its 720 million credit and debit cards have the embedded chip and thus are ready for the EMV shift in October. Some merchants also wonder why banks and credit unions are issuing chip and signature cards, rather than the chip and PIN cards used elsewhere.

Brian Dodge, executive vice president of the Retail Industry Leaders Association (RILA), said that large retailers have made tremendous progress installing, testing and now operating new payment terminals to accept chip cards. "But while consumers can now spot these new point-of-sale terminals at many large retailers nationwide, a quick check of the wallet will confirm that many continue to carry cards secured with the outdated and vulnerable magnetic stripe," he added.

"We have watched EMV card issuance lag terminal deployment in virtually every global market going through EMV implementation," said Gray Taylor, executive director of Conexxus. "While it is hard to understand why issuers would not support a systems upgrade that reduces fraud, it also provides the many retailers unable to meet the liability shift dates with a holiday, as liability shift will not happen unless an issuer has the majority of their card base EMV capable."

Scammers Pose As Sheriff's Officers Or IRS Agents To Scare Victims Out of Their Money

There are two scams going around right now intended to scare you out of some cash and they uses law enforcement to make it seem more realistic.

In one case a caller spoofs the phone number of the Sheriff's Department and tells the potential victim there is a warrant out for his or her arrest. The most important piece of information to know is that no deputy or employee of the Sheriff's Department or law enforcement in general will call members of the public to demand payment for an outstanding warrant. In fact, an arrest warrant authorizes the arrest and detention of someone. It does not involve the arrest and detention of your money.

In another scam the caller represents themselves as an IRS agent and demands payment of back taxes owed. Again agents do not contact people by phone to demand payment.

Scammers will use any means possible to try to trick people into giving them cash, credit card details, or send wire transfers or pre-paid debit cards. There are some indicators to listen for to determine if it is a scam and in this particular case, the caller will give reasons for the warrant as failure to appear for jury duty or failure to pay taxes. Some flags to listen for include:

- The caller is overly pushy or aggressive
- You are threatened with jail time or will have your driver's license taken away if you don't pay
- The caller gets very angry if you refuse to believe the story he or she is giving
- The form of payment is pre-paid card and they ask you to give them the card number via phone or they request payment by wire transfer
- They attempt to prevent you from verifying their information

- And the number one indicator is that you have not done anything against the law

Some tactics the callers are using to try to be more convincing are to have some information about you such as your birthdate or a former address. Due to all the breaches lately, most people have personal information currently for sale on the darkweb.

If you get this type of call, don't linger or give them any information. Just hang up the phone and report it to your local law enforcement and file a complaint with the Federal Trade Commission (FTC). There is a form on the FTC site.

C-Store Owner Faces Prison For
$1.65 Million Food Stamp Scam

A federal judge sentenced a San Antonio, Texas, convenience store owner to prison for his role in a $1.65 million food stamp scam, according to the U.S. Attorney's Office for the Western District of Texas.

Sunny Joseph, 52, owner of Picnic Food Mart on South Hamilton Avenue, was ordered to serve a 48-month prison term followed by three years of supervised release. The judge also required Joseph to pay $1,652,000 in restitution to the federal government.

In April, Joseph pleaded guilty to one count of wire fraud and admitted that between November 2009 and March 2011 he and his employees violated the rules of the federal Supplemental Nutrition Assistance Program (SNAP), formerly known as the food stamp program.

Specifically, Joseph admitted the store sold ineligible merchandise such as tobacco and alcohol to SNAP beneficiaries and traded SNAP benefits for cash for a fee averaging 35 to 42 cents for every dollar.

Six- and seven-figure food stamp fraud cases involving convenience store owners and employees have cropped up in several states around the country.

--Donna Harris, dharris@opisnet.com

DOL Proposes Changes To Overtime Pay Requirements

The US Department of Labor (DOL) has proposed changes to the white collar exemptions to federal overtime pay requirements. Currently, a person must satisfy three criteria to qualify as “exempt”: first, they must make a salary; second, that salary must be more than $455/week ($23,660 annually); and third, their “primary duties” must be consistent with managerial, professional or administrative positions as defined by DOL.

In the proposal, DOL is considering raising the minimum salary threshold to $970 per week ($50,440 annually); an increase of over 100%. DOL also proposed increasing this minimum salary on an annual basis by pegging it to the 40th percentile or by indexing it to inflation for urban goods and services (CPI-U, an aggressive measure of inflation). DOL proposes publishing these annual increases to the minimum salary only 60 days before they become effective—providing employers and employees with far too little notice. While DOL did not offer a specific proposal to modify the primary duties tests, the department suggested it is considering making some rather extreme changes.

The magnitude of the increase to the salary level proposed by DOL and almost any changes to the duties test will hurt small businesses, schools, municipalities, nonprofits and other employers, as well as workers and the economy as a whole. Many employees would lose the flexibility they currently enjoy, employers would be faced with crushing increases in labor and administrative costs, businesses would suffer with low employee morale, and the American people would experience jumps in prices for goods and services as well as diminished customer service. In an already stagnant economy, these consequences will be devastating.

EPA Moves Closer To More
Stringent Air Quality Standards

The U.S. Environmental Protection Agency (EPA) moved closer to finalizing more stringent air quality standards for ground-level ozone last week, a move that will likely have a significant negative impact on the retail motor fuels market once finalized.

Last week, the EPA sent its final rule updating the ozone National Ambient Air Quality Standards (NAAQS) to the Office of Management and Budget (OMB). Review and approval by OMB is generally the last step in the regulatory process before rules are published in their final form, and the EPA is under a court deadline to finalize the rule by October 1st of this year.

Ground-level ozone, often referred to as smog, is regulated by the EPA under the Clean Air Act (CAA). The CAA requires the EPA to periodically review and establish NAAQS for six air pollutants, including ground-level ozone, in order to protect public health and welfare. The current ozone NAAQS was established in 2008 and is set at 75 parts per billion (ppb).

Last December, the EPA proposed to lower the standard to a range between 65 and 70 ppb. It also solicited comments on setting the standard as low as 60 ppb. Under the cost-benefit analysis developed by the EPA, the proposed standard is expected to cost $3.9 billion in 2025 at a standard of 70 ppb, and $15 billion at a standard at 65 ppb nationwide, excluding California. The EPA estimates that the more stringent standard would result in health benefits valued at $6.4 to $13 billion annually in 2025 for a standard of 70 ppb, and $19 to $38 billion annually in 2025 for a standard of 65 ppb, nationwide, excluding California.

The association submitted comments on the proposed standard in March of this year. In its comments, we highlighted the potential negative consequences that would result from a more stringent ozone NAAQS. Under a lower standard, more areas of the country would be designated as “nonattainment” areas, triggering federal and state regulations directly affecting the retail fuel marketing industry.

Specifically, we stated in the submitted comments that the proposal would result in: 1) the introduction of reformulated gasoline (RFG) in what are now conventional gasoline areas; 2) more states and/or localities imposing lower Reid Vapor Pressure (RVP) requirements; and 3) certain states retaining costly and unnecessary “Stage II” vapor recovery requirements. The combination of these actions would lead to a balkanized fuels market and higher retail fuel prices for consumers.

After the rule is finalized, the EPA will make attainment/nonattainment designations under the updated standard, by October 2017. A state or area designated as nonattainment under the standard would be required to develop a State Implementation Plan to demonstrate the steps it will take to attain the updated standard. The nonattainment areas have between three and 20 years to reach attainment, depending on the severity of the nonattainment designation.

FDA Releases Draft Menu Labeling Guidance

The U.S. Food and Drug Administration (FDA) announced a draft guidance document to assist companies with menu-labeling compliance. In July, FDA extended the compliance date to December 2016.

FDA says the draft guidance is intended to help establishments implement the menu-labeling rule. Public comments are welcome, and the agency says it will consider all comments before finalizing the guidance and consider updates. “We are committed to working collaboratively with establishments covered by the menu labeling final rule, including chain restaurants, covered grocery stores serving restaurant-type food, and others, now and in the future, to answer additional questions,” said the FDA is a statement.

Highway Trust Fund to Last Longer Despite Funding Uncertainty

The Department of Transportation (DOT) indicated this week that the federal government is projected to run out of money for the Highway Trust Fund (HTF) in June 2016, six months later than previously projected, according to the Petroleum Marketers Association of America (PMAA) on Friday.

Congress will still have to pass a transportation spending bill by Oct. 29, but this alleviates pressure to complete a long-term funding bill right away.

The HTF is a transportation fund which receives money from a federal fuel tax of 18.4cts/gal on gasoline and 24.4cts/gal on diesel and related excise taxes. The HTF helps fund road construction and maintenance. It also supports mass transit as well as the leaking underground storage tank fund.

OPIS notes that in the past year, several senators and trade groups have come up with their own individual proposals to help reform the current highway funding program, with some seeking a gasoline tax hike and others a cut, which could put more financial burden on the states.

PMAA said that lawmakers cast the last extension in July as a stopgap on the road to a multi-year highway bill this fall, but the update from the DOT could lure lawmakers back to another temporary transportation spending and authorization patch through June 2016.

A multi-year House transportation funding bill is expected to be introduced later this month.

Congress has been grappling since 2005 with a transportation funding shortfall that is estimated to be about $16 billion per year, and it has not passed a transportation bill that lasts longer than two years in that span.

Since 2009, Congress has pumped $73 billion into the HTF from the General Treasury fund and used other budgetary maneuvers, given that the motor fuels excise tax is inadequate to maintain the HTF's solvency.

Transportation advocates are pushing for a gas tax increase to pay for a long-term transportation bill, but House and Senate leadership in Congress have all but ruled out a tax hike.

--Edgar Ang, eang@opisnet.com

NLRB Extends Worker Protections To Employees Of Franchisees

In a landmark decision last week, the National Labor Relations Board (NLRB), the federal agency charged with protecting workers’ rights to organize, ruled in favor of changing the dynamic of the employer-employee relationship when it comes to companies who rely on franchisees and subcontractors. As of this ruling, corporate entities could be forced to negotiate with unions that materialize at their franchised locations and potentially be held liable for any labor law violations. This ruling expands the so-called “joint employer” standard, which, since the 1980s, kept labor activity at arm’s length from the corporation when it came to union organizing and labor conditions at these separately-owned locations.

The ruling, adopted along partisan lines by a 3-2 vote, was a reversal of a previous decision made by an NRLB regional director who found the corporation in this case was not a joint employer because they had no involvement in hiring, firing or working conditions. This new standard, however, applies the joint-employer label to companies that are indirectly involved with employee working conditions and processes, like many fast food chains, or entities that simply reserve the authority to get involved.

Business groups have come out in strong opposition to the ruling with the opinion that it defeats the purpose of the franchise model; plus, the standard by which a joint employer is recognized is now more unclear than ever. The NLRB argues that the old standard is “increasingly out of step with changing economic circumstances, particularly the recent dramatic growth in contingent employment relationships.”

On top of an expected appeal that could go as high as the U.S. Supreme Court, Congress will certainly be pressured to take up legislation when they return from recess that would nullify this decision.

GAO Report Shows States Value Safety Inspections, Require More Data to Quantify Value

On Tuesday, Aug. 25, the Government Accountability Office (GAO) released a study on state vehicle safety inspection programs, their costs, and their safety benefits in reducing crashes. Although the study interviewed state motor vehicle safety administrators who claimed that such programs result in improved vehicle safety, GAO found that data deficiencies make it difficult to quantify any positive impact.

Prompted by an inquiry from Sen. Claire McCaskill, D-Mo., GAO reached out to 15 of the 16 states with periodic vehicle safety inspections and pooled data collected from each program along with previous independent research published on the subject. Ultimately, the GAO study showed no discernable relationship between vehicle safety inspection programs and reduced crash rates involving "vehicle component failure." However, states with inspection programs reported fairly high rates of inspection failures requiring vehicle repairs.

According to the study, much of the issue with developing cost-benefit analyses, or connections between reduced or avoided crashes and inspection-forced vehicle repairs, is the lack of data collection at the federal level. There are only two data collection programs that collect "vehicle component failure" data in crashes. One collects data only on crashes involving fatalities and the other does not link state information and compare programs.

A second problem facing states is a lack of communication from the U.S. Department of Transportation (USDOT), particularly in the area of new vehicle safety technology. Specifically, USDOT has not provided information to states in order to help them properly assess the ongoing functionality of new safety technologies like tire pressure monitoring systems, LED brake lights, and automatic braking. According to the study, the absence of information on new safety features forces states to either ignore those technologies in their inspections or develop their own patchwork of inspection standards that indicate whether the safety technology is performing as it is intended.

Regardless of the lack of data and communication needs, the state vehicle administrators who continue to operate these vehicle safety inspection programs are confident that there is a clear safety benefit from continuing to operate PMVI programs

Healthcare Cadillac Tax Looming For 25 Percent Of Businesses

According to a report released Tuesday, Aug. 25, by the Kaiser Family Foundation, approximately one in four businesses offering health insurance to their employees may be subject to the so-called Cadillac Tax in the Affordable Care Act (ACA). The high-cost plan tax (HCPT) is slated to take effect in 2018. The report also claims that by 2028, 42 percent of employers could be subject to the tax based on the assumption that health plan cost increases will outpace the rate of inflation.

The HCPT was intended to discourage employers from offering overly-generous benefit plans and help to contain health care spending, as well as generate revenue. The tax is in fact calculated by a formula that looks at each employee's costs based on the combination of health benefits received by that employee.

The report spells out several possible implications for structuring and administering plans:

- The potential complexity of the tax may cause employers to simplify their health benefit offerings;
- The HCPT threshold may be passed for some employees of an employer but not for others if employees are able to choose different amounts of benefits; and
- The significant tax rate, which would likely be borne by the employer (either directly or through reimbursing tax paid by coverage providers), may cause employers to limit employee choice generally and even among core health insurance offerings.

The authors clearly state that employers can reduce their costs despite the tax. They go on to list many suggestions, but with a warning that "these changes will result in employees paying for a greater share of their healthcare out-of-pocket."

China Preparing Antitrust Guidelines for Auto Industry

China's anti-monopoly regulatory body has begun drafting antitrust guidelines for the country's dealings with the auto industry. The guidelines are expected to cover antitrust issues related to auto parts supply, vehicle distribution and after-sales service, as well as issues emerging from online sales and parallel car imports, which entails an alternative channel that bypasses car dealers and allows purchasers to save 20 to 30 percent off retail prices in China. Vehicles sold in this capacity are brought in from foreign dealerships or other third parties.

A first draft is expected for public consultation by the end of the year.

This move follows last year's antitrust investigations into parts sales by numerous automakers who responded by significantly cutting prices. BMW, for example, announced in August 2014 that it was slashing prices by 20 percent on about 2,000 parts. China's antitrust authorities also fined several car companies, including Audi, Chrysler and Mercedes Benz, which also cut parts prices. These actions are widely seen as a way to pressure automakers into reducing their prices for parts and service, and the pending antitrust guidelines aim to help China's consumers buy imported cars more affordably.

The Auto Care Association is in close contact with U.S. government personnel in China and will monitor the regulatory situation closely. Please contact Andres Castrillon at andres.castrillon@autocare.org with any questions.

House Committee Passes Bill To Encourage Use Of Remanufactured Vehicle Parts In Federal Fleet

It is now being reported that the House Committee on Oversight and Government Reform passed the Federal Vehicle Repair Cost Savings Act of 2015 (H.R. 1613) by a voice vote back in late July, setting it up for consideration by the full House. The legislation would require the head of each federal agency to encourage the use of remanufactured vehicle components to maintain federal vehicles if using such components reduces the cost while maintaining quality.

The legislation originated with a 2013 Government Accountability Office (GAO) report, which found that the civilian federal agency fleet has approximately 588,000 vehicles that required approximately $975M in repair and maintenance costs in 2011.

The full Senate passed S. 565, an identical version of the bill, on June 15. The Congressional Budget Office (CBO) report on S. 565 stated that the legislation would have no significant budgetary effect as it is not expected to significantly change existing procedures for repair of government vehicles.

Tax Evasion Case Brought In Queens By State Tax And DA's Office

New York State Department of Taxation and Finance Commissioner Jerry Boone, joined by Queens District Attorney Richard A. Brown, today announced the arrest of three individuals associated with two different businesses operating in Queens. All three were charged with tax-related felonies, as well as collecting taxes without the proper authority from the State.

The cases will be prosecuted by the office of Queens District Attorney Richard A. Brown, who said, “This is yet another example of business owners allegedly lining their own pockets with collected sales tax money that should have been remitted to the government. The city and state rely on collected taxes to fund programs and services for the public. Stealing tax revenue is a crime and makes every New Yorker a victim.”

Rajpatee Rampersaud, 45, and her husband, Naren Rampersaud, 52, both of 11 Brian St., New Hyde Park, were charged with Grand Larceny in the Second Degree and Criminal Tax Fraud in the Second Degree, both felonies, as well as a misdemeanor for operating without a Certificate of Authority to collect sales tax.

Merrick Gas Services, Inc., a business operating as a CITGO gas station they own at 34-51 Bell Blvd., Bayside, is alleged to have failed to pay a total tax liability of $166,810 from September 2009 through May 2014. This tax liability is a combination of cigarette, sales, withholding and corporate taxes.

In order to collect sales tax, as required by law, businesses must have a valid Certificate of Authority (COA) from the NYS Tax Department. The Rampersauds failed to secure the appropriate license to sell cigarettes, as well.

Brian Marcus, 56, of 161-16 91st St., Howard Beach, is president of N.F.M.C. Corp. and Distinctive Wedding Designs For You, Inc., doing business as Glendale Florist, 78-17 Myrtle Ave., Glendale. He was charged with six counts of Criminal Tax Fraud in the Third Degree, Criminal Tax Fraud in the Second Degree, two counts of Grand Larceny in the Third Degree, and Grand Larceny in the Second Degree, all felonies. He also faces a misdemeanor charge for failing to maintain a COA.

From December 2011 through February of this year, he failed to remit a total of $71,107 in sales tax to the State. Additionally, it is charged, he didn’t file a personal income tax return for the years 2012, 2013, and 2014. The defendants in both cases face up to 5 to 15 years in prison. A criminal complaint is an accusation and the defendants are presumed innocent until proven guilty.

If a business is required to register for sales tax purposes but fails to do so, and the business operates without a valid Certificate of Authority, the responsible person will be subject to a penalty. The maximum penalty for operating a business without a valid Certificate of Authority is $10,000, imposed at the rate of up to $500 for the first day business is conducted without a valid Certificate of Authority, plus up to $200 per day for each day after.

You can report tax evasion and fraud online at the Tax Department's website or by calling 518-457-0578. The information is kept confidential

ASSOCIATION COMMENTS

"WE NEED THE STATE AND LOCAL AUTHORITIES TO CONTINUE THEIR EFFORTS TO GET TAX EVADERS OUT OF THE INDUSTRY... THESE BUSINESS SELL THE NON-TAXED PRODUCT AT LOWER PRICES COMPETING UNFAIRLY WITH HONEST BUSINESSES.”

New Study Reveals Debit Card Impact On Merchants

A new Federal Reserve Bank of Richmond study reveals the impact of regulations on debit card swipe fees contained in the Durbin Amendment to the Dodd-Frank Act. The study showed 90% of merchants had not seen any savings, did not know or saw their costs actually rise—the opposite effect Congress envisioned when it passed debit reform five years ago.

“The Richmond Fed report should be a wake-up call for the U.S. Federal Reserve,” said Lyle Beckwith, senior vice president of government relations at NACS. “Ninety percent of merchants having their fees stay the same or go up makes no sense when Congress recognized that the price-fixed fees were too high already.”

Under the Durbin Amendment, Congress required the U.S. Federal Reserve to impose rules to make the market more competitive and exorbitant fees more reasonable. However, the Fed bowed to heavy pressure from the big banks and introduced only half-measures. For instance, the Fed doubled its own original estimate of a fair fee on a debit transaction and for some small transactions, the fees increased.

According to the Merchants Payments Coalition (MPC), of which NACS is a founding member, figures the banks themselves report to the Fed, show that they still earn a 500% profit on debit fees, which they charge merchants every time a customer swipes a debit card to pay for something. These fees, set by MasterCard and Visa for their member banks so the banks don't have to compete, raise prices for consumers, hurt small retailers and slow the entire

The Fed's rules have failed to create the result Congress intended: A fair, competitive market that looks like the rest of our free-market system.

U.K. Study Endorses E-Cigarettes

Reuters reports that health officials in Britain are giving a positive endorsement to electronic cigarettes, saying the devices are 95% safer than tobacco equivalents and even suggest that doctors should be able to prescribe the "game-changing" devices to cigarette smokers trying to quit.

"E-cigarettes are not completely risk-free but when compared to smoking, evidence shows they carry just a fraction of the harm," said Kevin Fenton in a statement, a professor at the Public Health England (PHE), an agency of Britain's Department of Health.

The news source writes that according to the study, most of the chemicals that cause smoking-related diseases are absent in e-cigarettes, which makes them significantly less harmful than cigarettes and other tobacco products.

Authors of the study also hope that their findings will help British doctors and cessation services to be able to prescribe e-cigarettes for those who are trying to quit smoking. "Given the potential benefits as quitting aids, PHE looks forward to the arrival on the market of a choice of medicinally regulated products that can be made available to smokers by the NHS on prescription," the report said.

E-cigarettes are already the most popular quitting aids in Britain, according to the study, and could be a cheaper alternative to reducing cigarette smoking in lower-income areas. "E-cigarettes could be a game-changer in public health in particular by reducing the enormous health inequalities caused by smoking," said Professor Ann McNeil, co-author the study.

Sunoco Introduces Bans To Promote Family-Friendly Image

Sunoco has banned the sale of adult magazines and drug paraphernalia at its direct APlus retail outlets to promote the brand as "customer and family friendly," according to an announcement sent to all branded distributors last week.

The company also has urged distributors to ban these products at their company- and dealer-operated Sunoco sites.

"It is very important that this campaign be consistent across all Sunoco outlets regardless of channel," wrote Jeffrey Byard, vice president of distributor operations for Sunoco.

"Sunoco's Adult/Sophisticate Magazine and Drug Paraphernalia Policy is consistent with Sections 4.02 and 4.04 (Standards and Image Provisions) of your Distributor Agreement," Byard said.

Vermont Soda Tax Creates Confusion

Vermont's nearly three-month-old beverage tax has hit some hiccups with both consumers and retailers.

VTDigger.org reports that beverages that should not be taxed under the new law are in fact including the 6% sales tax, while retailers are finding it difficult to follow the state's new guidelines.

Jim Harrison, president of the Vermont Retail and Grocers Association, said the Legislature's definition of a taxable beverage is difficult to administer.

According to Candace Morgan, policy director at the Department of Taxes, the agency has received a steady stream of comments from Vermonters reporting instances where the new tax has been misapplied..

State Sen. Dick Mazza, an owner of a convenience store in Colchester, said he has reviewed the taxable guidelines at least a dozen times with his c-store employees. "It's the most confusing tax policy I have ever come across in all my years in business," he told the news source.

Question of the Month

Each month we will publish questions received from the membership and the answer to those questions.

Question:

What age does a person have to be to be employed in a c-store?

Answer:

The person can be as young as 14, but there are restrictions on the hours the youth can work. When school is in session may work 3 hours on schooldays, and 8 hours on other days for a maximum of 6 days and 18 hours per week. If they are in an approved work study program, they may work a total of 23 hours week. When school is not in session they may work up to 8 hours per day, 6 days a week, for a total of up to 40 hours

During the school year 16 and 17 year olds may work 4 hours per day Mon-Thurs, and 8 hours per day, Fri-Sun, for a maximum of 6 days and 28 hours per week. Those enrolled in a cooperative education program can work up to 6 hours, Mon-Thurs, so long as the work is in conjunction with that program. When school is in session, or if the minor is not in school, the 16 or 17 year old may work 8 hours per day, 6 days a week, for up to 48 hours per week.

Question:

What age does a person have to be to sell alcohol?

Answer:

A clerk under the age of 18 must be in the presence of and supervised by a person 18 or over to sell alcohol.

Question:

How about cigarettes?

Answer:

The NYS Department of Health says there is no such restriction for tobacco sales.

Question:

When changing an odometer in a motor vehicle what are New York State regulations?

Answer:

The odometer reading on a repaired or replaced odometer must either (1) remain the same as before the repair or replacement; or, (2) read zero and a notice in writing is attached to the left front door frame of the vehicle indicating the odometer reading prior to replacement and the date on which it was replaced.

These rules are contained in §392-e of New York State General Business Law.

Question:

Why is premium motor fuel so much more expensive than regular, especially lately?

Answer:

Experts tell us that as the price of motor fuel declined the motorist have been purchasing the higher octane, more expensive motor fuel. This has caused a short fall in available octane enhancers' to blend with premium. This in turn has caused a short supply of the product and has led to higher prices for higher-octane motor fuel.

Question:

Does a service station selling motor fuel to the public need third part liability insurance?

Answer:

Under US EPA regulations yes, under New York Regulations, no. What to do? Check with your insurance broker and see if there is coverage in your current policy. If not call the association office at 518 452 4367. Each case is different; we can help with compliance.

General Counsel Corner

Litigation Lessons

By Peter H. Gunst , Esquire

After too many decades representing dealers against their suppliers and lessors, I feel there are some lessons that may be worth sharing.

Own the Dirt.

Owning the service station premises provides business and legal advantages. From a business standpoint, ownership permits the dealer to negotiate with the supplier of his or her choice, rather than being bound to his or her lessor as a sole supplier.

From a litigation standpoint, ownership protects the dealer who is in a dispute with his or her supplier from threatened or actual eviction. The option of, say, going unbranded gives the dealer a better chance of surviving and succeeding in litigation against a supplier.

Know Your Supplier/Landlord.

Franchise agreements are hopelessly onesided, and franchisors will rarely if ever negotiate their boilerplate terms. The dealer is stuck with onerous payment, liquidated damages and other one-sided terms as well as the supplier's almost unlimited pricing discretion with respect to product sold to the dealer.

Because a dealer can find little protection under the terms of the franchise agreement, it is critical that he or she evaluate the franchisor's business reputation for fairness before entering into a long-term agreement. Of course, even then the supplier may assign the franchise agreement to another, more predatory supplier.

Be Prepared to Walk.

Too many times, a dealer will persist in continuing to operate his or her station in the face of mounting losses, either out of attachment to his or her business or because the dealer is unwilling to admit to making a mistake by entering into the arrangement in the first place. The result is a death spiral that only ends when the dealer's funds are exhausted.

Even if the dealer retains a significant legal claim against the franchisor, too often he or she will no longer have the means to pursue it, and will have provided the franchisor with a significant counterclaim for unpaid product, which also may constitute a justification for contract termination. It is better to cut one's losses, no matter how difficult emotionally that is to do.

Don't Overestimate Legal Remedies.

The Petroleum Marketing Practice Act and supporting state statutes provide meaningful protection for service station dealers. Enforcing those protections in a court of law, however, is an expensive ordeal, made more difficult by the imbalance of money and staying power between the dealer and his or her supplier or landlord.

Litigation should only be pursued as a last resort, when it is clearly in the business interest of the dealer to resort to that course of action.

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.

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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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Declared Dividend is 20%

In 2015* the New York State Association of Service Stations & Repair Shops, Inc. is proud to declare a dividend for the Workers Compensation Group #536 of **20%** . This will be the 23rd consecutive year that the group will pay the dividend.

This dividend is in addition to the up front 20% discount that all members could enjoy.

Checks will be processed on 4/17/2015 and mailed directly to your address by The State Insurance Fund.

** Applies to Policy Term 5/1/13 - 5/1/14*

Further Details

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

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