

JANUARY 2020



VOLUME 12 - ISSUE 1

ON THE ROAD

THE OFFICIAL COMMUNICATION OF THE NEW JERSEY GASOLINE C-STORE AUTOMOTIVE ASSOCIATION

A Look Ahead To 2020

Employment
Laws

Superstorm
Sandy

Oil Prices

Disruptions

Rewards
Bill

Self-Serve

Safety
Inspections

Gas Tax
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The Decade in Review

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Message From Executive Director Sal Risalvato

The Decade at NJGCA

I always enjoy the myriad of news specials that begin popping up on TV just before New Year's Eve every year recapping the big events that made news during the past year. Even though most everything is less than a year old and really not forgotten, the events have become distant memories until seeing it on the TV refreshes my brain. I suspect that I am not the only one who garners the same experience when a video refreshing my thought occurs. Of course this year the same programs reviewed the decade and my memory had a blast of 10 years' worth of refreshment.

When the NJGCA staff gets together to plan the January issue of *On The Road*, it is customary to review the issues and events that impacted members during the past year. Frankly, I find it boring but am always reluctant to deviate since it is necessary to remind you of where we traveled over the past year. This is important in order to set the table for you to better understand what you may be facing in the upcoming year. Being a history nut, I firmly believe that you can't figure out where you are heading if you don't fully understand where you came from.

When the clock turned in to 2010, I had been here at NJGCA for only three years and I didn't have a good feel of the association's involvement in the first decade of the 2000s. I knew we had just passed the Right of First Refusal law that had significant impact, but little else stood out before I arrived.

Looking back now over this most recent decade, I dusted off many old emails and newsletters to recollect events of importance to NJGCA members. Although there were many events and issues, I tried to select those that had the most impact in one way or another. I came up with eight events of significance. I asked the staff to participate and assigned various topics to each for them to recall and write about in this issue. Although I had a desire to hog all of the issues and write about them myself, always desiring to voice my point of view, I shared the topics with the other dedicated staff members here at NJGCA. The events of significance that I selected are in order beginning in 2010. They are as follows: The onset of Amazon, Uber, electric and autonomous vehicles, elimination of motor vehicle safety inspections, Hurricane Sandy, new abundance of crude oil and natural gas, NJGCA's position change regarding self-serve gasoline, passage of the "Rewards" legislation that protects below cost selling, gas tax increase, and minimum wage increase.

There is one other event that is of significance to many of you who found yourselves in a bit of a jam and needed advice and assistance from NJGCA. The event I am referring to closed out the decade with the

recent departure of Debbie Hill as NJGCA Director of Member Services. For those of you who never needed Debbie's help, you may not appreciate the value that she brought to your NJGCA membership. For the many of you who did seek her help, you know better than anyone how well she approached the task of providing assistance to our members.

Although our association provided assistance to members prior to my hire in 2007, there was never a dedicated approach to member services like we gained when I asked Debbie to fill the role. Five months after I arrived, I created the position of Director of Member Services and asked Debbie to take the job. Debbie owned a Shell gas station with her brother and displayed all of the qualities necessary to serve our members. There was never a day that she didn't serve our members with dedication and excellence. It came naturally to her and I never had to teach her how to put her heart in to serving our members. I came to give her the nickname here in the office "The Pitbull" because she was so aggressive and tenacious assisting members to get out of whatever trouble they had gotten themselves in to.

The crazy thing is that so many members never required Debbie's help, yet other members seemed to call here for help regularly. In her tenure here Debbie solved hundreds of cases for our members, and I know of several members who needed her help over the years multiple times with every enforcement agency in the state! It became commonplace for flowers and gifts to arrive here at headquarters that were sent by members whose butts Debbie had saved. Although I am super confident that her replacement Nick De Palma will fill her shoes, she will be missed and therefore her departure gets this mention as one of the events that significantly affected NJGCA members in the past decade.



President's Message: Driving in to Change

Who would have thought that after 45 years in the gas and auto repair business I could still become so excited about our business? Last November I had the opportunity to attend the AAPEX/SEMA show in Las Vegas. I sat in on numerous seminars and had the chance to visit many equipment and supply vendors. I have to say the possibilities of the future are endless. Get excited with me and set your goals for 2020. We want our members to be leaders as we venture into this next generation of auto repair.

- ADAS-Advanced Driver Assistance Systems
- Education
- Building Customer Relationships
- Recruiting and Retaining Top Talented Technicians
- Greater Profitability
- Recognition of our industry's educational demands

I know the NJGCA staff also spent a few days last October attending the NACS conference and came back to New Jersey with another look in to the future. The cutting edge of the technologies used in the Convenience Store industry are coming at us faster than we can implement them and before they become obsolete. It is very similar to the technology racing towards us in the auto repair sector. How do we keep up as owners of these fast changing industries?

Convenience stores are trying to manage the technology of frictionless payment. It is possible today to walk into a store, pick up the items you came for, and simply walk out the door. Your payment information will be

processed and transmitted electronically and your credit card will be charged. How is that different from the data being collected by your car, or the date required to repair it being transmitted telematically to the manufacturer?

New car technology is racing towards eliminating drivers. New food product technology is racing towards the development of plant based meals, snacks, and drinks, eliminating the animal based products our members have been selling for years.

The industries that our members are in engaged in are experiencing change rapidly, and a future that promises even more change. As I stated though, I am excited about my business, and I am excited about your business, and I am excited for the future prosperous opportunities that will be presented to NJGCA members.

Our members are essential to the continuing success of NJGCA in the future. I encourage you to get involved. NJGCA will try to keep you aware of cutting edge changes in technology, markets, and public policy. You are not alone out there. Numbers equal power and together we can propel each other into an awesome future of our industry.

As always feel free to contact the association or me personally.

Your President
Joe Ocello
joe@njgca.org

NJGCA Young Professionals Turkey Drive Success

Thanks to the generosity of our members, between November 21st and 25th NJGCA's Young Professionals were able to donate 271 turkeys to Fulfill NJ, the food bank that serves Monmouth and Ocean counties, beating last year's donation.

Special thanks to Environmental Alliance and Kneble's Auto Service Center for acting as turkey drop-off locations so members from all over the state could participate. An extra special thank you to Kneble's for creating a video to promote the drive to their customers as well.

Do you have children that plan to inherit your business, or are you under the age of 40 and looking to meet young professionals in the industry? Call the office and ask about joining NJGCA's Young Professionals group! More networking, community service, and fun events are being planned for 2020!





Michelle Horowitz, Director of Research and Communications

Rewinding the Decade: A Decade of Disruptions

It seems nowadays that new technological developments are occurring almost every day, making it hard to keep up with the latest and greatest. Over the course of the last decade, we have seen major developments in the gas, c-store, and automotive industries that has changed and will continue to change the way these businesses operate forever.

Looking back since the beginning of the decade, motorists are driving more than ever before due to falling gas prices and a strengthening economy. This increase of cars on the road and vehicle miles driven, however, has had a negative impact on carbon pollution, and climate events all over the world have sparked a debate on improving our environment. The transportation sector is the biggest offender, accounting for 29% of our nation's greenhouse gas emissions (data from 2017). In New Jersey, the transportation sector accounts for 40% of the state's emissions. This conversation will likely influence the next decade of disruption in our industry as more alternative fuel vehicles start hitting the roads. This decade saw a boom in the popularity of electric vehicles, thanks due in part to the emergence of Tesla. Tesla may have come out with their first model car in 2009, but it was in the 2010's that the automaker was able to compete with other big car companies, basically spearheading the change of model lineups to include alternative energy vehicles. Today, we see everyone from Ford, Honda, and Toyota, to luxury brands such as Mercedes, BMW, Porsche, and Lamborghini developing plug-in electric vehicles. In 2018, after 10 years in the market, Tesla ranked as the world's best-selling plug-in passenger car manufacturer, with 245,240 units delivered and a market share of 12% of the plug-in segment sales. There's no question that the automaker, despite its highs and lows in the press, has made a significant impact on this decade.

In addition to Tesla, ride-sharing programs have also emerged onto the scene in this decade to address climate change concerns. Ride-sharing programs such as Uber and Lyft have completely disrupted both the taxi and automotive industries as an alternative to car ownership and promote shared services. As an answer to the rebuttal that these companies put more cars on the road rather than fewer, ride-sharing companies are hoping to add electric, self-driving vehicles to their fleets.

Self-driving, or autonomous vehicles have been another industry that has emerged in the latter portion of this decade which we will see fully develop and overlap into this next decade. Throughout the past decade, we have seen cars developed with the most basic forms of autonomy, such as automatic steering or braking, self-parking, and lane assistance; though all require driver assistance and require the driver

to be alert and ready to intervene if needed. We have seen some prototypes emerge in this decade, however, in the next decade we will likely see truly autonomous vehicles, cars that are able to sense their environment and require no human control at all. Some of these fully-autonomous vehicles do not even include steering wheels or pedals. At the moment, most of these vehicles are currently used to deliver goods, such as Nuro, an autonomous vehicle that has so far partnered with Kroger and Domino's to begin pilot programs to deliver groceries and pizza. If actual driving becomes a thing of the past in the next decade still remains to be seen, though the evidence would certainly show that this time may be coming. This is likely to disrupt both the gasoline and auto repair industries, as fossil fuel use decreases and car services will likely be more computer based.

We also see the look of convenience stores changing, which will likely force even more changes in the next decade in order to meet the needs of an ever-changing definition of "convenience." As many of you have seen in my Disruption updates over the last few months, Amazon has expanded its reach to include convenience stores. This decade saw Amazon open up its "Amazon Go" convenience stores, without cashiers. The stores are equipped with cameras and sensors that are able to calculate your purchases and charge your credit card when you leave the store. This decade has also seen the emergence of robots and apps to make shopping experiences faster. As far as stock, convenience stores have increased access to healthier and expanded food choices, stocking and selling more fresh produce than ever.

It would be hard to talk about the growing popularity of c-stores without mentioning the popularity of Wawa. This disruptor c-store chain has upped the ante for others, with its clean bathrooms, made-to-order area, huge selection of food and coffee options, and customer service. It has forced convenience stores to meet its standards or be left behind in the last decade. Though the chain started in the sixties, the 2010 decade was arguably its best yet, focusing less on cheap gas and cigarettes and more on made-to-order hoagies, healthy snacks, and coffee. In the last decade, the company launched its app, allowing customers to order items ahead of time and earn rewards. Now, more and more convenience stores are launching their own applications and rewards programs as well and expanding menu options and fresh produce.

In the last decade, our industry has been disrupted and will continue to be disrupted in the next decade. At NJGCA, our job is to inform our members of what's coming so that you can feel free to become innovators and disruptors yourselves. What will be printed in this article when it is written 10 years from now?



Rewinding the Decade: Safety Inspections

The current New Jersey State Vehicle Inspection regime was instituted in 2010, and incorporated a number of revisions built atop of the previous program. At that time, among the most significant changes were the elimination of vehicle safety inspections on passenger cars.

Safety inspections, which probe vehicles for mechanical defects, was a long-time staple of the State's inspection regime. A vehicle with a cracked windshield, worn tire treads, bad brakes, a check engine light, or other mechanical defects would fail a vehicle inspection. The vehicle owner would then be compelled to have the vehicle repaired and return for a re-inspection.

When Governor Christie assumed office in January 2010, State officials acknowledged that a budget crisis was looming and spending cuts were necessary to reign in expenses. A "Red Tape Review Commission" was impaneled to review all aspects of the State's budget, then make recommendations on where potential reforms could be made to save taxpayer funds.

At the time, NJGCA had recommended that the State close all Central Inspection Facilities (CIFs), eliminate the costly contract with Parsons (the vendor operating the State's CIF locations), and move all vehicle inspections to Private Inspection Facilities (PIFs). Doing so would not only save the State precious resources and allow private-sector small-business owners an opportunity to serve public motorists, but it would have also aligned New Jersey with existing inspection programs in New York and elsewhere.

Ultimately NJGCA's full proposed plan was not adopted. Though the Association was successful in reducing the number of inspections done at CIF locations, State officials ultimately decided to eliminate safety inspections in an attempt to reap the sought after savings.

A two-year emission inspection testing cycle for vehicles over five years old was also adopted, but a vehicle could no longer fail for bad brakes, a broken tail light, or worn tires. Gasoline- or diesel-powered commercial vehicles or passenger transportation vehicles (such as ambulances, jitneys, limousines/livery vehicles, omnibus 2, taxicabs, and paratransit vehicles) would continue to undergo both safety inspections and emissions testing every two years.

Altogether, these changes sought to save New Jersey \$11 million a year - a savings that was never fully realized and ultimately did not accomplish what

it had originally sought to achieve.

The decision to eliminate safety inspections was controversial, and poorly received by a number of civic organizations. NJGCA was among the groups strongly opposing the change. With public roadway safety a paramount concern, the abolition of a mechanical defect check could only result in an increase of unsafe vehicles on New Jersey roads. Logically this made sense; as only the imposition of a safety check at yearly vehicle inspections could compel a motorist to make required and necessary repairs before obtaining an inspection sticker for their vehicle.

Adding more confusion to this change was that a motorist was still materially responsible to keep their vehicle in safe operating condition; even if necessary repairs could not be imposed before passing inspection. This meant that, even if a vehicle owner skated past MVC's loosened mandate to operate a road-worthy passenger vehicle, they could still be ticketed and received a summons by a police officer during routine traffic stops. This disconnect between what is environmentally-required and what is reliable and sound to drive could only result in a number of unsafe vehicles operating on State roadways.

Since their elimination, NJGCA continues to believe that safety inspections should be reinstated. As the next inspection program begins to take shape in Trenton, NJGCA has continued to lobby for safety inspections to be reinstated, but also for the adoption of an all-PIF inspection program.

We will continue to update you with Vehicle Inspection-related news, so please be sure to check back often and reach out with any questions!

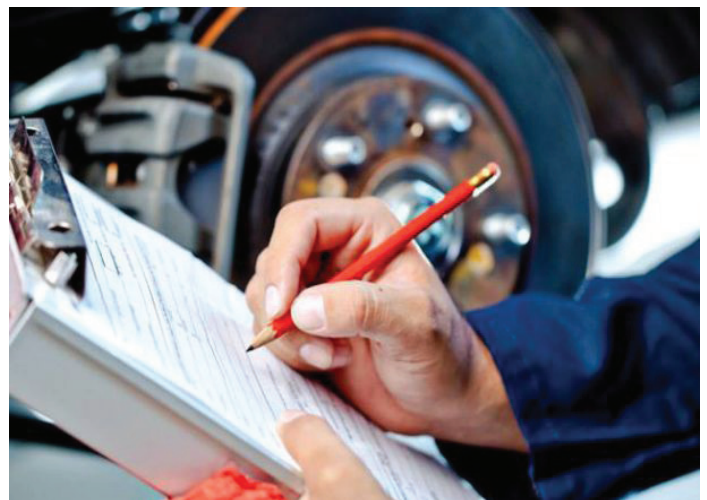


Image Source: <http://prestigesd.com/multi-point-safety-inspection-giveaway/>



Sal Risalvato, Executive Director

Rewinding the Decade: Superstorm Sandy, Rewards Legislation & Self-Serve

Superstorm Sandy

Monday October 29, 2012 is a day New Jersey will not forget for a long time. Superstorm Sandy slammed into New Jersey like a freight train and there are some that can say they have still not recovered.

As it became apparent that the storm was going to make a direct hit on our shores, we began warning members four days earlier. When Governor Christie declared a state of emergency on Saturday we scrambled to send an email to members on Sunday the day before we were hit. We didn't know then, but it would be a while before we were able to send emails to our members.

The destruction along the coast and the resulting surge left thousands homeless, and over 300,000 homes without power--a power outage that would last for as much as a month for many. NJGCA members were in the eye of this storm for weeks as motorists formed long lines at gas pumps. Many stations had no electricity while others had no gas. The lines were the result of a panic as residents were filling five gallon cans in order to fuel their home generators, backing up the pumps for hours. Stations that had gas and electricity quickly ran out.

NJGCA participated on a daily phone conference with the governor and officials from the state police, homeland security, and the military. The purpose was to update the situation around the state and make sure everyone was receiving the same emergency information. Since gasoline supplies were a critical part of the recovery, NJGCA played an important role. Governor Christie ordered the utilities and state officials to prioritize getting electric service restored at gas stations. NJGCA was tasked with funneling information to the utilities.

The NJGCA offices remained closed for over a week as we had no power and no computers or internet. Most of the staff also had no power or computers at home and our cell service was spotty. Thankfully several months earlier, NJGCA had finally posted a Facebook page that became invaluable. Working from home, our Communications Director at the time, Nick De Palma, was able to monitor the page. PSE&G used our Facebook to communicate valuable information over the week following Sandy with the utilities and state officials.

We were able to give the state's utilities locations that had gas in their underground storage tanks but were unable to pump because they had no power. PSE&G prioritized these locations and miraculously had most of them back online in three days. The

bigger problem came after their power was turned on. They quickly pumped out thousands of gallons and were once again out of business because they were unable to receive deliveries. All of the supply racks, pipelines, and the east coast's second biggest refinery at Bay Way were all closed due to damage from the storm surge. There was plenty of gas in the storage tanks, but no way of getting the gas into the tanker trucks! New Jersey and New York were paralyzed.

In a matter of days, the list of locations that we were sending to the utilities and state officials showed hundreds of stations with restored power and no gas to sell. Even the Bay Way refinery had their electric restored in five days, yet remained unable to supply any gas for over a month. The same with the pipelines. Deliveries by barge were also impossible because the waterways were all blocked.

To this day NJGCA has archived all of the hundreds of emails from members who were pleading for our help to get gasoline delivered to them. We worked with the Department of Defense and were successful having over 10 million gallons of gas brought in to New Jersey, but ultimately it wasn't until Governor Christie ordered odd-even gas rationing, did the panic subside.

In the end, the list that was compiled showing all of the gas stations that had their power restored but had no gas to sell for weeks, was the ammunition that we needed to prevent the state from enacting laws that would require every gas station to install a backup generator. Within several weeks of Sandy, eight legislators introduced legislation that would have required generators to be installed. It didn't matter to lawmakers that the cost of generator installation cost \$50,000 - \$120,000; their only interest was to make sure that the aftermath of Sandy never happened again. Our data proved that had every gas station in the state had a generator installed prior to Sandy, we still would have experienced the same gas lines because the problem wasn't that there was no electricity, the problem was NO GAS!

Sandy remains as one of the big events for NJGCA members in the past decade.

Rewards Legislation

On May 5, 2015 Governor Christie signed S-2434/A-1985, better known as the "Rewards Legislation."

For years, major branded oil companies dreamed up crazy schemes to have rewards and giveaways at the gas pumps. Of course, the oil companies

were generous giving these rewards because the DEALERS were paying for them. Free glasses, footballs, and soda were all common giveaways at the pumps. New Jersey banned this practice in the 1970s in order to relieve the burden on small business owners, but in an effort to reward customers in today's world, legislation was passed in 2012 that would permit rewards at the pump as long as the DEALER was prohibited from paying for the reward.

However, the BP oil company tried to get around the law by charging 2.5 cents per gallon to their dealers for each 5 cents that was rewarded to a customer on a gas purchase. BP claimed that this was a "transaction" fee. NJGCA argued that this violated the intent of the 2012 law and immediately sought to remedy the situation. After a few years of negotiation, a new law was passed that closed any loopholes the oil companies could claim existed.

What has been the result? New Jersey branded gasoline retailers have saved thousands of dollars every year since the law was signed on fees that major oil companies have tried to impose. Fees that are paid by dealers in 49 other states.

The 2.5 cents that BP tried to pass on to their dealers suddenly had to be reimbursed every month to BP dealers in New Jersey, while BP dealers in other states must pay the fee. This has resulted in a savings of \$300 or more for every BP location.

Exxon was beginning a rewards program that they called "Plenti" just as the new law was signed. Exxon had notified their dealers that participation in the Plenti program would cost a whopping \$500 per month. Governor Christie's signature stopped them dead in their tracks and New Jersey Exxon dealers were now prohibited from paying Exxon this new monthly fee.

Additionally, Shell and Sunoco each came up with similar rewards programs that would have levied their dealers with fees ranging from \$200 - \$300 per month. The new legislation that NJGCA had passed stopped each of them too.

The economic benefit that has been realized by branded gasoline retailers because of the passage of the "Rewards Legislation" certainly makes this one of the important events of the decade for NJGCA members.

NJGCA Position Change on Self-Serve Gas

Perhaps the biggest policy position change that NJGCA has ever made is the change of position on New Jersey's prohibition of self-serve gas.

The ban in New Jersey has existed since the late 1950s and was hotly debated in the early 1980s as motorists and oil companies desired to allow customers to pump their own gas. NJGCA's (back then we were known as NJGRA) position then was an adamant opposition to allowing customers to pump their own gas. The big reason that dealers universally opposed self-serve was because we feared the major oil companies would put small businesses out of business. All of the major oil

companies operated their own retail locations in direct competition with franchise lessee dealers sometimes only a short distance down the road.

Oil companies already were fierce competitors, and the advent of self-serve would amplify their advantage. Since most stations didn't have canopies or modern pumps, it was feared and proven to be true, that the oil companies would modernize their own locations with attractions for motorists such as canopies that would make it even more difficult to compete once customers became accustomed to pumping their own gas. On rainy days locations with canopies would surely have an advantage for motorists who wished to pump their own gas.

Motorists at that time also wanted self-serve. Why? Because they witnessed all of our neighboring states selling gas 10 cents cheaper at the self-serve island and they too wanted the same savings. The motorists position would change over the next 30 years as it wasn't long before other states began raising their gas taxes and creating a 40 cent gap in the price of their self-serve price versus New Jersey's full serve price. The motoring public began enjoying a culture in New Jersey that was a pride in cheaper gas while someone pumped it for the motorist.

The business climate began changing at the turn of the century and retailers began dealing with much higher costs for labor; and finding reliable pump attendants was becoming increasingly more difficult. Also, the marketplace changed and major oil companies no longer operated their own locations in direct competition with franchisees. In fact, today the oil companies with few exceptions have even divested themselves of the property and the retailers now own the real estate themselves.

All of these factors made most retailers change their minds about allowing their customers to pump their own gas. After many members began expressing a change in their position, NJGCA surveyed the members in 2014. The result was that 82% of retailers now favored self-serve. In 2015 NJGCA began lobbying legislators to pass legislation that would permit motorists to pump their own gas.

Since the change in the NJGCA policy position on this issue, members are finding even more difficulty hiring pump attendants, and new state laws have increased the costs and burdens of keeping employees at the pumps. This issue has become a priority for NJGCA staff as it is a long and difficult fight that we believe will eventually be won.

Because this is such an important change of position in NJGCA public policy, the advocacy to permit self-serve gasoline in New Jersey is an important event in this past decade for NJGCA members.

Lots of Fossil Fuels

Drill Baby Drill!! Although that catch phrase started in the previous decade after serious spikes in the price of crude oil and gasoline in 2008, the phrase and the results took a solid foothold in every aspect

of energy consumption in the most recent 10 years.

America experienced two periods of extremely high gas prices; once for a period in 2005 and then again for a more sustained and dramatic period in 2008. The fallout from the 2008 price hike had severe consequences that resulted in an economic downturn including huge losses on Wall Street and the collapse of banking and financial institutions. Another result was a boost to emerging alternate fuel markets that also had the strong backing of environmental advocates. The price, supply, and environment all came together in a perfect storm.

Had "Drill Baby Drill" not become a reality, it is likely that the limited success of alternate fueled vehicles, mostly electric zero-emission vehicles, would have an even stronger share of today's transportation marketplace. Only the sustained low price of energy obtained from fossil fuels have kept alternates such as electric and hydrogen from exploding. Although solar and wind have advanced exponentially, the low cost of natural gas has kept the cost of electricity much lower than it otherwise would have been, keeping these alternates from being more widespread.

Drill Baby Drill has resulted in an enormous tapping of the nation's crude oil and natural gas reserves. It should actually be labeled Frack Baby Frack since the drilling technology that has become so popular is hydraulic fracturing better known as fracking. Fracking has enabled the extraction of crude oil from wells that might be considered dry and non-productive without the new technology. Crude oil has become plentiful in both the United States and Canada with supplies overflowing. Exporting of crude oil is now permitted and our reliance on foreign oil has been reduced to near zero.

Even OPEC nations have had to purposely shut down their own production in order to keep the price of crude oil from crashing. The reduction on foreign oil has dramatically lessened the effect of geopolitical unrest in the Middle East from causing huge and sustained price spikes. Concerns over losing Middle East oil supplies are treated almost with a yawn today, when over a decade ago, similar unrest could cause giant and lengthy hikes in the price of crude oil and gasoline.

Natural gas reserves are abundant also because of fracking. Supplies have become available in places they were not previously, and pipelines are being constructed so everyone can partake in the bounty. The costs of heating a home, and producing electricity would probably be double today if natural gas supplies remained the same as in the earlier part of this century. Natural gas vehicles, particularly heavy duty trucks and buses are taking advantage of the lower cost of natural gas and the lower emissions that result. The relatively low cost of energy overall, has created strong economic opportunity, employment, and wealth for a sustained period in our nation's history. Imagine if every family needed to spend double the amount they currently spend to fill their gas tank, heat their homes, and pay their electric bills. Billions of dollars

that are currently saved on energy consumption are being spent elsewhere in our economy.

Of course the availability and cost of energy overall has its effect on those who purchase energy, but the same effects are felt by NJGCA members and even more so because we are not only purchasers of energy, we are also sellers of energy.

One of the tenets that NJGCA has adopted in the previous decade is that NJGCA members must stop thinking as if they are in the gasoline and diesel business, but rather they must begin a forward thinking process that "they are in the transportation energy business."

The abundance that we now have in the energy marketplace and Drill Baby Drill is an overall event of great impact on NJGCA members and for that reason earns a spot on the list of events of the decade.



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Eric Blomgren, Director of Government Affairs

Rewinding the Decade: Transportation & Employment Policies

Gas Tax Increase

One of the biggest events of the decade for station owners and NJ politics was the increase in the gas tax in 2016. The issue of the gas tax was New Jersey's 'third-rail,' no politician wanted to touch it for fear of the consequences. The last gas tax increase had been 1990, and in the 26 years that followed the population of New Jersey increased by 1.3 million and inflation ate away half the value of the 14.5¢ a gallon tax. As costs for road maintenance increased over the years, legislators and governors of both parties were unwilling to vote for more revenue to pay for their increased spending, so instead they took out more and more debt. In theory, New Jersey voters are supposed to approve further increases in our state's huge debt, but this rule doesn't apply to independent authorities like the Transportation Trust Fund (TTF). By 2016, the annual interest payment on all the debt was actually larger than all the revenue collected from fuel taxes, leaving no money for roads and bridges.

As it became clear that more revenue would be needed, the question became how it would be collected. Some advocates and legislators, including a few at the highest levels of government, were seriously considering not increasing the state's fuel taxes, but to instead extend the sales tax to cover motor fuel, as is done in New York. This would have been a complicated disaster for retailers. NJGCA worked hard to make sure legislators understood the negative impact to small businesses and to state finances, and ultimately we succeeded. We also heard high-ranking legislators actively discussing an increase over 50¢ per gallon, since that was the scale of increase necessary to completely eliminate new debt.

Ultimately, the Legislature settled on an increase in the petroleum products gross receipts tax of 22.6¢ per gallon on gasoline and 26.6¢ a gallon on diesel, which when combined with existing taxes would generate \$2 billion per year. Governor Christie, however, insisted that he would oppose any tax increase unless it was coupled with some form of tax cuts. Under the leadership of Senator Paul Sarlo (D-Bergen) and Sen. Steve Oroho (R-Sussex), and with the help of NJGCA, a package of tax cuts was attached to the fuel tax increase. The most important was the complete elimination of the state's estate tax, which applied to all estates worth over \$675,000. This tax was a huge threat to small business owners looking to leave ownership of their business to the next generation. Without being attached to the gas tax, this repeal almost certainly would never have happened. Retirement income under \$100,000 was also exempted from the state income tax and the sales tax was lowered from 7% to 6.625%.

The final version of the law also included language to try and avoid the issue of kicking the can down the road that troubled the state for the previous quarter century. A mechanism was developed for the Treasurer to have the discretion to increase the per-gallon tax rate of fuel to ensure the State keeps collecting \$2 billion per year. It was hoped at the time that the total increase over the course of the eight year TTF program would be only about 2¢ a gallon. The Christie Administration chose not to increase the rate in 2017. In 2018 the Murphy Administration increased it 4.3¢ a gallon, then chose not to increase it at all in 2019. There will almost certainly be an increase in 2020. Under current law the annual adjustments are to be made through October 2023.

Employment Law

One of the most consistent trends over the course of this decade in Trenton has been a steady increase in the obligations, regulations, and benefits required of employers to their employees. It started in 2013 when Democrats in the Legislature wanted to increase the minimum wage from \$7.25 to \$8.25 an hour, with annual increases based on inflation. Gov. Christie vetoed it, and instead it was passed by the voters through a constitutional amendment. Some supporters of the increase even said that the automatic increases would settle the issue once and for all. It was only about two years before those same legislators started saying that an increase to \$15 was a moral necessity. While Gov. Christie vetoed this increase too, Democratic gubernatorial nominee Phil Murphy had already endorsed it and legislative leadership had committed that even if the Republican nominee won the 2017 election, they would again just go to the voters to force the increase through. Though the fight of the minimum wage increase was drawn out longer than many advocates anticipated, it was ultimately approved in 2019.



NEW JERSEY'S MINIMUM WAGE

Date	Most Employers	Seasonal & Small Employers (fewer than 6)	Agricultural Employers	*Cash Wage for Tipped Workers
January 1, 2019	\$8.85	\$8.85	\$8.85	\$2.13
July 1, 2019	\$10.00	NO CHANGE	NO CHANGE	\$2.63
January 1, 2020	\$11.00	\$10.30	\$10.30	\$3.13
January 1, 2021	\$12.00	\$11.10	NO CHANGE	\$4.13
January 1, 2022	\$13.00	\$11.90	\$10.90	\$5.13
January 1, 2023	\$14.00	\$12.70	\$11.70	NO CHANGE
January 1, 2024	\$15.00	\$13.50	\$12.50	NO CHANGE
January 1, 2025	TBD	\$14.30	\$13.40	TBD
January 1, 2026	TBD	\$15.00	\$14.20	TBD
January 1, 2027	TBD	TBD	\$15.00	TBD

* Cash wage plus tips must equal the minimum wage.

New Jersey's Minimum Wage: <https://www.nisivoccia.com/new-jersey-minimum-wage-rate-increase-effective-july-1-2019/>

It's not just what you pay your employees for their work that the government is deciding for you, but also how often you are paying them not to work. Legislation to require all employers track and provide up to 40 hours of paid sick leave per year became the law as well. Originally this idea was promoted as just ensuring that a sick employee couldn't be fired for missing a day or two of work per year. By the time labor advocates were finished with the bill though, it was not illnesses of the employee that were covered, but illnesses or scheduled doctors' appointments for any member of their family and even close friends. Not that the exact reason really matters since an employer cannot ask for proof of the illness unless an employee uses sick leave for more than two consecutive days. The state's paid family leave program was also significantly expanded, entitling every employee to up to 12 weeks of paid leave (paid by the State via payroll taxes, up to \$860 a week) to care for a newborn or sick family member. If the employer has 30 or more employees, then they must guarantee that the employee will have the same or a similar position when they return from leave.

Those are the biggest changes, but there have been a host of others. The "equal pay" law which requires businesses to have some justification to explain any differences in pay between virtually any employees with "substantially similar" work. When hiring, you cannot ask about the applicant's prior wage history. There's also the wide variety of ideas that have been introduced but not made law (yet). Paid time off to attend a child's school events, paid time off to go vote, paid time off if a state of emergency is declared by the Governor, and payments for when an employee's schedule is changed.

To tie it all together, the Legislature also passed a wage theft bill to significantly increase penalties for any violation of all previous and new labor laws. Despite the advocacy of virtually the entire business community, the penalties don't discriminate between an employer who purposefully steals from an employee's paycheck and one who makes a mistake because they didn't understand some aspect of the law. With us only at the halfway point of Governor Murphy's first term and the Legislature maintaining its solid Democratic majority for at least two more years, we can expect the near future to look like the recent past when it comes to new employment laws.

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MEMBERSHIP MEMO!



By: Greg Cannon

“Time does not pass, it continues.” - Marty Rubin

Happy 2020! So let's continue ... to look forward, explore new paths and prepare for what's to come.

Your Association has been and is trying to keep you informed of the latest trends in the industry so you can plan ahead. We hope you have found value in your membership and will continue to support us in our efforts to overcome the challenges that affect each of you in some way.

I hope all of you were able to enjoy some down time with your families during the

Holidays to relax and reflect.

Have a great beginning to a new decade and let's help grow our membership so we can continue to make a difference.

Thank you for reading. Until next time.

Cheers!

Greg Cannon



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Legislative Roundup

Important Issues Affecting Your Business

By: Eric Blomgren

MOTORIST REPAIR RIGHTS AWARENESS

In November the General Assembly passed S-1712, sponsored by Asw. Pamela Lampitt (D-Camden), by a vote of 74-0. This bill requires vehicle manufacturers to give purchasers of new vehicles a statement informing them of their legal right to have their vehicle fixed at an independent shop with aftermarket parts without their warranty being automatically voided. Manufacturers have fought hard to have the bill pulled. As an indication of how widespread misinformation is; just before the Assembly vote, a consumer contacted our office after finding out about this bill online. After a series of issues with her vehicle, she spoke with a Mercedes rep and asked for a repair history of her vehicle she could take to an independent shop. The employee told her that if she took the car to an independent shop her entire warranty would be voided. Hopefully requiring manufacturers to explicitly say the truth will reduce how often they lie, or at least provide consumers with the tools to push back. On January 9th, Governor Murphy signed S-1712 in to law.

The legislation, S-1712, states that within 90 days after the purchase or lease of a new motor vehicle, the manufacturer is required to provide a new vehicle buyer or lessee with a written statement as well as provide a copy inside the vehicle manufacturer's owner's manual, which includes:

"The Magnuson-Moss Warranty Act, 15 U.S.C. s.2301 et seq., makes it illegal for motor vehicle manufacturers to void a motor vehicle warranty or deny warranty coverage solely because an aftermarket or recycled part has been used to repair the vehicle or someone other than the authorized service provider performed service on the vehicle. This provision does not apply to a new motor vehicle purchased solely for commercial or industrial use."

Failure to comply with the notification provisions set under this statute is considered an unlawful practice under the consumer fraud act.

BAGS, STRAWS, AND STYROFOAM

In December, the Legislature began trying to rush through a bill designed to cut down on pollution from certain single-use products affecting all convenience and grocery stores. Under the version of the bill which passed the Senate Budget Committee, one year after the bill is signed no business will be able to give (or sell to customers) plastic carryout bags. Small plastic bags used to wrap loose items like fruits or food prepared to order would still be allowed. Paper carryout bags would be banned at grocery stores, which are defined as food stores with more than 4,500 square feet. This means that convenience stores (as long as they are under 4,500 sq ft) would still be able to give out paper bags, and to do so without collecting a specific tax on each one (prior versions of this bill put a 5¢ fee per bag on all paper bags). Polystyrene foam (Styrofoam) food service products would be banned two years after the bill is signed. One year after

the bills were to be signed, a food service business can only give out plastic straws if the customer specifically asks for them. Straws made from other materials can be left out for customers to serve themselves. Retailers must still keep a stock of plastic straws around to give to any customer who asks for one. Some people with disabilities can only use a plastic straw and insist that they continue to be available in some form. Any violation of these provisions would be given a warning first, a second violation would be subject to a \$1,000 fine. These rules would also supersede all local ordinances dealing with these products. Nearly 100 of the state's 565 have passed some type of regulation dealing with these products, creating a complicated patchwork where one type of bag may be free in one town, banned in the next, and subject to a fee in another, all within a few miles of each other. This bill will create one standard for the state.

The bill was expected to move quickly but ran into headwinds, particularly over the issue of paper bags. The bill also briefly included a provision mandating grocery stores give customers free reusable bags for the first two months, until someone eventually realized mandating a private business give away a product that cost them money was unconstitutional. What the final form of this bill will be is still up in the air, and resulted in the bill dying when the legislature ended on January 13th. All aspects of this legislation were re-introduced when the new legislature was sworn in at noon on January 14th, and will likely see action in the Senate very soon.

VAPING AND TOBACCO

Major changes are coming to the way that vaping/e-cigarette products can be sold in the state of New Jersey, and nationally. Both the federal government and the State government have now passed a variety of new regulations which will go into effect at different points throughout the coming year. Here is the confirmed schedule:

- February 6: it will be illegal in the USA to sell any flavored cartridge or pod except tobacco and menthol flavors. Because the FDA's ban specifies that it is flavored cartridges being banned, single use products which cannot be refilled can continue to be sold in any flavor.
- March 1: No retailer can offer or accept any coupons, price reductions, or price rebates connected to the sale of tobacco or vapor products. This applies to all forms of discounts, including anything offered by the manufacturers. Unlike the rest of these changes, this applies to all tobacco products, not just vape products.
- April 20: It will be illegal in the state of New Jersey to sell any flavored vaping product of any kind in any flavor other than tobacco flavor. This applies to all retailers and to internet sales.
- May 12: It will be illegal in the USA to sell any vaping product unless the manufacturer has submitted a formal application to the FDA under the Premarket Tobacco Application (PMTA) rules. It is expected that the FDA will announce which products have applications submitted and can continue to be sold. It is likely that virtually

all of the major manufacturers of these products will submit applications before the deadline. These applications are thousands of pages long and extremely expensive to prepare, it is expected that many smaller independent manufacturers will effectively go out of business, and they are pushing to extend the deadline.

In November, both the Senate and Assembly Health Committees moved several bills to address public concerns over vaping and e-cigarettes. The most serious concern we had was in S-4223, which would have banned the sale of all vaping and e-cigarette products in convenience stores, and restricted them only to vape shops. Part of the purpose of this requirement was to cut down on the sale of vaping products to high school students. However, a study published last year in the American Journal of Health Promotion found that two-thirds of underage vape users got the product from a friend, and of those who purchased through retail, the biggest source was the internet, with vape stores being second. Gas stations and convenience stores combined were only responsible for less than 8% of underage retail purchases.

Thankfully, and with the help of those members who contacted their legislators, we were able to get this section removed from the bill before it was voted on by the full Legislature in January. Also removed from the final version of this bill was a doubling of the tax on vaping liquid (from 10¢ to 20¢ per milliliter) and a new 20% tax on the devices themselves, which the retailer would have to collect from the consumer and remit to the State.

Left in the bill, however, was a ban on vaping products with more than 2% nicotine, a level low enough that it would have banned almost all brands of cartridge-based e-cigs. Every retailer would have had to purchase an electronic-ID verification system to use with every tobacco/vape sale. Penalties for selling to someone under the age of 21 were to be doubled and a third offense would lead to a mandatory 3-year cigarette license suspension. The cigarette license fee was to increase from \$50 a year to \$500 per location. The Division of Taxation was to be required to invent an elaborate tracking database for all vaping products, and all vape products were to be required to be registered in that database in order to be sold in New Jersey. Added at the last moment was a ban on the sale of all tobacco/vaping products from being sold at any pharmacies (including grocery stores which have a pharmacy counter). Surprisingly, Governor Murphy chose not to sign this bill, which means it expired on January 21. There is a strong possibility that the advocates of this bill will seek to move it again in the coming months, perhaps by making it stricter and they may even attempt to bring back the c-store ban.

There was also a strong push by the sponsors of the vaping restrictions, Sen. Joe Vitale (D-Middlesex) and Asm. Herb Conaway (D-Burlington), for a complete ban on the sale of menthol cigarettes in New Jersey. As much as 40% of all cigarettes sold in the state are menthols, and a ban on their sale would certainly do little to cut smoking rates, as smuggling from out of state would skyrocket. The loss in tax revenue from these cigarettes would cost the State over \$500 million in annual revenue, at a time of prolonged structural budget deficits. Both legislators have also called for a ban on all flavored cigar and cigarillo products. Ultimately it was announced that the menthol cigarette ban was just too much

for the budget to bear, however they promised it would be considered again during the upcoming budget process.

INDEPENDENT CONTRACTORS SEVERELY RESTRICTED

One trend that has accelerated over the course of this decade is that more and more people are basing their careers (or just supplementing their income) around operating as independent contractors rather than traditional W-2 employees. Many employers have also found that for certain services they prefer the flexibility of negotiating to bring in a 1099 independent contractor rather than hiring another employee. Much of the flexibility that comes from using ICs is in being able to avoid many of the costs and regulations tied to an employee. Now, the labor advocates who convinced the politicians to enact these labor laws are trying to restrict almost to the point of outlawing the independent contractor model. After a huge fight, California passed a series of restrictions which have just taken effect to significantly decrease who can be classified as an independent contractor. Just after the November election, Sen. Pres. Sweeney (D-Gloucester) and Asm. Joe Egan (D-Middlesex) introduced legislation that would arguably bring an even stricter version to New Jersey with the hope that it would be rushed through in a few weeks. Thankfully, a tidal wave of opposition has succeeded in freezing the bill.

The most difficult part of the 'test' to determine if someone is an employee or an independent contractor is that an independent contractor must "perform work that is outside the usual course of the hiring entity's business." The problem is the phrase "usual course of business" is open to extreme amounts of interpretation. Is towing part of the usual course of business for a repair shop? Is bookkeeping or human relations? It's not about whether the employer can make the case that they are not, it's about whether an employee of the Department of Labor will agree, or what any individual judge will think if a complaint or lawsuit comes before them. In California there are currently about 25 different exemptions, which can have the effect of leaving any industry not explicitly excluded looking like they have been implicitly included. AAA is concerned because they fear the towers they contract with will be treated as employees. 7-Eleven and other franchisors are concerned that their franchisees could be treated as employees, and that they could be fined for violations committed by individual franchisees. They would likely respond by either getting significantly more involved in their franchisees' operations or by pulling out of the state completely. Earlier this year, the governor signed into law a significant increase in the penalties for violating all labor laws, so judging incorrectly could subject an employer to significant fines and even jail time. Since this bill was first unveiled, the blowback has led to some amendments which lessen the impact, and the sponsors have explicitly said they are not seeking to go as far as California has. Instead they want to codify existing regulations. Unfortunately, those existing regulations are already overly vague and the current Administration has been regularly seeking to expand their reach through new enforcement actions. Although controversial aspects of this bill were unable to bring compromise between the business community and labor advocates in the legislative session that ended on January 14th, it is likely to be on a fast track for passage in 2020.

EMPLOYEE SCHEDULING RESTRICTIONS

In October, a coalition of labor groups announced that their next big push would be to pass a new law creating significant restrictions on how employers can schedule their hourly workers. Laws have already been passed in Philadelphia, New York City, Seattle, San Francisco, and Oregon. The most recent version of the New Jersey bill included requirements like giving employees one-hour pay if they are on call and not needed, have to work a split shift, or if their schedule is changed in any way with less than two weeks' notice. Though a few places have enacted some form of restrictive scheduling, what they have passed has been very different. In Oregon, the law only applies to businesses with more than 500 employees worldwide. In Philly it covers businesses with more than 250 employees, but it includes franchisees and their employees, meaning a franchisee with only a few employees would still have to follow the restrictions, which include provisions like giving existing employees the right to more hours of work before a new employee can be hired. Advocates have promised to introduce a new bill in New Jersey, but so far have not. Expect this to be a big issue in Trenton in 2020.

REGIONAL GAS TAX INCREASE

In December a group called the Transportation Climate Initiative (TCI) released a draft of a plan to create a regional program to increase the cost of gasoline and diesel fuel, potentially in all states from Virginia to Maine. Their hope is that it will generate revenue to fund electric vehicle subsidies and that the higher cost of fuel will force more motorists to drive less and buy EVs. While these goals are certainly concerning, the two biggest issues we would have with this plan are its implementation and what impact it has on our competitive position regarding stations in other states. Under the current draft, the collection point would be at the rack, meaning retailers would not need to worry about it anymore than they do the gas taxes. Rather than a simple, across the board per-gallon tax, this plan calls for the creation of a complicated marketplace in which wholesalers of petroleum fuel would have to purchase "allowances" for the fuel they hold, with the cost being passed down eventually to the motorist. TCI estimates cost for fuel would increase 5¢-17¢ a gallon, perhaps more if fuel sales do not decrease as much as they are hoping. The program is planning to be operational by the start of 2022. Though a dozen states are involved currently, each would have to independently authorize involvement in the program. If every state in the northeast were to increase the price of gas the same amount, then at least that would be fair, but if, for example, gas were to go up 20¢ a gallon in New Jersey, 10¢ a gallon in New York, and 0¢ in Pennsylvania, then that would be a huge problem. NJGCA is actively involved with other business organizations that are monitoring the progress of this proposal.

BEER/WINE IN C-STORES

In November Asm. Joe Danielsen (D-Somerset), the Chairman of the Assembly Oversight and Reform Committee, completed his planned series of hearings diving into the state's antiquated liquor license system and ways in which it can be reformed. NJGCA again testified on the need to change the laws so that convenience stores could have some ability to sell these products to the consumers who want them. Though existing liquor stores oppose any change to the law, Committee members were broadly sympathetic

to NJGCA's position. We hope in the coming year Chairman Danielsen and the committee will use the testimony from these hearings to craft serious reform legislation.

MARIJUANA LEGALIZATION

When Gov. Murphy took office in January 2018, many expected the legalization of marijuana to sail through the Legislature in a matter of weeks. Instead, after 18 months of discussion, they were unable to get a majority of the State Senate to agree on a bill. Now the issue will be settled by the general public at the ballot box in November 2020, where voters will decide whether or not the sale and use of marijuana for recreational purposes will be legal in New Jersey. If approved, the Legislature will still have to pass extensive new laws and regulations dealing with its implementation, including the effects it would have on employment law. A poll earlier this year of New Jersey residents found 50% of respondents saying this would be a good idea and 34% saying it would be a bad idea.

SALT DEDUCTION FOR SMALL BIZ OWNERS

The Legislature unanimously passed, and in January the governor signed into law, a bill that would allow the owners of pass-through entities (LLCs and s-corps) the option to change their designation in the eyes of the NJ Division of Taxation to be taxed as an entity rather than an individual. There would be no change in the tax rate paid. The reason for this is that the federal tax reform bill passed two years ago put a cap on the federal income tax deduction for state and local taxes of \$10,000, but left the deduction uncapped for businesses. Since owners of pass-through businesses have their earnings treated as regular income, they have been capped at \$10,000. With this change, the business owner may be able to go back to having an uncapped SALT deduction, effectively getting a tax cut on federal income taxes. If you own a pass-through, you may want to discuss making this change with your accountant.

HAIR STYLE DISCRIMINATION

In December, New Jersey's Law Against Discrimination was officially amended to protect individuals from employment discrimination by defining race to include "traits historically associated with race, including but not limited to, hair texture, hair type, and protective styles [such as] braids, locks, and twists." Generally speaking, you cannot legally fire someone because their hair is braided.

MINIMUM WAGE REMINDER

A reminder that the minimum wage increased on January 1st for all employees. Businesses with more than five employees have seen the rate increase from \$10 an hour to \$11. Those with five and fewer total employees have seen the rate increase from \$8.85 to \$10.30. If the owner of the business is on the payroll then they count as an employee. Make sure you inform your payroll company to increase the rate (including for overtime), as they will not increase it without your authorization. Minimum wage will increase again on January 1, 2021, to \$12 or \$11.10.

HIRING LAW CHANGE-SALARY HISTORY

In July the governor signed into law a bill that prohibits employers from asking potential new employees about their salary history, including prior wages and benefits. The information can only be used if the applicant volunteers it without any prompting.

If an employer finds out about the applicant's salary history some other way, it cannot be used in determining what their compensation should be. If conducting a background check, the employer must specify that any salary information is not to be disclosed. The change took effect January 1, 2020.

UPDATE TO FEDERAL OVERTIME REGULATIONS

On January 1st new federal regulations from the US Department of Labor took effect increasing the threshold for overtime. Previously, employees with a salary below \$455 a week (\$23,660 a year) must be paid overtime when they work more than 40 hours a week, no matter what their job duties entail. The new regulation increased that threshold for the first time since 2004 by raising it to \$679 a week (\$35,308 per year). If you have an overtime exempt employee, such as a store manager, who makes less than \$679 a week but occasionally works more than 40 hours within any given week, you will need to either shift them to an hourly pay structure or increase their weekly pay. In 2016, the Obama Administration had proposed increasing the threshold to \$913 a week (\$47,476 per year). Some labor groups have called on the NJ Department of Labor to increase the overtime threshold to at least what the Obama Administration proposed, 2.5 times the minimum wage. Since the minimum wage in four years will be \$15, it would mean any employee earning less than \$78,600 per year would have to start punching a clock because they would be entitled to overtime pay. Given the priorities of the Murphy Administration over the last two years, you can expect this issue will be a fight in the coming year.

ELECTION UPDATE

With the ballots counted for New Jersey's elections to the General Assembly, the results show little change in the makeup of the Statehouse. Republicans saw a small uptick in support across the state relative to the last state election in 2017. Democrats had heavily targeted three longtime Republican districts but failed to flip any seats. Instead Republicans flipped the 1st legislative district—both Assembly

seats and the special election for the state Senate seat. The reason for the special Senate election was because in 2018 the longtime Democratic Senator, Jeff Van Drew, was elected to Congress. The swing to the Republicans, combined with his opposition to impeachment and the fact that Donald Trump won his congressional election in 2016, led to Congressman Van Drew switching parties in December, from Democrat to Republican. Though a Democrat, in the State Senate Van Drew had voted with Republicans against \$15 minimum wage, income and corporate tax increases, paid sick leave, gay marriage, and gun control.

Democrats will have a 52-28 majority in the Assembly and 25-15 majority in the Senate for the next two years. Turnout for the state was just 27%. In early 2021, the legislative map will be redrawn based on new census figures. In 2011 the Democratic map was picked, which Republicans have blamed for keeping them out of the majority in either house since 2003. In 2019, Democrats won about 55% of the votes cast statewide for their Assembly candidates but won 65% of the total seats. Some longtime representatives may find themselves thrown into new districts with other incumbents, or traditionally safe districts may become competitive.

2020 is of course a presidential election year. President Trump is almost certainly going to be the Republican nominee, while the first primary for the Democratic nomination will be February 3rd in Iowa. That primary could be locked up as soon as March or could stretch into June. Polling consistently shows four leading candidates—former Vice President Joe Biden, Sen. Bernie Sanders, Sen. Elizabeth Warren, and Mayor Pete Buttigieg. NJ Senator Cory Booker recently ended his bid for the presidency, his Senate seat will be on the ballot this November. All twelve of our members of the House of Representatives face reelection as well.



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NJGCA ON THE ROAD • 19 • JANUARY 2020

Are You Paying Too Much in Property Taxes?

By: Mauro Tucci, Esq.



No one should be paying more property taxes than is absolutely necessary. Unfortunately for business owners, New Jersey continues to place the country's heaviest real property tax burden on commercial and industrial property owners. How do you know if your property taxes are too high? If they are, how can you reduce your property taxes?

The answer is usually a property tax appeal. The amount you pay in property taxes is based on the assessed value of your property. A property tax appeal argues for a lower assessment, which in turn lowers the amount of property taxes.

Every property is different, but many could benefit from a property tax appeal. While any substantial property may be a candidate for a successful appeal, property tax appeals generally present significant financial benefits to owners of commercial, industrial, or multi-family residential rental properties.

A careful analysis of your property tax assessment is necessary to determine whether it has been appropriately assessed and is not being charged more than its fair share of taxes. Even as general market conditions have improved for some property classes, the question of whether a particular property is properly assessed remains an essential exercise of due diligence for any owner or occupant of real estate in New Jersey. There may be unique factors impacting a property's value which are

immune from general market conditions, such as the existence of environmental contamination.

On or before February 1, 2020, the tax assessor for each taxing district issues a "Notice of Assessment," which lists, among other information, the property assessment for 2020. It is important to understand that the assessed value from the municipality is not necessarily the actual market value of the property. If a property owner disagrees with an assessment, the municipality must defend the "equalized" value of that assessed property, which takes into account the average assessment in the district as a percentage of the average useable sale in the district. This equalized value is often higher than the assessment and is the value to be used in testing whether the property is fairly assessed.

An appeal of a 2020 assessment must be filed on or before April 1, 2020. All appeals may be made initially to your local County Board of Taxation, but if the assessment (not the market value) exceeds \$1,000,000, then the appeal may be made directly to the New Jersey Tax Court. Direct appeals to the Tax Court must also be made by April 1, 2020.

If you think your property tax assessment is too high, the time to start planning your property tax appeal is NOW. Determining whether your property is over-assessed requires careful evaluation and can take several weeks, and so the process of preparing your tax appeal starts months ahead of time. Don't delay, or else you may have to wait until 2021 to save money on your property taxes.

* * * * *

Mauro Tucci is a partner with Chiesa Shahinian & Giantomasi PC in West Orange and is an NJGCA Member Benefit Partner.

CSG has successfully handled property tax appeals involving gas stations, retail stores, office buildings, apartment buildings, and industrial properties from warehouses to oil refineries. We welcome the opportunity to evaluate properties for appeal potential at NO CHARGE to the owner. Tax appeals are usually handled by CSG on a contingency fee arrangement.

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Energy Master Plan Update

By: Michelle Horowitz

Part of the reason the plan may not have been released yet could be the criticism most business organizations within the state have taken towards the plan, urging the Murphy administration to slow down adopting the plan as it is likely to spike utility bills and possibly drive jobs out of the state. As previously mentioned, environmental groups are also critical of the plan that it does not do enough to eliminate fossil fuels and stop further new fossil fuel projects. While business fears huge increases in utility bills, The Rocky Mountain Institute for the New Jersey Board of Public Utilities recently released a report around transitioning from using mostly fossil fuel energy to cleaner technologies. The report suggests that the state will be able to move to these methods with only a modest rise in energy spending. Currently, the plan does not offer a rate impact analysis to try to determine what kind of changes residential, commercial, and industrial electricity customers will be looking at with the adoption of the plan.



Image Source: https://en.wikipedia.org/wiki/Jersey-Atlantic_Wind_Farm

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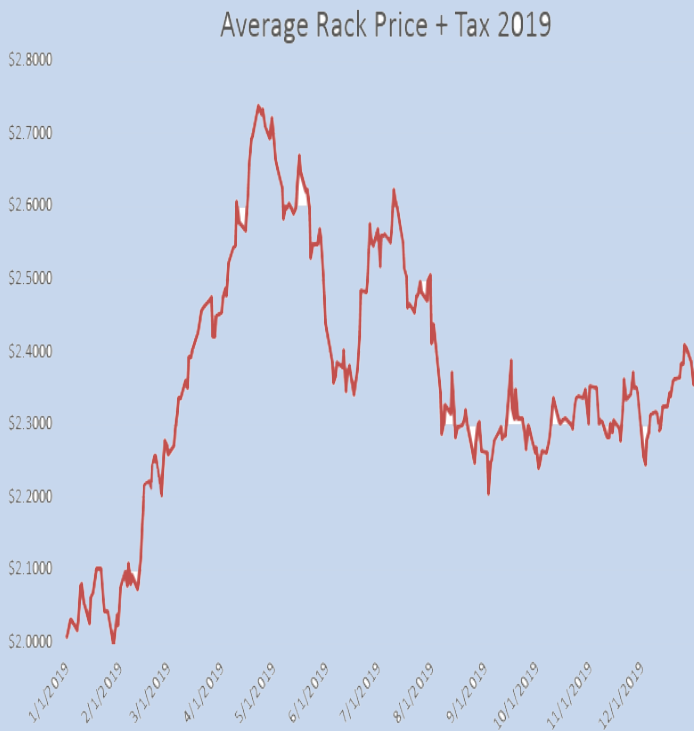
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The Year & Decade in Gas Prices

By: Eric Blomgren

The first half of 2019 saw gas prices follow the pattern they have followed for most of the last several years. They were fairly low for the first few weeks of the year, and then began increasing steadily upward around March until reaching a peak in the period of late April through May. Then prices start to fall in June and through the summer. Of the last five years, 2017 is the only one that did not see this pattern in the first half of the year. This year, the price drop was interrupted in our area by the explosion at the Philadelphia Energy Solutions' refinery, which interrupted a downward trend in prices to cause a 25¢ increase in wholesale costs over a three-week period from June 19 - July 11. Much of that increase was eaten by retailers through a drop in margins. After that, prices have been remarkably steady. In the last five months of 2019, every day's wholesale price has been within a band of less than 20¢, between \$2.21 and \$2.39 a gallon for regular (including taxes).

The average margin for 2019 (based on the difference between the average OPIS retail price and the previous day's average rack price and taxes) was 30¢ a gallon, almost exactly what it has been the last two years. In March and April, it was on average just 21¢ a gallon, while in June and August it was 41¢ and 42¢, respectively. The lowest average rack price plus tax came on January 28th when it hit \$1.9955 a gallon, the only day in 2019 when the price was below \$2 a gallon. The highest price was almost exactly three months later, when it hit \$2.7376 on April 22.



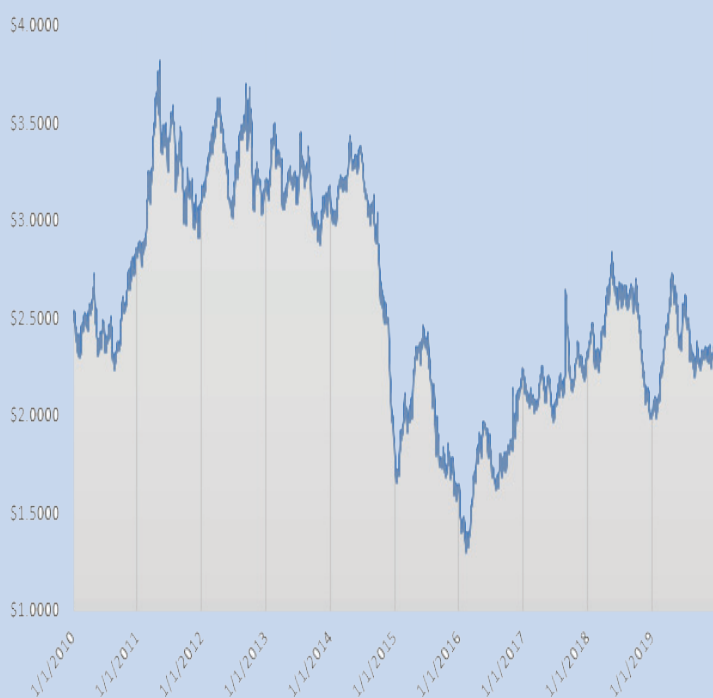
2019	Average Rack Price+Tax	Change From Previous Month	Avg. Margin (OPIS)
January	\$2.05	-\$0.01	\$0.34
February	\$2.17	\$0.12	\$0.24
March	\$2.39	\$0.22	\$0.21
April	\$2.62	\$0.23	\$0.21
May	\$2.60	-\$0.02	\$0.33
June	\$2.42	-\$0.17	\$0.41
July	\$2.53	\$0.10	\$0.30
August	\$2.32	-\$0.21	\$0.42
September	\$2.29	-\$0.03	\$0.33
October	\$2.30	\$0.01	\$0.30
November	\$2.32	\$0.02	\$0.29
December	\$2.33	\$0.01	\$0.27

When we look at gas prices over the last decade, we are reminded just how bad prices were only a few years ago. From September 2010 through May 2011, the per-gallon price of gas jumped nearly \$1.50. Though there would be ups and downs, it was not until four years later (September 2014) that prices started plummeting, dropping about \$1.35 a gallon in four months. Those four years of high

prices were bad for many, but they were good for oil drillers. The revolution in fracking techniques in North Dakota and Texas allowed an explosion in US oil production. Realizing their market share was shrinking, Saudi Arabia led OPEC to increase supply and caused that crash in prices, hoping it would wipe out US frackers, leaving them back in control of the market. While it did have an effect, ultimately the least efficient US firms went out of business or merged with others and strongest survived and thrived. Eventually OPEC backed off and prices have maintained a fairly steady position.

For 2010, the average rack price plus tax was \$2.45. In 2019, it was \$2.36. If you factor in ten years of inflation, then real prices today are actually about 50¢ a gallon cheaper than they were at the start of the decade. ■

Avg Rack Price + Tax 2010-2019



Year	Average Rack Price + Tax	Change	% Change
2010	\$2.45	\$0.40	20%
2011	\$3.20	\$0.75	31%
2012	\$3.32	\$0.12	4%
2013	\$3.19	-\$0.13	-4%
2014	\$3.00	-\$0.19	-6%
2015	\$1.99	-\$1.01	-34%
2016	\$1.77	-\$0.22	-11%
2017	\$2.18	\$0.41	23%
2018	\$2.48	\$0.30	14%
2019	\$2.36	-\$0.12	-11%

The most expensive single day for gas prices in the last decade was May 10, 2011, when the average rack price plus taxes was \$3.8284. If our current gas tax rate had been in effect, then the price would have been over \$4. The lowest single day was February 9, 2016 when it was \$1.3053, less than \$1 before taxes.




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Pretend You're Working For Tips

By: Bill Rosenberg



I thought I would try to tune into our “end of the year” thought process where we take time to reflect on what the past year has offered us as far as our jobs are concerned. You already know how you did financially. That’s a matter of

record and it’s now history. Moving forward. The equally important question is, how well did you perform your job and, specifically, how well did you treat your customers? It’s easier to point to how many times you “beat the clock” or locked in on a diagnosis as soon as it hit the lift. That doesn’t give you the whole picture.

I know it’s hard to keep focused on delivering outstanding customer service. It challenges us the minute we walk in the door. You can call it what you like; busy schedule, technical challenges, poorly behaving associates or an upset customer. They are a part of our lives and we have to learn to block them out and put them in the back of our minds before we engage the next customer or bring the next vehicle into the bay. The work you are about to do or the customer you are about to speak to have no idea and should have no bearing on what your “personal” problems might be and it’s wrong for you to inject them into their world. Remember, they really didn’t want to be in your shop to begin with.

So, Let me try to offer another approach that might prove useful to you this coming year. I’m going to imagine that a good many of us may have worked at a job sometime in our lives where tips made up an important part of our pay. Even if you didn’t, you have surely been on the tipping end of the equation enough times that this thought process will be significant to you. I know there are people out there that consider tipping an imposition. Fortunately, I believe they are in the minority.

Personally, I tend to be a generous tipper because, having worked for tips at an early age, I understand the value they represent to the person providing the service. I remember what my mindset was while I was working at those jobs. The people I was caddying for or waiting on their tables could make or break my day. (By the way, this is all about understanding that YOU have a very personal responsibility in the results of the job you do.) If I wanted a generous tip I had to offer outstanding service. In fact, I had to go above and beyond the accepted (and expected) level of service in order to get that person to think to themselves “Hey, this guy deserves an “extra generous” tip.”

I’m not trying to get you to feel bad for me and I’m not looking for praises. What I’m trying to get you to do is STOP and think for a moment about how folks who depend on tips for a good part of their living approach their day. I will surely not argue with you that there are exceptions to that rule. We have all had people “wait” on us, or try to, that gave us reason to question the necessity to leave a tip at all or even call their lack of service to the attention of their manager. And, that, my friends, is exactly the feeling I want you to remember! Gotcha!!! I want you to remember how you felt when you were the recipient of that poor service. I know you have many examples and I’m going to tell you that I have many more that I too can share with you.

Here’s just one of those examples from my personal list. If you have ever been on vacation at a resort or on a ship you can guess where I’m going. I want to single out a cruise vacation because I know they are very popular right now as many of these huge companies vie for your dollars by building larger and larger ships and dropping fares to near bargain level. How they manage to get people off and on these 4,000 and 5,000 passenger ships along with all that luggage being exchanged and new

food and supplies is nothing short of a logistical miracle. But that's not what I want to talk about.

My purpose here is to address how they get the message across to every one of their international crew on what is expected of them as they interact with the paying passengers. Probably half of the crew is "behind the scenes" while the other half is tasked with directly serving and interacting with the passengers. If you think this happens by accident, you really haven't thought about. I'm not going to get into the details now. That will be a subject to address in the future.

I have been fortunate to have been on several cruises and I have to tell you that, for the most part, all of them have put me face to face with hundreds (maybe thousands, considering the size of some of the crews) of employees that "had the message". The wait staff, the cabin stewards and even the maintenance crews all had a smile or a greeting. Those who were in a position to be the recipient of "expected" tips seemed to be "over the top" accommodating. If you've been on a cruise you know the "end of cruise" routine where, even if the brochure said "tips included", you were left printed envelopes on your bed on the last night that were specifically addressed to each of the positions that you were supposed to tip. This came along with the "tip vouchers" that you had to insert in each envelope and hand to the respective people.

Now for the moment of truth. You stand there with the envelopes and vouchers and you consciously insert each voucher in the appropriate envelope. Some go in without a thought and sealed. Others make you pause and think about how a couple of these people really went overboard (yeah, that was on purpose) and you slip some extra dollars into the envelope. Now, why did you do that?

The bottom line is that it takes a tremendous effort to have the vast majority of the paying passengers (translated to: customers in your shop) leave the ship with a positive attitude. You'll never make everyone happy because someone is always going to find

their steak served at the wrong temperature, their drink not strong enough or their cabin too small for their liking. Some things are just going to be beyond your personal control. BUT It **IS** your job to try to do your best.

I don't want you to finish reading this and feel all the responsibility rests entirely on your shoulders. It does not! To deliver that type of service, the direction needs to come from the very top and it means that everyone in the shop needs to be on board and committed to the same message. That sounds easier than it really is and doesn't happen by accident or without effort.

I'm sure, some of you are in a position to be on the receiving end of a "gratuity or courtesy tip" in your shops. Most are not and never will be. All I am asking is that when you approach a customer walking into your shop or start on the next job ticket, pretend you are working for tips.

* * * * *

Bill Rosenberg has spent most of his life in the automotive industry. His father had a gas station and parts house in Monticello, NY in the 1940's. He began as a salesman in the mid 70's for an auto parts distributor. In 1983 he joined BWP Distributors, a CARQUEST member and rose through the ranks to become Sales Manager, Vice President of Sales & Marketing and eventually Sr. VP. During this time he also served on several CARQUEST national committees, one of which was Training. Bill has authored and delivered customized training to thousands of aftermarket personnel including a major program addressing Quality Customer Service. He continues to collaborate with EAST Training and still writes and consults on issues of training and customer service.

Top of the Hill: Debbie's Record on Member Service

By: Nick De Palma



If you've been reading any of our communications these past few months, you know that Debbie Hill, our long-serving Director of Member Services, has recently transitioned to a new professional opportunity.

While we are incredibly happy for Debbie as she moves to her next adventure, her departure is keenly felt by the Association and the membership.

In 2007, the historic NJGRA morphed into the contemporary NJGCA. As part of the Association's reorganization, Debbie was brought on to assist members with any number of business-, regulatory-, and compliance-related issues. A service station owner herself, she had firsthand knowledge of the problems that many in our industry face.

For over twelve years, Debbie has been advocating for small business owners. She is steeped in institutional knowledge, has tackled every task with boundless energy, and always brought a personal touch to assisting members in need.

We are going to miss her, and more significantly; so will many of you!

If you have been a member these past twelve years, chances are you've reached out to Debbie to get her help with a problem, sign up for a class, seek assistance in getting through to the right folks in Trenton, or just ask for her two cents in reviewing a contract.

Regardless of issue or difficulty, she was there to help. If it was an issue with MVC or DEP, she defended you at a hearing. If you needed to earn your Emission Inspector License or renew your UST Registration, she helped you. If you sought some help with a compliance matter, you likely heard from her.

It would not be boastful or an outright exaggeration to state that, for at least a handful of members, the very survival of their business or the services they offer patrons, is owed to Debbie and her intervention on their behalf.

In twelve years, Debbie handled hundreds of matters that ranged from common to complex. Below are just a few of the cases and examples Debbie has worked on (with names and specific details redacted), or tasks that she continuously labored on. Though no list can fully illustrate the breath of her pursuits, we hope it gives you a flavor of her accomplishments while working for our members:

The "DEP/UST" Matter – Our member was a station operator that owned numerous sites across the state. The owner accumulated a number of UST-related violations, across multiple sites. Furthermore, the member's own actions (and inactions) significantly contributed to their infractions, which totaled nearly \$200,000 in fines and fees. Since the owner was willing to acknowledge his own deficiencies and admit to the unintended oversights, Debbie was able to speak with DEP officials and negotiate a significant reduction by providing necessary documentation and helping to institute an ongoing compliance program. It took five years of continued reporting and demonstrating improvements, but ultimately, this diminished the member's fine exposure to just \$20,000. The member was ecstatic and was able to avoid a serious financial hardship thanks to Debbie's timely efforts on their behalf. The added benefit is that now this member fully understands what is needed to remain in compliance and should not need additional intervention.

The "MVC/Inspection" Matter – Our member was actively, fraudulently, and improperly inspecting customers' vehicles. The list of infractions was long. MVC staffers (and their colleagues at DEP) were monitoring each

transgression and had built a substantial case against him. Altogether, the member faced a lifetime suspension from the vehicle inspection program (both his personal INL license and his business's PIF location license) and \$40,000 in fines. NJGCA will not assist members when there is intentional fraud or cheating, but in this case the member was extremely contrite and desired to repent. After a pre-hearing conference had failed to resolve the matter, the case was transferred to the Office of Administrative Law (OAL). Once before OAL, and in a last ditch effort to save his PIF and INL license, Debbie was able to negotiate a one-year suspension and \$10,000 fine on the member's behalf. Only because the member was confessing, contrite, and apologetic, was NJGCA willing to intervene. Had it not been for Debbie's assistance, and the member's contrition, this member would have lost one entire facet of his business forever.

The "Fuel Contract" – Two new-to-the-industry small business owners had purchased a station, joined our Association, and continued all the previous operator's contracts. Like all new station owners, the partners learned through trial and error. Still, despite their best efforts, they continued to hemorrhage money, especially on the fuel side of their business. Debbie met with the partners, went over their operations, and reviewed several of their agreements. Among some of the most glaring issues Debbie reviewed was the existing operator's fuel agreement. Unbeknownst to the partners, the fuel distributor agreement was based on a Dealer Tank Wagon ("DTW") metric, and not a rack-plus pricing model. As new owners who came from outside the service station industry, the partners didn't know that DTW pricing was costing them considerable money and eroding their profitability. Thankfully, Debbie was able to help the partners re-negotiate their existing contract with their distributor, and move to a rack-plus pricing agreement. This enabled the partners to save considerable resources, produce a small profit on the fuel dispensing side of their business, and help their venture become profitable overall.

The "OSHA Violation" – A member was cited for a series of OSHA safety violations. Altogether the violations totaled over \$17,000 in fines. Debbie met with the member to review their violations, and then arranged a meeting between the member and OSHA officials. With her assistance, not only were the fines reduced to a few thousand dollars, but Debbie made valuable personnel contacts at OSHA. These same OSHA officials would later attend NJGCA informational events to educate members on worker safety issues.

Furthermore, these the OSHA collaborations eventually produced a free business inspection for members without fear of fines or penalties. In acting proactively, Debbie worked out a "facilities check" for members, in which OSHA would visit a member's establishment, point out work-area safety problems, and make necessary improvements; all without fear of being fined by OSHA.

DEP "Compliance" Seminars – Defending members in Trenton unexpectedly presented the opportunity to help station owners avoid entanglements and violations in the first place. Debbie was successful in cultivating relationships with DEP officials from the UST Compliance and Enforcement section, among others. Ultimately, this opened the door to those same officials speaking to our members directly at NJGCA seminars. Aside from the obvious benefit in educating members on how to avoid future infractions, these seminars also illustrated to state officials that, unlike other non-affiliated service station owners, NJGCA members sought to better their understanding and compliance of such regulations to protect their businesses, the environment and their communities.



The Training Class Maven - In organizing our training classes, Debbie continually searched to expand our offering and how many potential students we reached. Among the most notable wins she had was bidding on a state contract to expand our training classes to the NJ Department of Transportation, the Port Authority of New York and New Jersey, and even private fleet operators like UPS.

While the list above is far from exhaustive, the energy in which she tackled these cases certainly was not. Debbie's contributions can also be measured in incalculable, but meaningful ways. Her twelve year commitment to the Association and our members is both profound and praiseworthy.

Though she has taken her leave of us, Debbie will always be a part of our NJGCA family. We hope to invite her back for special events in the future. In the meantime, if you'd like to reach out to Debbie and wish her well, please feel free to email Nick at nick@njgca.org and he will pass your message along to Debbie. Alternatively, if you'd care to share a story with us on how Debbie helped you and your business, please reach out to Nick at the same email address at your convenience.



On-Site Consultation Develops Relationship with the New Jersey Gasoline-Convenience- Automotive Association

In April 2017, following an Occupational Safety and Health Administration (OSHA) enforcement inspection at a member's site, representatives of the New Jersey Gasoline-Convenience-Automotive Association (NJGCA) contacted the New Jersey Department of Labor and Workforce Development, On-Site Consultation Program, seeking safety and health assistance for their members. The OSHA, On-Site Consultation Program, offers no-cost and confidential occupational safety and health services to small and medium-sized businesses in all 50 states, the District of Columbia, and several U.S. territories, with priority given to high-hazard worksites. On-Site Consultation services are separate from enforcement and do not result in penalties or citations. Consultants from state agencies, such as the New Jersey Department of Labor or universities, work with employers to identify workplace hazards, provide advice for compliance with OSHA standards, and assist in establishing and improving safety and health programs.

Founded in 1937, this association represents over 1,500 small business owners who operate gasoline service stations, convenience stores, automotive parts stores, automotive repair shops, car washes, and car dealerships. The association advocates for effective public policies with legislators and state officials, offers small business services to their members, informs and educates members on industry matters, enhances general awareness and projects a positive image to the general public and media, and promotes the highest levels of ethical standards and professionalism among the members.

Following the association's initial contact with the NJ On-Site Consultation Program, a consultation visit to a member's site to evaluate safety and health hazards was planned. The Director of Member Services for the association joined the consultation visit to learn about the

consultation process and the assistance available.

Following the consultation visit, management staff from the NJ On-Site Consultation Program met with the NJGCA Executive Director. As a result of that meeting, an article was published in the association's quarterly newsletter, "On the Road." This article, highlighting the services of the free on-site consultation and the benefits of a consultation visit, was published in January 2018 and again in April 2019.

As a result of these articles, 23 members of NJGCA requested on-site consultation visits for their sites that included assessments by a safety consultant and an industrial hygienist. Through these visits, consultants educated members on the types of safety and health hazards commonly found in these industries. Below is a list of the top 10 most common safety and health hazards found at these facilities and the number of instances of each hazard documented during the consultation visits:

- 1. Hazard Communication** (47 instances) – Hazard Communication is a standard written to address chemical safety in the workplace. Employers need to have a written program, safety datasheets (SDS) for chemicals found on site, clearly labeled chemicals, and provide employee training.
- 2. Machine Guarding** (32 instances) – Many types of equipment found in garages need guarding to prevent employees from being injured. Common types include bench grinders, drill presses, and compressed air belts.
- 3. Electrical Safety** (12 instances) – Electrical safety addresses a wide range of hazards related to the potential for employees to be electrocuted or injured by electrically ignited fires. Common issues include improper use of extension cords, overloaded circuits, and unguarded live parts.

4. **Fire Extinguishers** (12 instances) – Employees who are expected to use fire extinguishers must be trained annually. The extinguishers must be visually inspected monthly and subject to an annual maintenance inspection.

5. **Personal Protective Equipment (PPE)** (12 instances) – PPE must be worn as designated by the employer to protect employees from potential hazards. Commonly used PPE includes eye protection, hearing protection, and foot protection. The employer needs to develop a PPE Hazard Assessment, which clarifies what PPE must be worn for each hazardous task.

6. **Egress and Emergency Planning** (6 instances) – Some examples are blocked emergency exits, inoperable emergency lighting, and failure to have an emergency action plan.

7. **Welding Safety** (5 instances) – Welding presents both physical and health hazards to employees. Common concerns include storing fuel gases and oxygen too close together, not removing flammable material from a welding area, and failure to provide a 30-minute fire watch following welding activity.

8. **Control of Hazardous Energy (Lock Out / Tag Out)** (4 instances) – Lock Out /Tag Out (LOTO) was developed to prevent employee exposure to uncontrolled energy sources found in equipment during repair or maintenance. Energy sources include electric, pneumatic, and hydraulic. For example, when the electricity is shut off, an employee can safely work in an area where live electrical parts would normally create an electrocution hazard. To comply with LOTO, employers need to have a written program, equipment specific procedures, and provide employee training.

9. **Eyewash Stations** (3 instances) – Eyewash stations must be accessible and in working condition. They are required when employees may be exposed to corrosive chemicals, such as battery acid.

10. **Compressed Gas Storage** (2 instances) – Compressed gas cylinders must be secured to prevent them from tipping over. Ideally, these are stored in a cabinet or chained to a wall.

Here are some comments from members of the NJGCA that participated in the NJ On-Site Consultation Program sharing their experiences:

As a 37-year owner of an Automotive Service Center, I have always taken great pride and responsibility in keeping my shop as clean and safe as possible. The OSH On-Site Consultation Program was a great test to see how our shop was performing in our daily safety and compliance issues. Both inspectors were great, well trained, and helped us understand all of the safety check

lists that they performed. Our assessment went quite well, but we still had a couple of items that were not up to code. We repaired those items immediately, and we are very happy we scheduled our visit. I would recommend this program to all my automotive colleagues.

~ Automotive Service Center Owner, Lavallette, NJ

I was very impressed with the professionalism and personal commitment to safety and education displayed by both of the OSHA staffers that visited us. In over 40 years in business, this was the first direct contact with OSHA I'd ever had. My skepticism, and even a bit of fear, was quickly dispelled by the friendly, "here to help" way each staffer engaged me and my crew on each of their two visits. Some of the simple safety suggestions they gave had never occurred to any of us and were easy to implement. I wish that my insurance carrier's annual inspections had included some education like this.

~ Gasoline Service Center Owner, Cape May, NJ

My brother met with you for the walk-through, and he felt that you handled it professionally. We were glad to find out that there were no outstanding issues that needed to be addressed.

~ Gasoline Service Center President, Chestnut Ridge, NJ

"We greatly appreciate this positive feedback," said Baker. "Inviting a state agency into your facility can be intimidating. Hopefully these NJGCA members' positive experiences will dispel any concerns you have."

To locate the OSHA On-Site Consultation Program nearest you, call 1-800-321-OSHA (6742) or visit www.osha.gov/consultation.

Source: Justin Baker, NJ On-Site Consultation Program, Chief Occupational Health

Emission Repair Technician Update

As NJ abandons the ETEP Curriculum Training-track to ERT certification, NJGCA looks to shift gears and help members prepare for their ASE certifications.

By: Nick De Palma

New Jersey's Emission Repair Technician (ERT) certification has undergone a restructuring, directly affecting how new and current ERTs are accredited.

The State's Inspection and Maintenance (I/M) Program only permits qualified ERTs to perform emission-related repairs for compensation. The Emission Technician Education Program (ETEP) outlined a series of necessary requirements to qualify as a certified ERT. In New Jersey, a dual track was established to achieve this certification: the "ETEP Curriculum Training-track" and the "Automotive Service Excellence (ASE)-track." Completion of either track would permit a technician to make emission-related repairs, with re-certification required every five years.

The "ETEP Curriculum Training-track" covered State-approved coursework, and included classroom training and testing. This track was very popular among NJGCA Members and technicians throughout the state. Over the last decade, NJGCA developed an in-house, state-approved Entire ETEP and ETEP Re-Certification programs that were popular and well attended. Our training coursework was comprehensive and covered topics such as what vehicles are inspected, repair resources, what tests are performed, special repair topics, vehicle tampering, and more. We not only taught NJGCA Members, but also non-members throughout the State, government entities (NJDOT, PANYNJ), and even volume fleet operators (UPS).

Last year, the State announced that the "ETEP Curriculum Training-track" would be eliminated in favor of an all-ASE certification program track. This shift also included all re-certifications. Beginning on January 1, 2020, all new and re-certifying ERTs must achieve accreditation through the ASE testing only.

Moving forward, the following ASE-based requirements must be met to gain NJ ERT Certification:

- ASE A6 – Electrical/Electronics
- ASE A8 – Engine Performance
- ASE L1 – Advanced Engine Performance
- Completion of free online NJ-CERT Course (this course outlines the rules and regulations of the New Jersey Enhanced I/M program, air quality issues in the State, and related information).

While NJGCA's Entire ETEP Curriculum Training and ETEP Re-Certification courses will no longer be offered in light of the State's mandate, we're not abandoning our training alumni or member-students. Rather, we're going to build on the success of our past offerings by re-tooling our ETEP curriculum to assist first-time and re-certifying ERT-intenders prepare for the necessary ASE courses. Even if the course curriculum should change, our goal is the same: to help you obtain (or re-certify and maintain) your ERT credentials!

The final course details and a new curriculum are currently being compiled, but we hope to have an announcement for all our members soon. Be on the lookout for an announcement.

In the meantime, if you should have any questions on the new ASE-prep program, or just want to be notified when this (and other) class offerings are available, please contact Nick De Palma at nick@njgca.org with your inquiry.

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NJDEP's Enforcement Action Crackdown

**By: Daniela Pava,
Environmental
Alliance, Inc.**



Over recent years, the New Jersey Department of Environmental Protection (NJDEP) has adopted a new enforcement approach which imposes fines on responsible parties who fail to take corrective action toward remediating a property. During a recent regulatory update, NJDEP officials confirmed that a crackdown on responsible parties who fail to take action, has and will continue to take place in an effort to protect human health and the environment.

The process consists of a notice of violation (NOV) being sent to the person responsible for conducting remediation, typically followed by penalty assessments which could be as high as \$100,000 depending on the case and if a settlement is reached. The responsible party is expected to appear and pay in court, similar to the process used for traffic violation tickets.

We have directly witnessed this NJDEP initiative impact some of our clients, who for various reasons were unable to meet a deadline/timeframe. It is imperative that you understand that failure to meet a timeframe (i.e., a Receptor Evaluation, Remedial Investigation Report, or a Remedial Action Report) will result in the NJDEP automatically placing your case in "direct oversight." What direct oversight means is that in addition to the previously mentioned fines, the property will be subject to additional requirements, including the establishment of a financial assurance mechanism and payment of oversight fees. It's a difficult position to be in, and it is not cost effective to pay these hefty penalty fines when that money could instead go toward remediating the source of the problem. For a list of all the enforceable violations and their respective base penalties, see the table found on page 101-143 at the following

link: https://www.nj.gov/dep/rules/rules/njac7_26c.pdf

If you have a property with an open NJDEP case, and you have missed, or will soon miss, one of your regulatory timeframes, do not wait to receive an NOV to start taking action. We encourage anyone with an open case to contact their environmental consultant and begin taking action as soon as possible to avoid these penalty fines. Although requesting an extension for some of your regulatory deadlines is a possibility which could buy you time, extension approvals are ultimately subject to the NJDEP's discretion and are never guaranteed. Therefore, do not consider an extension as your Plan A.

Daniela Pava is a consultant with Environmental Alliance. Environmental Alliance is the first environmental consultant service to be endorsed in the NJGCA MBP program, and has been serving NJGCA members since 2007

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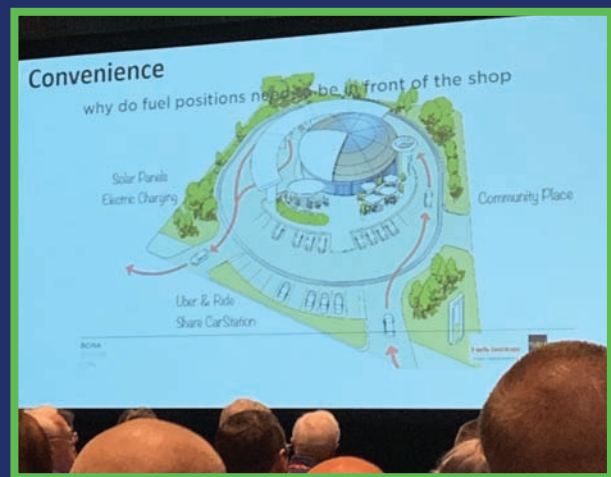
NJGCA Attends NACS 2019 Convention

Preparing the industry for a new decade

By: Michelle Horowitz

In October, Sal, Debbie and I attended the National Association of Convenience Stores (NACS) annual convention in Atlanta. We had the opportunity to sit in on fascinating education sessions, talk to colleagues (and say hello to some of our MBPs!), as well as walk the trade show floor. Though the convention is aimed to benefit the convenience industry, it was very clear that the information provided could easily translate to gas and repair businesses, even including gas station equipment on the trade show floor. Here are some of the biggest takeaways learned from our week in Atlanta:

the stores of the future will feature the convenience stores in front, with electric vehicle quick-charging stations located behind and around the facility.



The Store of the Future & Frictionless Payments

We continue to remind our members as well as legislators that customers today want their purchases to be as convenient as possible. Experts at NACS have several predictions for what the convenience store of the future will look like. As for the physical structure, instead of gas pumps located in front of the convenience store,

As for the store inside, technology innovations will most certainly be influencing the actual shopping experience of the future. Researchers predict completely frictionless shopping experiences are on the horizon, with a “smart home and smart store” integration. Smartphones and smart technology found in the home (virtual assistance [Alexa, Siri], smart refrigerators and countertops) will communicate with frequently visited and nearby stores, alerting them to your shopping needs. This will allow the store to have these items ready for you upon entry. The store of the future will feature collaborations with automation, robotics, and humans. Augmented and virtual reality systems will allow shoppers to view store inventory before physically entering the store. Store sensors and robots will be able to clean up, restock, collect data and generate reports, and perform other “back room” tasks. All of the data collected through these practices will allow the human store managers to help shoppers with more personalized tasks and remove the “rote work” tasks that today typically keep employees from shopper interaction.

Not all friction is bad however, and while we can

expect frictionless payment methods to continue to gain traction as more technology is developed, shoppers can also anticipate “positive friction” to remain. This is when shopping platforms make complementary product suggestions after adding an item to your cart. Requiring payment verification that prevents fraud is another form of positive friction. These are instances in which the customer might prefer some friction and interaction when making purchases, and are experiences store owners should be mindful of. Frictionless payments are not always the most sought after shopping experience with the customer, as they are also looking for positive engagement.

The key to the store of the future will be data synchronization and visualization, and implementing data collected into practice. Linking smart home technology to store purchases will allow for an almost totally frictionless experience, however, new developments in technology won't take away from the fact that it is the employee that ultimately create the best shopping experience, robotic or human.

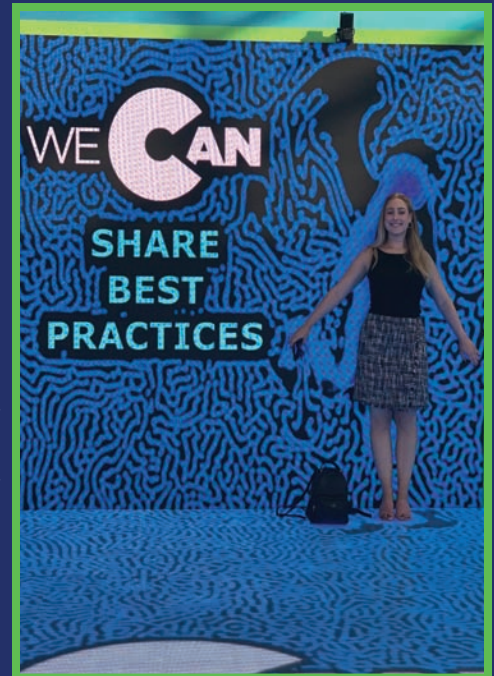
The Hot Topic of the Meeting: CBD, Cannabis and Marijuana



Even when walking through the trade show, the boom in CBD and cannabis-based products was hard to ignore. Almost any product you could think of; from basic hygiene items (think face masks, soaps, and shampoos), to snack items and vaping oils; it was clear that the biggest products to hit the market were those touting CBD and cannabis-based ingredients. While marijuana is currently only legal in a handful of states, many are permitted across the country (including New Jersey) to use marijuana for a variety of medical reasons, and many others still

use it recreationally, legal or not in their state. This overall topic splintered off into two main questions: how can store managers and owners stay on top of legal requirements when it comes to marijuana, and how to deal with employees that are suspected of working while high, as well as the legality of selling CBD/cannabis products.

Currently, there are 27 states with bills introduced to regulate marijuana. New Jersey currently does not permit recreational use of marijuana, though medical use is acceptable in some circumstances. In 2019, Governor Murphy signed provisions into law that protect employees that are authorized to use medical marijuana. Given these changes to marijuana-use policies, speakers at the NACS meeting suggested employers review their drug policies and to consider removing THC off their drug screening panel pre- and post-employment. The most



important part of this process is to be consistent among employees. One way to ensure this is to have your workplace policies written so employees know what is expected of them and actions that will be taken if employees are suspected of being under the influence while at work. Instead of trying to prove an employee has been using marijuana, an employer can much more easily prove workplace impairment should workplace or legal action needs to be taken. Don't be so quick to take adverse action unless the employee is displaying consistent carelessness and continues to show up to work impaired. One interesting fact I learned from this session is that people using over the counter and completely legal CBD products regularly can test positive during a drug screening as these products do contain trace amounts of THC which over time can build up in the body. We don't want to be making these mistakes during hiring decisions that could eliminate good job candidates!

As for selling these products in stores, for now, only CBD and hemp products are permitted to be sold. In 2019, chain retailers were the number one market for selling CBD and hemp products. These products are extremely popular, with researchers claiming part of the reason for the boom in hemp derived products is due to suspicion over big pharma. Though many CBD and hemp products are touted to help with a vast array of medical issues, any CBD products which include health claims are illegal and are not permitted to be sold in stores. The products may generally say they are good for a particular ailment, but they cannot market the product as a solution. Hemp-based products are already extremely popular and will only continue to gain popularity once THC products become legal. There is no predicting how big the market will be, but its safe to say we can only expect hemp derived products to continue to gain traction in the next decade.

Future of Fueling



There was plenty of talk about what the fueling experience will look like in the next decade, and especially how this pertains to convenience stores. While at the moment, electric vehicles and other alternative-fuel vehicles may seem out of reach for the average car buyer, many predict this will change in the near future. As more affordable electric vehicle models are released and cheaper batteries are produced (prices have already decreased 90% in the last decade), this will drive the price of EV's down overall. This in turn will allow more young professional and millennial buyers to be able to afford electric vehicles. Fast-

charging infrastructure will increase, and it will force the market to change. Electric vehicles will eventually become cheaper to own and operate, even without tax credits that are offered as an incentive. Researchers predict this change will happen in the next decade. These changes will most certainly affect all levels of the industry; including gas, convenience, and auto repair.



Currently, one of the biggest barriers to entry for electric cars is the lack of charging infrastructure available and range anxiety. In New Jersey, about eighty percent of electric vehicle owners charge at home, but what about the other twenty percent who may not have access to home charging? Depending on what kind of fuel cars of the future take and the charging infrastructure in place, the fueling experience could be several minutes longer than with gasoline, and those without home access to charging stations will recharge any opportunity they can find. Convenience stores need to anticipate that this will mean plenty of time for customers to use browsing and hanging out in the store. Expect to see gas station/convenience stores include lounge space and more amenities as a result.

Amazon Continues Plan to World Domination

Perhaps one of the most shocking educational sessions reviewed some of the products and technology hitting the market that will not only disrupt your businesses but even **read your mind**. The problem (or beauty, depending on how you look at it) with innovation is that it never stops. Even when the "next big thing" hits the market, an even bigger thing is usually in the works ready to

eclipse it. It is important that our industry stays on top of these disruptive developments in order to anticipate how these advancements can help or hinder our businesses and how we might be able to use these developments to our advantages.

Amazon has today proved to essentially be a store that sells everything, goes with you everywhere, and knows everything about you. Between the website, app, and virtual assistants, Amazon seems to be everywhere and accessible to everything you're thinking. This session focused on what Amazon is doing to disrupt small businesses so owners can prepare for major disruptions to the meaning of convenience. Presumably in the next few years, customers will be able to order an item from their Amazon Alexa and have it delivered in under an hour via drone. This may work to the auto repair's store advantage, being able to order car parts by scanning the SKU number on your phone and have the parts delivered in real time by a drone that is able to carry up to five tons. Amazon is also working on another patent for a "flying warehouse," essentially, a blimp filled with products that will deploy drones to fly down and deliver the package. The blimp will remain in the air and be refueled and replenished using a shuttle. For a frictionless payment experience, truly the sky's the limit with Amazon.

history, Amazon will know what you like and what you need better than you do. They will push advertisements and related products using your data. Think you'll be able to avoid these purchases and suggestions? With all the new virtual assistants and products Amazon is creating, such as the Amazon Echo Frames and Echo Loop (eyeglasses and ring equipped with "Alexa") soon, Amazon will be able to see what you see in real time. How will you avoid purchase recommendations when Amazon can literally see your needs?

Here's the good news: Amazon can't digitize customer service yet. Suppliers need humans to sell their products in a way that robots and technology will never be able to. Amazon will never be able to replace the human experience. We still need mechanics to work on cars, cashiers in convenience stores, and pumpers in gas stations. These employees can make a difference for creating a repeat customer. Make sure the faces people encounter during their experience at your shop are knowledgeable, friendly, and ready to help. ■



Daily Mail: <https://www.blimpinfo.com/wp-content/uploads/2016/12/00D-Amazon-plans-to-use-giant-flying-warehouses-to-help-its-drones.jpg>



While we continually praise Amazon for its frictionless payment stores and capabilities, they also succeed in using positive friction to their advantage. Based on your search and purchase

Keeping Your Social Media on the Road to Success: Best Practices for Managing Social Platforms for Auto Repair Shops

By: Jess Ross, Social Media Specialist,
Net Driven

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It's 2020 and social media is more important than ever for small and large businesses alike. While you may not think that social media is an aspect of your business landscape that you should be utilizing, statistics show otherwise. In the third quarter of 2018, there were more than 2.27 billion monthly active Facebook users which is a 10% increase year over year. Not only is Facebook where your customers are spending the bulk of their technological lives, but when utilized the right way, can significantly impact your business with little to no cost to you. The following steps in managing your social media will help you make the most of your posts.

Consistency is Key

Just like the team of technicians and mechanics in your shop, consistency is key in your social media posts. The businesses with consistent social posts are the ones who see the best return on their efforts. You want to consistently be in the eye of your customers, meaning you don't want to make a social post once a month. A consistent social presence would include at least 2 to 3 posts weekly. It might seem tedious to stay consistent with your social media, but it can be very easy if you use the right tools. Facebook has a scheduling tool that is extremely user-friendly and can be used to schedule posts in advance. This means that you can sit down for an hour or so every few weeks and schedule your posts to go out whenever you want, making the burden of posting content multiple times a week significantly less.

The screenshot shows the 'Schedule Post' interface. Under 'Publishing Schedule', the 'Publication' checkbox is checked, and the date is set to 2/26/2019 at 5:27 PM CST. Under 'Distribution Schedule', the 'Stop News Feed Distribution' checkbox is unchecked. The 'Schedule' button is highlighted in blue.

Studies show that every 60 seconds on Facebook: 510,000 comments are posted, 293,000 statuses are updated, and 136,000 photos are uploaded. How do you ensure that your posts and photos are getting the most attention possible? Look at the facts. The highest Facebook traffic occurs between 1:00 and 3:00 PM. Also, engagement is 10% higher on Thursdays and Fridays than on other days of the week. Use these statistics to optimize your return.

Consistency does NOT mean spam

Attempting to be consistent can very easily cross the line into spamming. Spamming your customers' timelines may not only lead to them unliking your page all together, but it makes every post less likely to receive engagement.

Keep Content Relevant

Creating and posting social media content can be daunting, but it doesn't have to be. The key is not to think about it too hard and to stick to what you know. Not only will it keep the content relevant to your industry, but it will make it easier

for you to post the content that your customers are expecting from you. For example, would you expect a restaurant to post about oil changes? No, but this is the place for your automotive shop to shine. Share knowledge on car care that makes you a trusted service provider in your community. While certain things like motivational pictures, celebrity gossip, and memes not relevant to your industry may receive likes and shares, they don't drive traffic back to your page for the right reasons. Keep your content relevant and your customers will continue to come back to your page for the information you would want them to get from you.

Personality is Key

"Don't just give your customers something to talk about, give them somebody to talk about."

- Jay Baer, Social Media Expert

What Baer means by this is that you want your social media content to feel like its coming from another human being, not from some robot behind a computer screen. Giving your social presence personality is one of - if not the - most important part of a social media strategy. Some major brands are starting to do this as well. Take Starbucks for example. They are known for replying back to tweets written to them, and when responding, sounding like the customer's friend.

Engaging with your customers shows them that you actually care about their responses or insights into your business and gives them more of a reason to trust you. If you don't think this is important, statistics show that it is. Studies show 80% of people on social media choose to follow brands based on whether their content feels and sounds authentic. Other ways to show your shop's personality on social media is through personal photos and stories. Hire a new mechanic? Do a profile on your new employee to welcome him or her to the shop. Did a member of your staff get married? Wish them a wonderful wedding day on your page with a photo of your staff celebrating.

Net Driven is a SaaS (software as a service) program that creates custom website solutions for independent automotive businesses. They consult for associations including our national association SSDA and Tire Industry

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These types of posts typically see very high engagement and put a face on the business behind the page. Luckily, sounding and being authentic is as easy as being yourself - making using social media even easier!

Adopting these strategies and learning from them will help you use social media to its fullest potential to help your shop thrive.

The best part? If practiced correctly, social media can be a free source of marketing and advertising for your shop that costs no more than a few hours of your time. So get behind that computer and set up your Facebook business page today to get your auto repair shop on the road to success.



Updated Massachusetts Right to Repair Law Headed to Ballot

By: SSSA News

This article was reproduced from SSSA's January 2020 Newsletter, Volume 34 Issue 1 with the permission by the author.

* * * *



SSDA-AT and the Massachusetts Right to Repair Coalition has turned in 102,000 signatures to ensure an initiative petition to enact an update to the Commonwealth's Right to Repair law before it reaches the 2020 ballot.

The Coalition – a group of Massachusetts independent repair shops, auto parts stores, trade associations, consumers and drivers – said that a lack of progress on an update to the law in the legislature led them to pursue an initiative petition so that Massachusetts car owners will continue to have access to the repair and diagnostic mechanical information produced by the vehicle they own.

By 2020, advancements in vehicle technology and increasing restrictions by automakers will result in more than 90% of new cars being equipped to transmit real-time diagnostic and repair information wirelessly to vehicle manufacturers, which could threaten Massachusetts consumers' rights to choose to get their cars fixed at trusted independent repair shops or do the work themselves.

The Massachusetts Right to Repair Coalition supports bipartisan legislation filed in January by

12 State Representatives and two State Senators to update the Commonwealth's Right to Repair law. The bills generated 55 co-sponsors, and if the bill is enacted into law by the legislature in 2020, it would eliminate the need for the ballot question to proceed.

"We need to update the Right to Repair law before wireless technologies remove the car owner's right to get their vehicle repaired at our local, independent shop because the automaker would rather steer them toward one of their more expensive dealers," said Alan Saks of Dorchester Tire Service. "This is a commonsense reform, and we'd love to see the legislature move forward and fix it so that we don't have to go to the ballot to protect consumers' rights to shop around for car repairs."

According to Massachusetts Right to Repair Coalition Director Tommy Hickey, "Independent repair shops across Massachusetts are proud to reach this milestone of more than 100,000 signatures. Our independent shops are increasingly facing the prospect of having limited or no access to diagnostic and repair information now that automakers are restricting access through rapidly expanding wireless technologies in vehicles not covered under current law."

The ballot initiative would give car owners access only to the diagnostic and repair data generated by their car, and they could opt to provide access to any dealer, repair shop or automaker that they choose during the lifetime of their car.

The Coalition delivered its signatures to Secretary of State William Galvin's office on Tuesday and Wednesday. The initiative petition filed is entitled,

“An Initiative Law to Enhance, Update and Protect the 2013 Motor Vehicle Right to Repair Law.” The key provision of the initiative is as follows:

Commencing in model year 2022 and thereafter a manufacturer of motor vehicles sold in the Commonwealth, including heavy-duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, that utilizes a telematics system shall be required to equip such vehicles with an interoperable, standardized and open-access platform across all of the manufacturer’s makes and models. Such platform shall be capable of securely communicating all mechanical data emanating directly from the motor vehicle via direct data connection to the platform. Such platform shall be directly accessible by the owner of the vehicle through a mobile-based application and, upon the authorization of the vehicle owner, all mechanical data shall be directly accessible by an independent repair facility or a class 1 dealer licensed pursuant to section 58 of chapter 140 limited to the time to complete the repair or for a period of time agreed to by the vehicle owner for the purposes of

maintaining, diagnosing and repairing the motor vehicle. Access shall include the ability to send commands to invehicle components if needed for purposes of maintenance, diagnostics and repair.

The Massachusetts Right to Repair Coalition now has more than 4,000 members statewide. In addition to independent repair shops and Massachusetts auto parts stores, members of the Coalition include the Alliance of Automotive Service Providers of Massachusetts (AASP-MA) and the New England Tire and Service Association (NETSA). Further information may be found at massrighttorepair.org.



Image: Washington Times: <https://www.washingtontimes.com/news/2019/oct/22/boston-mulls-banning-b-word-after-woman-cries-hurt/>



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Are You Complying with Minimum Wage and Overtime Pay Laws?: 81% of Employers Are Not!

By: SSSDA News

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The Fair Labor Standards Act — commonly known as the Federal Wage and Hour Law — was enacted in 1938 as a remedy to the depression. It specifies a minimum wage, requires overtime pay and places restrictions on child labor. The purpose of the Act was to spread employment by placing financial pressure on employers via overtime pay and to compensate employees for working lengthy hours. Despite a long history of clarification and education, confusion about the FLSA and resulting non-compliance still exists. In fact, back wage fines and legal fees resulting in non-compliance of the Fair Labor Standards Act remains the number one employer liability when it comes to labor and employment laws. In FYI 2019, the Wage-Hour Division recovered a record \$322 million in wages owed to workers.

As we consider the Wage-Hour Division, we must first understand their mission as follows:

“To promote and achieve compliance with labor standards to protect and enhance the welfare of the nation’s workforce.”

It doesn’t take long to understand how aggressive the WageHour Division is as when exploring their website. If you Google Wage and Hour Division — Data, they make it very clear about how proud they are in terms of the back wages that have been collected for workers, how many millions of workers they’ve helped and what it means to employees to receive these back wages to include estimating what employees can buy with back wages received.

As SESCO was founded by an ex-Wage-Hour officer in 1945 what then was the first Wage-Hour consulting company in America, our history is deeply rooted in compliance. SESCO has literally audited thousands of employers over these many years to determine their compliance with the Fair Labor Standards Act. As stated above, what is concerning is that non-compliance is significant based on our auditing practices and, in fact, 81% (8 out of 10) of those employers audited by the Department of Labor, Wage-Hour Division are, in fact, in non-compliance. So, if you think you are complying, more than likely you are not.

Wage-Hour Division Statistics

When we look at DOL investigations, we must consider:

Fifty-one percent (51%) of Wage-Hour investigations are complaint driven. This means that an employee or exemployee of the employer has contacted the Wage-Hour Division and made a complaint.

Forty-nine percent (49%) of the remaining cases are nondirected meaning that employers are selected “randomly” for an audit. However, we know based on the Wage-Hour Division that they have identified what they call “high violation industries” and have such targeted these employers for investigations. These include:

- Distribution
- Auto Repair
- Construction
- Food Services
- Healthcare
- Retail

- Hospitality
- Landscaping Services
- Pest Control
- Manufacturing

There are many other “high violation industries” but the list above will provide an idea of those employers that should be on high alert.

In fact, we are seeing specifically Home Care and Long-Term Care/Nursing Homes being targeted. SESCO has had a number of clients who have been audited in the last few weeks and months in these industries as, again, violations tend to run much higher as a percentage.

Another concerning statistic is that the Wage and Hour Division has been automatically doubling penalties because their competitor, i.e., lawyers and state court cases apply doubled damages/liquidated damages as part of their cases. Therefore, if investigated and found in non-compliance, the Department of Labor will issue wages due back two (2) years for all current and previous employees. Then they will automatically double these back wages.

Common Minimum Wage Violations

The current minimum wage is \$7.25 per hour. However, many states and even cities and municipalities have passed their own minimum wage which are higher. You must comply with the highest rate enacted.

Can weekly rates be averaged? The workweek (7 consecutive 24-hour periods starting on any day as selected by the employer) is the basis for establishing a minimum wage rate. Therefore, each week must stand alone and you cannot average hours in multiple workweeks.

Uniform purchase and maintenance — When employees are required to purchase or clean uniforms, a minimum wage violation will occur if such costs reduce an employee’s wages below the FLSA’s minimum and the week’s uniforms are purchased or cleaned. This same principle will apply to any other required tool, computer, etc.

Breakage, shortage and theft deductions —

Deductions from an employee’s paycheck for losses due to such things as breakage, spillage or cash register shortages are not allowed if the effect would be to reduce the employee’s pay below the minimum rate. Funds allegedly misappropriated may not be deducted if that will cause the wage rate to fall below the FLSA minimum — deductions for theft that result in payment of less than the minimum wage can be made only if a court has judged the employee guilty of criminal misconduct.

Hours Worked

What are hours worked? An employee must be paid for “all hours worked.” That includes the time an employee is required to perform principle activities related to the job on the employer’s premises or a prescribed workplace and also the time an employee performs work with the knowledge of the employer even if no order to work has been given (FLSA calls this “suffered or permitted” to work). Most importantly, this means working before or after hours and at home.

Are time clocks required? Employers must maintain accurate records of time worked by employees covered by the Act, but time clocks or time recordkeeping systems are not required. If an employer uses a time system, voluntary early or late punches may be ignored if no work is performed before or after hours. Permitting employees to forego punching time clocks during lunch does not require lunch periods to be counted as hours worked if employees are relieved of all duties and the lunch period occurs at a regularly appointed time.

Overtime Pay

Must unauthorized overtime be paid? An announcement or policy that overtime work will not be permitted or that overtime work must be authorized in advance will not always protect an employer. An employee can collect overtime if he or she is actually suffered or permitted to work extra hours — that is, if the employer or a supervisor actually knows the employee is working overtime or if the overtime appears on payroll records. For

example, employees have recovered overtime pay despite prohibitions against unauthorized overtime work where (1) an employee filed daily reports showing overtime hours and handed them to the time keeper; (2) a supervisor knew that an employee was working overtime hours; and (3) an employee consistently started working in the morning before regular hours.

What is the correct overtime rate? The FLSA overtime rate is one and one-half (1.5) of an employee's "regular rate." The regular rate generally means an hourly rate — it is roughly equal to straight time earnings divided by hours worked. Because overtime is figured on a weekly basis, the regular rate must be computed each week. What is critical and one of the most common violations is that the employee's regular rate does not mean an employee's hourly rate. The regular rate must also include bonuses for accuracy of work, attendance, continuation of employment relationship, incentives, production, quality of work, contest prizes, shift differentials and many other payments. These payments must be included in the computation of the regular rate which, in turn, increases the cost of overtime.

SESCO Staff Recommendations

On-Call Time — Whether or not the time an employee is on call need be counted as part of his/her compensable working time depends on his/her freedom while on call. If he/she must remain on the employer's premises or so near thereto that he/she cannot use the time as he/she pleases, this would be compensable time. If on the other hand the employee is free to come and go, even though he/she must leave a telephone number where they may be reached, the time can be excluded from hours worked.

Lectures, Meetings and Training Time — Attendance at lectures, meetings, training programs, and similar activities need not be counted as working time if all of the following four (4) criteria are met:

Attendance is outside employee's regular working hours.

Attendance is voluntary (it is not voluntary if required by the employer or if the employee is led to believe that nonattendance will prejudice working conditions or employment standing).

Employee does no productive work while attending.

Program, lecture, or meeting is not directly related to the employee's job (it is directly related to the job if it aids in handling the present job better as distinguished from teaching another job or a new or additional skill). Travel Time — The guidelines which apply in determining whether or not time spent in travel is working time depends upon the kind of travel involved.

It is the position of the Wage-Hour Division that an employee who is required by their employer to drive an automobile or a truck for the transportation of other employees to or from work at any time is working while traveling. It makes no difference whether the vehicle is the employee's own car, the employer's car, a rented car, or a truck.



Changes at NJGCA

Since our last edition of On the Road, our office has said farewell to longtime office staffer Debbie Hill.

Readers will note that Debbie served our members faithfully and unwaveringly for twelve years. She will be sorely missed, but her departure also brings the return of a familiar face to the Association. Former NJGCA Communications & Research Director, Nick De Palma, has returned to take on Debbie's responsibilities, as well as add a few new ones to the role. You may recall Nick originally being interviewed in a previous edition of On the Road, but we're taking the opportunity in this edition to re-introduce him to members and MBPs.

Meet Your Office Staffer!

Nick De Palma, Counsel and Member Services Director

1. You previously worked at NJGCA. Remind our members about your prior experiences here:

I was with NJGCA from August 2007 to August 2013. My prior experience to that point was working for a Legislator in the New Jersey State Senate. When I came on board, I was NJGCA's first Communications & Research Director. It was during that time that we got a number of communication staples created, expanded, and sent out regularly to our members. Sal was (and still is) very attune to making sure members were well informed in a timely manner. It was while I was with the Association that I attended Seton Hall Law School part time at night. After four years, I graduated in May 2013.

2. Tell us about your work experiences after you left us in August 2013:

I left NJGCA a few months after I graduated to begin a judicial clerkship. The judge I clerked for was assigned to Newark and we did primarily domestic violence cases. After that, I worked in private practice for a few years, before taking an in-house counsel role with the NJ Turnpike Authority. I had a wide range of experiences but was happy for the exposure to so many areas of law.

3. Now you're back at NJGCA. How will you be contributing to NJGCA this time around:

I have primarily taken over Debbie's role within the Association, focusing on member services. Sal also plans on expanding the role somewhat to better utilize my most recent experiences practicing law. From an internal and administrative processes perspective, that can mean reviewing agreements, staying on top of regulatory and compliance changes, and more.

4. What do you hope to achieve as the new Member Services Director?:

My goal is to deliver the same high-level of service and attention to our members that Debbie brought to the table for twelve-plus years with the NJGCA. She is the example and standard that I'm measuring myself against; and for good reason too. The members liked her, responded to her, and appreciated her working on their behalf. And still, I'm also very aware that I must do things my own way. I'm a different person, after all. In coming back, I'm bringing my initial six years of experiences with me from the communications realm, plus the last six and a half years in the law. That's going to give me a different approach on whatever I encounter. Taken altogether, blending my own experiences with Debbie's example can only help make me a better advocate for our members.

5. Do you notice any differences at NJGCA since you've been gone?:

Yes and no – if that makes any sense. Many of the issues, demands, and problems our members are facing are the same; including the need to stay in compliance with government entities like DEP, DOL, and MVC. However, the State and retail market are always looking for new ways to challenge small business owners. That often means new obstacles to fight head on and opinions to change with bureaucrats.

6. What do you do in your spare time?:

I'm afraid I don't presently have much spare time. I'm married and have two young daughters who take up nearly all of my attention. When I'm not working or spending time with them, I love to cook or read. We also purchased our first home over the summer, so that also takes up free time. Home ownership is a wonderful new experience; but it also brings its own distractions and time commitments.



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THE NJGCA MEMBER BENEFIT PARTNER PROGRAM

NJGCA has been working hard to bring you and your business value through our Member Benefit Partners (MBPs). Hopefully, you are already taking advantage of many money-saving plans offered by our Member Benefit Partners. Our 2019 Member Benefit Partner Brochure should have arrived and can be viewed on our website, and this year we introduced new Member Benefit Partners. They are listed in blue and marked with asterisks below. We are excited about the great opportunities that you have to save money with these partners!

Here is a list of our current MBPs:

ABLE-TECH - Computers, Financial Management, Video Security Systems

AFFINITY FEDERAL CREDIT UNION - Business Banking Services, Financing, Mortgages

AMATO INSURANCE AGENCY - Business, Garage Liability, Home and Auto Insurance

AMERITRUST - Workers Compensation Insurance (formerly Meadowbrook Insurance Group)

ASSOCIATION MASTER TRUST (AMT) - Health Coverage

ATS ENVIRONMENTAL SERVICES - Tank & Vapor Testing, NJDEP Compliance

AUTOPART INTERNATIONAL - Premium Parts Supplier

AUTOMOTIVE TRAINING INSTITUTE (ATI) - Education for a More Profitable Business

AUTOZONE - Auto Parts Supplier

BELLOMO FUELS - Gasoline and Diesel Supplier

BRENNAN LAW - Environmental, Petroleum and Real Estate Law Specialists

BUYWISE AUTO PARTS - Auto Parts Supplier

CASHA & CASHA LLC. - Legal Services

CBIZ INSURANCE - Business, Garage Liability, Home and Auto Insurance

C-3 TECHNOLOGIES - Tank and Vapor Testing, NJDEP Compliance

****CHETAK NEW YORK** - Specialty Food & Snack Distributor

CHIESA SHAHINIAN & GIANTOMASI PC - Legal Services

COLE, SCHOTZ, MEISEL, FORMAN & LEONARD - Legal Services

CONSUMERS OIL CORP. - Gasoline and Diesel Supplier

CROMPCO - Tank & Vapor Testing, NJDEP Compliance

DANA TANK INSURANCE SPECIALISTS - Underground Storage Tank Insurance

DANA AUTOMOTIVE - Auto Parts Supplier

ENERGY MARKETING PARTNERS, INC. - Gasoline and Diesel Supplier

ENVIRONMENTAL ALLIANCE, INC. - Environmental Remediation & LSRP Services

GILL ENERGY - Gasoline and Diesel Supplier

HAROLD LEVINSON ASSOCIATES - Convenience Store Distributor

****HEARTLAND PAYROLL** - Business Payroll Services

HOUGH PETROLEUM - Gasoline, Diesel, Motor Oil & Lubricants Supplier

HOROWITZ LAW GROUP - Legal Services

****KEARNY BANK** - Commercial Financing

LAW OFFICES OF KENNETH L. BAUM - Legal Services

LIBERTY / EWING OIL - Gasoline and Diesel Suppliers

LISKO ENVIRONMENTAL - Environmental Remediation & LSRP Services

LOEFFELS'S WASTE OIL SERVICE - Waste Oil Removal

MARC LAW - Legal Services

MERCHANT PRO EXPRESS - Credit Card Processing & Consulting

MITCHELL1 - Shop Management System, OEM Information

MURPHY BUSINESS - New Jersey Business Sales

OIL DRI - Spill Containment and Shop Supplies

P.F.I. INC. / NORTHWEST PETROLEUM - Gasoline and Diesel Supplier

PEAK ENVIRONMENTAL - Environmental Remediation & LSRP Services

PRESTIGE ENVIRONMENTAL - Environmental Remediation & LSRP Services

****PRIME LUBE, INC.** - Motor Oil and Lubricant Suppliers

QUICK & FRESH - Convenience Store Distributor

SALOMONE BROTHERS, INC - Tank and Pump Replacement, Compliance Testing

SERVICE STATION VENDING EQUIPMENT - Service Station Vending, Air & Vacuum Systems

SPARK CONTRACTORS - Tank and Pump Replacement & Generator Installation & Service

****T&R Oil Co.** - Gasoline and Diesel Suppliers

TMP ENERGY SOLUTIONS - Discounted Electricity and Natural Gas

TRINITY SOLAR - Solar and Generator Power

UNITED RECRUITER NETWORK - Recruiter Services for Auto Repair



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