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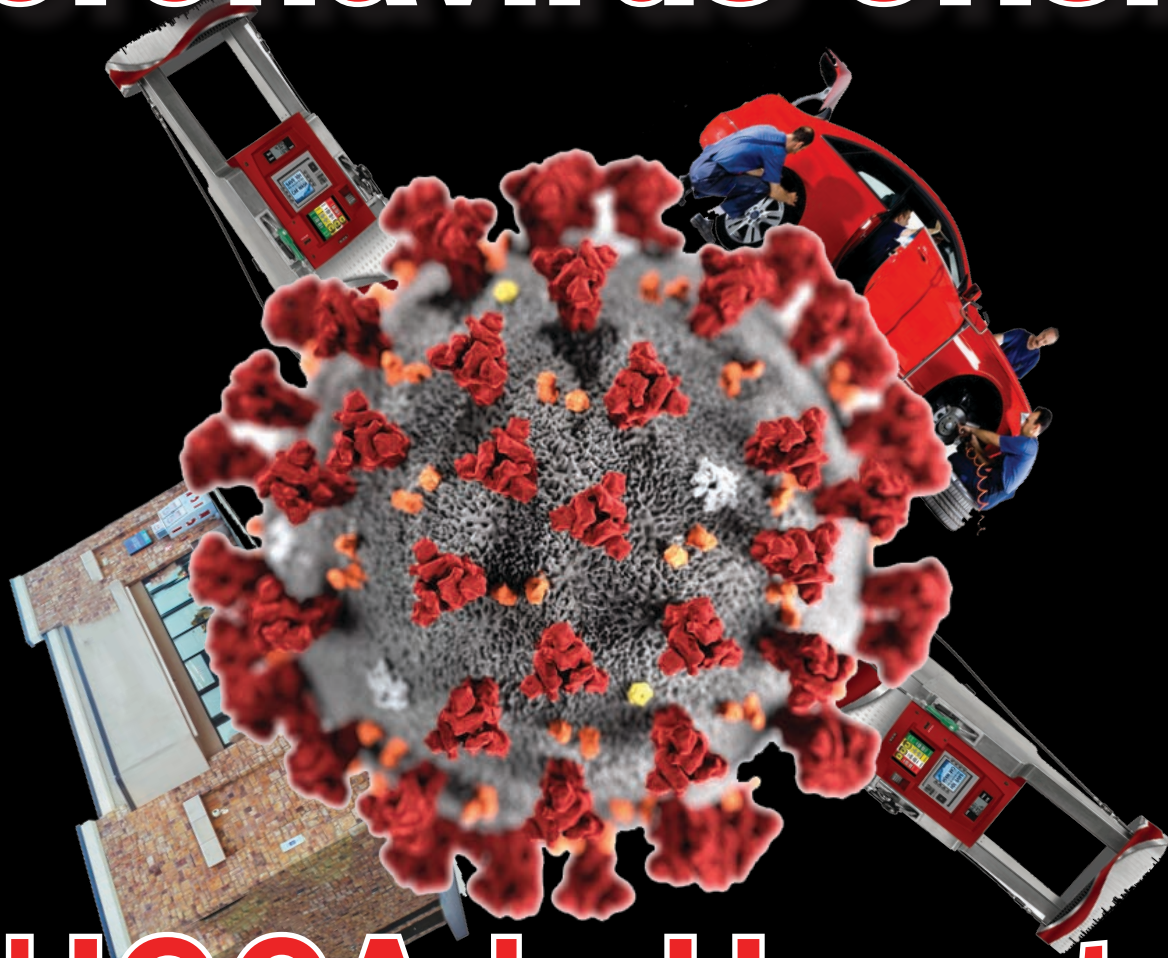


VOLUME 12 - ISSUE 2

# ON THE ROAD

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

# Coronavirus Crisis



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## Message From Executive Director Sal Risalvato

# *America in Another Crisis*

When the staff met way back in February for our quarterly *On the Road* planning meeting, we kicked around a couple of themes that we thought might be appropriate for the upcoming April issue. Little did we know that our world would be turned upside down by a virus spreading across the world. Since we were nearing the end of winter, we thought that it was about time to do a “spring cleaning” theme which we had never done before. My message usually revolves around the selected theme for the issue. I had no idea that the spring cleaning that needed to be discussed would involve a top to bottom sanitization of anything and everything human beings came in contact with. I also had no idea that the April issue might not be in member’s mailboxes until May or June.

I have always been enamored with the stories told by my grandparents of the trials and tribulations they experienced while living through the Great Depression and World Wars. My parents had recollections of those times, but since they were kids at the time, their point of view was much different. For members who are of the baby boomer era, I am sure that you all have similar recollections from your grandparents and parents. For all of those millennials or younger, your historic images have been shared from September 11th, or from history books in school. I am not sure....do they still teach history in school?

The trying times from two great World Wars and a worldwide economic depression are critical times in our nation’s history. They are referenced as points of turmoil, strife, misery, and pain in history books, and told as first hand stories relayed to younger generations from those who lived through them. There is a common denominator from each of these historic crises, even if one looks back further to the Civil War. Our nation and our civilization survived, grew, and in many instances, flourished afterwards.

Yes there were many that struggled and did not survive, but mostly citizens struggled and DID survive. People were in a constant battle to obtain more than they had, while being forced to appreciate what little they did have. Poor people didn’t dwell on the fact that they were poor, instead they looked for ways to rise above.

I can’t help but wonder if the difficult time we are currently experiencing equals or surpasses

the enormity of previous difficult times in our nation’s history. The current crises encompasses more than economic hardship, it encompasses something more important. This crisis is a health crisis too. Once again, history tells us that we survived previous pandemics and the dangers and hardships they created. We survived without the technology that we are privileged to have today. Imagine the country shutting down when there was no internet, television, instant news, Facebook, Zoom, or cell phones.

I circle back to the common denominator – OUR NATION SURVIVED.

I can’t help but recall the difficult economic and emotional times we faced as a nation after I opened my Exxon station in 1978. I remember the worry and anxiety caused by a changing society after the world was similarly turned upside down in the aftermath of the 1979 Iran Oil Embargo. I remember the economic downturn and needing \$20,000 in order to pay for the next gas load, rent, and the next few payrolls. I had to borrow money from the very same bank that a year earlier loaned me twice that amount just to buy my franchise. I painfully remember signing the note at a 22% interest rate. Business was so bad that I did nothing but worry about how I would pay it all back. My customers didn’t have the money to pay me for my services. Unemployment was at 14% and inflation was 13%. There was misery everywhere that lasted for what seemed like an eternity. I survived and so did my country.

Six years later the country was again in another economic crisis. The stock market crashed in October 1987, exactly five days after I bought my new gas station. I lost my lease on my first gas station when the landlord sold the property to a developer. The economic downturn had begun again. The value of the property I had just purchased dropped overnight and one week after the closing, the bank demanded a ton of additional collateral that they insisted I find immediately. Thankfully I had parents who were able to put up the additional collateral for me. It didn’t end there. Hundreds of thousands of dollars in environmental costs, payroll expenses, and rising taxes became additional worrisome burdens. Even getting a car loan became difficult as my bank was reluctant to lend me anymore money. My competitors and fellow small business owners were engaged in the same struggle, as unemployment was high and customers once again did not have the money to



pay for my services. I survived, so did they, and so did my country.

September 11th, 2001 changed the lives of everyone in the world forever. Thousands of lives were lost in a terror attack on our country. Our way of life changed completely and dramatically altered how we travel and congregate. This all amidst the emotional and economic pain and struggle that was caused in an instant on that tragic day. The events of September 11th and ensuing rise of energy costs, led up to the next stock market crash in 2008. This resulted in the most recent recession that once again caused massive unemployment, and saw many small businesses closing their doors. The recession lasted for six years, but eventually not only did we survive, but like previous crises, America thrived.

There is one thing that I have learned and that I am sure of, small business owners, especially those who engage in our business of selling gasoline and auto repairs, are tough and resilient! We are survivors. The entrepreneurial spirit that lives in us and drives us to own our own business is actually a survival mechanism. Men and women who **“Sign Both Sides of a Paycheck”** can overcome and eventually thrive. Beyond the actual measure of financial endurance, comes a satisfaction and a joy of accomplishment. Entrepreneurship that is prevalent amongst NJGCA members screams self-reliance and accomplishment. Even for those who are sick with worry about how to pay for the next gas load, and make the next payroll, I am sure you will get it done, for we are a breed that can endure the struggle and survive.

Forty two years in this business, and 13 years as your leader, gives me the confidence to say that this crisis too will pass. You will develop skills and wisdom that will guide you to the next crisis....yes there will be a next crisis. Between now and then, you will enjoy new friendships and appreciate your family and existing friends. You will have a sense of accomplishment that is not measured by the size of your bank account, but by the life with others that you just simply enjoy.

For now let's all do what is necessary to get through this Corona-crisis. Take up the struggle, persevere, do whatever it takes, play by the rules, and remember that you will survive!



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# Have You Been Getting Our Emails?

*Reach out ASAP to subscribe to our email list*

**By: Michelle Horowitz**

The team at NJGCA has been working tirelessly to make sure our members are up-to-date and well informed as to the constant changes with regards to maintaining your business during the pandemic, information on applying for loans/grants, opportunities for you to have your voices heard in Trenton and Washington on how the Coronavirus is affecting our industry, and that all of your questions are answered to the best of our ability given all the uncertainties. We are proud of the products our team has delivered for our members to use and benefit from in order to make sure our members are a cut above the rest. However, we are concerned that some of our members are either not receiving our emails or communications or are not opening them.

If you think you might be one of these members not getting our emails, there are a couple of options you can try to start getting our emails again:

- One solution to try is the whitelist the following emails:  
comms@njgca.org  
alert@njgca.org
- Using more than one email platform can also ensure that you get all of our communications. Try starting another email account on another email platform to see if another platform supports our emails.

We can prepare guidance documents, host webinars, and send countless updates to you, but if you are not receiving our information, you could be putting your business at risk of being cited or have to pay hefty fines. We want to be sure all of our members are knowledgeable and protected, therefore, it is imperative that if you are not receiving our emails that you take action to be sure you begin receiving them. You need to contact us if you are not hearing from us, if we can't communicate updates to you then all the work our team has done is for nothing. If you go a week and say to yourself I have not received an email from NJGCA, then please contact us. Additionally, we are also discovering that some members have changed their email address and never updated us. If you have not been getting our emails, please send an email to michelle@njgca.org today to update your information.

If you think you may be one of the members not receiving our emails and looking to review our information on the Coronavirus, we have all of our communications, guidance documents, media mentions, and other helpful resources on our Coronavirus web page, which can be accessed by visiting [www.njgca.org/coronavirus](http://www.njgca.org/coronavirus). This page contains important content that all of our members should be checking regularly for updates.

## Oil-Dri offers absorbent products to clean up common automotive spills and help comply with OSHA and EPA safety regulations

**Issue:** In the United States, the total annual cost of slip/trip/fall injuries exceed \$60 billion and 95 million lost work days per year. They represent over 65% of all work days lost with an average exceeding a cost of \$20,000 per accident. \*source: National Safety Council

**Application:** Many of these injuries are due to leaks and spills on flat surfaces in the workplace. Keeping floors clean and dry can be a key factor in preventing injuries, improving efficiencies and uninterrupted productivity.

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## President's Message

I've been thinking about the current economic atmosphere and the effect it is having in our industry and on each and every one of us, individually and as a community. What can I say? What do we need? All I have are words of hope and encouragement.

As most of you know I've been in the auto repair and gas station business all of my life. Working for my father and then starting my own business in 1974. Through all this time there have been very good years and some extremely bad ones. But fortunately, I survived and you will too. If there is one thing I can encourage you to do, it is this: Take care of YOUR health and well-being and that of your family. Your business and your family needs YOU.

Times like these require us to pay much closer attention to our businesses because our market is changing dramatically. Unfortunately, some will not survive. Those of us that do have tremendous opportunities ahead.

- Stay in touch with your vendors, they are hurting just as much as you, so work with them to get the best deals and market them.
- Your customers are hurting and are unsure just like you, not only financially but emotionally. Now more than ever be there for them. Prioritize their repairs and meet their needs with empathy. Don't oversell!!
- Take care of your employees and their families. They are anxious just like you. Without them we are alone, let them know you appreciate them and how important they are.

With all this said, remember you have an association, NJGCA, standing with you. Never hesitate to call or email with questions and suggestions. You have an amazing network of services available to you with our MBP members and insights from seasoned professionals.

Stay well, stay healthy. I hope these words will encourage you through this uncertain season. As always, please feel free to contact me or your association.

Joe Ocello  
President NJGCA  
848-333-9257 or Joe@NJGCA.org

## What Can NJGCA Do For YOU?



*Serving the Small  
Businesses that Serve the  
Motorist*



Hi Sal,

I was approved for a XXXXXX EIDL. The loan docs came to me last night. The included info., that even with a close reading of the loan docs, leaves a myriad of ambiguities too numerous for my lazy self to enumerate. I talked to my accountant; upon reading the docs, he had all of the same questions I have, but he phrased them in a much more expensive sounding manner. I then found the 300 or so pages of underlying regs for EIDLs on the SBA site. As the loan docs state that I do have up to 2 months to sign, and as the loan comes with the blessing of a 3.75% interest rate, and the curse of much oversight along with very restrictive allowed uses for the money, I've decided to wait (and hope) for my PPP, and to also see what the effect of the crisis is on my summer. The EIDL is really designed, and is multiply restricted to be just that: Economic Impact Disaster Loan assistance. I haven't had a disaster, yet. If I do, I'll decide then based on the conditions I experience at that time.

I write primarily to let you know that I think I'm pretty well informed on the ins and outs of the EIDL program if anyone, staff or rank and file need another input, and to thank you.

Thank you for giving us the best, the most accurate, prompt and immediate, and the MOST CONCISE information that I have gotten from any source, be that government, other industry groups, PACS, accountants or attorneys. You and your excellent staff are indispensable to me and my business. Period, exclamation point. You have transformed the organization. Please stay well, be happy, and prosper.

Barney Linn  
Cape May Riggins

Hi Michelle,

My husband and I are the owners of XXXXXXXX since 7/1/1977. Yes, we are 70 this year!! I faithfully look for your companies email to guide us thru good and now bad times. There are 7 of us here in our shop. Proud to say one tech/manager has been with us since day one. We are lucky enough that our son who literally was born into the business is by our side each day. I took the information you sent and applied for 3 loans I thought we would fit into. NJEDA, SBA EIDL and the PPP. All 3 loans/grants have been transferred into our bank account. The last one was the EIDL this morning. We did have to furlough one of our young techs, but are hoping to bring him back soon. Business is off about 60 %. But, we show up each and every day to be here for our customers should they need us. A BIG thank you for keeping me in the loop with all the information and direction for applying for the loans. I did all my homework getting as much information together before submitting per you. When I say you it goes without saying the whole team. The morning the NJEDA opened I had 2 computers in the office and refreshing them both at the same time, as per you guys. I thought I was back in the 80's trying to get thru to Ticketmasters. You may be too young to remember that. I was lucky to log into their website at 8:58 am with a confirmation at 9:03. The EIDL was easy as well. On the other hand, the PPP was not!! It was dumb luck that my payroll accountant happened to be working on the Saturday that my bank, PNC opened up their applications. I had what I was told I would need, but then found out I needed different information. Their site was up and down all day, but I tried one more time at 5 pm and bingo we got in.

So, many thanks to you and everyone at NJGRA for being there for us small businesses. These loans/grants will help us to continue our business. We are a pretty private family, you may use my information, but would appreciate you not using our name.

Thank you again. We wish you well.

# MEMBERSHIP MEMO!

By: Greg Cannon



Hello All,

I refuse to open this with “In these unprecedented times ....” Everyone is in it up to their necks and doing what they can to manage their individual circumstances. I have no eloquent words, no attaboys or inspirational message for the future. They’ve all been said. What I will say is I hope you have been able to take in the abundance of information

we’ve put together for you and that some of it has been helpful to you in some way.

What I’ll also say is, I know mine is the LAST piece of mail you’re going to want to open ... the dues invoice. If you’re having a problem like many are, give me call and we’ll work it out.

*“A New Day Will Dawn For Those Who Stand Strong ...”*

-Robert Plant

Thank you for reading. Until next time.

Cheers!

Greg Cannon



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# Member Spotlight:

## *How NJGCA Members Have Stepped Up Amid a Crisis*

When reports began coming in that the flu-like virus that had been ravaging other parts of the world had started appearing in New Jersey, businesses were forced to close and people were forced to stay at home as the state and country came to a near stop. Millions are out of work and millions more are shifting to a new reality that may require contactless or remote working. NJGCA worked tirelessly to make sure that everyone in the gas, c-store, and automotive industries would be considered essential businesses and would be allowed to remain open. As they have done in the past, many NJGCA members have used this crisis as an opportunity to give back to their communities. NJGCA members have come up with very smart ideas to adapt to our new reality and get creative with bringing in business. We want to highlight some of these members and MBPs that are going above and beyond to help while in the midst of a pandemic.

### **Martin Gallagher, Chestnut Ridge Exxon Tigermarket**

To give back to his north Jersey community, Martin Gallagher donated 17,000 nitrile gloves to local first responders between the Montvale PD, the Upper Saddle River PD, the Woodcliff Lake PD, the Montvale FD, and The Valley Hospital. He also donated the following products to local police stations:

- 28 boxes of Clif and Kind bars, 24 bottles of hand sanitizer, 200 water bottles, and 96 Gatorade bottles to the Montvale PD
- 16 boxes of Clif/Kind bars and 40 KN95 masks to the Upper Saddle River PD
- Multiple bottles of hand sanitizer to the Montvale PD & FD, the Upper Saddle River PD, and the Woodcliff Lake PD

- 100 disposable masks to the Montvale PD
- 13 boxes of Kind bars and 3 boxes of Clif bars and 40 KN95 masks to the Woodcliff Lake PD.

Martin also wanted to treat healthcare first responders to try to put smiles on the faces of those that are saving lives every day. He donated 80 contact-free car washes to the staff at Memorial Sloan Kettering Bergen location. He was able to do this using the in-bay automatic car wash at his facility and provided the first responders a code they could plug in to receive the contactless car wash.





### **Kneble Family, Knebles Auto Service Center**

The Kneble family from Kneble's Auto Service Center ramped up their May's Landing shop marketing and advertising efforts when the pandemic hit New Jersey. They have been releasing videos on helpful topics that their customers might not even be thinking about, such as the importance of not letting your vehicle sit for too long while in quarantine and advertising free oil changes for first responders and health care workers. They are able to provide the free oil changes through a partnership with Auto Parts Warehouse, Valvoline, and Wix. They have also been sending newsletters keeping their customers informed of the efforts they are making to reduce the spread of the illness and other services they are offering. The Knebles also partnered with a T-shirt company and are donating all proceeds to their local food bank.

### **Jesse Georgaklis, Pit Crew Lube**

Pit Crew Lube is offering free oil changes for first responders and healthcare workers. They also began offering free pick-up and delivery of vehicles that need repairs. Additionally, all cars receive a free sanitation service that includes both the outside and inside of the vehicle and they are offering 15% off all services at their towing business.



### **Cbdelite**

Cbdelite recently joined our MBP program this year. They reached out to us in March that their sister company, FABER Liquors would be switching their normal liquor operations over to produce hand sanitizer in 1L glass bottles. They are currently following WHO sanitizer formulation guidelines and created an 80% alcohol

antiseptic, non-sterile hand sanitizer for topical use. In addition to supporting first responders with hand sanitizer, two percent of each sale goes to support the First Responders Children's Foundation mission of supporting first responders and their families. Casey Coughlin, our MBP representative from Cbdelite, offered to help provide our members with hand sanitizer and many members took advantage of the opportunity. To purchase hand sanitizer, you can visit their website at [www.fabereasydrinking.com](http://www.fabereasydrinking.com).

### **Kearny Bank & Heartland Payroll**

When news of the federal small business relief package, the CARES Act, passed, a mass scramble ensued to get applications in as soon as possible to receive a loan. Many banks were still in the dark on how to process loan applications, were not SBA approved, or simply were too inundated with requests to respond to our members. Lisa Peck from our new MBP Kearny Bank and Scott Seidman from another new MBP Heartland Payroll reached out to us to let us know they would be able to process PPP loans. We directed members to them to help process their applications, and because of their efforts, NJGCA members were able to acquire loans that others were unable to get. We had several members send us notes of thanks for connecting them with Lisa and Scott.

As a reminder, you can find contact information for all of our MBP's in our 2020 MBP Brochure, or on our website, [www.njgca.org](http://www.njgca.org). You will need your member ID and password to view MBP contact information.

*Have you started a creative business idea to get customers in the door during the pandemic? Have you done any community service or made any donations to help those in need during these uncertain times? Please contact Michelle at [michelle@njgca.org](mailto:michelle@njgca.org) to share your story so you can be featured in the next Member Spotlight.*



## Legislative Roundup

# IMPORTANT ISSUES AFFECTING YOUR BUSINESS

By: Eric Blomgren

### STATE GOVERNMENT/GAS TAX

The coronavirus pandemic has thrown the usual process of state lawmaking into confusion. Mid-March committee hearings were first changed to private meetings in which the public could only testify through written comments, then cancelled completely. As the crisis got worse, the Legislature met twice to pass a series of emergency bills, none went through any public hearings but generally passed with little to no opposition (or were pulled if they were too controversial to pass on an emergency basis). Since then, committees have begun meeting in virtual form. It is also not clear whether they will be focusing exclusively on issues responding to the effects of the pandemic or whether they will also be moving forward with bills on unrelated topics, or perhaps using the crisis to try and justify further regulations on employers and their ability to operate in the long term.

This time of year is traditionally budget season, when the budget committees meet to discuss the funding each department gets, all leading to a mad rush in June in order to get a balanced budget passed by the end of June 30th. With revenues across the board plummeting, the Legislature and the Governor came to an agreement on a one-time extension of the state's fiscal year, so that it will instead end on September 30. This will give them more time to determine exactly how dire the fiscal situation is, and hopefully see what kind of financial support the federal government will provide. The state is required to have a balanced budget, although the governor has suggested he may rely on borrowing a few billion dollars, which the state apparently has the ability to do without voter approval in the case of a major natural disaster. When the governor announced his initial budget plan (before the crisis) he called for an increase in the cigarette tax from \$2.70 to \$4.35 per pack, making it equal to New York state's tax rate, \$1.75 higher than Pennsylvania's, and \$2.35 higher than Delaware's. These significant increases would have led to many smokers buying packs illegally smuggled into the state. Before the crisis, it looked like legislators of both parties were viewing this increase very skeptically, but with state revenues plummeting all options will be on the table.

Also a major concern will be the gas tax. State law says the Treasurer must adjust the per gallon rate of the petroleum products gross receipts tax every year in order to ensure the State collects just about \$2 billion in revenue. The massive decline in gasoline sales that has already occurred, and

will continue to be below average for quite some time, means the State will fall far short of this goal, in theory requiring an increase of 5¢ a gallon or more starting October 1, making our gas tax higher than New York state's. This could be altered either by legislative action or by the discretion of the state Treasurer. However, anything that reduces the amount of revenue collected will be strongly opposed by the powerful interest groups who profit from infrastructure spending.

### CORONAVIRUS RESPONSE BILLS

Governor Murphy has signed the following new bills into law:

- A delay in the deadlines to pay state income and corporate taxes from April 15 to July 15.
- A change in the NJ Family Leave law to explicitly allow employees to use the leave to care for a family member with covid-19 or to care for a child whose school has been closed in response to an epidemic.
- A new law which prevents food retailers from accepting the return of groceries and food products during the current state of emergency.
- A new law which, for the duration of the current emergency, prohibits an employer from penalizing, firing, or refusing to rehire an employee because they requested or did take off time because a medical professional said they have, or likely have, an infectious disease.
- Legislation that allows notaries to perform their duties remotely.

As of this writing he has not decided whether to sign into law S-2363, which provides that during this specific State of Emergency, the governor has the ability to issue an executive order that declares that a "distressed small business tenant" may assert an emergency rent suspension for a period of up to three months. The period would last from when the business notifies their landlord they are distressed. Repayment shall be on a set schedule of between six to nine months, beginning the first day of the second month following the end of the state of emergency. A distressed small business is defined as 50 or fewer employees on February 10th, 2020, and does not have monthly revenue that exceeds 80% of tenant's reasonable expectations of monthly revenue during the same season prior to pandemic. It is not known whether he will sign it, and if he signs it if he will issue the order.

### PROTECT OUR EMPLOYEES SELF-SERVE GASOLINE

As soon as it became clear that coronavirus was going to hit New Jersey in a big way, NJGCA



began reaching out to the governor's office to let them know that the state's mandate that gasoline can only be sold in the state if someone pumps it had the potential to become a serious issue. Sure enough, it did not take long after the pandemic started for numerous members to begin reaching out saying that their gas pumpers were quitting rather than risking their own health by exposing themselves to dozens or hundreds of strangers per shift. NJGCA related these concerns to the governor's team as well as the desperate conditions that many station owners were operating in without sufficient people willing to work as gas pumpers. NJGCA members sent over 100 emails to the governor asking for some form of temporary lifting of the self-serve prohibition, as Oregon had done in response to Covid-19. Several business groups and state legislators reached out to the Administration to express their strong support for a lifting of the ban, and almost every major publication covering public affairs in New Jersey ran articles about the problem and often ran an editorial written by Sal arguing in favor.

Allowing self-serve as an option would allow more stations to be open (and to be open longer hours) and protect attendants and motorists from each other. These pleas have fallen on deaf ears, with virtually no response provided by Governor Murphy, not even on the occasions in which he has been directly questioned by the press. His Labor Commissioner stated that if station owners are having trouble finding attendants they should try posting the job opening on the state's Covid-19 website to try and appeal to the newly unemployed. Legislators could change the law, but leadership has deferred to the governor rather than risking upsetting some of the public.

### **UNEMPLOYMENT INSURANCE ISSUES**

Record numbers of people are applying for unemployment benefits in the midst of this crisis, creating a variety of problems. The federal government responded in part by offering everyone on unemployment insurance (UI) an extra \$600 per week on top of what they were regularly owed. This has created a problem in some cases in which businesses who want to rehire staff they laid off at the start of the crisis are meeting resistance from their employees, who in some cases are earning more money from these extra benefits to not work than they did on the job. This is a particularly big problem since the federal PPP loan forgiveness is tied to total employment (although an employer does not need the same individuals employed as they did before the crisis in order to be forgiven; as long as they offered the laid-off employee a chance to return).

There are two main concerns that we and other business groups have going forward. One is that employers' ratings will be hurt from having

to lay off perhaps substantial portions of their workforce because of the pandemic response, ultimately leading to higher rates. We are also concerned that the massive expenses being borne by the fund will lead to spikes in the rates employers pay in order to replenish the fund. Thankfully, and after a series of hard-won reforms a decade ago, the UI Fund was in an extremely strong position to start with. Both of these concerns have been raised with legislators who so far have been broadly sympathetic.

### **WORKERS' COMPENSATION COVERAGE**

In response to a request from the AFL-CIO, Senate President Sweeney introduced a bill (S-2380) which would in effect say that any employee at an essential business who gets sick with coronavirus is assumed to have caught the virus while at work, and therefore is entitled to worker's compensation. A variety of business groups are working with the Senate President on this issue with the concern that this will lead to higher rates if employee categories like cashier are deemed to be inherently more dangerous because they are working even under the shutdown. This legislation also seems unnecessary given the wide array of state and now federal leave programs that are in place for anyone who catches the coronavirus and cannot work. It passed the Senate on May 14th by a vote of 27-10 but has not seen any action yet in the Assembly.

### **LIABILITY PROTECTION**

One long-term concern that has been raised is the potential that after the current crisis has passed, opportunistic trial attorneys will start harassing essential employers with threats of legal action on behalf of employees and/or customers who allegedly contracted Covid-19 from the business. Often these types of action can be defeated in court, but more likely the attorneys will be looking for a quick settlement that is cheaper than what the legal fees would be. Thankfully, there is an effort to provide liability protection to essential businesses moving through Congress being led by one of our national partners, the National Association of Convenience Stores (NACS). U.S. Senate Majority Leader McConnell has stated that liability protection is a major priority for him in the next Coronavirus Response bill.

### **PRICE GOUGING LAW REMINDER**

Since the governor's declaration of a state of emergency on March 9, the state Attorney General has sent nearly one thousand letters to retailers across the state in response to consumer complaints about price gouging. According to the law, a retailer cannot raise the price for consumer goods by more than 10% of what the price was before the declaration, unless that increase is due to an increase in wholesale costs. If an increase in wholesale costs has led to an increase in

retail costs, then the retailer's markup can only increase by 10% over what it was beforehand. For example: a bottle of hand sanitizer cost 50¢ before the state of emergency, and the retailer sold it for \$1 (50¢ markup). When the emergency was declared, the most the store could legally increase the price to was \$1.10 (a 10% increase). On the next shipment from the wholesaler, the cost is now \$2 a bottle. The most the retailer can charge is \$2.55 (\$2 in cost + original 50¢ markup + a 10% increase in the markup which is 5¢).

The Attorney General has been aggressively enforcing the law after several thousand consumer complaints have been submitted, almost all having to do with the price of hand sanitizer, masks, disinfectants, food/water, and toilet paper. In one case they have fined a store for increasing the cost of a bottle of hand sanitizer from \$1 to \$5. The fines are up to \$10,000 per product for sale. Motor fuel has traditionally been the product most associated with this law, but the drop in prices that has coincided with this crisis has effectively meant it is the one product to which the law is irrelevant. If prices on goods fall below what they were at the start of the emergency, then there is no legal requirement to pass that drop on. As this crisis goes on, there will be new challenges regarding this law. Months from now, the ability to price goods will still in theory be governed based on what they were priced at on March 8, 2020. This is something to monitor in case there is a resurgence in the price of oil and gasoline a few months from now. One unanswered question with regard to the current price gouging law is: What if I am selling a product today that I was not selling when the State of Emergency was declared? What is the baseline price that will determine if I am charging too much? The current statute is silent on this subject. One legal expert who attended a web meeting with NJGCA staff focused solely on NJ's gouging law, simply declared that he didn't know the answer, though it's possible the Attorney General could try and file charges and effectively let a judge make it up.

### **SOCIAL DISTANCING REQUIREMENTS IN FORCE**

As per the Governor's Executive Order 122, which went into effect on April 10th, all essential retailers (which include gas station, convenience stores, and auto repair) must follow these requirements. You can read the full language of EO 122 at <http://www.njgca.org/coronavirus/>

- o Limit occupancy at 50% of the stated maximum store capacity at one time
- o Require workers and customers to wear cloth face coverings while on the premises and require workers to wear gloves when in contact with customers or goods.
  - Businesses must provide, at their expense, such face coverings and gloves for their

employees.

- If a customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual, unless the business is providing medication, medical supplies, or food, in which case the business policy should provide alternate methods of pickup and/or delivery of such goods.
- Customers do not need to wear a face covering if they say they have a medical condition which prevents them from wearing one or if they are under 2 years old.
- If an individual declines to wear a mask for a medical condition, the business shall not require the individual to produce documentation to prove it.
- o Install a physical barrier, such as a shield guard, between customers and cashiers wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment and/or exchange of goods
- o Place conspicuous signage at entrances and throughout the store, if applicable, alerting staff and customers to the required six feet of physical distance
- o Demarcate six feet of spacing in check-out lines to demonstrate appropriate spacing for social distancing
- o Provide sanitation materials, such as hand sanitizer and sanitizing wipes, to staff and customers
- o Require frequent sanitization of high-touch areas like restrooms, credit card machines, keypads, counters and shopping carts
- o Arrange for contactless pay options, pickup, and/or delivery of goods wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service
- o Establish hours of operation, wherever possible, that permit access solely to high-risk individuals, as defined by the CDC to Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal
- o Provide employees break time for repeated handwashing throughout the workday
- o Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness
- o Promptly notify workers of any known exposure to COVID-19 at the worksite
- o Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness.



## **VAPING UPDATE**

On April 20th the state's ban on all flavors of vaping products (except tobacco) went into effect.

Several other states, including New York, have enacted their own bans as well. In March, the Senate Health Committee scheduled a hearing on a bill to significantly alter the regulations on any store that sells these products. This bill was pocket vetoed by the Governor in January over a variety of flaws in its drafting. Among its main provisions would be to ban the sale of any vaping product with more than 2% nicotine content, which is almost all products available on the market currently. The hearing was cancelled over the coronavirus outbreak, but the issue may return. A court ordered a delay in the federal PMTA deadline, which has been moved from May 12 to September 9. Once this deadline hits, the only vaping products that can be legally sold in the United States will be ones that the manufacturer has submitted an application for clearance to the FDA. It is expected that this will remove most products from the market because the application process is extremely costly and only the largest manufacturers will be able to submit a valid application.

## **OIL PRICES**

No doubt you all saw the news on April 20th when the price of oil plummeted so low that for the first time on record it had a negative price, meaning people were not just giving oil away; they were willing to pay someone to take it away. In short, what really happened is that a financial services product crashed in price, not really oil itself. Speculators trade oil contracts on a per month basis, and April 20 was the deadline for the May contracts. That meant anyone holding that position in oil on that date would be required to take physical delivery of the oil in Oklahoma. Obviously, a bunch of stockbrokers have no interest in doing that, so in every normal month they sell off the position to someone who really does want the actual oil. The problem is that with demand having plummeted so low so fast, all the storage all over the country is almost filled to capacity and the public is not looking to use more in the near future. A bunch of speculators had been hoping prices would rebound before that date, and when they did not, they became desperate to offload the contracts, but couldn't find enough businesses that both could take delivery and wanted to. At one point, a trader paid out \$37.63 a barrel in order to avoid taking delivery. The June contracts were at the same time trading between around \$15 and \$20 a barrel.

That was the first day ever that prices had gone negative, going all the way back to the year 1870 according to one analysis. It may not be the last though, as storage worldwide continues to fill up but some companies and countries are continuing to pump. Most oil drilling cannot be brought to a

halt at the flick of a switch and it is taking time to lessen supply. Some drillers simply need cash flow and are continuing to pump since bringing in \$15 a barrel is better for them than bringing in \$0. The Trump Administration is concerned about the impact on the oil industry in the US, which now employs millions, but at the same time the President likes to brag about low prices at the pump are. There has been talk about refilling the nation's Strategic Petroleum Reserve (it currently has about 635 million barrels of crude oil with a capacity of about 720 million), but it would do little given how huge the oversupply is.

Recently crude oil prices have rebounded to \$25 a barrel, and gasoline rack prices have followed. Rack prices in the second week of May are hovering around \$1.00 per gallon minus taxes and delivery.

## **EMV REQUIREMENT FOR FUEL PUMPS**

The EMV requirement is not a government mandate, but a requirement from Visa, MasterCard, Amex, and Discover requiring that chip technology be used by all merchants by October 2017. Gas pumps which require a much bigger financial investment to upgrade were given an extension until October 2020. Merchants will then assume all liability for any fraud, including identity theft and the costs associated with it. Original inquiries to Visa and MasterCard et al. have resulted with blanket denial of the request for an extension, especially since the original deadline was October 2017. Recently, Visa and Amex have agreed to further extend the deadline until April 2021 due to the crisis created by the Coronavirus. In the last few weeks, all of the major credit card companies have agreed to extend the deadline until April 17th 2021 due to the crisis created by the Coronavirus. Additionally, Visa announced a delay in their planned fee increases until April 2021.

## **MAKE YOUR LEGISLATORS WORK FOR YOU**

NJGCA has been assisting members with a wide variety of concerns throughout this crisis. If you are having an issue, particularly with some form of government program, try reaching out to your member of Congress. They have staffers dedicated to helping their constituents and may have the access and connections to assist in getting through to certain government officials. To find out your representatives and send them a message, you can use this link: <http://www.njgca.org/legislative-action-center/> scroll to the bottom and enter your zip code under 'Find Politicians.'



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# Regulation and Compliance Register

## COVID-19 Special Edition



By Nick De Palma

*As NJGCA is submitting this spring edition of On the Road for printing and distribution, New Jersey is still struggling with the COVID-19/Coronavirus outbreak and lockdown. These past six-plus weeks of activity have created a near-unprecedented crisis. The impact to the commercial landscape has presented unique challenges to our industry, and beyond.*

*With the forgoing in mind, this edition of the Register will focus on how the COVID-19 emergency has impacted a number of business areas, and what you should know as the State moves past this immediate crisis and shifts back to “normal.”*

*Please keep in mind that this list is not exhaustive, and that many factors will have to be considered as New Jersey returns to work. As such, I invite you to continue to monitor NJGCA’s many email and newsletter updates for supplemental information and insights.*

*If you aren’t receiving our communications, it imperative that you contact me ([nick@njgca.org](mailto:nick@njgca.org)) and our Communications Director (Michelle Horowitz at [michelle@njgca.org](mailto:michelle@njgca.org)) to update your email address or to investigate why you are not receiving NJGCA email communications.*

## ASE Certifications

Many auto repair technicians greatly value their diagnostic accreditations and have maintained their current qualifications through the National Institute for Automotive Service Excellence (ASE).

The current COVID-19 crisis has hampered many technicians’ ability to take required credits and renew their existing certifications.

With this in mind, any technician that has ASE certifications scheduled to expire on June 30, 2020 will be granted a six-month extension.

Affected technicians will have their current deadline postponed from June 30, 2020 to December 31, 2020.

ASE credential-holders can read more details about the extension on the ASE homepage at [www.ase.com](http://www.ase.com).

If any members need to confirm their expiration dates, please visit the “[myASE](#)” section of the ASE homepage to review their certification status. Reminders can also be created to help you keep track of your expiration dates in the future.

## Motor Vehicle Commission: Deadline Extensions

The COVID-19 emergency has brought a number of changes to the public's interactions with the State's Motor Vehicle Commission (MVC).

As of this writing, the agency remains closed to the public. This includes brick n' mortar facilities and inspection locations. The only activity to remain open are at the agency headquarters and MVC's on-line service portals.

To accommodate this closure, MVC has extended until July 31st, 2020 all deadlines that were set to expire before May 31st, 2020. This includes vehicle inspections, private vehicle registrations, temporary tags, commercial registrations, individual drivers' licenses, and drivers' permits. Other services (such as change of address and vehicle inspection renewals) continue to be available to the public online.

Furthermore, Commercial Drivers' Licenses (CDLs) and Commercial Learner Permits (CLPs) if expiring between March 1 and June 30, have been extended to July 31.

All NJ Private Inspection Facility (PIF) locations are deemed "essential" businesses, may continue to perform inspections, and serve the motoring public.

## Motor Vehicle Commission: PIF Inspection Equipment Charges

All Private Inspection Facilities are required to operate and maintain State-approved inspection equipment. This equipment is serviced through an agreement with Parsons (and formerly by the original equipment manufacturer, SGS Technologies).

During the COVID-19 outbreak, Parsons continues to service this equipment and collect a "Break/Fix" fee; which is charged to each PIF directly each month. As repair facilities are deemed "essential," Parsons is required to continue to service workstations during the emergency.

Nevertheless, since many shops are not performing inspections due to the existing crisis, NJGCA reached out to Parsons to inquire about any potential relief for members until the current State of Emergency ends.

The State's mandate dictates that all active workstations must maintain a service agreement in order to participate in the PIF program. Still, Parsons has offered to defer payments (without any late fees) for any PIFs who have had a substantial decrease in inspection volume. This will be done on a case-by-case basis.

Upon receiving a request, Parsons will review the individual PIF's history to determine if there has been at least a 50% drop off in vehicle inspections. Once Governor Murphy has re-opened the state, Parsons will delay collecting any deferred payment amounts by 60-days. Once the 60-day grace period has expired, PIFs will make "double payments" each month until arrearages are paid and their account is brought current. Anyone seeking a deferment should submit a request through the billing department by calling the PIF Support line at (888) 665-2009 (Option 2).

The possibility of deferring payment during the crisis is appreciated, and any station owners who wish to take advantage of this offer should call the PIF Support line, outlined above.



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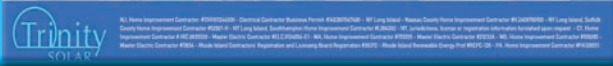


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# Families First Coronavirus Response Act (FFCRA)

- H.R. 6201, signed into law March 18, requirements took effect April 1, expires December 31, 2020.
- Applies to businesses with fewer than 500 employees.
- Federal Emergency Paid Sick Leave—2 weeks
  - Employee entitled to paid leave if:
    - Employee is under quarantine order because of COVID-19
    - Employee has been advised by a healthcare provider to self-quarantine over COVID-19
    - The employee is experiencing symptoms related to COVID-19 and is seeking a medical diagnosis
    - The employee is caring for an individual under a quarantine (they do not need to be a relative).
    - The employee is caring for their child whose school or daycare has been closed.
  - For full-time employees, the paid sick leave is 80 hours. For part-time workers (defined as less than 40 hours a week for the purposes of this law) they are entitled to the average number of hours worked in a two-week period. If they are not on a regular schedule, then look at the prior six months and determine the average number of hours worked per day and extend that over 2 weeks. If they were hired less than 6 months ago, then it is based on the average number of hours they would normally be scheduled to work over a two-week period.
  - If the employee is using the leave for one of the first three reasons (they themselves are affected) they must be paid their regular wages, up to \$511 per day and an aggregate of \$5,110.
  - If they are using the leave for the last two reasons (caretaking of someone else), then they are owed two-thirds of their regular pay, up to \$200 per day and an aggregate of \$2,000.
  - The employer cannot require an employee to find a replacement.
- Expansion of federal Family and Medical Leave Act (FMLA)
  - FMLA currently only applies to businesses with at least 50 employees. New benefits apply to all businesses with under 500 employees. The employee needs to have been employed for 30 days.
  - An employee who was laid off but rehired is still eligible, the clock does not “reset”
    - Covers an employee unable to work due to a need to care for a child under the age of 18 whose school has been closed or paid childcare is unavailable due to a public health emergency. This is the only reason that this type of leave is required.
      - 12 weeks of leave, first 2 weeks are unpaid but the employee may use other paid time, including the new federal sick leave and/or NJ paid sick leave.
      - Full time employees: Pay is 2/3 regular pay for 40 hours a week, up to \$200 per day and \$10,000 total.
      - Part-Time employees: Pay rate is 2/3 regular rate, the number of hours per week is determined by the average number of hours worked per week for the prior six months, up to \$200 per day and \$10,000 total.
- Intermittent Leave?
  - If you have an employee who qualifies for federal paid sick leave because of reasons directly related to a COVID-19 sickness, and that employee is not able to “telework” (but must be working on site), they may not take their paid sick leave benefit intermittently.
    - However, if you as the employer agree, your employee may take paid sick leave intermittently if the employee is taking care for a child because of school or daycare closures.
      - In terms of expanded family and medical leave, if your employee is NOT able to “telework,” an employee is able to take intermittent leave with the employer’s approval (for purposes of taking care of a child due to school, daycare closures).
- Businesses with under 50 employees can get exempted by the Secretary of Labor if the requirements would jeopardize the viability of the business.
  - The exemption will only be granted if the leave is being requested to take care of a child whose school is closed; it will not be granted for concerns related directly to COVID-19.
  - Employer must determine that at least one of the following is true:
    - Paying for the leave would result in the business’s expenses exceeding



available revenue and cause the business to stop operating at a minimal capacity.

- The absence of the employee would be a “substantial risk” to the financial health or operational capabilities of the business because of their specialized skills, knowledge of the business, or responsibilities.
- There are not sufficient workers available to keep the business open at a minimal capacity.

• This paid leave is in addition to all forms of leave mandated by the State of New Jersey and is in addition to any leave provided by the business’s existing policies.

o An employee may choose to supplement this new federal leave with existing leave (in order to get their full salary instead of 2/3) but they cannot be forced to. You may want to encourage them to do this in order for them to burn through their accrued leave. The employee is not entitled to use other forms of leave as a supplement, the employer can deny their request if they choose.

• **Employees’ Rights**

o An employee who takes this leave is entitled to the same or an equivalent position upon return from the leave they use.

- Except that a business with under 25 employees is exempt if the position has been eliminated as a result of the economic hardships of the pandemic and there is no equivalent position available.

o The employee cannot in any way be punished for using the leave.

o An employee is NOT protected from layoffs or from the closing of the business, as long as the action is one which would have affected the employee regardless of whether they took the leave.

o If the business is closed, then employees are not entitled to any of these forms of leave.

o If an employee’s regular work hours are reduced, they cannot use the paid leave for the hours they used to work, only the ones they are currently regularly scheduled for.

• **Tax credits**

o The employer can take a federal tax credit for 100% of the money paid out in these new forms of leave.

- Employers can claim the credits on their federal employment tax returns (such as the quarterly Form 941) but can benefit more quickly by reducing

federal employment tax deposits.

o Tax credits are refundable, so if tax liability is less than the cost of the leave, the employer will be fully refunded the balance.

- Employers can fill out the new Form 7200 if their tax liability is lower than the amount of FFCRA leave paid out and they do not want to wait.

o Tax credits also extend to amounts paid or incurred to maintain health coverage as well as to the employer’s share of the Medicare tax imposed on those wages. The employer does not have to pay their portion of the social security tax normally imposed on those wages.

o Employers must retain records and documentation showing each employee’s leave.

- These include the name of the employee, the dates of the leave, the reason for the leave, and a statement from the employee that they are unable to work for that reason. If the leave is because of a doctor’s order, you should document the name of the healthcare provider. If the leave is to care for a child, you must document the name(s) of the child, the name of the school and/or daycare, and a statement from the employee that there is no one else to care for the child.

o An employer is free to pay an employee more than is required, but that excess cost will not be reimbursed in the tax credit.

• **Employer Notice**

o A notice of these benefits must be posted in the workplace

- If the workplace is closed, then you must email or regular mail it to all employees.

o New hires must be given the notice from April 1 through the end of this year.

o You can find a link to download the official notice from [www.njgca.org/coronavirus](http://www.njgca.org/coronavirus) or directly from the DOL webpage <https://www.dol.gov/agencies/whd/pandemic>

• **Penalties**

o Employers who do not comply will be subject to the regular penalties for violation of the Fair Labor Standards Act

• If you have other questions we encourage you to visit the Department of Labor’s extensive Q&A found here: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

# The Conflicts and Confusion of Good Intentions

*Government's commitment to help may hamper any COVID recovery.*

By: Nick De Palma

The current COVID-19 emergency has created a torrent of government and societal activity in response to the crisis.

The promulgated relief programs aim to mitigate the economic fallout as the pandemic lingers. There is no doubt these programs are derived from a genuine and purposeful desire to help small business owners, their employees, and the greater community.

And yet, despite the noble intentions, the rapid response and limited guidance that followed has created a rash of unintended outcomes. As the current lockdown slowly eases and commerce resumes in the months ahead, these measures may ultimately hinder and prolong any recovery.

Among the centerpieces of these remedial measures are the "Paycheck Protection Program" (PPP), as well as a raft of enhanced unemployment insurance and paid employee leave benefits. Ideally, these collective programs aim to soften the financial impact of the coronavirus. Realistically, however, they have frustrated and discouraged countless small business entrepreneurs.

The PPP plan permitted low-interest private loans (which could later be forgiven as a grant) to be made to small business owners. Funds were to be used primarily for payroll, with an allowance of up to 25% for certain other business expenses. For the loan to be forgiven, businesses must keep their employee headcount consistent and funds must be spent within eight weeks. These limitations have created an inflexibility that many small business owners find difficult to comply with as they strive to save their ventures from closing.

The expansion and broadening of unemployment insurance and related employee leave benefits have provided needed financial security to individuals unable to work. However, the injection of new subsidies has also relaxed qualification requirements, provided benefit extensions, and generous allowances that may incentivize individuals to remain disengaged from the labor market. Adding to this maelstrom, a general lack of guidance and administrative clarity has created added confusion and frustration for small business owners. The PPP program has received two capital infusions totaling approximately \$670 Billion.

Despite this astounding sum, many small business owners are unable to have their loans processed, have had their applications declined by lenders for seemingly arbitrary reasons, or are unable to receive needed guidance during this process.

Gallingly, recent reports state that larger public businesses were able to secure funding ahead of small business owners. Some of these entities include the Los Angeles Lakers, Nathan's Famous Hotdogs, Ruth's Chris Steak House, Shake Shack, Hallador Energy, Broadwind Energy, and others. Not only were these bigger entities sophisticated enough to raise money through ordinary capital markets, but the allocation of such funds meant the same dollars were not being sent to aid small entrepreneurs in a timely manner. Many of these companies have since agreed to return these loans, but the delay has distressingly damaged small businesses operating on fumes or at a loss. Correspondingly, labor deficiencies have become an issue for some essential enterprises, and may linger beyond the lockdown to frustrate any recovery. Current- and long-term worker shortages may be circumstantial and industry-specific. Yet, many entrepreneurs are learning that a cadre of individuals will not return to the workforce while sizable public benefits are available. The recent wave of relief efforts has enabled individuals to qualify for expanded unemployment and leave benefits, all backed by the federal government. Ordinary state-specified unemployment benefits aside, this includes a separate automatic \$600 per week supplement and the possibility of a 13-week extension once benefits are exhausted.

Furthermore, the normally rigid regulatory limitations on unemployment insurance have been relaxed during the crisis to accommodate the largest number of possible applicants, dramatically increasing the number of qualified individuals. In some instances, this means that entrepreneurs have learned that former employees and prospective hires are collectively receiving more in benefits by staying at home than they would on the job – a plausible prospect once the additional \$600 per week federal supplement is tallied into the total appropriation. If such circumstances become wide-spread and are left unbridled, any number of industries may experience a protracted recovery as they search for qualified employees.



Altogether, this has left the essential small business owners we represent in the service station-, auto repair-, and convenience store industries feeling impeded and dispirited, and they are not alone. Entrepreneurs in other market-areas feel equally disregarded, incensed, and unnoticed. Many of these establishments are presently up and operating while the rest of the marketplace limps ahead under quarantine and shelter-in-place orders, mandated closures, reduction in hours, restricted consumer traffic, and other limitations.

The promises of PPP have been fleeting. While the objective was well intentioned, the program has become a de facto business-managed unemployment insurance program rather than a business relief initiative. The program is limiting, inflexible, and a confusing one-sized-fits-all solution that does not work for many small businesses. Often the owner must pay employees to sit idle to comply with the requirements. This rule rigidity is especially difficult in New Jersey, where a 25% cap on non-payroll expenses is simply unrealistic. Unlike other parts of the country, rent payments, mortgage commitments, property taxes, and related overhead expenses are especially onerous in this state and likely to consume funds equal to (and possibly greater than) a business's total wage obligations.

If a business should obtain a PPP loan or not, every business owner must still contend with attracting and retaining workers who are "better off" staying at home until their benefits are extinguished. This model can only encourage individuals to reject offers of employment when the crisis ends.

If small business owners must contend with generous government benefits to vie for employees, any economic recovery will suffer. It introduces conflicting signals and incentives to the landscape.

On one hand, small business owners are being encouraged to take out a loan (which may ultimately be forgiven if specific rules are followed) to keep employees working – even if there is no work to be done. Meanwhile, individuals and potential hires are being incentivized to stay out of the workplace to comply with a medical directive. Long term these two aims cannot be reconciled if we hope to recover from the COVID crisis.

Small business owners are compassionate and understand this state of emergency. They are entrenched in their communities and know we must overcome the immediate crisis. Yet, this paradigm cannot endure indefinitely. Even now, government officials have signaled that additional funding should be made available through

the end of this pandemic. For the small business community, and the economy at large, such proposals should not be advanced without a candid discussion on benefit limitations and sunset provisions. If government is to act, it should be to encourage individuals to reenter the workforce once the crisis has subsided. Failing to do that can only serve to prolong our economic pain and stall a recovery.

*Nick De Palma is Counsel and Member Services Director at the NJ Gasoline-Convenience-Automotive Association (NJGCA); a statewide trade association representing independent small business entrepreneurs in the motor fuel, convenience store, and auto repair industries.*



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NJGCA Member Benefit Partner

# When Employers Do the Right Thing— Workers Compensation Rates Go Down

By: Joe Amato Jr.

Many New Year resolutions have already long been abandoned. There was one change this year, which was good news and will continue throughout the year. This change was in the workers compensation insurance rates for the members of NJGCA.

Each year, the State of New Jersey's Workers Compensation Rating and Inspection Bureau computes the new workers compensation insurance rates. For many years, this meant an annual increase in rates for the businesses that make up the membership of NJGCA (gas stations, auto repair shops and convenience stores). This year however, the rates on all three classes of business have decreased by a large margin, dropping approximately 10% from last year (and they have now gone down almost 30% from the rates of 2015, 2016 and 2017!).

Workers compensation rates are set by the State of NJ by comparing the premium paid by all employers in a specific class to the losses paid for the same class during the term. The rate issued is per \$100 of payroll paid by employers in that class. Insurance companies in NJ are required to use the rates set by the State.

From 2011 to 2017, the rates for gas stations and auto service saw annual increases, going from a low of \$5.86 per \$100 to a high of \$7.77 per \$100. Since 2017, however, the rates have decreased to \$7.11 in 2018, \$6.29 in 2019 and they are currently \$5.69 in 2020! We strongly believe NJGCA and its members have contributed to the factors which have caused these decreases.

The first factor, usually, in lowering rates, is a decrease in claims (lowering both the frequency and the severity of claims). NJGCA has contributed to this decrease by its continual

focus on education, safety, and compliance for the owners and employees of its membership and the industry in general. As these businesses operate safer locations, the claims decrease and eventually the premiums also decrease.

The second factor in a rate reduction is based on the premium received. When businesses engage in dishonest payroll practices, such as paying employees entirely or partially in cash (and not reporting it) and lying on audits, they are not only committing crimes, they are not paying the accurate workers compensation premiums. By lowering the premiums paid, due to fraudulent practices, the rate that the state sets ends up increasing to offset it. This results in honest and accurate employers having higher rates each year, while dishonest employers that misrepresent their payroll pay much less than they are supposed to. NJGCA has been very active in recent years on educating owners on the legal and proper way to pay employees. They have also consistently reminded owners of the penalties for non-compliance. When all businesses pay employees the proper way, the rates decrease for everyone.

*Joe Amato Jr. is a Principal of the Amato Insurance Agency, a Division of World Insurance Associates LLC, and markets NJGCA's exclusive workers compensation safety group program through Ameritrust Insurance Company. Although dividends cannot be guaranteed, the program has consistently paid dividends back to the members. The program also offers several discounts from the state rates, based on the use of managed care credits and credits based on above average businesses. For a quote or any advice on workers compensation related issues, please contact Joe 732-530-6740 or visit [www.amatoagency.com](http://www.amatoagency.com).*





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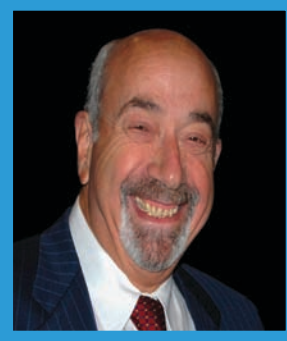
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# Does Anything Ever Go Wrong

By: Bill Rosenberg



As much as we hone our technical skills, as much as we study and implement good customer service practices, sometimes things just don't go as we planned. When you are faced with a situation that you couldn't have possibly anticipated

is when you are put to your most important customer relations test. I need to stress here that the importance of the score you receive on this test is unlike any you have ever taken in your life. Forget about numerical scores. Forget about A, B, C, D or F. Forget about any bell curve you have ever been measured on. Your score for each and every one of these encounters, and there will be many, will be either PASS or FAIL. Period! There is no middle ground. There is never any middle ground.

Please understand that the success of you as a person or "you" as part of a business will depend on the accumulated scores you have received over an extended period of time. That's why this is such an important concept for us to grasp. Think about it. Everything that you have done to enhance your career, every effort, every class, every obstacle you have overcome to get to where you are now has, in part, been the cumulative result of all those scores. .... I would ask that you indulge me for a moment and please read this paragraph again. I really want you to get the point.

Anytime you "touch" the customer, you are getting one of these scores. Even if you had no direct contact with them; even if you never saw them, you got a score. The "work" you did filters out to the customer. You may never know it. Your boss or manager may not even be aware of it at the time it happened. Somewhere that score was recorded and, slowly, over time, all those seemingly insignificant instances start to add up for you and/or your business.

Here's what it looks like. Some "scores" just come up and smack you in the face. You receive an unsolicited compliment from your boss, the service writer, one of your peers or even directly from the customer. At least one of them has recognized your incredible skill-set, speed and accuracy of your work or even the ability to solve a problem that others couldn't. As a reminder, I just want to point out that you have created an impression on both the "internal" as well as the "external" customer that we spoke about in the first article of this series. Score a PASS for you.

I'm going to bet that all of you are familiar with what a FAIL looks like. These are the scores that most of us have been on the receiving end of because it is just human nature to let someone know when you are unhappy with something or someone. People "expect" good service or a quality product. Frankly, they have every right to. They are less likely to "call out" or call attention to something they already think they are deserving of. It is expected. .... I can't change that but I hope I can help you understand that it is just part of being who we are. Here's a way to get your head around it.

Most of us work very hard for our money. We don't want to waste it or spend it foolishly. I said this in an earlier article, but when it comes to auto repair, your customer really does not want to, and did not plan to spend their money at your shop today. They surely would have rather used it towards paying the rent, buying groceries or maybe going to the movies. If you can understand that, then you are beginning to understand why delivering nothing less than your best effort and best attempt at outstanding customer service is so important. You are sort of starting out in a valley and need to finish up on top of the mountain in order to turn that customer's reluctance to being in your shop into satisfaction that, as long as they had to spend their money, they are happy they came to you.

For the purpose of this discussion, my background in sales in the automotive industry came as an outside salesperson for a warehouse distributor

who sold to auto parts stores who in turn sold to repair shops. While I was in “outside” sales, you are in “inside” sales where you are dealing directly with the consumer who has called or come into your shop. The basis of either side of the sales line has always been delivering goods or services to the “customer” in a timely and honest manner. Obviously pricing is in the equation as well but many times you will not be able to have a direct influence on that. Let’s deal with what you can affect.

I want to leave you with a way to start thinking about all those “touches” you will have with customers and the “grades” you will receive. Here is an admission. No matter what anyone ever tells you or whatever book you have read or seminar you have attended, it is absolutely impossible to achieve a PASS 100% of the time. People are simply people, and you will never be able to please everyone. I’m not saying you shouldn’t be trying. I’m simply saying that sometimes, in spite of your best effort, it’s just not going to happen.

So, let’s look at some numbers. This thought process came from running sales territories for many years. Whenever I would hit a “dry” spell (several FAILs in a row) it would get me feeling disappointed with my efforts and I couldn’t project that disappointment to my other customers. I had to figure out a logical approach and here’s what it was (transferring it into “repair “terms). You go to work every day and, assuming there is a steady flow of work through the shop, you are going to do “X” number of jobs or have “X” number of customer contacts for the day. I’m going to pick a round number in order to make this illustration easier (particularly for me). Let’s say that number is 10. Some of you are going to do way more and some way less. That’s why I’m picking the number.

OK. 10 jobs a day. If you work 5 days a week (Calm down. Some of you work more or less. Just go with me.) 10 jobs times 5 days gives you 50 jobs per week. Times 50 weeks a year (Be happy. I just gave you 2 weeks off.) equals 2500 jobs a year. Of those 2500 jobs or “contacts”, so many of them are going to earn you a PASS and so many of them are going to result in a FAIL. I’m going to pick another number. Let’s say that 80% of them are going to be PASS and 20% FAIL. That means that you’ll get 2000

PASSes! Good for you! However 500 of them are going to deliver a FAIL. Another fact. They are not going to be evenly divided. It’s not going to be 5 PASS and 1 FAIL. You could get 5 FAILs in a row.

Before you let the quality of your next service be negatively affected by your recent string of FAILs think about the numbers. If you were able to string several years of numbers together on a spreadsheet (I did. Guilty.), you will find those numbers are probably about the same each year. So, here’s the way I began to think about it. If I found myself halfway through the year and all of a sudden I was in a FAIL slump, here’s what I said to myself. “Got that one out of the way. 257 down and only 243 more to go!” See, you have to approach each job (touch) with a clear mind and not let “other” events ruin your “new” customer’s experience with you.

They deserve the best and you deserve a positive outlook.

Here’s to many more PASSing grades.

\* \* \* \* \*

*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.*





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# NJGCA SUCCESSFULLY DEFENDS AGAINST ATTACK ON NEW JERSEY'S BELOW COST FUEL SALE PROHIBITION

By Francis J. Brennan, III, and Craig A. Cox, Brennan Law Firm.



NJGCA, working together with the Fuel Merchants Association of New Jersey ("FMANJ"), has successfully defeated an attack in the Courts by Speedway, LLC against New Jersey's law prohibiting the below cost sale of motor fuel. The New Jersey Supreme Court recently dismissed Speedway's appeal and effectively upheld prior decisions of New Jersey

Appellate Division and Superior Court which found New Jersey's law prohibiting the below cost sale of motor fuel to be valid and constitutional.

New Jersey's law prohibiting the below cost sale of motor fuel was originally enacted in 1938 and is designed to protect against predatory sales practices and promote fair competition by preventing large fuel retailers from using their vast resources to a competitive advantage by reducing fuel prices below cost and driving out competing small service stations, only to later increase fuel prices after eliminating the competition to the detriment of the public.

In the past, large corporate retailers, such as Speedway, have attempted to amend or repeal the below cost sales prohibition in the legislature with vigorous lobbying efforts. However, on each occasion, NJGCA successfully defeated those legislative challenges. In fact, Sal Risalvato from NJGCA testified on numerous occasions before legislative committees in support of the below cost sale prohibition and in opposition to attempts in the legislature by large fuel retailers to change or repeal the law.

Speedway, LLC, a subsidiary of Marathon Oil, which operates over 70 locations in New Jersey and over 2,700 locations in 21 states, is precisely the type of large fuel retailer which can afford to sell fuel below cost and that New Jersey's law prohibiting the below cost sale of motor fuel is designed to protect against. In October 2016, the Middlesex County Department of Weights and Measures filed two complaints in Woodbridge Municipal Court which asserted

that Speedway had violated New Jersey Law by selling motor fuel at New Jersey locations below cost. Rather than admitting its error, in February 2017, Speedway filed a Complaint against the State of New Jersey seeking to have the below cost sales prohibition statute overturned and declared unconstitutional.



In response to Speedway's Complaint, New Jersey's Attorney General's Office, on behalf of the State, filed a Motion seeking the dismissal of Speedway's Complaint. In August 2017, the Superior Court heard oral arguments from the Attorney General and Speedway, and then dismissed Speedway's Complaint. Thereafter, Speedway filed an appeal of that dismissal. NJGCA and the FMANJ joined forces and filed an Amicus or "Friend of the Court" Brief with the Appellate Court in opposition to Speedway's challenge to the below cost sales prohibition and to supplement the Opposition Brief filed by New Jersey's Attorney General.

In April 2019, the New Jersey Appellate Division issued a detailed decision dismissing Speedway's Complaint and finding that New Jersey's law prohibiting the below cost sale of motor fuel was valid and constitutional. In upholding the law, the Appellate Court emphasized the legislative history in support of the prohibition against the below cost sale of motor fuel in New Jersey and showcased NJGCA's legislative efforts over many decades in support of this important law that protects small fuel operators in New Jersey against predatory sales practices by large corporate fuel retailers.

In response to the Appellate Division's finding that their challenge against New Jersey law was without merit, Speedway doubled down in their attempt to declare New Jersey's prohibition against the below cost sale of motor fuel unconstitutional by filing a Notice of Appeal with the New Jersey Supreme Court. To defeat Speedway's attempt to have the New



Jersey Supreme Court find in their favor, a new Amicus Brief was filed with the New Jersey Supreme Court by NJGCA and FMANJ, which vigorously argued that Speedway's Appeal should be dismissed and New Jersey's law prohibiting the below cost sale of motor fuel should be upheld. The New Jersey Supreme Court agreed and on January 31, 2020 entered an Order dismissing Speedway's Appeal and ended their attempt to declare New Jersey's prohibition against the below cost sale of motor fuel unconstitutional.

Speedway's attempt to use New Jersey's Courts to eliminate the below cost sale of fuel prohibition and its protections against unfair business practices has been defeated. NJGCA will continue to fight for its members, both in the legislature and the Courts, to uphold and maintain New Jersey's laws against predatory sales practices.

*Frank Brennan and the Brennan Law Firm guided NJGCA and FMANJ through the entire legal process beginning with Speedway's original complaint against the State of New Jersey. Brennan prepared and filed each of the Amicus Briefs submitted to the court at each level.*

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