# ATEG OF WNY

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**BP, Gulf States Reach Record $18.7B Oil Spill Settlement**

BP has reached an $18.7-billion settlement with five Gulf states, bringing to a close a five-year legal battle stemming from the company's 2010 Deepwater Horizon accident and subsequent oil spill in the Gulf of Mexico.

An outline filed in federal court said the settlement money will be used to resolve the Clean Water Act penalties; resolve natural resources damage claims; settle economic claims; and resolve economic damage claims of local governments, The Associated Press reported.

According to BP, its U.S. Upstream subsidiary, BP Exploration and Production Inc. (BPXP), has executed the settlement agreements with the federal government and five Gulf Coast states. The agreement with Alabama, Florida, Louisiana, Mississippi and Texas also includes settlement of claims made by more than 400 local government entities.

"Five years ago, we committed to restore the Gulf economy and environment and we have worked ever since to deliver on that promise. We have made significant progress, and with this agreement, we provide a path to closure for BP and the Gulf. It resolves the company's largest remaining legal exposures, provides clarity on costs and creates certainty of payment for all parties involved," said Carl-Henric Svanberg, BP's chairman.

"In deciding to follow this path, the board has balanced the risks, timing and consequences associated with many years of litigation against its wish for the company to be able to set a clear course for the future," he added.

BPXP is to pay the United States a civil penalty of $5.5 billion under the Clean Water Act, payable over 15 years.

BPXP will pay $7.1 billion to the U.S. and the five Gulf states over 15 years for natural resource damages (NRD). This is in addition to the $1 billion already committed for early restoration. BPXP will also set aside an additional amount of $232 million to be added to the NRD interest payment at the end of the payment period to cover any further natural resource damages that are unknown at the time of the agreement.

A total of $4.9 billion will be paid over 18 years to settle economic and other claims made by the five Gulf Coast states.

Up to $1 billion will be paid to resolve claims made by more than 400 local government entities.

"If approved by the court, this settlement would be the largest settlement with a single entity in American history; it would help repair the damage done to the Gulf economy, fisheries, wetlands and wildlife; and it would bring lasting benefits to the Gulf region for generations to come," U.S. Attorney General Loretta Lynch said in a statement.

## Inside This Issue

**NYS Roundup**

New York State Petroleum Bulk Storage Tank Regulations will require training of owners managers and employees. The owner is considered an A Operator and the manager is a B Operator. Each must pass a test given on the Internet. Employees are considered C operators and must be trained by either an A or B operator.In order to assist our member to pass the test the association has developed a Reference Guide

Legislative Bill Track – Although many more bills, which would have regulated the industries, were active, the following is a brief sampling:

- S5162,A bill requiring Downstate Motor Fuel Distributors to register, has passed the Senate but is held up in the Assembly.
- A8064a-S5701a, A bill to increase the margins on tobacco products has passed the Senate but is held up in the Assembly. The bill also provides for funding for enforcement of tax evasion on cigarettes.
- A6684-S1207, a bill that required that insurance companies may not dictate what parts are used in a repair did not make it to a floor vote in the Assembly and is stuck in committee in the Senate.
- A39- S393, a bill that required that a tire not be repaired if it would not pass inspection. This bill passed the Assembly , but is held up in the Senate
- A7494-S4670, a bill that would have establish standards of competency and fitness for certification as an inspector was held in committee
- A6200, a bill which would change the annual inspection to a biennial one, saw no action. We met with the bill Sponsor and were able to address our concerns
- Three window tint inspection bills were active in the legislature. One bill, A6135, includes the testing of tinted windows and mandated the if the air bag and ABS lights were on the car must fail inspection. The industry divided on this bill so it did not receive the attention it needed to pass. A second bill, S3345-A4106, that mandated that window tints be tested for light transparency did pass the Senate. On the last day of the session, a third bill, A8319-S6006, was introduced that mandated the tint test, but made a provision that the legislature study the need for an increase in the inspection fee due the the new requirement. The study would be done after the tint testing became law. We thought this was not such a good idea.
- A103-S332, the Zone Pricing Bill passed the Assembly, but is held up in the Senate.

**Adults Favor Raising Tobacco Buying Age to 21**

Three out of every four American adults favor increasing the minimum age to purchase tobacco from 18 to 21, according to a study released by the American Journal of Preventive Medicine (AJPM). Even self-described smokers largely agreed with the higher minimum age, with 7 of 10 cigarette smokers in favor of raising the minimum age to purchase tobacco products to 21, on par with alcohol sales.

Most states require tobacco purchases to be made by someone who is at least 18; in Alabama, Alaska, New Jersey and Utah, the minimum age is 19. Hawaii is the first state to implement an over-21 law, which will go into effect next year, and various municipalities across the nation have passed their own local laws mandating 21 as the minimum age for tobacco purchases.

The data used by AJPM came from a 2014 online survey of 4,219 adults over 18. According to the journal, a separate study conducted earlier this year found that if the all states were to raise the minimum age for tobacco sales to 21, there would be a 12% decrease in smokers.

Scientists on the panel concluded that setting a legal minimum age of 21 to purchase tobacco products would have a substantially greater impact than raising the age to 19, in part because many teenagers often pick up a smoking habit from friends or relatives around their same age. The group found that raising the minimum age would reduce deaths from smoking substantially, but the full benefits might not take hold for decades.

**FDA Delays Menu Labeling Rule Until December 2016**

Yesterday the Food and Drug Administration (FDA) issued a one-year delay in the implementation of its menu-labeling rule announced in November. The rule, which requires retail establishments that are part of a chain of 20 or more stores and sell restaurant style food to label those offerings with their caloric content, was set to go into effect on December 1, 2015, but will now be held off until December 1, 2016.

The announcement is not entirely unexpected, as a recent congressional hearing on the issue saw near universal agreement among the members in attendance that the rule is problematic and at a minimum a one-year delay in implementation was warranted.

While this is welcome news for the c-store industry, it does not solve our industry's overarching concerns with this rule. There are still many unanswered questions about how the rule, written for the fast food industry, would be logically applied to our chain of retail and the FDA is months behind schedule in offering its official guidance on compliance.

We are continuing to work with congressional allies to achieve a longer-term resolution to the issues that plague the menu labeling rule, in order to move H.R. 2017, the Common Sense Nutrition Disclosure Act of 2015 through the Congress. The influential House Energy and Commerce Committee is tentatively scheduled to consider the bill in the coming weeks and we hope to see it on the floor of the House in the near future as well.

H.R. 2017, sponsored by Reps. Cathy McMorris Rodgers (R-WA-5) and Loretta Sanchez (D-CA-47) would amend the FDA rule, making compliance that is flexible and reasonable for our retail channel, and protecting your employees from potential criminal penalties for mistakes

made in labeling of food products. We are told that a version of the legislation is very near introduction in the Senate as well.

**A Smooth Transition To EMV**

As retailers and card issuers transition their point-of-sale systems to accept EMV technology over the next few months, there's no question that the process is particularly complex for the U.S. market, compared to many of the other markets that have long implemented EMV-enabled cards.

These challenges are in part due to the size and number of organizations, the complexity of implementations at the merchants' point-of-sale and the challenges of U.S. regulations. Still, writes Chain Store Age, it can be done.

Employee training will be essential, advises Conexxus Executive Director Gray Taylor: "With all of the huge costs associated with EMV, training is often minimized or forgotten. There will be a huge learning curve for consumers used to 'swipe and go' and our sales associates will be on the front line of training consumers," he said. "Our sales associates should be over-trained in guiding our customers through this transition."

The publication recommends three key understanding for retailers in order to pave the way for a smooth transition come October:

Migrating from magnetic-stripe card technology to EMV will have an impact on merchant businesses, but when done the right way, the transition can be seamless. Although EMV "dips" are often criticized for being slower than magnetic stripe "swipes," with proper employee training and terminal installation, much of this delay can be avoided. Retailers need to become educated about how EMV technology is likely to impact day-to-day business operations before they make any final decisions.

EMV is only half the solution to eliminating card fraud, but it will make card present transactions more secure. However, retailers need to continually examine all aspects of their security infrastructure, not just POS terminals. Ideally, EMV should be paired with complementary security technologies such as tokenization and end-to-end encryption.

Since EMV is by no means the last step in the evolution of more secure payments, retailers should be sure that as they are migrating to EMV technology, they are also creating a payment infrastructure that is flexible for future technologies. Chain Store Age advises taking the opportunity to consider a more holistic approach to the next generation of payments while investing the resources into system upgrades.

**Improper Lawyer Conduct**
**In Suit Against Card Companies**

In a blog post for Reuters late last week, reporter Alison Frankel provided additional details on what she referred to as "one of the most inexplicable cases of improper lawyer conduct I've ever seen." At the heart of the misconduct is antitrust attorney Gary Friedman, who co-led a long-running case for merchants suing American Express over inflated swipe fees.

According to news reports and court filings, Freidman supplied proprietary information about retailers in his case, as well as a confidential expert witness report, to a lawyer for MasterCard in a similar case, Keila Ravelo, with whom he has a longtime friendship.

Communications between the two have been under scrutiny since February, when outside attorneys became suspicious after uncovering some potentially problematic documents, according to Franakel's article. A late February hearing in the MasterCard case revealed that Ravelo's files contained confidential materials from the parallel Amex case, at least some of which had been supplied by Friedman. Retailers, who log contested the settlement in the MasterCard and Visa case, and a proposed injunction-only settlement in the Amex, have since demanded more information about the potential improper disclosures between the lawyers. That information has since amounted to more than 10,000 pages of emails, texts and hard copy files, many of which have still not been made public due to claims of confidentiality.

According to Frankel, "the big question, of course, is whether Friedman and Ravelo's apparently improper conduct will impact either the MasterCard or Amex settlements … [but] we won't know for a while whether Friedman damaged the Amex case by giving confidential documents to his friend."

**The Saga Of Swipe Fee Lawsuits**

Over the weekend, Barron's published an article in which the author, Jim McTague, described the long-running battle between retailers and card companies as almost Dickensian, comparing it to the mid-nineteenth century novel Bleak House and its decades-long lawsuit of Jarndyce and Jarndyce.

For those who may not have been following every twist and turn over the past decade, McTague gives a quick synopsis of events from the original merchants' 2005 suit alleging anticompetitive behavior by the card firms. Then in 2010, the Justice Department filed its own suit against the three big card issuers, claiming that their merchant rules broke antitrust laws. Visa and MasterCard settled with the Justice Department and changed their rules. AmEx fought on, losing in February, but is expected to appeal.

Now, merchant groups, are trying to overturn provisions of a 2013 court-ordered $5.7 billion settlement against Visa and MasterCard for inflating swipe fees, arguing that the settlement limits future fee-related lawsuits and does little to prevent the card companies from colluding to set higher fees. Furthermore, the $5.7 billion settlement is little more than a slap on the wrist for the card companies, which get more than $50 billion in swipe fees each year.

But that's just the beginning of what has possibly become an example of truth being stranger than fiction: Some are suggesting that there's now a possibility of the settlements being overturned, with the discovery of improper

conduct between lawyers representing the merchants and card companies in two separate cases.

Since learning about the legal malfeasance, merchant group have protested the "tainted" the settlement talks and the federal judge in the AmEx case is deciding which of the 1,000-plus e-mails should be turned over to the merchants.

**AmEx Will Cease Merchant Prohibitions**

Following a judge's ruling earlier this year that the practice was anticompetitive, American Express announced that it will lift its long-standing restrictions that have prohibited merchants from steering customers to other card brands. The announcement resulted from last week's ruling, by a different court, that denied the company's request to keep the rules in place pending its appeal.

Beginning in July, merchants that accept American Express will be able to display signs stating that they have a preferred card, or offer discounts or rebates to customers paying with other companies' cards. According to news reports, Visa and MasterCard also could negotiate lower fees with certain merchants in exchange for the merchant agreeing to steer customers toward their cards.

AmEx is still pursuing its legal appeal, but will remove the prohibition on customer steering as the during the appeals process. Not one to wait, MasterCard already is planning to take advantage of merchants' new flexibility, having anticipated the ruling for a while now.

According to an article in the Wall Street Journal, U.S. District Judge Nicholas Garaufis, who oversaw the AmEx case, laid out specific language that the company must use to alert merchants to the rule change. The notification also warns merchants that they aren't permitted to disparage AmEx or mischaracterize its brand. Merchants also won't be permitted to charge customers more for using an AmEx card, although they can offer a discount for using a card other than AmEx.

**European Union Files Antitrust Complaint Against MasterCard**

MasterCard Inc. received an antitrust complaint from European Union (EU) watchdogs over concerns that the company is "artificially raising" card payment fees, according to news reports.

The EU's statement of objections targets measures thwarting cross-border competition among banks that offer card services to retailers, as well as excessive fees when foreign visitors go shopping in European Union nations, the European Commission said in an statement yesterday.

"We currently suspect MasterCard is artificially raising the costs of card payments, which would harm consumers and retailers in the EU," said EU Competition Commissioner Margrethe Vestager in the statement, as reported by Bloomberg.

EU antitrust regulators have targeted swipe fees on credit and debit cards for more than a decade, warning that the way the charges are collectively agreed on is anti-competitive. And last year, Visa Europe Ltd. pledged to cut levies for processing credit card payments in a settlement with the EU that would reduce charges by 40 to 60%. Earlier this year, the EU passed a law that would cap interchange fees on card payments and cut costs by 6 billion euros ($6.6 billion U.S.) per year.

In response to the complaint, MasterCard said that it is working with the commission "as part of an ongoing constructive dialog." The EU's antitrust complaint alleges MasterCard's rules prevent banks from offering lower interchange fees to retailers based in another EU state, where levies may be higher.

The commission also said MasterCard's levies for EU-based transactions with cards issued outside the region set an artificially high minimum price for processing payments.

A statement of objections allows the EU to set out its case, laying out where officials suspect a company has violated competition rules and citing evidence from complainants. Companies have a chance to respond in writing.

**Consumers Still Not Embracing Digital Wallets**

As U.S. consumers use more smartphones and mobile devices, it would seem natural for them to ditch their physical wallets and make digital payments whenever and wherever they could. However, a new survey from Gallup shows that this is not the case by any stretch.

Though Apple is trying to change consumers' minds – and may have the best shot at doing so, thanks to overwhelming love for the company's products – Gallup analysis shows that enthusiasm for digital wallets is still low. Only 13% of U.S. adults with a smartphone have a digital wallet on their device, and 76% of those who have a digital wallet say they have used it "never" or "almost never" in the 30 days prior.

Of U.S. consumers using a digital wallet, men and Millennials use it more than the rest of U.S. adults: 11% of men and 11% of Millennials use it every time or almost every time if they can to make a purchase. Among consumers who have digital wallets, 38% don't see any benefits of using the technology. What's more, nine out of 10 consumers who don't have a digital wallet say they are very unlikely or unlikely to start using one in the next 12 months (91%). This suggests that providers either lack a strong value proposition or aren't communicating it well to prospective customers.

According to the report, consumers don't seem to be eager to start using digital wallets in the near future, with further analysis suggesting several reasons for their reluctance. More than half of non-users cite security as a primary reason they're unlikely to use a digital wallet in the next 12 months (55%). Others don't know enough about the technology (21%) or see any benefits of using a digital wallet over just using credit cards (14%), while a few don't think they are accepted at enough places to make the technology useful or worth it (5%).

However, despite consumers' relatively low enthusiasm for digital wallets, the competition in the market is becoming more intense. Apple has already shot to the No. 2 position in market share with the launch of Apple Pay, even though Google and PayPal have been in the digital wallet space longer. Whether digital wallet companies are incumbents or startups – and regardless of whether they're technology firms, retailers, banks or credit card companies – every provider is looking for opportunities to win share from consumers and merchants, says Gallup.

**More Salaried Workers To Be Eligible For Overtime Pay**

Tomorrow, President Obama is expected to formally announce a new rule from the Department of Labor (DOL), raising the salary threshold under which employees must be paid overtime rates for hours worked. Currently, that salary threshold is $455 per week or $23,660 per year. The proposed DOL rule would dramatically increase that amount to a number equal to the 40th percentile of weekly earnings for full-time salaried workers – currently $970 per week or $50,440 annually. The threshold would then automatically adjust to stay at that 40th percentile number as wages change over time.

The updated figures come as a result of President Obama's 2014 directive requiring to the DOL to review the provisions of the Fair Labor Standards Act that govern the federal regulation of overtime pay. These rules, last updated in 2004, set a salary threshold under which employees must be paid overtime rates for hours worked beyond 40 per week and outline a "standard duties test" that governs what exempt employees (those making over that threshold) are able to do as part of their jobs in order to still be exempt.

Importantly for c-store operators, the DOL is not currently proposing any changes to the standard duties test for exempt employees but rather is asking the public for input on on whether they should be changed and how. The fact that the salary threshold will more than double is concerning for our industry, though it is not without precedent. When the Bush administration DOL updated the rules in 2004, the rate had been only $155 per week or $8,060 annually, dating back to the 1970s. The 2004 updates also tightened the exemptions for those making less than $100,000, but loosened them for "highly compensated professionals" making above that six-figure mark. The Obama proposal would increase this threshold as well, to roughly $122,000 a year.

The new proposal is expected to be formally published on Thursday when the president delivers a speech in LaCrosse, Wisconsin. That publication will kick off a formal 60-day comment period where the public may share their thoughts on the proposal with the DOL and the White House. The administration's goal seems to be to ensure that the new rules go into place before the president leaves office in January 2017, although they do expect the final rule to be challenged in court. Congress can be expected to weigh in with its opinion on the rule but has no direct authority to change the rules without enacting a new statute that would require a presidential signature.

**Senate Committee Passes Infrastructure Section of Transportation Bill**

On June 24, the Senate Environment and Public Works Committee (EPW) passed the Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act (S. 1647), which contains the initial infrastructure sections of the next national transportation program. While the committee had only introduced the 6-year, $278 billion bill to the public a day earlier, it contained limited policy changes, except for a few notable exceptions, and was therefore passed unanimously by a vote of 20 to 0. Two additional Senate committees must produce the rest of the final federal program language; with the most pressing problem being how to actually fund such a large multi-year bill.

Currently contained in the bill are opportunities for states to free up money for projects that are more than 10 years old and not already underway for new highway improvement needs. Additionally, a new grant program would help states begin to implement vehicle-to-infrastructure intelligent transportation systems, moving to nationally accelerate the connected car infrastructure. Central to the future of U.S. competitiveness, however, would be the inclusion of a robust national freight program that would include initiatives such as freight corridors.

While EPW creates the physical infrastructure and environmental passages, the final legislation needs text from the Commerce, Science and Transportation Committee, which is responsible for the safety sections, and the Banking Committee, which handles the transit portion. While those committees develop these new policy programs, other committees continue to work on finding a long-term and stable funding source for transportation and infrastructure.

Just hours after EPW approved S. 1647, the House Ways & Means Subcommittee on Select Revenue Measures, chaired by Rep. David Reichert, R-Calif., held a hearing on tax repatriation proposals for foreign-earned revenues of U.S. companies. That concept has several industry critics, including the National Association of Manufacturers, but continues to be in the mix with other more mainstream funding ideas like an increase in the federal gas tax.

It appears that both the Senate and the House would like to have the next multi-year transportation bill laid out and passed before the end of the year, but whether there is money to fund them remains a continued concern. It is looking more and more likely that another short-term extension of current funding and programs will be necessary to get through the end of 2015.

**The Hidden Cost Of Bad Roads**

Americans are driving more than ever this year, clocking in at close to a trillion miles driven in the first four months of the year, according to the Federal Highway Administration. As any driver knows, all those roads

traveled comes at a cost. But perhaps less discussed is the cost of driving on bad roads.

According to a recent article in the Washington Post, the shoddy state of the nation's roads cost the average driver $515 in extra operation and maintenance costs on their car. This data comes from the TRIP, a national transportation research group. TRIP's analysis shows that 28% of the nation's major roadways – interstates, freeways and major arterial roadways in urban areas – are in "poor" condition. This means they have so many major ruts, cracks and potholes that they can't simply be resurfaced but need to be completely rebuilt.

At the same time, the funds to maintain these all-important roads are increasingly in danger with the Highway Trust Fund hovering toward insolvency, extended piecemeal by congressional wrangling.

The Washington Post says that the nation's capital claims the dubious distinction of having the worst roads in America, with 92% of major roadways rated as "poor" and zero percent rated "good."

However, as with most things, writer Christopher Ingraham deems D.C. "a special case" that may not represent an apples-to-apples comparison nationwide. When it comes to states with the worst roads, California tops the list with just over half (51%) of its highways rated poor. Rhode Island, New Jersey and Michigan also have "poor" ratings of 40% or more.

Perhaps unsurprisingly, Florida has the smallest percentage of bad roads in the nation at a mere 7%, perhaps because the state's roads don't take the toll of harsh winter weather. However, Nevada, Missouri, Minnesota and Arkansas round out the top five best roads – not exactly temperate climates, other than Nevada.

On average, drivers in most states are paying around $400 or $500 extra per year in extra vehicle upkeep thanks to shoddy road maintenance. But drivers in six states plus the District of Columbia are likely to pay over $600 a year in extra costs, and unlucky Oklahoma and California residents may be hit with more than $760 per year in added costs.

**Sen. Heller Addresses Role Of Independent Service Providers At Airbag Recall Hearing**

On Tuesday, June 23, the Senate Commerce, Science, and Transportation committee held a hearing on the 32-million vehicle Takata airbag recall issue and the investigation into the National Highway Traffic Safety Administration's (NHTSA) ability to perform safety investigations. During questioning, Sen. Dean Heller, R-Nev., took the opportunity to focus on the recall process and how independent service providers could get involved.

After first addressing NHTSA Administrator Mark Rosekind regarding the newly released report showing significant gaps in the agency's defects investigation and recall capabilities and execution, Heller wanted to focus on recall fulfillment by service providers. Growing up, Heller's father was the owner of an independent parts store and Heller continues to build and race his own cars in his free time, giving him an exceptional understanding of the needs of the auto care industry.

Heller began by asking Rosekind if current recall regulations required dealer service locations to check a vehicle for any existing recall notices before releasing it back to the owner. While seemingly unclear on a response, Rosekind ultimately replied that "yes," they were required to check. Next, Heller wanted to know if independent service providers were required to do the same. Rosekind replied that they are not.

It is unclear whether Heller intends to follow up his questions with legislation that would address independent auto facilities participation in the identification and repair of recalled vehicles; however, the Auto Care Association will be working with the Senator and the committee to ensure the views of the industry are heard during the development of a committee bill on highway safety.

**House Committee Hears Updates on Vehicle-to-Vehicle Technology**

The House Energy and Commerce Subcommittee on Commerce, Manufacturing, and Trade held a hearing on Thursday, June 25, entitled "Vehicle to Vehicle Communications and Connected Roadways of the Future." Presenting testimony at the hearing was National Highway Traffic Safety Administration (NHTSA) official Nat Beuse, director of the University of Michigan Transportation Research Institute Dr. Peter Sweatman, and representatives from technology companies and vehicle manufacturers.

Chaired by physician Michael Burgess, R-Texas, the subcommittee continues to focus on the safety implications of the connected vehicle program. While much of the testimony and questioning centered on NHTSA's research and the development of a future regulation mandating vehicle-to-vehicle (V2V) safety technologies, Burgess took time to question the witnesses about aftermarket connected car technologies. Specifically, Beuse and Sweatman discussed the investigation of aftermarket devices in the UMTRI-run connected car pilot program taking place in Ann Arbor, Mich. Beuse noted that NHTSA continues to investigate some concerns with such technologies, specifically regarding potential delays in safety message communications to the driver, along with reliability compared to in-vehicle solutions. Sweatman, however, noted that the ongoing research had yet to show any performance or latency issues with aftermarket devices as compared to in-vehicle options.

Going further, Harry Lightsey of GM testified that aftermarket devices have a place in the market and can help proliferate the spread of connected car technologies to enhance safety as well as the overall consumer experience.

NHTSA continues to develop a future rule requiring certain V2V technologies in future new model year cars, and anticipates having that draft regulation out by the end of this year. Currently, there are guidelines on such technologies intended to address distracted driving concerns as well as an

advanced notice of proposed rulemaking, which will form the blueprint for the future final rule.

**California Assembly Approves Tire Recycling Bill**

Earlier this month, the California Assembly passed the Tire Recycling Incentive Program Act (TRIP) (AB 1239), which would require a retail seller of new tires to consumers to pay a California regulatory tire fee. The purpose of the legislation is to expand the CalRecycle tire recycling program. The bill now moves to the California Senate and awaits consideration by the Committee on Environmental Quality.

The "incentive" piece of the act would require CalRecycle to award eligible recipients for their use of crumb rubber, and also to allocate $30 million annually for TRIP until the California scrap tire recycling fee on new tires falls below $1.75. Those eligible for the award include:

- Cities, counties, other local governmental agencies and school districts for the funding of construction projects that use recycled tires;
- State and local governmental agencies, including regional park districts, for the funding of bikeways and disability access projects at parks; and
- Private manufacturers that produce a consumer product using recycled tires in California.

The bill is opposed by the Rubber Manufacturers Association (RMA) and the California Tire Dealers Association. There is a possibility that the legislature may postpone further activity on the bill until the second year of the current legislative session.

**Antifreeze Element Added To CA Prop. 65 List For Labeling And Notification Requirements**

On Friday, June 19, the California Office of Environmental Health Hazard Assessment (OEHHA) officially listed ethylene glycol (CAS # 107–21–1) as a chemical required by law for product labeling and employee safety notification requirements. Ethylene glycol is an element in several automotive products including: antifreeze, deicing fluids, surface coatings, heat transfer fluids and industrial coolants, hydraulic fluids, surfactants, and emulsifiers.

California's Proposition 65 continues to institute changes to its labeling requirements and notification standards employers and business operators must abide by. However, current law requires specific image and text label requirements on packaging, as well as notification to employees through posters and warnings where exposure can occur.

All auto care industry businesses, including manufacturers, distributors, independent service providers, and retailers, operating or selling in California are encouraged to review the current Prop 65 requirements and take steps to comply with the regulation.

**First Six Months Of 2015 Bring $65B In Gas Savings**

Americans saved a total of $65 billion for the first six months of 2015 compared to the same period last year thanks to lower gas prices, reported AAA. This equates to an average savings of $530 per household.

The national average on Tuesday was $2.77 per gallon, the lowest average since 2010 and about 91 cents per gallon cheaper than a year ago.

Gas prices have averaged $2.45 per gallon this year, the cheapest average price for the first six months of the year since 2009. Gas prices averaged $3.52 during the first six months of 2014.

` "It is much easier for a driver to take a summer road trip knowing that they have saved hundreds of dollars on gas so far this year," said Avery Ash, AAA spokesman. "The gas savings should continue for the rest of the summer, which could help motivate millions of Americans to travel."

The national average gas price is expected to remain less than $3 per gallon this year, but there is "considerable uncertainty regarding the future direction of gas prices," the trade organization added. For the remainder of July, AAA expects gas prices to remain flat or possibly drop as gasoline production increases to take advantage of high profit margins, seen by many convenience store operators in recent months.

"Drivers are hoping that history repeats last year's dramatic selloff in gas prices during the second half of the summer," said Ash. "There is real possibility that gas prices will drop this month as millions of Americans hit the roads for their summer vacation."

As for the rest of the summer, fuel demand is expected to be the key factor determining whether gas prices increase or drop. July and August are often the two months with the highest level of driving.

In the fall, U.S. fuel demand generally drops, often leading to lower gas prices.

As is always the case, unexpected events could cause gas prices to spike at any time. Such events include geopolitical unrest in the Middle East, problems at refineries or strong Atlantic hurricanes that disrupt refinery production.

Conversely, two international events could cause gas prices to drop more, according to AAA. These events are the potential of an Iranian nuclear deal, which could lead to more Iranian crude entering the markets later this autumn, and the possibility of Greek debt defaults, which could weaken the global economy and in turn curtail fuel demand.

**California Pump Prices Spike 32cts/gal**

California motorists are finally seeing the pass-through at the pump from the dramatic spike in spot and wholesale prices that took place last week amid regional supply difficulties. There remains a very wide gap between individual station prices, with some stations absorbing a lot of the cost increase while other stations are sending the expenses along to motorists.

The latest numbers from Gasbuddy.com show California gasoline sticker prices at $3.76/gal, with that number up 11cts/gal in 24 hours and 32.3cts/gal bigger than the price just a week ago. Wholesale prices have risen even more so there may be higher prices yet to come, especially in southern California markets served by the L.A. refining center.

Through today, OPIS five-day averages for a gallon of incremental spot CARBOB gasoline are up 41cts/gal. But outright prices in the last week are up almost a dollar, even after today's price decline is taken into account.

Put in perspective, the price of California gasoline is almost a dollar per gallon higher than the U.S. average, which stands right at $2.78/gal. A compilation of U.S. Gas Facts by OPIS shows that the $2.78/gal U.S. average falls to under $2.70/gal absent the California number.

The rise in California prices also puts numbers less than 40cts/gal higher than a year ago, by far the closest numerical comparison to 2014 rates. U.S. pump prices have trailed year-ago levels by almost a dollar per gallon most of the year.

If you look at the top 5% of the most expensive station prices in California, the average price is $4.54/gal. But at the bottom end of the rung -- the 5% of stations with the cheapest price -- the difference in price is $1.43/gal, so the impact of the southern California price spike is creating a wide dispersion in prices.

Gasbuddy.com data reveals Orange County, Calif., averages now at $4.11/Gal, up 20.2cts/gal in 24 hours and 61.2cts/gal over last week. So this region is being directly impacted by the spike in bulk supply prices in Los Angeles.

By comparison, pump averages in northern California at $3.50/gal are more than 60cts/gal cheaper.

In Sacramento -- the state's capital city -- prices average $3.35/gal, according to Gasbuddy.com.

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**Diesel Prices Falling**

As the average cost of regular gasoline continues to decline year over year, the price of diesel fuel is falling as well. In fact, U.S. diesel prices are down more than 25 cents since January.

Combined with higher gasoline demand, in many states the two fuels now cost nearly the same price per gallon, with the smallest difference in price of the past six years, writes Green Car Reports.

According to reports from other news outlets, diesel prices could continue to fall in the coming weeks of high travel, possibly even getting as low as gasoline prices, which increased 55 cents per gallon to a national average of $2.77 last week, according to AAA. The average price for diesel was $2.85 per gallon, down 27 cents.

**U.S. Vehicle-Miles Driven Top Previous Record Set in 2007: USDOT**

The U.S. Department of Transportation's (USDOT) Federal Highway Administration (FHWA) said on Wednesday that Americans drove 987.8 billion miles for the first four months of the year, topping the previous record -- 965.5 billion -- set in April 2007.

OPIS notes that the record-high vehicle-miles driven in the U.S. reinforces the strong gasoline market outlook. The robust gasoline demand continues to rise, jumping by almost 500,000 b/d last week to 9.655 million b/d.

The new data, published in FHWA's latest "Traffic Volume Trends" report, a monthly estimate of U.S. road travel, shows that Americans racked up 267.9 billion vehicle-miles traveled (VMT) in April -- the most ever driven in April and the highest mileage for the first quarter of any year -- underscoring the need for greater investment in transportation infrastructure.

The April estimates show that the nation's driving has increased steadily for 14 consecutive months.

The April 2015 report also includes seasonally adjusted data. Analysis of seasonally adjusted VMT is an alternative to analysis of unadjusted VMT, which traditionally uses comparisons of a month to the same month in previous years to determine trends.

The seasonally adjusted VMT for April 2015 was 262.4 billion miles, a 3.7% increase -- or 9.5 billion more VMT -- compared to the previous April and a 1.1% increase -- or 2.9 billion more VMT -- compared to March 2015. The estimates include passenger vehicle, bus and truck travel.

At 60.9 billion unadjusted VMT, traffic in the West -- 13 states including Alaska and Hawaii -- was the nation's most-traveled region for the second consecutive month, and the 19th month in a row of VMT growth. The Northeast, a region of nine states stretching from Maine to New Jersey, showed the smallest growth -- rising only 2.4%, or 37 billion VMT, compared to the same month a year earlier.

At 14.8%, Indiana led the nation with the largest unadjusted single-state traffic percent increase compared to the same month a year earlier, followed by Hawaii at 8.1% and North Dakota at 7.4%.

Roads in Washington, D.C., saw 1 million unadjusted VMT fewer in April 2015 than the previous April, a decline of 0.3% -- the nation's only decline that month.

The new figures confirm the trends identified in "Beyond Traffic," a USDOT report issued earlier this year, which projects a 43% increase in commercial truck shipments and population growth of 70 million by 2045.

The report examines the trends and choices facing America's transportation infrastructure over the next three decades, including a rapidly growing population, increasing freight volume, demographic shifts in rural and urban areas, and a transportation system that is facing more frequent extreme weather events. Increased gridlock nationwide can be expected unless changes are made in the near-term.

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**EPA Strengthens UST Requirements**

The U.S. Environmental Protection Agency (EPA) announced on Monday that it is strengthening the federal underground storage tank (UST) requirements, in order to improve prevention and detection of petroleum releases from USTs. The goal for these new policies is to strengthen existing requirements and help ensure that all USTs in the United States meet the same release protection standards, minimizing potential for groundwater contamination from leaks.

"Extensive and meaningful collaboration with our underground storage tank partners and stakeholders was vital to the development of the new regulations," said Mathy Stanislaus, assistant administrator of EPA's Office of Solid Waste and Emergency Response, in a press release. "The revised requirements will also help ensure consistency in implementing the tanks program among states and on tribal lands."

In developing the final UST regulation, EPA reached out extensively to affected and interested UST stakeholders, including NACS. "NACS has been engaged with the EPA regarding these rules for nearly five years, in order to ensure that the agency took the concerns of the retail community into consideration throughout the process," explained John Eichberger, NACS Vice President of Government Relations.

Many states have already implemented some portion of the new requirements in place, but for those states and territories that have not yet implemented them, the new standards are more protective. The revised requirements include:

- adding secondary containment requirements for new and replaced tanks and piping
- adding operator training requirements
- adding periodic operation and maintenance requirements for UST systems
- removing past deferrals for emergency generator tanks, airport hydrant systems, and field-constructed tanks
- adding new release prevention and detection technologies
- updating codes of practice
- updating state program approval requirements to incorporate these new changes

Among the announced changes, secondary containment and operator training requirements of the Energy Policy Act of 2005 will now apply to USTs on tribal lands. Additionally, these requirements improve EPA's original 1988 UST regulation by closing regulatory gaps, adding new technologies and focusing on properly operating and maintaining existing UST systems. According to its statement, EPA carefully considered the environmental benefits of the UST requirements, while balancing those with the potential future costs of compliance for UST owners and operators. For example, as the agency's news release states, EPA is not requiring owners and operators to replace existing equipment, but rather focus on better operation and maintenance of that equipment.

**King V. Burwell**

The Supreme Court has issued its widely anticipated opinion in the Affordable Care Act (ACA) subsidies case of King v. Burwell. The Court found in favor of the Administration, holding that, under the terms of the ACA, the IRS can provide federal subsidies to individuals in states where the health insurance exchange is run by the federal government (rather than the state).

The Supreme Court reached its conclusion by looking exclusively to the overall text and purpose of the ACA. The Court did acknowledge that, because the law authorizes the federal government to establish exchanges if the states do not, but the subsidy provision only authorizes subsidies for individuals enrolled through exchanges "established by the state", the subsidy provision, when read alone, is ambiguous. However, the Supreme Court concluded that the availability of subsidies is one of the three integral pillars of the ACA and the subsidies are so intertwined throughout the ACA, that Congress clearly intended subsidies to be available to any eligible person purchasing health insurance on an ACA exchange, whether established by the state or run by the federal government.

The Court noted that, if subsidies were not available to individuals enrolled through a federally run exchange, it would cause a "death spiral" in the insurance market that Congress had clearly not intended when passing the ACA.

Last week's decision addresses the last major legal challenge to the ACA currently on the horizon. However, despite the ruling, Republicans in Congress have already made it clear that they will continue their efforts do defund the ACA through the budget reconciliation process.

**DMV Record Retrieval**

DMV record retrieval is available to association members and affiliates at a cost of $12 per record. Additionally, you may order DMV certified paper abstracts of driver's license, vehicle registration, and vehicle title records for an additional fee of $2 per abstract. Please call 716-656-1035.

## Attention Inspection Stations

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

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

**BREAKING NEWS**

# FEDERAL TIRE LEGISLATION PROMOTES SAFETY, FUEL EFFICIENCY AND COMPETITIVENESS

## RMA Supports Measure Sponsored by Sen. Lindsey Graham (RMA Press Release)

WASHINGTON, D.C., July 10, 2015 -- Congress will consider legislation to create minimum tire performance standards for tire fuel efficiency and wet traction; improve manufacturers' ability to contact consumers in the event of a tire recall; and create a web-based tool for consumers and tire dealers to more easily determine whether a tire is subject to a safety recall.

Sen. Lindsey Graham (R-SC) this week introduced the Tire Efficiency, Safety and Registration Act, S.1741. Sen. Sherrod Brown (D-OH) and Sen. Roger Wicker (R-MS) cosponsored the bill. S. 1741 is strongly supported by the Rubber Manufacturers Association (RMA), the national trade association for tire manufacturers that produce tires in the U.S.

"This legislation will significantly help improve consumer safety, vehicle fuel economy and industry global competitiveness as well as regulatory consistency," said Dan Zielinski, RMA senior vice president, public affairs. "We applaud Sen. Graham for taking a leadership role in Congress to introduce this measure and appreciate Sen. Brown and Sen. Wicker for their support."

The bill contains three sections:

Minimum Tire Performance Standards for fuel efficiency and Wet Traction

Establishing a minimum tire fuel efficiency performance standard will eliminate the least fuel efficient tires from the passenger tire market, while a wet traction performance standard will help ensure tire fuel efficiency improvements are not achieved that the expense of wet traction performance and safety. Several other nations already have adopted similar standards. Adopting these standards helps to ensure that the United States does not become a dumping ground for lower performing tires.

"RMA members support these performance standards to help consumers and the nation conserve fuel without compromising wet traction safety performance," Zielinski said.

Improving Consumer Notification of Tire Recalls.

S. 1741 will require tire sellers to register tires to boost registration rates and improve the ability of tire manufacturers to directly notify consumers of a tire recall so that tires with potential safety issues can be quickly removed from service and replaced.

In 1982, federal law was changed from requiring tire sellers to register tires at point of sale to only requiring tire sellers to provide the means to register tires to consumers. This change resulted in the tire registration rate dropping from nearly 50 percent to about 15 percent.

Tire manufacturers are currently required to notify consumers who may be affected by a tire recall. But this is made difficult by the current low tire registration rates. Tire dealers now are required only to provide a paper registration card to every consumer who purchases new tires to document the tire identification number (TIN). The consumer then should complete the card with contact information and mail it to the tire manufacturer who keeps the information in the event of a tire recall.

By requiring registration at the point of sale, registration rates will increase and manufacturers will be better able to meet their requirement to notify consumers of a tire recall.

Create a consumer-friendly lookup tool to search tire recalls

All tire recalls are reported to the National Highway Traffic Safety Administration (NHTSA) yet the agency does not maintain an easy, consumer-friendly database to search for tire recall information.

S. 1741 would require NHTSA to develop a tire recall lookup tool searchable by TIN to enable consumers and tire sellers to quickly determine whether a tire is subject to a recall.

A searchable system for automobile recalls using the Vehicle Identification Number (VIN) is available on NHTSA's web site.

"Together, these provisions will improve the ability for tire manufacturers to notify consumers in the event of a tire recall, boost the competitiveness of the U.S. tire manufacturing industry and help to harmonize an often complicated global regulatory structure," Zielinski said. "We will continue to work with Sens. Graham, Brown, Wicker and others to enact this measure

## OUR NATIONAL ASSOCIATION WILL TAKE ACTION

SSDA, our national association is going to do everything in its power to defeat legislation aimed at making tire registration mandatory.

And that legislation exists. Late last week, Sen. Lindsey Graham (R-SC) introduced S.1741 into the Senate. Also known as the Tire Efficiency, Safety and Registration Act, the bill would require tire sellers to register tires.

The bill, supported by the Rubber Manufacturers Association (RMA), does not address whether or not the consumer information collected at the point-of-sale would be available to the tire manufacturers - a hot-button issue with tire dealers.

"We are 100% against mandatory tire registration. "SSDA plans to fight it. We also plan to reach out to the industry and talk about it." That includes the RMA, which has not shown any desire to work with the National Association on this issue.

The RMA believes tire registration is too low, and claims it has dropped from "nearly 50% to about 15%" since voluntary registration became law in 1982. However, we believe that number doesn't take into account tire dealers who register the tires and keep the information to themselves. In case of a recall, they contact the affected consumers directly.

Mandatory tire registration is only part of S.1741. In its current form, the legislation also would 1) create minimum tire performance standards for tire fuel efficiency and wet traction; and 2) create a Web-based tool for consumers and tire dealers to more easily determine whether or not a tire is subject to a safety recall.

We are not sure legislation to create the performance standards and Web-based tool are necessary given the power the National Highway Traffic Safety Administration was granted in 2007, we will would not oppose them.

We are urging all retailers to contact their legislators and tell them that they strongly oppose the tire registration provision contained in S.1741.

For more information on the issue of voluntary vs. mandatory tire registration, check out these links:

http://www.moderntiredealer.com/news/story/2015/07/it-s-a-go-rma-supports-new-tire-registration-legislation.aspx

http://www.moderntiredealer.com/article/story/2015/06/tire-registration-and-legislation.aspx

# Garage Insurance Survey

| | | | |
|---|---|---|---|
| Name of Business: | | | |
| Street Address: | | | |
| City: | State: | Zip: | |
| Phone # | Fax # | E-Mail: | |
| Contact Person: | | Phone # (if different from above) | |
| Are you happy with the cost and service provided by your carrier/agent? | | Yes | No |
| If yes STOP here…<br><br>If NO or NOT SURE you may want to look at the following | | | |
| Is your coverage insufficient? | | Yes | No |
| Is the service poor to non-existent? | | Yes | No |
| Is the cost too high? | | Yes | No |
| Are you satisfied with your current coverage? | | Yes | No |
| Are you interested in a quote from another insurer? | | Yes | No |
| Is so please check each that apply: | | | |
| | | Property & Casualty | |
| | | Workers Comp | |
| | | Disability | |
| | | Health | |
| | | | |
| If you checked one or more of the above please provide the following information: | | | |
| Name of Current Insurer: | | | |
| Type of Insurance: | | | |
| Renewal Date: | | | |
| When/How is the best time to contact you? | | | |

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

Lawley

# Lawley Declares Dividend for 23rd Year


## *Declared Dividend is 20%*

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

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

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

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

## Further Details

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

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# FREE MONEY

REPAIR-SHOP & GASOLINE DEALERS ASSOCIATION

RSGDA – NAPA PROGRAM

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

**FAX** this form back to: (518) 452-1955