



New Jersey Gasoline, C-Store, and Automotive Association (NJGCA)
(Formerly New Jersey Gasoline Retailers Association)
66 Morris Ave.
Springfield, NJ 07081
973-376-0066

FOR IMMEDIATE RELEASE

Contact: Sal Risalvato
Executive Director
973-376-0066 office
201-745-1914 cell

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NJGCA Supports USDOL Efforts to Enforce Minimum Wage and FLSA Provisions

*Dishonest employers gain unfair advantage over honest NJGCA members
NJGCA condemns all forms of fraud and cheating and adheres to Zero Tolerance Policy*

Sal Risalvato, Executive Director of the New Jersey Gasoline, C-Store, Automotive Association (NJGCA), released the following statement today in response to a United States Department of Labor announcement that over 1,100 gas station attendants in New Jersey have received \$5.5 million in back wages and damages as part of a five-year enforcement initiative:

"A recent investigation by the US Department of Labor into the New Jersey gas station industry found 'widespread violations of the Federal Fair Labor Standards Act's minimum wage, overtime and record-keeping provisions.' I want to first express my support for USDOL's efforts to enforce minimum wage requirements, and voice even stronger enthusiasm for their work in uncovering instances of employees being paid under the table or 'off the books.' This kind of dishonesty on the part of deceitful employers allows them to gain an unfair advantage over all of the honest NJGCA members in the industry. NJGCA members in particular strongly favor a zero tolerance policy for employers who try to cheat the system."

"Although NJGCA agrees with and supports the Department of Labor in their efforts to make sure that all employees are paid fairly and properly, there is one area where NJGCA differs in opinion with the Department," Risalvato stated. "In 2011, a USDOL task force found that some station owners used formulas to compute wages which were not in compliance with the Federal Fair Labor Standards Act. At that time, USDOL conducted seminars for NJGCA members in order to demonstrate how to properly compute employee wages and avoid violating FLSA. Since then, NJGCA has made a continuing effort to work with USDOL and educate members in order to avoid violations. Many of my members thought they were doing things correctly, but in reality they weren't," Risalvato continued.

Citing proof that employers misunderstood the proper accounting of their payroll, Risalvato said, "Often, when I warned members that USDOL was on the lookout for employers not paying their employees the proper amount of wages, I received gleeful pronouncements of, 'Don't worry, Sal, I have my employees on a salary and pay them well-above minimum wage!' My reaction was always the same, 'STOP! No, you are not doing it properly! USDOL insists that you follow a proper formula or else they will deem that you have not paid appropriate overtime.'"

Example of correct and incorrect:

Incorrect

An employer pays an employee \$600 every week to work a 50 hour shift. The employer and the employee agree that this is a fair wage, since this wage far exceeds the federal minimum wage of \$7.25 per hour, and even exceeds the NJ minimum wage, which is currently \$8.38 per hour. However, USDOL would deem this improper and would claim that the employer owes the employee 10 hours of overtime wages.

Correct

Should the same employer pay the same employee \$10 per hour (which is also above minimum wage standards) and the appropriate overtime for the 50-hour shift, the computation would be as follows: 40 regular hours at \$10/hour plus 10 overtime hours at \$15/hour (time and a half), making the gross wages paid to the employee \$550. The employee would actually be paid \$50 less per week, yet USDOL would deem this proper and would not cite the employer.

"Regardless of whether or not we agree with this provision of FLSA, I encourage and insist that NJGCA members learn and understand the proper procedures for compensating their employees. I will make every effort to assist them and I appreciate that USDOL has pledged to help me with this task," Risalvato said.

"In instances where employers and employees feel that compensation is fair and proper, and there is no intent to cheat or shortchange employees, we ask that USDOL take these mitigating factors into consideration when assigning a penalty. There is no question that all record-keeping and accounting should be done properly, but we feel that enforcement of such violations should be scaled to reflect the nature of the infraction. USDOL has reported that the amount of back wages and damages collected in 2014 dropped to its lowest point since the initiative began in 2010. I hope that this is a result of NJGCA efforts to educate members and assist them in complying with FLSA. I look forward to continued efforts with USDOL to inform my members about complying with FLSA, and of course continuing to actually bring gas stations into compliance with current laws," Risalvato concluded.

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