

# ON THE ROAD

THE OFFICIAL COMMUNICATION OF THE NEW JERSEY GASOLINE C-STORE AUTOMOTIVE ASSOCIATION  
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## NJGCA *ON THE ROAD* TABLE OF CONTENTS

P. 3 Message from the Executive Director  
P. 5 Communications Central  
P. 6 Legislative Roundup  
P. 9 Common Cents by Debbie Hill  
P.10 The Mechancis Lein  
P.12 NJGCA Training Class Schedule  
P.14 \$ave with our Member Benefit Partners!  
P.15 Opinion: Opportunity Scholarship Act  
P.14 Employee Records  
P.16 Counsel Corner: Allapattah Revisited  
P.17 NFIB: Unemployment Insurance Reform  
P.18 Cover Story: A Matter of Convenience  
P.21 C-Stores: Donuts to Dollars?  
P.22 Motor Oil Update: The 'New Oil'  
P.24 NJ has historic Pension Reform  
P.25 The Horror Highlight  
P.26 Ethanol-Powered Cars  
P.29 High cost of lawsuits against the Govt.  
P.30 E15 or NOT E15?  
P.31 The Membership Memo by Phil Apruzzi  
P.32 Avoid IRS Trouble!  
P.33 Counsel Corner: Race to the Courthouse  
P.34 Meet your office Staffers!  
P.35 Community Right to Know  
P.35 Know Your Territory Manager



## Message From Executive Director Sal Risalvato

### *Is it me or is Trenton getting busier?*

I have been in this game along time, first as an advocate for those of us in the gasoline business because Washington and Trenton pissed me off. I was a dumb kid that was always screaming “They can’t do that!” or “They should do that!” Back then my screams were at Exxon since I was an Exxon dealer and I thought they sucked. My screams then turned to lawmakers, although back then I was so green at the political game that I never really understood if it was Trenton or Washington that I should be screaming at. Getting involved shed a new light on many other business related issues outside of the gasoline business that affected me and I soon morphed from a Gas Station Advocate to a Small Business Advocate. I learned to be pissed off at both Washington and Trenton.

I learned is that if no one stands up and screams about our interests, it becomes easy for lawmakers to trample on us. I also learned that even when someone stands up and screams, that we can still be trampled, because lawmakers always have someone else who is opposing our views screaming at them too. There is an awful lot of screaming in politics.

This past year has seen an unusual amount of dangerous activity (and screaming) bubbling around in Trenton. The extremely volatile gasoline market has fueled (no pun intended) activity amongst legislators in a flurry that I have never seen before. I don’t know how I would handle all of this if I didn’t have 30 years of experience involved on the battlefield influencing legislators on Small Business issues.

Although we have had recent success stopping harmful legislation that will create “Below Cost Selling” on the street, this war is not nearly over. One bill, A-3133 has now made its way thru the Assembly, and was a result of months of compromise discussions with the proponents of the legislation. Big Box retailers and Supermarkets wanted ***Pure Below Cost Selling*** coupled with ***Giveaways at the pumps***, and ***Rewards from Supermarkets that YOU would pay for!*** Our compromise will allow loyalty rewards tied in with supermarkets; however, the supermarkets will have to

pay for them. Our compromise will still prohibit any reward that creates a below cost selling situation, and still PROHIBITS GIVEAWAYS AT THE PUMPS!

But even after all of the debate to work out the compromise, there are still 3 other bills introduced in the legislature that will permit “Below Cost Selling”. Last month we successfully held off a vote in the Assembly Transportation Committee on A-2932, which is another bill that would permit “below cost selling”. But A-2932 is still out there hanging over our heads, not to mention several other similar bills lurking around in the Senate. This has become a chess game, and thankfully we have allies and friends at the Fuel Merchants of NJ (FMANJ) who have been rowing with us on these bills.

I can’t even count how many bills have been introduced in both the Assembly and the Senate that either limit your ability, or prohibit your ability to utilize cash/credit pricing. We have been battling all of these since last September. One piece of legislation that originated as a sign and penalty bill that both NJGCA and FMANJ agreed to support.

S-847 evolved in to a bill that would seriously inhibit your ability to continue utilizing cash/credit pricing, and is a perfect example of how we can get stabbed in the back if we even blink for a second.

In January Senator Turner introduced legislation S-847, to increase fines for improper display of pump and street signs by an additional \$1500. Both I and Eric Degesaro of FMANJ were on hand to testify to the Senate Transportation Committee on January 20. We told committee members that any new fines were unnecessary because they already existed in the regulations governing gas stations. Senator Turner was unaware of this fact so we educated her and the other Senators on the committee. Upon learning that the fines already existed as a regulation, Senator Turner then requested that her legislation be amended to forget about any additional fines, but simply change the existing regulation in to an actual law. Law is enacted by the legislature rather than a rule promulgated by the Director of Consumer Affairs. We agreed to accept her

amendment as a compromise since it did not increase any fines or penalties. The committee voted affirmatively and sent S-847 to the full Senate for a vote.

Since any legislation must be passed in its exact form by both the Senate and the Assembly, an identical version A-3862 was introduced by Assemblyman Prieto and scheduled for a hearing before the Assembly Consumer Affairs Committee on March 7. I was asked by legislators on the committee if I was ok with the bill or would I be opposing it. I let all know that NJGCA supported the bill as amended in the Senate Transportation Committee. However, when we weren't there watching, Assemblyman Prieto amended A-3862 to include that ALL PRICES-BOTH CASH AND CREDIT must be posted on your street sign. This is UNACCEPTABLE and NJGCA and FMANJ have been taking action since then to keep A-3862 from being posted for a vote in the Assembly without first being amended back to the original version that we agreed to in the Senate.

You can see how quickly in the blink of an eye that things are hatched down in Trenton that will harm you.

Not just gasoline retailers are in danger. Our members that operate Convenience stores have Trenton gunning for them too.

As if these issues aren't enough, Assemblywoman Quijano has introduced legislation that would allow lottery sales over the internet. A-2676 was introduced last fall and despite a big turnout of NJGCA members opposing the bill, it was passed by the Assembly Regulatory and Oversight and Gaming Committee. This particular bill must also get approval from the Assembly Appropriations Committee before being voted by the full Assembly. As of this date our efforts to keep the bill from moving further have been successful, but that could change quickly as the state treasury is scrounging for badly needed revenues. Legislators think internet lottery sales will increase revenues to the state and will begin beating a drum that will require a huge effort to silence.

Yes there is more. Budget problems in Trenton continue to put pressure on the taxes you pay. Especially property taxes and Unemployment taxes. NJGCA has been involved with a coalition of business groups that are all fighting to stop the state from heaping other burdens

on your back. It is a difficult task and requires many advocates screaming on your behalf. I told you there is a lot of screaming going on in Trenton!

BUT...not only do we have to monitor Trenton, but we have to monitor the media too. NJGCA is always proactive trying to get your side of the story to newspapers and television, so that the public understands that you are not to blame for the high gas prices at the pump. Unfortunately there is always some turkey that doesn't get it and finds gasoline retailers to be an easy target.

Any chance that I get to defend you is taken very seriously. When an opponent in the media is a rectum like I have encountered recently, then the fight can be fun when I get the chance to poke a deserving moron in the eye.

Several times since March, FOX Business Editor Eric Bolling has challenged me on camera with an accusation that gasoline retailers are GOUGING the public. Had I not been separated from him by a wall in the studio, I would have ripped his face off. NJGCA emailed links to the program to each of you so I hope you were able to view them.

Many of you know that since January I have undergone several serious surgeries to amputate part of my left foot. As a result I have been confined to a wheelchair and have had to wage these battles mostly from home. Fortunately our NJGCA staff has wheeled me around Trenton when necessary. It certainly has not been an opportune time for Trenton to throw so much at us. I am grateful to our friends at FMANJ as they worked very hard while I was in the hospital. It is nice to have a sister organization that has the same interests as we do most of the time. Thanks also to all of you for your kind notes and emails. The surgeon says I will be walking again in another month or two.

Then I can really get back to screaming in Trenton! ■





# COMMUNICATIONS CENTRAL

By Nick De Palma

Recently, after an especially difficult week in Trenton, I was reminded of the old adage that tells us “knowledge is power, but wisdom is stronger still”. In light of some of the trials every business owner faces today, that old proverb rings truer than ever. Yet, as that statement may be, how you obtain that knowledge and what you do once you possess it are equally as important.

After all, what good is knowledge when you don’t know what to do with it!

In past issues of On the Road and our weekly Road Warrior e-newsletter, NJGCA has stated repeatedly that good communications and the importance of staying well informed can mean the difference between surviving the storm or ceasing to exist. We have committed ourselves to bringing you timely, important news and information to help you run your establishment. What’s more, these communications are often critical to safeguarding the well-being of your business and prompt you to act in order to avert larger disasters.

While many of you may be reading this message and thinking that I’m exaggerating my point, let me assure you that I’m not. Though it may seem trivial, sometimes the key element in preventing a harmful bill from becoming a burdensome law is the participation of members like YOU!

In order to garner the response we need from you, it is important that you read and understand our communications. These messages may come in the form of a weekly Road Warrior e-newsletter, an urgent Wildfire Alert message, an informative Events & Announcements email, or an In Case You Missed It e-newsletter. And it may obviously come through a quarterly On The Road publication like the one you’re reading right now.

Nevertheless, here’s the million dollar question: Have you been reading what we’re sending you?

Some of you may have read that last line only to admit that you haven’t been reading anything we’ve been sending you. If you’re one of those members who have followed this pattern of abuse – STOP! What we send you is for your benefit! We wouldn’t send it to you without a reason and you are robbing yourself of an opportunity to stay informed and avoid potential problems down the line.

Others maybe scratching your head and thinking “*I haven’t gotten an email from you guys in ages!*” – and that would be especially troubling. **IF YOU USED TO GET OUR WEEKLY ROAD WARRIOR EMAILS BUT HAVE NOT RECEIVED ONE IN SEVERAL MONTHS....IT IS IMPORTANT THAT YOU CONTACT ME!**

Though we have changed our email delivery system a few times in the last few years, we’ve done our very best to ensure our membership email is both accurate and up to date. However, that doesn’t mean that either is true in your case. Perhaps you’ve changed email addresses and forgot to tell us; maybe our messages have been going into your spam/junk-mail folder; or maybe there’s a setting on your account that needs to be changed.

Regardless of the possible reasons, **IF YOU HAVE NOT BEEN RECEIVING OUR EMAIL COMMUNICATIONS**, we want to hear from you --- Contact us immediately!

To those members who have been reading what we’re sending you, thank

you for taking the time to digest it all. If you have any suggestions or ideas to improve our communications, don’t hesitate to reach out to me at your convenience.

Of course, that’s only part of the housekeeping items – Read on there’s more!

There are a significant number of members who do not use email and rely on our faxes to get the information you need. If you are receiving a fax from us but already check your email to read our messages, please let us know so we can take you off the fax list! In an ideal world, I wouldn’t send out any faxes at all, but I know that some members still depend on them for the time being.

In addition, NJGCA recently sent out two cell phone text messages to relay urgent information that needed your immediate attention. If you did not get one of those messages, that means we either don’t have your cell phone number or your number was incorrectly recorded in our system. If you’re among those who didn’t get a text message, please contact us so we can update your records and add you to any future text message blasts.

REMEMBER, the two text messages we sent were crucial notifications; WE WILL NOT ABUSE this technology and promise to use it only in critical situations. However, in order to make this new tool effective, we have to have your cell number and cell carrier for the system to work effectively!

The NJGCA website is currently undergoing extensive changes behind the scenes. We aren’t ready to unveil it yet, but it’s safe to say that it will be both more attractive and user friendly than the current site. Do you have any features or ideas you’d like to see incorporated into the final design? Reach out to me at your convenience with our suggestion! ■

*Nick De Palma is NJGCA Communications and Research Director. He can be contacted at [nick@njgca.org](mailto:nick@njgca.org) or at 973-376-0066 x202.*



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## Legislative Roundup

### *Important Issues impacting your business!*

By Eric Blomgren

Please see the updates below for the most recent activity in Trenton and around the state. These issues are important to all NJGCA Members!

#### Below Cost Selling

It seems the Legislature won't let the idea of below cost selling simply die. The most recent bill to arise that would let gasoline be sold for below cost is A-2932, sponsored by Assemblyman John Wisniewski (D-Middlesex). Just recently this bill came up for discussion in committee. NJGCA and many of you came out to let your voices be heard on this critical issue. Below cost selling remains something greatly desired by the big-box chains, as evidenced by the testimony given by Costco in support of this bill. This bill states that prices could be lowered below cost only to meet competition and prices cannot be lowered if there is intent to engage in predatory pricing. But as anyone who gives it a few seconds of thought can figure out, there would be no realistic way for the government to ever prove whether someone's motive is to meet competition or to drive the competition out of business (especially when it's a matter of cents), which is exactly what the big-box chains want. There was no vote on the bill but, thankfully, we received supportive comments from several members of the committee of both political parties; but don't think for a minute that this bill has been killed. There is a good chance it will be dragged out in the fall in advance of the legislative elections, especially if gas prices are still high.

#### Rebate Bill

NJGCA is pleased to report that a bill we have been fighting and telling you about since September has been positively resolved. A-3133, as originally introduced would have allowed back door below cost selling by letting big businesses use giveaways to force gas retailers to sell below cost. NJGCA and our allies the Fuel Merchants have been able to successfully broker a compromise with the NJ Food Council and Assemblywoman Riley who is the sponsor of the bill. This new proposal will be a win for consumers, a win for food markets, and most importantly a win for gas retailers. Unlike the original bill, the emphasis has shifted from the gasoline retailer to the supermarkets offering the promotion. That means that the supermarket (or any other retail store) offering the reward must be the one to pay for the reward, not the gasoline retailer. A-3133 just passed NJ General Assembly, and now it will have to be passed by the NJ Senate, and signed by Governor Christie. Most importantly it means that the bill that was introduced last September will not permit a big-box gasoline retail outfit to sell gasoline below cost and harm

your small business. A-3133 Still prohibits any giveaways tied in with the sale of gasoline. A return to the old days when gasoline retailers spent thousands of dollars on giveaways such as glasses and S & H Green Stamps will still be outlawed if this bill passes. However, it also means that if passed, you will now be free to partner with a grocery store, convenience store, or other such business organization to create a cross-promotional program and entice motorists to frequent your establishment. And best of all, you don't have to pay for the reward. The cost will be paid by the supermarket or entity offering the reward. This is not a perfect bill, but represents a compromise in order to avoid passage of a bill that will have permitted giveaways at your pumps and would have had gasoline dealers bearing the cost of rewards offered by the supermarkets, even if the reward resulted in a "below cost" sale.

#### Internet Lottery Sales

A-2676, the bill from Assemblywoman Quijano (D-Union) which would allow the state government to sell lottery tickets over the internet remains held up in the Assembly Appropriations Committee. However, numerous press outfits have done stories in the last month about the prospect of online internet sales, including national press, proving that this idea is very much alive. NJGCA and our allies need to prove to Legislators how badly small business owners will be affected if this passes. Head to the [www.NJGCA.org](http://www.NJGCA.org) where you can download a form, fill it out and return it to us to help give us proof that your lottery purchasing customers also buy profitable items like milk, bread, and coffee. Keeping a log isn't difficult and can make a huge difference; we need YOU to make our case!

#### Cash/Credit Pricing

NJGCA has been telling you for a while now about A-3862, a bill which would require gas stations to post the separate cash/credit pricing for all grades, meaning your sign might be required to have up to 8 different prices! This is despite the fact that around 90% of fuel sold is regular gasoline (which is already required to be posted only IF you post your prices at the street AND you have cash/credit pricing). This bill had been scheduled for a vote in the Assembly, but thankfully NJGCA and our allies at the Fuel Merchants Association of NJ (FMANJ) were able to have it held. Since then, we've worked with them to build a broad coalition against this bill including AAA, Weights and Measures, Department of Taxation, and Consumer Affairs. This provision is being pushed primarily by Assemblyman Vincent Prieto (D-Hudson). You can contact him and talk to him about the effects this bill would have on you. His office's phone number is 201-770-1303 and his email is [AsmPrieto@njleg.org](mailto:AsmPrieto@njleg.org)

*Continue on next page...*

## Energy

Governor Christie's Administration recently released the state's Energy Master Plan, which seeks to provide a guideline for where the state should get its energy. It emphasized the necessity of driving down electric bills for everyone in the state and promoting a diverse portfolio, especially renewable sources. We particularly applaud the recognition it gave to the use of biomass and waste for fuel, something NJGCA Executive Director Sal Risalvato has long advocated for. If all of the available biomass was used for energy production, it could create 335 million gallons of gasoline equivalent biofuel by the year 2020.

The Governor also withdrew the state from the Regional Greenhouse Gas Initiative (RGGI), a cap-and-trade program consisting of 10 Northeastern states that had sought to lower greenhouse gas emissions in the area by forcing power plant operators to buy credits in order to produce the greenhouse gases that are a byproduct of energy production. The plan was facing mounting opposition by politicians of both parties as plant operators were expected to raise rates to buy these credits and as people feared yet more jobs would move to Pennsylvania, which was not a member in the program. The Governor said the system was not successful in reducing gases and was not going to be in the future. Legislation has been introduced in Delaware and New Hampshire for those states to leave the plan as well.

## Pension/Benefit Reform

Governor Christie signed into law landmark pension and benefit reforms for state workers. These reforms were a centerpiece of Christie's reform agenda and a key part of the tool kit designed to get property tax increases under control. These reforms will save the state's pension system from collapse and help lift the burden from the taxpayer by forcing state workers to pay a more reasonable amount for their top-of-the-line benefits. We applaud Senate President Steve Sweeney and Assembly Speaker Sheila Oliver for standing up against the special interests who for years have dominated this state by destroying anyone who would stand against them. Thankfully, we finally have the leadership in Trenton we have long needed to enact the kinds of reforms we desperately need to save the state from a fiscal abyss and get our severe tax climate under control by lowering costs.

## Education

The New Jersey Supreme Court, in a 3-2 decision, ordered the Legislature and the Governor to spend an additional \$500 million dollars on education. This comes despite the current economic climate and fiscal crisis facing New Jersey. It also ignores the huge sums already spent in education in the inner-cities and the poor results it has gotten so far, yet the Court seems to believe it will only take a little more money to finally turn things around. This decision also ignores the fact that traditionally decisions on how the taxpayer's money is spent are determined by the elected officials who were chosen by the taxpayer. The Governor has said it is the Legislature's responsibility to find the money in a way that doesn't increase

the state's taxes.

## Election 2011

All 40 members of the State Senate as well as all 80 members of the State Assembly will be up for reelection this year. You may not be giving it much thought yet, but I assure you the politicians in Trenton are. The election this November presents us with a tremendous opportunity. The primary elections have just wrapped up, producing almost no surprises and re-nominating every incumbent who stood for reelection. Between retirements and the recent shifts in district lines making a few more politicians vulnerable, there will be several new faces in the Legislature. Your donations to the NJGCA PAC help give us the influence we need to keep fighting for you and your business, so please, help us make your voice heard in this critical election by contributing to the NJGCA PAC today!

## E-Verify & Illegal Immigration

As you are likely aware, it is against the law to employ anyone who is residing in the United States illegally. Agents of the government have been raiding suspected employers of illegal immigrants and slapping them with hefty fines. The Department of Homeland Security has partnered with the Social Security Administration to create the E-Verify system. E-Verify is a free online service which employers can use voluntarily to check to see if their current or prospective employees are in the country legally. There is currently legislation (S-2733/A-189) that has been introduced by Senator Oroho, Assemblyman Chiusano, and Assemblywoman McHose (all R-Sussex) which would require all employers in NJ to use the E-Verify program to check to see that their employees are not illegal immigrants. The legislation would also provide a protection for employers so that if they were found to have been employing an illegal immigrant, they could argue it wasn't their fault and avoid a penalty if they had used the E-Verify system. There are currently 4 states which require all employers to use E-Verify, 10 which require it for state or agencies and/or contractors, and 8 more which have some form of legislation pending regarding E-Verify. Go to [www.njgca.org](http://www.njgca.org) to find a link to the webpage which allows you to enroll in the E-Verify program. ■

*NJGCA encourages all our members to participate in getting our agenda passed in Trenton. If you have any questions or comments on the Issues presented here, feel free to call Eric Blomgren at 973-376-0066.*

## **QUOTE FOR THOUGHT**

*The man who comes up with a means for doing or producing almost anything better, faster or more economically has his future and his fortune at his fingertips.*

*-J. Paul Getty*

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## Common Cents by Debbie Hill

### Simple reminders to help you avoid costly fines!

**DO** your compliancy testing on time. Recently I received a frantic phone call from an NJGCA member. The NJDEP was at his site for a compliancy inspection and he was frazzled. When his testing company contacted him in the beginning of the year about setting up his testing date, he asked if he could push the date back. The member stated that business was a little slow and he needed more time to have cash on hand to pay the testing company. The testing company advised him to keep the date to avoid any compliance related penalties.

Unfortunately, the member did not heed this advice and arranged to have his compliancy testing date pushed back. Sadly, the NJDEP came and inspected his site during this time and he was found to be out of compliance for several tests on his underground storage tank system. Ultimately the money he was saving on pushing the date back was nothing compared to the Notice of Violation and related penalties he has now received.

**BOTTOM LINE:** **DO NOT** make bad business decisions like this one when it can be avoided. **TEST WHEN YOU ARE SUPPOSE TO** or you may face a harsher penalty than you anticipated!

\*\*\*\*\*

**DO** increase the REVENUE at your shop by becoming a NJ Emission Repair Facility! NJGCA is offering the **ENTIRE EMISSION TECHNICIAN EDUCATIONAL PROGRAM** beginning in September running for eight consecutive weeks. Because of the time that is needed for this class, we do not run the program often. We offer this

class at a better price than any other educational program out there. See more about this class in this edition of On The Road by turning to the NJGCA Training Class Schedule.

\*\*\*\*\*

**DO** store any used oil in a clearly marked 55 gallon drum. Simply writing "**USED OIL**" on the outside of the drum will suffice and let any inspectors, employees, and patrons know what is being stored. To avoid any fines from the County Health Department or NJDEP YOU MUST make sure your container has a sealed lid on it. Keeping a funnel inserted on top of the container might be easier and less of a hassle, but it's an improper procedure. Don't let anyone pick your pocket when you've been warned in advance! Keep the lid sealed and your money in your pocket!

\*\*\*\*\*

**DO NOT** forget to check you fill ports on a daily basis. The fill ports must be clean and dry of all debris. It is a completely avoidable – yet very common – violation that I see over and over again. It is very simple to avoid this violation and the fines that go with it. You can do this by making it a routine task for whomever opens up or starts the morning shift at your location to inspect the fill ports and log the information daily.

*If you have any questions or comments, please feel free to call Debbie Hill at [debbie@njgca.org](mailto:debbie@njgca.org) or call 973-376-0066. ■*

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## THE MECHANICS LIEN

*by Sal Risalvato*

Recently members have inquired about remedies available to them when customers owe them money and they have run in to a dead end trying to collect what is owed to them.

The inquiries brought back some fond memories from the days when I too had to collect money owed to me for repairs. We have all been thru these situations. There were times when I filed claims with the Small Claims Division of Superior Court. I won cases against my customers in Bergen and Morris Counties, and even once in New York City. However, I remember several times when I received a judgment from the courts and still was unable to get my money.

BUT.....there were several times when I didn't bother going to court and utilized a little known New Jersey Law called THE MECHANICS LIEN.

My favorite story involved a customer that authorized about \$3000 worth of repairs on his van and asked if he could pay half up front and the balance within two weeks. I had done business with this particular customer previously, and I knew he had a successful business, so I felt comfortable extending credit to him for two weeks. Unfortunately, two weeks turned into 6 months.

After repeated attempts to collect what was rightfully owed to me, I consulted with my attorney who handed me a printout of New Jersey Statute 2A:44-20. The statute effectively gave me the right to repossess my customer's van!

A few days later I waited down the block from my customer's fancy house. Around 10AM I witnessed him leaving accompanied by his wife in their brand new Cadillac. I used my new cell phone to call the towing company that did all of my towing. Ricky was waiting for my call as I had alerted him earlier. He arrived within 5 minutes and backed in to the driveway and hooked up the van that we were owed money for fixing. Ten minutes later we had the van safely back at my shop.

I secured the van in a fenced in area and backed a few cars in front for good measure to ensure that my customer didn't try to sneak it out after hours. I left a letter in my customer's mailbox demanding payment and informing him that I had repossessed his vehicle under NJ Statute 2A: 44-20. Then I delivered a copy of the letter to the police department in the customer's residing town, as well as a copy of the letter to the police department in the town where I operated my business. I did not want to be charged with theft.

About 3 O'clock that afternoon I received a phone call from my customer crazed with anger. Ten minutes later I received another phone call from his attorney informing me that "If I released the car by 5pm then they would not file charges with the local police charging me with auto theft".

I informed his attorney that if the money owed was paid by 5PM then I would release the car and I would not begin adding storage charges at the rate of \$10 per day. I gave him the total

which now included interest and the towing fees.

The lawyer foolishly he asked me if his client could write me a check. I laughed and said "CASH ONLY! The bill was paid in full a half hour later with cash!

Another time a trucking company that owed me \$4000 for diesel fuel that was purchased on account refused to answer my phone calls or respond to the repeated attempts that I made to collect my money.

One day I showed up with Ricky and his tow truck and repossessed a 24 foot straight job with a lift gate attached. Once again I left a letter and delivered copies to the local police. I parked the repossessed truck behind my gas station in a fenced in area. My customer continued to ignore my demands for payment. After 6 months, I began using the truck as a new storage container for oil and antifreeze and tires. I extended the ramp for easy access and even had it alarmed. It was an excellent storage facility. Of course I would rather have been able to collect my money, but the customer went out of business and never tried to get his truck back. Adding a storage room of that size would have cost over \$20, 000 and lots of aggravation and building variances with the town. At least I made good use of the money that was rightfully owed to me.

For those of you in similar circumstances that have customer's refusing to pay you money that is rightfully owed to you, I suggest that you consider using the NJ MECHANICS LIEN LAW. I must insist that you first consult with your attorney and make sure that the process is followed very carefully. Part of the process requires that the vehicle is repossessed peaceably. That means that if your customer returns home or comes out of his house screaming and yelling demanding that you stop, even after the vehicle is hooked to the tow truck, then you must surrender and cease your action. If however, you have successfully made it down the block with the vehicle in tow, and your deadbeat customer starts running after the truck while screaming and yelling....feel free to moon him and laugh!!! The car is yours!

New Jersey Code

TITLE 2A

ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE

*Garage keeper liens; detention of vehicles; notice; priority*

2A:44-21. A garage keeper who shall store, maintain, keep or repair a motor vehicle or furnish gasoline, accessories or other supplies therefor, at the request or with the consent of the owner or his representative, shall have a lien upon the motor vehicle or any part thereof for the sum due for such storing, maintaining, keeping or repairing of such motor vehicle or for furnishing gasoline or other fuel, accessories or other supplies therefor, and may, without process of law, detain the same at any time it is lawfully in his possession until the sum is paid. A motor vehicle is considered detained when the owner or person entitled to possession of the motor vehicle is advised by the garage keeper, by a writing sent by

**To read the full statute, visit the Headlines section of the NJGCA Homepage!**

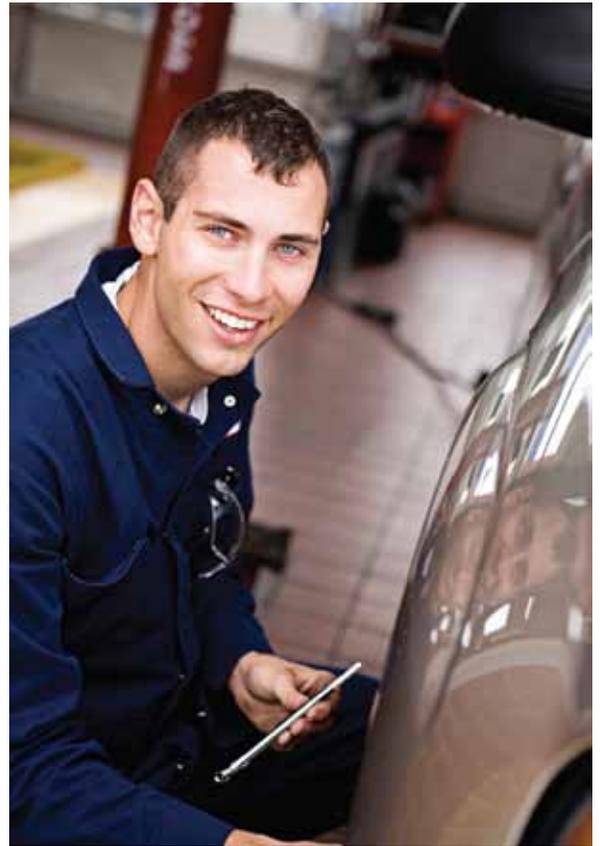
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**CLASS COST (INCLUDING MANUALS):**

- NJGCA Member rates: \$299
- NON-Member rates: \$329

**CLASS SCHEDULE:** Tuesday, July 20th, 2011 at 7:30am

**PLEASE NOTE:** We will serve coffee/donuts in the morning and lunch at 12:00pm. You will take the MVC test at 1:00pm

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**CLASS COST (INCLUDING MANUALS):**

- NJGCA Member rates: \$489.00
- NON-Member rates: \$629.00

**CLASS SCHEDULE:** Thursday July 21st and Thursday July 29th (*Two Thursdays*) from 8:00am – 4:00pm

**PLEASE NOTE: THIS IS A DAY CLASS SCHEDULE**

### **3. ENTIRE ETEP TRAINING COURSE**

**DESCRIPTION:** This is the initial ETEP Certification course; the entire program, section 1 – 7. This is everything you need to become a licensed Emission Repair Technician. Tests are given through out the course and technicians that pass will receive a certificate to demonstrate they passed the New Jersey Emission Technician Education Program (ETEP). NJGCA has provided this program to the NJ Department of Transportation, UPS, and NJGCA members through out New Jersey. Our pass rate on this class is 100%.

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- Section 1 through 7 ETEP Training and NJ State Specific.

**CLASS COST (INCLUDING MANUALS):**

- NJGCA Member rates: \$1,495.00
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NJGCA's mission is to serve small business owners and defend the small business community. We do this by advocating for effective public policies with legislators and state officials in Trenton; offer essential small business services to our members, often at a discounted price to help you reach maximum profitability; inform and educate NJGCA members on industry matters; enhance general awareness and project a positive image of our members to the general public, media, and Legislature; AND to promote the highest levels of ethical standards and professionalism.

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**DANA TANK INSURANCE SPECIALISTS** – *Tank Insurance*  
**MERCHANT ADVOCATE** – *Credit Card Processing & Consulting*  
**AFFINITY FEDERAL CREDIT UNION** – *Credit Union*  
**ABLE-TECH** – *Industry Specific Business Consulting*  
**ENVIRONMENTAL ALLIANCE, INC.** – *Environmental Remediation Services*  
**ATS ENVIRONMENTAL SERVICES** – *Tank & Vapor Testing, NJDEP Compliance*  
**PH2 SOLUTIONS** – *Quick Diagnostic Emissions Tools*  
**AUTOBOSS USA** – *Scanners, Wheel Alignment Equipment*  
**SERVICE STATION VENDING EQUIPMENT** – *Air & Vacuum Systems*  
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# OSA Opponents: Putting Failure First and Kids Last

by Derrell Bradford, Opinion / Commentary



Opponents of the Opportunity Scholarship Act (OSA, S-1872/A-2810)—a voluntary pilot program that would provide a lifeline to thousands of students in the State’s lowest-performing public schools—continue to sing the same song, and the tune tells us much about their priorities. The high notes ignore the glaring failure of the State’s worst public schools. And the chorus parrots a sclerotic

status quo that is unwilling to change, but all too willing to spend. The title of this off-key opus to underperformance, you ask? “Kids in Failing Schools Don’t Matter.”

Asserting something so damning would be outlandish if the evidence were not so apparent. As State Senator Barbara Buono—a legislative leader and possible candidate for governor—recently told her constituents, the 200 failing schools statewide identified by the OSA, and by extension the 100,000 students who attend them, are “not a bad percentage” of the whole. If nothing else, she affirms the second-class status of the students—who are overwhelmingly poor and minority—attending these schools. She, and OSA detractors, say no to Opportunity Scholarships, but yes to a system that remains both separate and unequal.

OSA opponents also ignore the financial and accountability frameworks upon which the bill rests. The Office of Legislative Services, a non-partisan entity, has scored the OSA and reports it as revenue neutral to the State, costing taxpayers nothing over the life of the five-year pilot. It also finds that the OSA will reduce class sizes by as many as 30,000 students in the 13 pilot districts and return over \$354 million to them for these children, even though they no longer need to educate them. The OSA costs taxpayers nothing, but the opportunities it will provide to children in failing schools are surely priceless.

And the Commissioner of Education himself has the power to approve or deny the participation of any nonpublic school in the program. Schools that, under the OSA, must enroll students

by lottery, and give them the same state tests as their public school counterparts. Additionally, Professor Patrick Wolf, in his work commissioned by the U.S. Department of Education, found that the D.C. Opportunity Scholarship Program, an OSA-like program which was killed by national teacher unions, produced reading gains of 19 months for students in the program the longest. By all accounts, it is one of the most effective educational interventions ever attempted.

Poll results also show support for the OSA where it counts... in communities of color where children are being destroyed by failing schools. A recent Rutgers poll showed support for private school choice in New Jersey at 52% among African Americans compared to 37% opposed. In 2008, when Monmouth University conducted a poll that specifically described the OSA, they found support among African Americans and Hispanics at 81%. Why this disconnect between what parents want and what some of our leaders oppose? Because schools, underperforming or otherwise, are powerful financial engines for teacher unions and others that oppose reform. And to empower parents with choice would upset this cottage industry funded by failure.

OSA opponents make it obvious they don’t support two things: kids and facts. When children are in failing schools, leave them there. When they don’t like what the facts say, ignore them. Protecting failing schools is not more important than giving our children a chance to become productive citizens and equal participants in the American experiment. The defenders of status quo have had their chance to fix it and do right by these kids.

Now, it’s the OSA’s turn. ■

*The author is Executive Director of Excellent Education for Everyone (E3)*

*“Protecting failing schools is not more important than giving our children a chance to become productive citizens and equal participants in the American experiment.”*

## -NJGCA MEMBER QUOTE-

*“NJGCA has always, always, always been there for me since 1976. NJGCA has been helpful with my relationship with my fuel supplier. Special thanks to Debbie Hill for assisting me twice with vehicle inspection issues. Debbie went out of her way to help me. And special thanks to Bob Quirk for being a special friend and always a comfort when discussing issues that will affect my business. Thank you NJGCA for your professionalism and your support of the small businessman”*

*-Glen Carnevale, Carnevale’s Gulf Service Center*



## Allapattah v. Exxon Revisited



Because twenty years have passed since a group of current and former Exxon dealers filed a massive class action lawsuit against Exxon accusing it of systematically overcharging its dealers for motor fuel over a ten year period, and because ten years have passed since a federal jury returned a verdict in favor of the dealers finding that Exxon's Discount for Cash program had been a massive fraud, it seems an opportune time to examine the ultimate result of that Leviathan litigation.

As it turned out, the jury verdict represented only the midpoint in the litigation's twenty year progress. Following unsuccessful appeals by Exxon's successor, ExxonMobil, up to the Supreme Court, the lengthy claims process continued through last year.

The number of claims submitted by Exxon dealers, many of which were disputed, reached a staggering total of over 12,000 dealer claims to be adjudicated. Those claims represented in excess of one billion dollars, hardly a rounding error, even for ExxonMobil. Attorneys for the class were awarded a contingency fee somewhat in excess of thirty percent. By any measure, this litigation was truly unprecedented in the petroleum industry.

One wonders to what extent the litigation may have had unintended consequences. In recent years, ExxonMobil and other refiners have moved aggressively to get out of direct supply relationships with independent dealers.

One cannot help but wonder whether the massive hit that ExxonMobil took in the Discount for Cash class action litigation may have at least partially spurred its subsequent change in market strategy.

Of course, other factors are also in play. ExxonMobil and other refiners have emphasized their desire to diminish their retail assets in order to develop their upstream business, and to invest in supposedly more profitable foreign markets. A clear consequence of the refiners' retreat from direct supply, however, has also been to distance themselves from dealers' unfair

pricing claims.

How this will all play out remains to be seen. Some dealers have benefited by receiving the opportunity to purchase their formally leased service station properties. Many more, however, appear to have been injured – or even driven out of business – by the high product pricing and rent policies of the distributors who have stepped in as the buffer between refiners and dealers.

One thing is certain, the industry has changed dramatically since the Allapattah litigation was instituted twenty years ago. And the change does not appear to be for the better. ■

*eMail: [pgunst@agtlawyers.com](mailto:pgunst@agtlawyers.com)*

*To access the latest articles by the Service Station Dealer's legal counsel, please visit the "Service Station Dealers: Legal Issues" section of the Astrachan Gunst Thomas Rubin, P.C. website at:*

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FINISH

# UNEMPLOYMENT INSURANCE REFORM AVERTS A CRISIS FOR SMALL BUSINESSES AND PREVENTS FUTURE DISASTER



By Laurie Ehlbeck, State Director  
National Federation of Independent Business

Mismanagement of the state's Unemployment Insurance system has been one of the longest running and underreported scandals in history. For nearly 20 years, through recessions and boom years, governors of both political parties and their allies in the Legislature have conspired to rob the system of

billions of dollars in order to keep the gravy train rolling.

When the economy was healthy, politicians competed with each other to come up with costly new giveaways for which not even the torrent of extra revenue was enough. So they diverted money from the Unemployment Insurance Trust Fund to make up the difference. When the economy went south and the revenue dried up, the same politicians were eager to protect the new spending programs they created. So, they dipped into the trust fund again.

Over and over, year after year, the Unemployment Insurance Trust Fund served as a safety net, not for people who lost their jobs but for the politicians in Trenton who were desperate to keep theirs.

Predictably, when worldwide financial markets collapsed several years ago precipitating the worst recession since the Great Depression, the scam was fully exposed. Tens of thousands of jobs in New Jersey disappeared and the system was inundated with applications for unemployment benefits. With no way to cover the checks, New Jersey was forced to borrow billions of dollars from the federal government to keep the system afloat. What's worse, the shortfall triggered higher payroll taxes for employers in New Jersey that cut deep into their operational expenses and smothered the demand for labor. The economy was therefore unable to absorb the unemployed, placing an even greater strain on the system.

To their great credit, Governor Chris Christie, legislative leaders and the voters of New Jersey put a stop to the political shenanigans that nearly brought the entire system down. The Governor proposed and the Legislature approved a question on the ballot that asked voters whether to prevent politicians from ever again raiding the Unemployment Insurance Trust Fund to plug holes in the budget or pay for pet programs. The measure passed overwhelmingly.

Small businesses were especially pleased because they pay most of the taxes that finance the system. Now they can be certain that the money they pay will be set aside for the people who need it. But that was only phase one. Lawmakers still had to deal with a system that was completely out of money at a time of near-record joblessness.

Last year the Governor appointed a New Jersey Unemployment Insurance Task Force, on which I was proud to serve, to come up with solutions. After months of study, we produced a report containing recommendations that were adopted recently by both houses.

The bill contained recommendations made by the Task Force assembled by the Governor to study the problems and propose solutions. I was proud to have served on the panel along with representatives from labor and industry. We had two goals: stabilize the system without massively higher taxes that would have collapsed the economy entirely; and prevent this disaster from recurring.

Earlier this year we issued our report and last week, with bi-partisan support, the Legislature adopted reforms that we believe will meet all three objectives.

First, the bill phases in over three years an automatic increase in the payroll tax imposed on employers to fund the system. Without the legislation, small businesses would have to pay this year \$300 per employee, on average. A small business with five employees would therefore have to pay \$1,500 more in taxes regardless of whether they are barely surviving the recession. Add that to higher gas prices, higher health insurance premiums and higher prices for materials and supplies, and it's not hard to imagine another wave of layoffs as small businesses try to shed costs.

Under the new law, small businesses will pay roughly \$100 per employee this year, a tough but manageable increase that will enable us to replenish the system without sending the labor market into another tailspin. Additional increases will be phased in over the next several years to allow for businesses to catch their breath.

Secondly, the law modifies the formula for taxing employers and workers to allow the Trust Fund to build healthier reserves. That's critically important because this will not be the last recession. The existing formula failed to anticipate a downturn this long in duration. Indeed, most economists believe that it could take years before the economy can produce enough new jobs to bring the unemployment level back to normal levels. The new system will be built for the kind of worst-case scenario for which we should have been planning all along.

The package makes additional reforms as well that are aimed at creating a fairer, more reliable system. What is most important to small businesses, however, is that the safety net for which they pay is there workers next time the bottom falls out of the economy. Thanks to the Governor's leadership and a more forward-thinking Legislature, the safety net will be stronger next time. ■



*Ms. Ehlbeck is New Jersey Director for the National Federation of Independent Business, the country's largest advocacy group for small business owners.*

# It's a Matter of Convenience

ADDING A CONVENIENCE STORE TO YOUR LOCATION  
CAN TRANSFORM YOUR BUSINESS!

By Nick De Palma

The service station business, like every business, has evolved from its very inception over 100 years ago. When the automobile was in its infancy and few legitimate roadways crisscrossed the nation, a service station was a very simple establishment: a few rudimentary pumps to fuel up your Ford Tin Lizzie or Chevy 490, a few canisters of oil to keep things lubricated, and a water hose to help cool off your radiator. And that was about it.

Since then, the American service station has grown to add automotive repair shops, quick lube oil changes, air hoses, car washes, vacuum cleaners, lavatory facilities, and any number of amenities to service the motorist.

These quintessential small businesses, however, are continuing to change. Just as we have explored how all future gasoline retailers may one day also offer E100, electric charging stations, hydrogen fuel and other alternative fuels, modern stations will also evolve in the medium term to better accommodate motorists and other patrons.

A remarkably simple way to better serve your customers – and your bottom line – is to add a convenience store to your location. Though seemingly an obvious and complimentary addition to your business model, a convenience store can help boost your profits, insulate other facets of your business when times are lean, and enable you to reach a wider number of consumers.

“The c-store is the backbone of my business”, says NJGCA Member Danho Jallo, who operates three sites throughout New Jersey. “There simply is no substantial profit to be made on gasoline, and this is especially true once you pay your credit card fees and overhead expenses. Today that makes gasoline a loss-leader. I use it to attract people into my convenience store in order to turn a profit on other high-margin products”, continues Jallo.

Jallo, who has been in the industry since the early 1990s, has operated pre-existing c-stores that were added to his locations before he became the proprietor. While having a store already on the property may seem like half the battle, he is quick to point out that finding success as a c-store operator isn't as easy as simply opening your doors and waiting for customers to patronize your business.

“It may not seem like it, but there's a lot that goes into running a successful c-store. Part of that is to pay attention to the details and tweak your business model as you evolve to give your customers what they want. Every location is different and every area has its own characteristics”, says Jallo. For example, Danho says that making adjustments based on traffic patterns, high-volume sales during morning/afternoon rush hour, and having an array of products all help you retain customers.

Conversely, NJGCA Member Jack Atmeh, co-operator of Eagle Rock & Eisenhower Exxon in Roseland (Essex County), added a c-store to his location in the mid-1990s. In doing so, Jack did what many contemporary service station owners are doing: He closed his repair bays to make room for a convenience store.

*“The c-store is the backbone of my business”, says NJGCA Member Danho Jallo*

“Our auto repair business wasn't generating much for our location. It was at that point that it was decided to go in another direction and adding a c-store was a great solution”, says Atmeh.

Jack says that a majority of his profits are generated at his c-store. While he was worried that closing the garage would alienate the customers who utilized the auto repair services his business had offered, he was relieved to see that many of those same clients later returned as patrons to his convenience store.

“We get a lot of patrons during the morning and evening rush hour commutes, so we take the time to make sure we have the right product mix at the right time. That means in the morning it may be mostly about coffee and breakfast foods, but on the evening commute home it could be about milk, bread, eggs, sandwiches and similar items. Any operator has to keep all of these things in mind in order to run a place effectively”, Atmeh says.

However, while adding a c-store was a sound business decision, Atmeh warns anyone who is considering adding a c-store to make sure they fully understand various laws and regulations before committing to expand or supplement their business.

“When we started we thought we had a great handle on what we could do and couldn't do. However, the further along we

## SPECIAL C-STORE SECTION

went, we soon realized that putting up a c-store wasn't just about complying with the health or building code, but also had to conform to many local municipal ordinances that we didn't anticipate. Some of those ordinances affect signage and window advertizing too. There are other examples of this as well, but the point is, make sure you know the entire lay of the land so you don't get tripped up by unforeseen obstacles", Jack warns.

***"Our auto repair business wasn't generating much for our location. It was at that point that it was decided to go in another direction and adding a c-store was a great solution", says NJGCA Member Jack Atmeh.***

However, as smart as adding a convenience store may be for business reasons, it may end up becoming a necessity in the years ahead. It should surprise no one reading this article that gasoline service stations have slowly become an endangered species over the last two decades.

Thanks to regulations, environmental rules, taxes, small profits and increasing competition from "big-box" retailers, the number of gasoline service stations in New Jersey has dropped from over 5,000 twenty years ago to approximately 2,300 stations today. In fact, the latest numbers show that about 20% of stations open just ten years ago are now closed down, with about a 2.5% decline in the number of stations each year.

Those are pretty grim numbers and only underline the fact that our industry is contracting and the level of competition among the surviving stations is only increasing. Nevertheless, there are some noteworthy facts that also give reason for hope while offering proof that a convenience store may ultimately become an important part of your business.

In today's landscape, approximately one-third of gas stations have a convenience store. The number of stations with a c-store has increased by 20% even while the overall number of stations has dropped by 22%. Interestingly, one-third of the stations that did not have c-stores a decade ago either added a c-store or shuttered their operations altogether.

Do you see a trend here?

"I could not imagine running these locations without a convenience store. Service station operators today must offer more than one or two different products or services to motorists in order to survive long-term. I believe the entire industry is moving in that direction and many stations will have to become multi-faceted businesses in the future," says Jallo.

Nevertheless, this isn't just about profits and bottom lines. Convenience store owners are also putting people to work. In

fact, our most recent numbers illustrate that the number of paid employees has decreased slower at stations that have convenience stores than in the total decline in the number of stations. More importantly, despite making up one third of the total number of locations, service stations with c-stores employ 50% of all gas station employees. That's an incredible number.

"In evaluating your business you have to take many things into consideration, not the least of which is how big of a store you want to put up and how many employees you'll need to run it. A site with 2,500 square feet, including all your back room operations, is manageable and efficient. If you get too much larger, you'll have to consider how many more employees you'll need to keep things operating optimally without eating you're your margins," says Jack Atmeh.

Danho Jallo adds, "If your store has too much space to run resourcefully, you should consider renting out a portion of the floor to a professional who can add a benefit to your customers. For example you could lease a section of the store for a deli counter. This would create rental income for your store while increasing the efficiency of the space. Just make sure you have sufficient room on the back-end for food waste, storage and other logistics first".

Both Danho Jallo and Jack Atmeh believe that one strong tool is to continually ask your customers for suggestions on what new products or services to offer.

"When I started in this business in the early 1990s, most people didn't have a cell phone or use other electronic devices in their vehicles. Now it's the other way around. To anticipate their needs, I began to carry car chargers and adapters. It has become very profitable and gives me another service to offer patrons", says Danho.

Operating a convenience store can be a revenue generator and help supplement other facets of your business that survive on slimmer profits. As the price of gasoline increases, delivering smaller (and often non-existent) profits, every gasoline retailer and automotive repair shop should be investigating other means of expanding your business and staying solvent. While convenience store ownership brings a new set of challenges and obstacles for seasoned service station owners to overcome, they are not without their rewards. In planning for the future success of your business, the addition of a c-store selling higher profit-yielding items maybe a perfect solution to this ever-increasing problem. ■

## The Convenience Store Checklist

*Useful suggestions and advice from NJGCA Members Danho Jallo and Jack Atmeh on how to establish and operate a successful convenience store*

- If you are converting your repair bays to a convenience store, make sure you hire qualified professionals to help you plan your shop and oversee construction. That means speaking with engineers, architects, and other building professionals.
- Make sure you know the lay of the land before you commit. Having professional planners and engineers help, but you should make sure your local municipal ordinances don't prohibit anything that you would need to do in order to effectively run your shop (signage restraints, window advertising prohibitions, etc). Qualified building professionals should be able to help you determine these obstacles before you begin.
- Consider how big of a shop you're going to have. The larger the shop, the more employees you'll need to keep things running right. Depending on your location and financial situation, bigger may not always be better. A 2,500 square foot store – with half the area used as for customers and half for back-store operations – is both manageable and economical. Under such a scenario you could have one cashier and one merchandiser depending on store traffic.
- Make sure you have “staple” products that all customers will desire such as coffee, milk, premade sandwiches, magazines, and lottery ticket.
- Milk is a controlled product and you cannot sell it below cost (though you can sell it at cost). As such, milk – much like gasoline – has become a loss-leader for convenience stores.
- Your store should have different area/categories to offer your customers, these should include: an automotive section; magazine section; stand section (for chips, etc); healthy food section (including nuts, almonds, energy bars, etc); grocery section; pet food section; novelty item section (sunglasses, lighters, etc); display for automotive electronics (such as cell phone chargers, car chargers, cell phone holders, etc); hot food area (hotdogs, tacquitos, etc); coffee/tea bar (machines that have multiple heads for products like hot-chocolate and cappuccinos are also profit generators).
  - Essential high margin item-areas (in order of profitability):
    - All cooler items (except for milk): This includes sodas and other beverages, ice cream (you should be carrying a variety, such as pints and half gallons)
    - Candy and snacks
    - Automotive: This may include ‘emergency items’ like jumper cables, replacement bulbs, flares, temporary foam tire patch, gloves, and fuel injection cleaner.
    - General grocery items
    - Unique novelty items
- An ATM machine is the most profitable service per square footage. For a machine that occupies a two foot by two foot pad, its amount of revenue it creates is simply amazing when compared to anything else in your store.
- Coin operated air hoses machines and vacuum cleaners are profit-generating and should be included in any service/c-store station. Though many used to offer vacuum or air for free, the public has become a lot less resistant to paying for these services.
- To avoid any problems with a health inspector or other regulators, first make sure you know what government entity oversees you. In some locations it may be the town, in others it could be the county. Either way, you should always strive to be overly-cleanly; this helps your reputation and avoids any costly fines.
- Credit card fees, while not as onerous on a convenience store as they are at the gas pump, still eat into profits. Be sure to price things accordingly in order to avoid having any transaction fees eliminate your margins.
- If you are building a shop from the ground up, make sure your pumps “face” the front of the convenience store. Aside from orienting your gas patrons toward the front of the store in hopes that they will come in to make a purchase, it will also help draw attention to any advertisements or specials you are running.
- Before you open, make sure you have not only sufficient products in your store, but that you have good relationships with suppliers. If you are a small mom n’ pop operation, many suppliers may overlook you for larger accounts. That’s why it is important to have a good working relationship with suppliers to get the products you need as you need them.
- Consider the time of year when setting up or restaging your shop. Products like iced coffee in the summer and hot chocolate in the winter are obvious, but you should also consider novelty items like scarves and hats in the winter or ball-caps and hand-held fans in the winter.
- Make sure you have dependable employees. Your employees are among the most important aspects of your business and you cannot succeed without them. However, the wrong type of employee can leech valuable profits from your establishment. Make sure you know who you are hiring and run a background check or it may come back to haunt you.

## DONUTS TO DOLLARS?

adding a snack/convenience profit center

by Dan Goff

Those of you with gas stations and repair bays may be considering snacks or convenience items as a way to increase revenue and profits. It makes sense and has a proven track record.

Treat this decision just like any investment: gather the facts and develop a plan. This article is intended to get you started.

**PROS:** Most gas stations are already in high-traffic areas, with an established customer base. For minimal investment, anticipate 25-40% gross margins, 1-10% net margins. Staffing needs are less technical and lower cost.

**CONS:** Inventory shrink and theft. Cash-intensive operations require a higher degree of controls and owner supervision. Also, expect to put more effort into maintaining a clean, bright, and friendly environment.

Three basic paths can be pursued towards offering snack and convenience items. Each has merits, and depends on your goals and circumstances.

### WAITING ROOM UPGRADE

In this instance, your front waiting room is upgraded with a limited assortment of snacks and container beverages. Repair bays remain operational.

Your service writer can double as cashier. Your target customers are those waiting for repairs, with occasional walk-ins.

Average investment is \$5,000-20,000. Annual revenues are \$15-30,000.

Coffee service is discouraged. Factors are the investment, space needed, and health code requirements.

### BAY CONVERSION

Here, you convert bay area to store area, giving up a part or all of your repair business. More products are offered, including coffee and prepared food.

A growing trend is to continue the concept of convenience, by limiting bay operations to quick-lube and related services.

Investment varies greatly, depending on extent, \$40,000-\$200,000.

As with any investment, return is relative to risk, planning, and location.

### CO-BRAND

Co-branding is a term used in the industry for a c-store that adds a franchise operation, such as a donut shop, quick-serve restaurant, post office, etc.

Owners can run this "satellite" themselves, or lease the space to the franchisee, collecting a fixed rent or percentage of sales revenues.

If you choose to lease the space, keep in mind the fact that the co-brand's appearance and staff will impact the impression customers have of the rest of your business.

If you think developing this profit center is good for you, now put together an action plan. Greater investment can produce greater reward, but also brings greater risk. Do your homework! **Investing your time usually lowers your investment of money.**

**Assess your property.** In addition to floor space, can you provide adequate parking? If you lease, are you allowed to remodel or sublet? Visit town hall for code requirements and advice on the permitting process. Also check for competition, as some areas are over-saturated.

**Learn the basics.** Check into associations for information on food and convenience stores. Our association can help put you in

touch with experienced operators outside your area. Go online, subscribe to magazines, and read as much as you can. Attend trade shows. Only after you acquire background knowledge should you talk with salespeople.

**Estimate your income.** Make sure this investment makes sense. Your projection doesn't need to be complex, just a simple formula like this, using industry averages:

Capital improvements amortized for 5 years	\$ 8,000 (40k / 5)
Payroll	\$ 90,000.
Pro-rated share of mortgage or rent	\$ 20,000.
Other expenses	<u>\$ 20,000.</u>
Subtotal annual expenses	\$138,000.
Divide expenses by profit margin (27%)	<u>0.27</u>
Annual Breakeven Sales	\$511,111.
Monthly Breakeven Sales	\$ 42,593.
Daily Breakeven Sales	\$ 1,420.
Average customer sale	\$ 5.50
Daily customers needed for breakeven	258

**Create a business plan.** Remember the 5 P's of Success: **Proper Planning Prevents Poor Performance.** Your accountant can help you with a business plan, but **only** if he or she has industry experience. Computer software is available to begin this process at low cost. The National Association of Convenience Stores (NACS) has industry data available, to aid you with making meaningful business projections. Be realistic and conservative with your estimates!

**Arrange for financing.** Even if you are self-financed, you should factor your money into your business plan, with a projection for return on investment.

**Apply for permits and licenses.** Start early, some owners spent 18 months on this process.

**Hire a general contractor and architect.** Make a definite preference for people with industry experience. Use materials that are "commercial grade", not "residential". A mistake made here will haunt you for years to come.

**Purchase or lease equipment.** Used equipment is possible, depending on your knowledge. If you don't have knowledge, select well-seasoned and trustworthy vendors to help you.

**Interview staff and vendors.** If you lack experience in this industry, hire an experienced manager or consultant first.

**Schedule inspections for c/o and licenses.** Do not stock your

# SPECIAL C-STORE SECTION

shelves until you have a certificate of occupancy.

**Stock your store and train staff.** Do not open until staff is trained properly on all areas, such as cash register, emergencies, customer relations, and company policy. (don't neglect to write a policy and operations handbook)

**Open your store, track activity.** Remember, this is a cash-intensive business! You must monitor reports and activity every day. Stores without proper inventory and cash controls experience 2-15% losses on sales. For larger stores, barcode scanning provides excellent control, and all stores should utilize video surveillance. Most accountants don't have an industry background or inventory detailing experience, so you should consider a consultant to review reports with you, advise improvements, and train proper store management procedures.

## GUIDELINES TO A SUCCESSFUL CONVENIENCE STORE

### *DO*

Maintain the highest standards of cleanliness and brightness.

Ensure your staff are always in uniform, have a positive manner, and speak clearly.

Develop standardized procedures and incorporate automation wherever possible.

Create an environment that is safe and secure.

Stock shelves with products that are appropriate to your neighborhood. Listen to customer comments and requests.

Offer promotions that benefit the community.

Keep up to date on the latest product and equipment trends.

Take part in trade associations that serve your industry. There's always a big battle on the horizon.

### *DON'T*

Don't try to operate as an absentee owner. Cash-intensive businesses require constant supervision.

Don't take your people for granted. Bad attitude will turn away customers as much as bad food. Pay them fairly. Remind them every day they are important to you.

Don't let your books fall behind. Our largest theft investigations are inevitably linked to lax bookkeeping.

Don't ignore daily controls. Every day, every shift, you must reconcile critical items such as cash, cigarettes, and lottery.

Don't take on every vendor promotion. Analyze each offering's potential for profit and new business.

Don't follow the street, or you will be settling to someone else's standards. Lead the street, be better than the competition, and the people will come.

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# THE NJGCA PAC

[www.njgcapac.org](http://www.njgcapac.org)

DEFENDING OUR  
MEMBERS.



PROTECTING YOUR  
INTERESTS.

## ANSWER THE CALL & CONTRIBUTE TODAY!!

Promoting our agenda in Trenton is of utmost importance to NJGCA and our members. However, in order to truly affect the debate, we must ensure our friends in the Legislature are re-elected.

**It is for this reason that your Association has established the NJGCA PAC.**

For too long, the weight of funding our Political Action Committee, the arm of the Association responsible for political donations, has rested upon a few. This is not only unfair to those few members who have shouldered this burden, but means we are not utilizing our full strength to affect the debate in Trenton.

To truly understand the importance of supporting our allies, consider our successes in Trenton:

We defeated **BELOW COST SELLING**

We made history in getting **FIRST RIGHT OF REFUSAL** signed into law!

We have built large support for **RIGHT TO REPAIR** and got it passed out of the Assembly

We defended your small business against the false accusations of Attorney General Anne Milgram

We gained wide support to move New Jersey to an all PIF Inspection System and close the CIF lanes  
...and MUCH MORE!!

In each instance, we achieved these goals with the help of our friends in the Legislature!

If every member contributes just \$100 we can help to ensure victory for our allies.

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*Please make your donation payable to NJGCA PAC*

# Pension & Benefit Reform: A New Day in Trenton

By Eric Blomgren

June 28, 2011 was a truly remarkable day in New Jersey government and politics. When the new pension and benefit reform bill was signed into law it marked the first time in literally decades that our elected leaders were willing and able to take the bold action that this state has so desperately needed. The bipartisan changes in the pensions and health benefits for state workers, pushed for by Governor Christie and agreed to by Senate President Sweeney and Assembly Speaker Oliver, were long overdue and will have tremendous and far-reaching effects that will make this a more prosperous state in the years to come.

The serious problems in the pension and benefits plan did not happen overnight. It was the result of many, many years of politicians from both parties and all levels of government consistently overpromising and under-delivering. In 2001, Acting Governor Donald DiFrancesco, a Republican, decided that he would provide a massive pension boost in order to curry favor with the public employee unions, despite the fact that there was no money to pay for it. DiFrancesco had intended for this move to help him win election to a full term as Governor that November, but after a variety of press investigations revealed ethical troubles, he decided not to run and left his successors to try and find the extra money for the pensions.

Since the Florio Administration in the early 1990s, Governors and Legislators from both political parties have not bothered to pay money into the state's pension fund. Sometimes they would only pay a portion; recently there have been years when they haven't made any payments at all. Several of the Legislators who voted for the budgets which skipped these payments remain in office in Trenton. This year's pension contribution will be only the 3rd in the last 17 years. Legislators and Governors of the past would use the money meant for pensions and spend it on new government programs and increased funding for already existing ones, which would mean yet more public employees, which would make the pension problem worse and worse.

There have also been problems with the process of arbitration, when government bodies and the unions are negotiating benefits. Whereas in the past the government could offer a last, best offer which the unions would have to take it or leave, the last several years have seen independent arbiters come in and pick which side should get what it wants. Often, these arbiters base their judgment on what surrounding towns have done. So when they see that one neighboring town decided to raise salaries by 4%, that means they have their town's employee raise salaries by 4% too. And when the next town over sees that there are now two municipalities who have raised their salaries for their employees, the arbiters decide it must be done here too. The effect snowballs and eventually every municipality winds up obligated to spend more money, even if they don't have the revenue.

Collective bargaining also only works when there are two opposing forces sitting at either end of the table. In the private sector, you have

an employer who wants to maximize profits and spend as little as possible on employee salaries and benefits, and on the other side are the employees who want to get as much as possible for their work. In the end they meet in the middle and compromise to get something they can both prosper with. In the public sector, however, you have unions who want to get the most they possibly can for their members, and on the other side you have politicians who rely on union contributions and votes in order to stay in power. These politicians have a huge incentive to give into whatever the unions ask for. Historically, they have gone ahead and caved, and then tried to frame themselves as champions of the working man.

The last year has marked the first time that we have had leaders in government with the spine to take a stand for taxpayers and say no to the union domination of this state. The unions, who bring in millions of dollars a year by confiscating money from public employees' paychecks, provide huge sums of money in donations to Legislators and their campaign committees. They also provide volunteers to staff rallies and make phone calls on behalf of candidates who were willing to do the union leadership's bidding. Those that oppose the unions are subjected to millions of dollars of negative advertising and protests designed to intimidate them into submission. At last though, even the politicians in Trenton have had enough. They saw Governor Christie face the worst the unions could muster and remain standing and defiant. They heard from their allies who were mayors all over the state about the necessity of reform. They realized there was a silent majority of middle-class taxpayers who had been paying for their health benefits for years and who wouldn't stand for high taxes anymore. Even the Democrats realized that there was nothing the unions could do because coming out against Democrats meant standing with Republicans who would only take a harder line. The state budget is and has been thoroughly broke. Years of raising taxes and fees when money was needed have only made the budget problems worse. New Jersey's pension system is running a \$54 billion unfunded liability. An analysis last year predicted that the system would have gone broke in 2018 without this reform. As Governor Christie has said, years from now the same people who were protesting these reforms should be thankful they were passed because without them, there simply would have been no more pensions.



Public employee unions rally outside the State House in Trenton on June 15, 2011 to protest against any legislative efforts to reform New Jersey's crippled pension and benefit system.

These reforms are expected to save the state \$120 billion dollars over the next thirty years and fund 88% of the pension fund. Pension contributions by the state are now contractual, meaning if the state skips them in the future public employees will be entitled to sue to force them to pay into it. State workers will see their pension contributions rise from 5.5% from 7.5%. The legislation would also suspend annual cost of living adjustments until the fund reaches a healthier status. The reforms to the health benefit system will save New Jersey taxpayers \$3.1 billion over the next 10 years alone while offering greater choice and affordability. The change to health benefits will require workers to pay a share of their premium on a sliding scale based on income. The average worker earning \$60,000 would pay 27% of their premium while one earning more than \$95,000 would pay 35%, which is approximately on par with what private sector employees pay. This change would be phased in over four years and reduce the state's health costs by \$300 million per year.

This matters to every person in New Jersey, not just public workers. Nothing in life is free. For years, these pension and top-of-the-line health plans have been paid for with your tax dollars. To pay for these plans we have seen higher income taxes, sales taxes, and especially property taxes. Every million that went towards these benefits was less money for education, infrastructure, tax relief, or anything else the government could or should spend money on. With these reforms though, New Jersey is finally pulling back from the abyss.

A new day is dawning, and for the first time in a long time, the future is bright. ■

## **THE HORROR HIGHLIGHT**

### **ARE YOU CAREFUL WHO YOU LEASE YOUR PUMPS OUT TO?!?!?**

It's human nature to sometimes let your guard down. While "ordinary" people can relax and not face any serious consequences if something goes wrong, small business owners don't have that luxury.

Let's imagine that you've run a successful business for some time. However, after having pumped gasoline for many years, you decide to give up that facet of your business and lease it to someone else while you maintain the repair shop portion of your business. You think that it will be an easy thing to do, allowing you to better focus on one part of your establishment while making some rental income on another part of your location.

Unfortunately, as one of our NJGCA Members recently found out, sometimes decisions that aren't well thought out will come back to haunt you!

As we outlined above, our member was running his repair business on the premises while leasing out his pumps. He was on-site every day, including the day NJDEP came in to do a "Site Inspection and Compliancy Check" of his Underground Storage Tanks. Our member was present and greeted the NJDEP officials as they began their inspection.

The night before the inspection it had rained quite a bit. As such, it was not a surprise to find water in the fill ports when they were inspected by NJDEP staffers. Our member, who no longer runs the gasoline operations on his site, was with the NJDEP as they discovered this, tested the liquid, and found that it is was water and gasoline.

Wishing to avoid any problems, our member immediately stated that he would run inside and grab a bucket to remove the liquid. As he turned to walk back inside the building, a gas attendant (who worked for the company that rented out the pumps at his location) came over to see what was going on. The attendant saw that they wanted to remove the liquid and grabbed a suction device while the owner was still inside looking for a bucket. While siphoning up the fluid, the attendant

squirted the gasoline and water mixture on the ground only a few feet away from the NJDEP Inspector.

The station owner returned with the bucket just in time to dreadfully overhear the NJDEP Inspector call to report a hazardous spill. Our member received a "Notice of Violation" from the NJDEP and was required to do "site remediation" on the area surrounding the "spill". Unfortunately, this meant that the owner had to hire a Petroleum Contractor to cut into the pavement and remove the top soil around the fill hole. The top soil then had to be tested and reported to the NJDEP.

Thankfully in this case the owner was very lucky as the top soil testing all came back negative for contamination.

The owner was ultimately responsible for all that happened on his property. The company that leases the gas pumps at his location did pay him back the almost \$5,000 that it cost for this "site remediation". However, the attendant that created the problem to begin with continued to work there for another week before he was let go or left voluntary to move to his job.

**BOTTOM LINE:** Be very careful to who you lease your business to. As the owner of the property you are ultimately responsible for everything that happens at your location. I suggest that if you decide to lease a portion of your business out (such as your gas pumps), that you make sure you have a contract that stipulates the responsibility and understanding of all that is involved with Underground Storage Tanks Rules and Regulations. Failing to do that an you may have to shoulder the burden on a penalty that you had no hand in creating.

Heed this warning and prevent this Horror Highlight from becoming a reality at your small business! ■

Any comments please contact: Debbie Hill 973-376-0066 or [debbie@njgca.org](mailto:debbie@njgca.org)

## Ethanol-powered Cars

By Nick De Palma



In this ongoing On The Road series, NJGCA continues to review different types of alternative fuels, automotive technologies aimed at increasing fuel efficiency, and how the service stations of tomorrow must evolve to address the needs of tomorrow's motorists. The last installment investigated electric powered vehicles and the challenges and benefits of electric propulsion. This segment now delves into the advantages and disadvantages of ethanol as an alternative fuel.

The realm of alternative energy is ever changing. Though it has only been a few short months since we last reported on this issue, the innovations have not ceased. And, sadly, neither has the volatility that has plagued energy markets for much of the last two years.

Though the price of crude and refined motor fuel has begun to decline at the time of this writing, it was only a month or so ago that gasoline prices flirted above \$4.00 a gallon and market-watchers weren't sure what would happen next. Despite this slight dip, the demand for fuel conscious products and development of alternative energy has not weakened. Rather, this issue continues to be highly focused on by policy makers that seek to move the nation away from a petroleum based transportation economy.

The proof, however, is not just to be found in the halls of academia, public polls, or in legislative committee hearings. Rather, the evidence of this shift in mentality can also be found "out there in the real world" where we live our daily lives. Over the last six months and more, American consumers have purchased state-of-the-art electric automobiles like the Chevrolet Volt and Nissan Leaf in significant numbers. The Volt itself has sold so well that General Motors is studying how to ramp up production in the next two years without straining its supplier base. Smaller, more fuel conscious products are being purchased in higher numbers than at any time over the last twenty years. Proven fuel sipping technologies like turbo-charging smaller displacement engines are being applied to a larger number of vehicles. And even

new innovations like mechanical "louvered" front-grille openings that close at high speeds to reduce drag and increase aerodynamics are being implemented in affordable vehicles like the Chevrolet Cruze.

We have already discussed the benefits and drawbacks of electric-powered vehicles in our last issue of On The Road. The field of alternative fuels and advanced automotive technology also includes traditional hybrids, hydrogen (and hydrogen fuel-cells), compressed natural gas, propane, compressed air-driven engines and many more! Still not to be outdone, there is significant development in the proven and durable internal-combustion engine (ICE), which is deservedly among the most reliable technologies in history. And lastly is an entire slate of alternatives that NJGCA supports to power our homes, businesses, office-buildings, and mass-transit, including wind power, wave-farms, solar, geothermal, biogas, biomass, and increasing the number of nuclear power plants.

As we have stated previously, all alternative sources above have their benefits and drawbacks. Rather than overwhelm you with excessive information, however, we will focus this edition on ethanol and ethanol powered automobiles.

To succinctly and adequately describe what constitutes a fuel as "ethanol" is a very difficult thing to do. That's because, at its most basic form, ethanol is a form of alcohol and shares properties with other alcohols such as methanol, propanol, and butanol. The

distinction between the different alcohols is unimportant for our purposes, but it should be noted that ethanol has a lower "energy density" (that is the given energy stored in a given volume) compared to the other three types of alcohol.

Ethanol is among the oldest known organic chemical reactions known to humankind. Historically, ethanol – or what is commonly known as grain alcohol or referred to as bio-ethanol – is produced through the fermentation process. To accomplish this, an organic substance that was high in natural sugars such as fruit would be used. Through fermentation, the sugars in these foods would be converted into heat energy and the waste byproduct they produced is ethanol (grain alcohol) and carbon



*Continue on next page...*

dioxide. In this regard, ethanol is a bio-fuel, much like bio-diesel. A similar alcohol could also be used through distilling, by which grains such as corn or barley would be ground up and mixed with water to create a “mashing”. The mashing is then heated and the starches in the grains would be broken down into sugar and fermented to create alcohol. This is commonly done to create recreational alcohols like whiskey. It must be noted that the ethanol in the whiskey, beer, and wine that you drink, is identical to the ethanol that is in your cars gas tank.

Today, you know ethanol is an additive in gasoline blends such as E10 and E85. In those compositions, the gasoline you dispense from your pumps would have 10% ethanol/90% gasoline or 85% ethanol/15% gasoline, respectively.

In the case of E10, or what was once commonly known as “gasohol”, it is the most widely available pump fuel on sale to motorists today. The blend has been mandated by the government, which has sought to partially lessen our dependence on foreign oil through incorporating “home grown” fuels such as alcohol into gasoline.

However, E85, though widely available in much of the United States, maybe difficult to obtain in some areas of country. That’s because ethanol is a highly corrosive liquid that attracts moisture. Unlike gasoline that can be safely piped from one area of the country to the other with little infrastructure maintenance, ethanol must typically be trucked into an area to avoid corrosion or moisture collection (which can also damage an engine).

Engines that are capable of burning E85 have specially made internal components that resist corrosion and are safe to use both E10 and E85 fuels. Nevertheless, due to the unavailability of E85 in some areas, the number of E85-equipped vehicles typically outweighs the actual number of stations that offer the fuel to consumers. An additional blend, E100, or 100% ethanol alcohol fuel, also maybe used for vehicles equipped with engine technology able to withstand continued ethanol use, but are very limited in availability since most retail locations do not carry E100 fuel.

Among the many benefits of ethanol as a fuel source and additive is that it typically has a very high octane rating and can be used in ordinary internal combustion engines. This is a distinct benefit from other alternative forms since existing technologies can be used without extensive re-engineering. In addition, since alcohol is partially oxygenated, fuels such as E10 and E85 are less harmful to the environment. That’s because they burn more completely and reduce the amount of carbon dioxide that is produced during combustion.

Another advantage to using ethanol is that it can be domestically made from organic material. Unlike petroleum based fuels that may need to be imported from foreign sources, ethanol can be created using farm crops. In fact, significant volume of ethanol produced in the United States is made from corn produced in the American mid-west. Other crops such as sugar beets and other starchy crops are also commonly used. In fact, it is for these reasons that many environmentalists and national security hawks state that moving motorists away from petroleum based gasoline in favor of organically grown and domestically produced ethanol will both help the environment and reduce our dependence on foreign oil. As long as it rains and the sun shines we will always be able to have ethanol.

What’s more, cellulosic ethanol, another is made from wood, grasses, or non-consumable portions of plants. That means that organic plant matter that has no-market value – such as corn stalks, switch-grass, woodchips, grass clippings, and related organic substances, even waste paper, can be utilized to produce ethanol from cheap, abundant raw material.

Despite these advantages, using ethanol also has some distinct disadvantages.

First, and as previously stated, ethanol is corrosive and attracts moisture. This is both bad for

engines and makes transporting the fuel more expensive since it must be trucked in rather than piped in (as gasoline is). In addition, the corrosive properties of ethanol also affect fuel pumps, slowly eroding internal pump parts and affecting their calibration. NJGCA has learned through experience that this often means that retailers are giving gasoline away to consumers due to this phenomenon.

Secondly, though the higher octane rating is a positive characteristic of ethanol, its lower energy density is a distinct drawback because it has a lower energy concentration per volume than ordinary gasoline. In short, this means that its miles-per-gallon rating is lower than gasoline would be, thus reducing real world fuel economy. Other alcohols, such as butanol, have energy density that is on par with gasoline, which are more suitable as an alcohol-fuel substitute. In fact, butanol is often called bio-gasoline by many industry observers. However, butanol is much more expensive to produce, thereby cancelling out any benefit if produced in large volumes.

Thirdly, the production of ethanol consumes lots of feedstock that is typically reserved for feeding livestock or used in other industries. Critics contend, for example, that when corn crops are diverted from human-food production or feeding livestock



*An example of a FlexFuel badge that adorns vehicles which can burn E85 blended motor fuel.*

*Continue on next page...*

to producing motor fuel, the price of food increases. This is due not only because the amount of corn in the market destined for kitchen tables has diminished, but also because other food products (such as corn syrup, food binders, unmodified corn starches, and sweeteners) depend on large quantities of food for their production.

Fourthly, industry watchers state that ethanol could never fully replace gasoline as an alternative fuel or even make up as much as 50% of a typical gasoline blend of all gasoline sold in the United States. That is because not enough arable land exists to grow such crops without impacting food supplies. Even if cellulosic ethanol were to be used for such production, the greater amount of processing used to make ethanol from cheap raw materials like grass clippings and corn stalks eliminate any cost-benefit.

Lastly, ethanol production in mid-west farming states consume huge amounts of capital through industry subsidies, which have been disparaged by fiscal analysts. Many budget forecasters believe that the only thing that keeps ethanol in the running as a viable fuel alternative are the ample government funds that have been utilized over the last 20 years to prop up ethanol production. Combined with government mandates that call for increasing domestic ethanol levels, ethanol enjoys political support that other alternative industries could only hope for. Critics contend that if the subsidies stopped, the benefits of ethanol would be

eroded when compared to gasoline.

Does this mean that ethanol is a doomed alternative fuel that cannot possibly be part of the solution to our energy needs? Hardly. While there are some distinct drawbacks in using ethanol as a wide-spread alternative fuel, the technology is still evolving to perhaps make it more cost effective and available to more Americans.

In addition, even if ethanol could not completely replace gasoline, it doesn't mean that ethanol could not be part of a long-term solution for our national energy needs. Just as NJGCA has stated in other forums, the service stations of the future may offer gasoline alongside alternatives such as electric charging stations, hydrogen fuel pumps – and yes, ethanol! It isn't outside the realm of possibility that all of these mediums will be used to fuel tomorrow's cars and no single solution will win out over the other. In such a situation, ethanol may very well have a prominent place in our energy equation.

Of course, this all brings us back to your small business and you. With the energy and transportation industries rushing to find a solution to tomorrow's problems, will you be there to serve the needs of your future customers? Remember, tomorrow will be here before you know it --- Will you be ready? ■

## **ALTERNATIVE ENERGY UPDATE**

by Nick De Palma

### **RECHARGEABLE LIQUID FUEL DEVELOPED BY MIT STUDENTS**

As battery technology advances to meet the demands of electric vehicles, the issue of range anxiety and long recharging times remain critical issues.

However, a group of students at the Massachusetts Institute of Technology may have come up with a viable solution to recharging electric vehicle batteries in a significantly shorter amount of time.

Rather than relying on a battery made from lithium or nickel, a new battery design would store the battery's electrons in semi-solid flow cells. Charged particles would be suspended in a solution, and then pumped between two separate compartments – one for storing the liquid and the other releasing the energy used to power an electric motor. This is much different from conventional

batteries which have storage and discharge both in the same structure. The inventors of this rechargeable liquid have nicknamed the solution "Cambridge Crude", as the solution appears to be a black, viscous fluid.

Many industry watchers believe that this new approach could make batteries more efficient while cutting the size and expense of contemporary batteries by 50% or more. This could benefit current electric vehicle development that is plagued by excessive battery weight and packaging problems.

The most practical part of the system is that the battery cells can be drained from the vehicle and replenished by charged, fresh fluid. This makes the system nearly akin to pumping gasoline today, making a "recharge" a significantly shorter process. As an added benefit, the liquid solution could later be "recharged" and reused later, thus reducing waste.

Scientists at MIT believe that a prototype utilizing the new technology could be operational in the next year and a half. ■

## The High (and Hidden) Costs of Lawsuits against Local Governments

*It's time to recognize the role that municipal lawsuits play in the crushing burden of New Jersey's property tax*

By Marcus Rayner | Opinion / Commentary | May 26, 2011



In New Jersey, the arrival of spring doesn't just mean warmer weather and the smell of fresh flowers, it's also the time of year when our state's 566 municipalities draw up their budgets. And most of us, busy with daily life, fail to take note of our town council's agenda -- until we see the increase on our next property tax bill.

Everyone acknowledges that property taxes in New Jersey are crushing. Senate President Stephen Sweeney (D-Gloucester), Assembly Speaker Sheila Oliver, (D-Essex) and Gov. Chris Christie have been vocal about the need to address the property tax crisis New Jersey has been battling for a generation. There are many reasons for the high tab we pay for local government services. And disagreements about public school funding, contracts, pensions, benefits and shared services are all but assured as each party makes its case.

Yet there is at least one cost-driver that's relatively uncontroversial but has been nearly absent from the debate: we need to get a handle on lawsuits against our local governments.

Unfortunately, lawsuits are part of municipal budgets' new normal in New Jersey. The Municipal Excess Liability Joint Fund, which is the largest insurer of local governments in New Jersey, reports that our towns' and cities' litigation costs have increased 104 percent over the past ten years. Most of this increase occurred in just the past five. That's largely because trial lawyers -- like the ones you see on TV instructing you to call their 1-800 number if you've been hurt by "anything" -- have learned that local governments are an easy target.

Most towns have only a municipal attorney, not a large legal department of in-house lawyers, at their disposal. Legal work is frequently contracted out to more expensive private firms, particularly if it's highly specialized. Needless to say, it's expensive. You and your neighbors end up paying the cost of the settlement or claim and attorney's fees -- often for both parties. Plaintiffs' attorneys know from experience that sometimes it's not financially worth it for a municipality to fight the more frivolous claims at all.

As a result of this new normal in the municipal realm, we now surrender over \$350 million from our local budgets each year in liability costs. This is especially painful, because this comes directly from the pool of resources our local governments spend on educating our children,

maintaining public safety and responding to emergencies. And personal injury claims account for \$200 million of that total.

In Trenton alone, it is easy to see why litigation came to be a strain for municipal budgets. At one Trenton city council meeting earlier this year, members and the public were apprised of more than two dozen civil actions being filed against the city. This doesn't even include the tort resolutions for review, which totaled tens of thousands of dollars. Most contained few details, but "personal injury" was a recurrent theme. Larger law firms representing the plaintiffs made multiple appearances on the docket as well. This particular council meeting wasn't an anomaly. At the council meeting two weeks prior, eight of its fourteen "Communications & Petitions" were to inform those present of new civil actions being taken against Trenton. When a city is in such dire distress that the cash-strapped state needs to come up with rescue funds to keep it solvent, tens of thousands of dollars spent in a single night is a heavy price for us to pay.

It's not just Trenton that has to absorb high litigation costs into its annual budget, either. The Atlantic City Board of Education budgeted \$1.16 million for legal services for the 2009-2010 school year. Six other school districts budgeted at least \$500,000. Still stinging from a school year in which they spent \$1.5 million on legal services, the Atlantic City school district's new budgetary normal is akin to having each child walk through the door on the first day of school with a \$142 litigation price tag.

Fortunately, we don't need to sit idly by as our property tax bills rise and services decrease in order to fund costly municipal lawsuits. Attend your town council meeting. Go online. Find out how much you're paying for legal services. Urge your legislators to support a package of bills introduced by Assemblyman John Burzichelli (D-Gloucester) to give municipalities immunity from lawsuits for incidents beyond their control. Together we can put a stop to this nonsense and make progress on reducing New Jersey's property tax burden. ■

*Marcus Rayner is the executive director of the New Jersey Lawsuit Reform Alliance. He can be reached at [mrayner@njlra.org](mailto:mrayner@njlra.org).*

## E15 or NOT E15?

by Eric Blomgren



E15 is a blend of motor fuel that consists of 15% ethanol and 85% gasoline. Currently, most regular gasoline sold at stations consists of 10% ethanol. E10 was granted a waiver under similar circumstances 30 years ago. In an attempt to adhere to the provisions of the Clean Air Act, the Environmental Protection Agency (EPA) has issued waivers that will allow retailers, if they should choose, to start selling E15. In October of 2010 the EPA issued a waiver strictly for cars that are Model Year 2007 or newer, and in January 2011 it extended the provision to allow automobiles MY2001 or newer to use E15. Cars built after 2007 were specifically designed to handle the burdens of E15, while the EPA says its studies show its perfectly safe to use E15 in cars from 2001-2006.

The move comes in response to the Renewable Fuels Standard, a section of the Energy Independence and Security Act of 2007, which requires 36 billion gallons of ethanol to be produced by 2022 for blending with gasoline. Currently, we only consume about 12 billion gallons of ethanol. In order to meet the target of the legislation the EPA must find ways for people to start consuming more ethanol, and allowing a boost from E10 to E15 is potentially the best way to do it.

Advocates for greater ethanol use say it eliminates millions of gallons of gasoline and “takes the equivalent of Venezuela out of the business of importing oil into the United States.” NASCAR recently committed to using E15 in several of its biggest races.

There are problems with E15 however. 35% of cars on the road are MY 2000 or older and must use regular E10 fuel. Once E15 becomes available for use in MY 2001 and newer vehicles, it is far from certain that owners who can use E15 will even ask for it. Ethanol has less energy per gallon than gasoline, which means consumers will get worse mileage out of E15 than E10. E15 is not a replacement for E10, at least not for many years, so any station selling E15 would presumably have to do so in addition to E10. Attendants would have to check to make sure that a driver is driving an E15 approved vehicle otherwise the station could be at risk for any damage that builds up overtime due to use of E15 in unapproved vehicles.



In February, the US House of Representatives voted to block the EPA from allowing E15 due to fears that consumers could damage their vehicles by accidentally putting the wrong fuel in their cars. Members of both parties supported the provision. The ban was unsuccessful as both the Senate and the President support E15. The EPA has mandated that all E15 pumps have a warning label indicating that E15 use is only for MY2001 and newer motor vehicles. Texas lawmakers in both parties plan to reintroduce legislation this year seeking legal protection for refiners and marketers that fear exposure to costly lawsuits from a higher ethanol blend.

In addition to there being no waiver for autos produced in MY2000 and earlier, E15 is still prohibited for use in heavy-duty gasoline engines and vehicles such as delivery trucks; highway and off-highway motorcycles; and non-road engines, vehicles, and equipment such as boats, snowmobiles, and lawnmowers. ■

## ADVERTISE WITH US!

On The Road is a quarterly newsletter reaching gasoline stations, convenience stores, and auto repair shops throughout New Jersey. This newsletter is sent to a focused market that requires your products and services.

If you receive this newsletter and are interested in advertising, please contact Phil at (973) 376-0066.



## The Membership Memo

***Let NJGCA help you with the heavy lifting!***

by Phil Apruzzi

*“A young boy was walking with his father along a country road. When they came across a very large tree branch the boy asked, “Do you think I could move that branch?” His father answered, “If you use all your strength, I’m sure you can.” So the boy tried mightily to lift, pull and push the branch but he couldn’t move it. Discouraged he said, “Dad, you were wrong. I can’t do it.” His dad said, “Try again.” This time, as the boy struggled with the branch his father joined him and together they pushed the branch aside. “Son,” the father said, “the first time you didn’t use all your strength. You didn’t ask me to help.”*

-Alistair Cooke 1908 – 2004 - British/American journalist, television personality and broadcaster.

Yes. NJGCA can help you with the heavy lifting but what is the real value of NJGCA to you and your business? This is not an easy question to answer. A possible approach would be for you to place a value to membership issues and services that are important to you. What do you get from belonging to NJGCA? You put a monetary value on the following services and offerings:

1. Weekly and monthly legislative updates
2. Legal Advice
3. Strength of Representation
4. Industry specific technical training offerings
5. Access to money saving products and services
  - a. Health Coverage
  - b. Worker Compensation
  - c. Garage Liability
  - d. Tank Insurance
  - e. Credit Card Processing
  - f. Financial Services for Your Business
  - g. Environmental Services
  - h. NJ DEP Compliance Issues
  - i. Service Station Vacuum & Air Pump Systems
  - j. Computer Networking & Accounting Program Solutions

You look at the list above and say I know about all your offers as part of my membership but they may not be enough reasons for me to stay a member or even join. So what else do we need to offer you to be a member of NJGCA? You have the opportunity to tell us what you want from your membership. What does NJGCA need to do to make you a part of the NJGCA family? What additional value do we need to provide you? I want to hear from you. I want you to email me with your input. My email address is [phil@njgca.org](mailto:phil@njgca.org). Be frank with your response. NJGCA needs to understand what is important to you and what you believe is the value of membership for you.

We will compile all your responses and report our findings to you through the next “On The Road” magazine. We are looking forward to your input. NJGCA exists for you....the businesses servicing the motoring public. ■

### **-NJGCA MEMBER QUOTE-**

***“I have been a member of the New Jersey Gasoline C-Store Association since 1976. NJGCA is an excellent well run organization capable of quickly responding to issues related to my business. NJGCA’s legislative efforts alone mean that I have a voice in what takes place in Trenton. I also want to mention that their Workers Compensation insurance offering through Meadowbrook Insurance is top of the line.”***

***-James Sanfilippo, Jimmy’s Transportation Ltd.***

## Avoid IRS troubles: Return of the no-match letter to Small Business Owners

The Social Security Administration has resumed sending “no-match” letters to employers of workers whose 2010 W-2 contains information that does not match the name, date of birth, and social security number in the “Numident” database used by SSA to track retirement and disability contributions, benefits, and claims. Employers must not ignore these notices and should develop a careful policy for taking action on them.

### Background

The U.S. Social Security Administration (SSA) is responsible for tracking employee and employer contributions to social security accounts it maintains for each U.S. worker. It uses this information to process claims for retirement and disability claims. When an employer submits a W-2 form reflecting annual wage payments, and the employee information on the W-2 does not match an SSA record for a worker, SSA is unable to credit the worker’s social security account. The social security contribution is credited to an Earnings Suspense File which has grown to many billions of dollars as unauthorized workers using fictitious identities receive wage payments.

From 1979 to 2007, SSA sent letters to certain employers notifying them when a number of W-2s had information that did not match with SSA account records. Employers expressed confusion about what to do with “no-match” letters, which stated that they might result from a host of innocent causes and that an employer should not take adverse action against an employer merely on the basis of the letter. But other departments of the Government had referenced failure to act on no-match letters as evidence of “constructive knowledge” that a worker was not authorized and thus as the basis for heightened fines for I-9 violations and for criminal prosecution of employers and their managers and executives.

In 2007 the Department of Homeland Security proposed a regulation allowing it to insert into a no-match letter’s envelope a letter from U.S. Immigration and Customs Enforcement advising the employer how to resolve the no-match in order to avoid an inference of constructive knowledge that the referenced workers were unauthorized aliens. Employer and union groups brought suit to block the regulation, and SSA decided to hold no-match letters until the suit was resolved. In 2009 the Obama Administration retracted the proposed regulation, leaving employers with no guidance until 2010, when the Justice Department published advice similar to the proposed ICE regulation (and similar to our advice all along). The U.S. Internal Revenue Service is authorized to assess penalties on employers for failing to provide correct information on a Form W-2 and for failing to submit corrections. The penalties can be \$100 per W-2. In the past IRS has not been

reported to be aggressive in assessing penalties relating to no-match issues.

### Current Action

Now SSA has issued an internal instruction to its offices to issue the letters to employers again, but only for 2010 W-2s-- not for the 2007 to 2009 years for which no such letters were sent. All along SSA has been sending no-match letters directly to workers, and occasionally employers have received them when the W-2 used the employer’s address as the worker’s address. For 2010 SSA will send a separate no-match letter for each worker with a no-match. In the past SSA sent an employer only one no-match letter, listing all W-2 workers with a matching problem, and SSA only sent the letters to employers with a certain number or proportion of no-matches (the number or ratio varied over the years).

### Employer Actions

Employers should prepare to handle SSA no-match letters in keeping with a comprehensive employment verification policy concerning I-9 procedures, E-Verify procedures (if used), and No-Match scenarios (of which SSA no-match letters are only one example). Employers should consult counsel competent in employment and immigration matters to design these policies and procedures. No-match procedures should ensure that the employer does not ignore the letters, that workers are given appropriate opportunity to resolve innocent problems (arising from transcribing errors, name change, SSA database error, etc.), that SSA and IRS are notified of corrections, that adverse action is taken where identity or authorization issues are not resolved, and that records of the no-match letters and resolution are maintained.

The following links provide the “raw material” concerning this SSA action:

#### **SSA Instruction:**

<https://secure.ssa.gov/apps10/public/reference.nsf/links/04052011011437PM>

*and*

<https://secure.ssa.gov/apps10/public/reference.nsf/links/03302011095533AM>

**SSA Sample No-match Letter:** <https://secure.ssa.gov/apps10/poms.nsf/lx/0900901050>

**DOJ No-match Guidance:** <http://www.justice.gov/crt/about/osc/htm/SSA.php>

**IRS W-2 Instructions:** <http://www.irs.gov/pub/irs-pdf/iw2w3.pdf> (see page 7 for Penalties)



## Winning the Race to the Courthouse, Courtesy of the PMPA



In *Mac's Shell Service, Inc. v. Shell Oil Products Co.*, 559 U.S. \_\_\_\_, 130 S. Ct. 1251 (2010), the Supreme Court ruled unanimously that a dealer, faced with a renewal agreement that he or she considered to violate the PMPA, could not sign the agreement "under protest," and then challenge its terms leisurely in court.

The only recourse open to a lessee dealer under the PMPA, the Supreme Court said, was to refuse to sign the new franchise agreement and to file suit immediately during the 90 day notice period, requesting temporary injunctive relief to maintain his or her franchise relationship until a full trial could be held on the dealer's PMPA claim. Without temporary injunctive relief, the dealer would face the Hobson's choice of turning in the keys or abandoning his or her PMPA claim.

The Supreme Court's ruling highlighted the importance of the preliminary injunction provision of the PMPA, 15 U.S.C. § 2805(b), because it may well be the dealer's only remedy. A recent decision suggests that the protection it affords is quite robust indeed.

*Atlantis Petroleum, LLC v. Getty Petroleum Marketing, Inc.*, 2011 U.S. Dist. LEXIS 42767 (E.D. Pa. 2011), involved a dispute between Getty Petroleum and a marketer that subleased 71 branded service stations from Getty Petroleum. The dispute had its roots in the marketer's disastrous purchase and resale of diesel fuel in 2008, which left the marketer in hock to Getty Petroleum for over \$10 million.

The Marketer claimed that it subsequently had worked out a plan with Getty Petroleum under which it would pay down its debt to \$6 million by obtaining a bank loan, and Getty Petroleum would lease it another 58 stations to generate sufficient revenue to pay down the loan. The marketer in fact did pay Getty Petroleum approximately \$4.5 million from the bank loan proceeds, but it never received the 58 stations that it claimed it had been promised.

When the financial relationship between the parties remained rocky, Getty Petroleum on March 25, 2011 sent the marketer a letter terminating its sublease for all of the stations effective April 25, 2011. On April 11, 2011, however, the supplier advised the marketer that termination would occur in less than 30 minutes, and requested that the marketer surrender the stations within two days. This set off a race to the courthouse.

On April 12, 2011, Getty Petroleum hightailed it to the federal courthouse in New York City, filing suit for breach of contract and requesting an order requiring the marketer to surrender its

stations. The marketer responded by scrambling to the federal courthouse in Philadelphia later on that same day, where it sought an immediate temporary restraining order (TRO), as a precursor to a preliminary injunction barring Getty Petroleum from terminating the sublease, or doing anything to effectuate termination.

In granting the TRO requested by the marketer, the federal court in Philadelphia emphasized the considerable force that Congress had put into the PMPA's temporary injunction provision.

Although recognizing that normally a court should decline to rule on a request for injunctive relief where the same matter is at issue in another district court in an earlier-filed action, the court concluded that that course of action was not open to it under the PMPA. The court held:

We find that because of the language and purposes of the PMPA, the instant action is one of the "rare or extraordinary" cases in which the first-filed rule does not apply .... Congress has afforded courts little discretion in determining whether a franchisee is entitled to injunctive relief under the PMPA. ...

The court recognized the considerable latitude that Congress had provided to franchisees seeking a preliminary injunction under the PMPA. Instead of demonstrating a likelihood of ultimate success on his or her claim, the franchisee need only show the existence of "sufficiently serious questions going to the merits to make such questions a fair ground for litigation." The marketer had satisfied that loosened standard through its allegations of inadequate notice and concerning Getty Petroleum's perfidy in failing to deliver the 58 additional stations it allegedly had promised the marketer. The court emphasized that the PMPA provided the marketer "not merely ... a defense to be used during eviction proceedings," but also the affirmative right "not to be subject to an eviction proceeding in the first place."

In sum, the PMPA's injunction provision provides a strong bulwark in defending against a franchisor's effort to put its franchisee on the street. ■

*eMail:* [pgunst@agtlawyers.com](mailto:pgunst@agtlawyers.com)

*To access the latest articles by the Service Station Dealer's legal counsel, please visit the "Service Station Dealers: Legal Issues" section of the Astrachan Gunst Thomas Rubin, P.C. website at:*

<http://www.agtlawyers.com/resources/petroleum.html>

# Meet your Office Staffers!

**Nick De Palma**

## Communications & Research Director

By Tim Arata, NJGCA President

*Please Note: Previous "Meet your Territory Manager" or "Meet your Office Staffer" profiles have been written by Communications Director Nick De Palma after he interviews a member of Team NJGCA. However, as Nick is the interviewee in this edition of On The Road, NJGCA President Tim Arata stepped in to interview Nick for this profile.*

### **Tell us about yourself and your background.**

I'm originally from Livingston and Orange in Essex County, but did most of my growing up in Hopatcong, New Jersey (Sussex County). I graduated high school in 1997 and received my B.S. in History-Political Science from Rutgers University in 2002. I met my wife, the former Miss Amanda Gasperino, in 2006 while working in politics. We were married in January 2010 and we currently live in Clark, New Jersey (Union County).

### **Tell us about your past work experience.**

My goal was to go to law school right after college, but ended up working mostly in the human resources and information technology fields out of necessity. However, I had a passion for politics and started volunteering on various campaigns to get more involved. Eventually I was hired as a Legislative Aide to a State Senator in Morris County. That was my first taste of politics and how policy makers create the laws that affect everything we do. I was hooked and have been involved one way or another ever since.

### **What brought you to NJGCA?**

It was at the end of July 2007 when I learned about an opportunity at NJGCA. I knew Sal indirectly through a few mutual acquaintances and heard he was looking for a communications person. When I interviewed for the position, Sal knew I had a background in the legislative world but had limited experience doing communications outside of the State Senate. He took a chance on me and I was very grateful for the opportunity. I've been with the Association ever since as we work to lobby on behalf of our members and expand the reach of the organization.

### **Tell us about your role at NJGCA?**

My official title is "Communications and Research Director" but that may be a bit misleading. Communications is certainly my primary responsibility and that means that I work on much of our official messages, including letters, our e-newsletters like the Road Warrior or Wildfire Alert, press releases, editorials, and our quarterly On The Road publication. In addition, I speak with reporters every so often to communicate our official position on a topic or issue of importance. However, I also perform other functions that maybe a bit outside a normal "communications" role such as working on our website, contributing to our lobbying efforts in Trenton, coordinating at times with outside groups for issue-oriented events, and working to increase our member-advocacy efforts through the NJGCA PAC. Ultimately, I do whatever is needed to get our message out to members, legislators, and the press. That often means my responsibilities and efforts will sometimes overlap or coincide with Sal's and NJGCA Government Affairs Assistant, Eric Blomgren.

**When Sal was named NJGCA Executive Director in January 2007, he made overhauling Association communications a big focus of his reforms. From a communications perspective, how have members**

### **reacted to them?**

This is a difficult question to answer. On the one hand, the reaction has been overwhelmingly positive for many of our more "tech savvy" members who check their email regularly for our Road Warrior e-newsletter, read our On The Road publication, and respond to urgent action items. On the other hand, there is still a significant portion of our membership that still doesn't use email regularly, doesn't respond to urgent action messages, and still only receives our weekly or emergency communications via fax. Thankfully the number of members who regularly read our email communications to stay informed has been growing. Nevertheless, I understand that old habits are hard to break. It's been my understanding the old NJGRA did not put as much emphasis on communicating with members through email or print publications, so perhaps there is an understandable reason for this phenomenon. However, when our members see that we are sending out emails with articles, editorials, and video clips of Sal defending our members against some unwarranted criticism or advocating on an issue important to the Association, it definitely resonates with our members. I enjoy seeing that and hearing the feedback because that means I'm doing my job appropriately.

### **What do you say to perspective members about joining the Association?**

When I speak to potential members, I often outline the benefits of joining our organization from an advocacy and lobbying perspective. Though we offer some great benefits and services to our members, I feel that our efforts to affect the debate in Trenton are of critical importance. Every small business owner needs someone in their corner who will stand up, fight on their behalf, and deliver their message to the halls of power in the State House and beyond. We are an incredibly passionate group of small business advocates, always seeking to defend the individuals we represent in the press and in the court of public opinion. Just looking at our record in the past few years alone, we've seen a number of successes, from having our First Right of Refusal proposal become law to working to protect members from the devastating effects of repealing the Below Cost Selling laws. That kind of representation is something that every owner needs and we encourage everyone who cares about the future of their business to get involved!

### **What is something we don't know about you? What do you do in your spare time?**

Well, outside of my responsibilities here at NJGCA, I'm also a part time evening student at Seton Hall Law School. Trying to balance work and school is difficult, but along the way I've been very fortunate to have Sal's understanding at work and my wife's support at home. I hope that my legal studies will help me to better contribute to the goals of the Association. Significant parts of my family were immigrants, so I grew up speaking conversational Italian pretty fluently. As for spare time, I'm afraid I don't have much of it with work, law school studies, and a being a newlywed. However, when I do have time to myself, I generally enjoy spending it with my wife, Amanda, and our families. Family is the most important thing to me and we are all very close.

### **What advice you can give the small business owners reading this?**

Get involved and stay involved. The only way to avoid any obstacles out there is to educate yourself, and that means staying informed through our various communications and publications. No one can fault you for doing all you can and coming up short, but no one will help you if you don't help yourself first. That's where NJGCA comes in, and members would be shortsighted not to take advantage of the benefits and assistance we can offer them. ■

## **NJDEP UPDATE: COMMUNITY RIGHT TO KNOW SURVEY**

The New Jersey Department of Environmental Protection (NJDEP), Community Right to Know (CRTK) program is instituting Mandatory Electronic Submittal of CRTK Surveys effective reporting year 2011 (CRTK Surveys due March 1, 2012). Therefore, you will no longer be receiving a paper copy of the Survey to complete.

The CRTK program rules require that every Employer, regardless of whether or not they have hazardous substances present, must complete and submit a CRTK Survey by March 1 of the year following the reporting year.

An Employer is defined as any person or corporation, regardless of whether he pays employees, in the State, engaged in business operations having a covered United

States North American Industry Classification System (NAICS) codes.

You are strongly urged to take the time to set up your CRTK online account. Please remember to write down your username and password, which you will need to access the reporting system when you are submitting the survey. Please visit [www.njdeponline.com](http://www.njdeponline.com) to set up your account. An online video tutorial is also available at [www.njdeponline.com](http://www.njdeponline.com). Please note that you do not need a certification PIN to complete your registration or submit a CRTK Survey.

Additional guidance will be forthcoming.

Contact the NJDEP at 609-777-0518 if you need assistance or have any questions.

## **KNOW YOUR TERRITORY MANAGER!**



**Henry Darden: Territory Manager for Middlesex, Union, Somerset, Part of Essex (Southern Half)**  
**Cell: 973-477-0057**  
**Email: [henry@njgca.org](mailto:henry@njgca.org)**



**Jack Leli: Territory Manager for Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, Salem**  
**Cell: 732-995-1637**  
**Email: [jack@njgca.org](mailto:jack@njgca.org)**



**Bob Quirk: Territory Manager for Bergen, Hudson, Part of Essex (Northern Half)**  
**Cell: 201-214-8836**  
**E-mail: [bob@njgca.org](mailto:bob@njgca.org)**



**Frank Stewart: Territory Manager for Morris, Sussex, Warren, Hunterdon, Passaic**  
**Cell: 973-234-7403**  
**Email: [frank@njgca.org](mailto:frank@njgca.org)**



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