

OCTOBER 2012



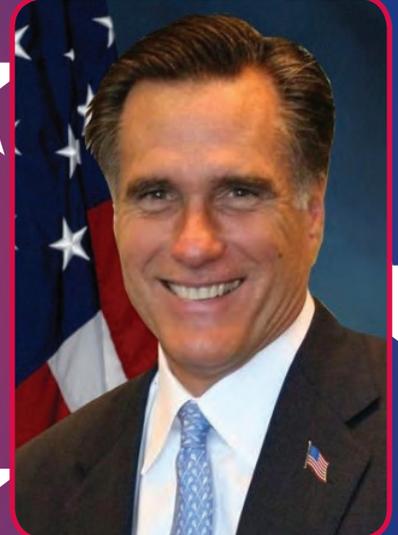
VOLUME 4 - ISSUE 4

ON THE ROAD

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Message From Executive Director Sal Risalvato

The Garden State: Are we going in the wrong direction?

Is New Jersey is going in the wrong direction? How many times have you heard that question? This question is asked repeatedly by pollsters and reporters and the pundits that appear on Sunday TV talk shows. Basically the question is asked usually to gauge how voters feel about an incumbent President or Governor and measure the state of affairs of either our state or our country.

Many people have different views and will give different answers to that question usually referring to various public policy decisions that they agree or disagree with. However, if I ask that question in reference to New Jersey's representation in the United States House of Representatives, I can give you an accurate, definitive, no debate answer. New Jersey is going in the wrong direction!

In 1979 when I first got in to this world of politics and small business advocacy, and I began learning how government affected my business, my life and our culture, New Jersey had 15 representatives that were elected to the U.S. House of Representatives. I didn't have a clue then what that meant or if it was even important. I just knew that these Congressmen and Congresswoman (NJ had one female representative at the time) were a pretty big deal and very important people.

When we go to the polls in a few weeks New Jersey will only be electing 12 representatives. Why? Because every ten years the U.S. Census determines the number of representatives that each state will have based on the population of that state in comparison to other states. Because of shifting populations, New Jersey lost a representative in 1982, then another in 1992, and now another in 2012. I would argue that NJ is heading in the wrong direction; at least as it pertains to the influence that NJ can have in Congress. Considering that NJ had only 4 representatives in 1789 when the U.S. Constitution was ratified some might argue that I am nuts and that this is not a big deal. I may be nuts, but this is a big deal!

Consider that Michigan who also just lost a representative for the same reason, will have 14 representatives elected to Congress. Again I know you are asking; why is this a big deal? Ok consider this. We here in NJ have battled for legislation to allow

independent repair shops to have access to the same technical information that manufacturers give to their car dealers called Right to Repair. We came close 2 years ago to making this happen. Massachusetts just passed a piece of legislation that will accomplish this but it doesn't take effect until 2017. Efforts are underway in Congress to pass a national bill that will give all repair shops in the entire USA the same right. That means that representatives from every state will ultimately be voting to send this legislation to the President for his approval. Do you know which state's representatives have successfully led the fight against this legislation? Yep....Michigan! Obviously the representatives from Michigan are influenced heavily by the car manufacturers that are headquartered there. I don't think I need to continue for you to see the connection that I am trying to make.

Of course there are many issues that will be voted on in Washington that have great effect on our lives and our businesses. How about income taxes? Do you think the Bush Tax Cuts should remain, or should they be allowed to expire as is presently being debated in Congress? If they expire then whatever you are paying presently in Federal Income Taxes will rise. That may mean \$50 more a week out of your paycheck, or it may mean \$200 more in deductions. Putting aside what that means to your take home pay and what your family can afford; what happens when your employees have \$50 a week more deducted from their paychecks? How long will it be before they are knocking on your door to ask you for more money to make up the difference? Are you getting the picture? I could go on and on with a variety of other issues but I am sure you get my drift.

I like to ask questions sometimes in order to make my point. Do you see the importance of having more New Jersey representation in Washington? We can influence our representatives here in NJ when we vote. We don't have any influence on the other 423 Members of Congress because we can't vote for them. Michigan voters will tell their 14 representatives what to do and not NJ voters.

Ok, I know you are asking; why is NJ losing representatives while other states gain representatives? What can we do about it? How can we stop it? Well the first step is to recognize that NJ is losing representatives because people are choosing to leave NJ and live in states that they think are more

desirable. Citizens believe that if they reside in other states like the Carolinas, Florida, or Texas they will be better able to afford homes and send their kids to better schools. Arguably this is true since those states have exponentially lower property taxes. And Texas and Florida don't even have a state income tax. Not coincidentally Texas and Florida are alone gaining 6 seats in the House of Representatives.

Consider too that many older people don't just flee NJ. They actually maintain a residence here because of family and friends, but make their legal residence in one of those more desirable 'no tax' states. They can afford a home in Florida where they may spend the winter months. By changing their legal residence they avoid paying huge amounts of taxes to the State of NJ. I know folks that simply changed their address and saved over ten thousand dollars a year in taxes, and never shovel snow.

I guess if we want to change any of this we have to change the policies of our State Government in Trenton. Do you see how this is all intertwined and comes full circle? The folks we elected in Trenton last year, and will again in 2013 have an effect on the overall status of the population here in NJ. Will taxes rise or be lowered? Will people leave NJ or will they be attracted to live in NJ? Will New Jersey have more representation and influence in Washington or will New Jersey have less influence? Will our representatives in Trenton vote for higher taxes or lower taxes? Will our representatives in Washington vote to pass Right to Repair?

So you see it is important to vote in every election. Yes there is added interest this year because the nation will elect our President. Next year we will choose our Governor. It is important that you vote, but it is equally important that you know who to vote for and why you are voting for a particular candidate.

I have tried since I came here in 2007 to construct an informational tool that can help you decide who to vote for. This annual edition of the Voter Guide is that tool. I repeat every year in my commentary that "I won't tell you who to vote for, but I can give you the tools to help you decide for yourself". Yes it is tempting for me to tell you who I think you should vote for, but that is not appropriate. I try hard to maintain an unbiased and non-partisan position admitting that sometimes I am not successful in doing so. I will always identify our friends in the legislature, and I will identify those legislators that are not friends, but even then I won't tell you who to vote for.



Last year I was amazed that so many candidates completed our questionnaire and allowed us to publish their responses. This year I am disappointed that many chose not to respond. I understand that candidates do not wish to be pinned down by their answers as political opponents then use their responses negatively against them. Unfortunately it is what we expect during what I say every year is "Silly Season" when campaign ads twist facts so that even the candidates don't know what they are saying. However, I applaud those candidates that take the time to respond and have the guts not to worry about what their opponents may say about their replies.

As always the staff here at NJGCA, led this year by Government Affairs Assistant Eric Blomgren, did research to find public statements and other public information to fill in the blanks for the questions that candidates chose not to answer. We have done our best to be as accurate in order to arm you with as much information as possible. The candidates may not like or agree with our findings, but that's just tough. I guess they will just have to do a better job next time.

Oh, one last note.....You should know that the President is not elected by the actual popular vote, but rather by the Electoral College. The Constitution of the United States calls for 'electors' from each state to cast a vote that represents how that state voted for president in the November election. The number of electors in each state equals the combined number of Representatives that each state elects to the U.S. House of Representatives and the U.S. Senate. When the Electoral College votes after all of the popular votes are counted and certified, Michigan will have 14 electors, and New Jersey will only have 12. Is New Jersey going in the wrong direction?

A handwritten signature in black ink, appearing to be "Bob".

U. S. Department of Labor Q&A

Your Questions, Their Answers!



Member questions are submitted to Debbie Hill who is the NJGCA Director of Member Services, and then forwarded to Joseph Petrecca of the USDOL. Joe's answers are published below.

Member Question: Can I hire an illegal citizen? Do they need a TIN? Is there anything special I have to do? If I have an illegal citizen working for me and I want to make everything right...what do I need to do?

Petrecca: Good Morning Debbie,

1).You cannot knowingly hire a worker who is not legally authorized to live or work in the US. In fact, the employee must prepare an I-9 form which requires that the worker provide proof of his identity, residence and eligibility to work in the US and the employer certifies that the required ID was provided.

2).The worker should have a SS number or tax ID number so he or she can fill out a W-4 and have taxes properly deducted.

If the worker doesn't have the required proof of legal residency and a Tax ID number then they should not be hired.

3). Don't know what the term "illegal citizen" means. If the employee and employer have prepared and certified the I-9 Form prior to their being hired this should not be an issue. If any worker is working and is not authorized to do so or is unable or unwilling to provide the documents required by the I-9 Form they should be terminated.

4).The individual should contact an Immigration attorney or USCIS for guidance on how to obtain legal residency status. The employer can also contact the local office of Department of Homeland Security, Immigrations and Customs Enforcement for guidance.

I hope this adequately answers the member's questions. ■

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Now In New Jersey

Member Spotlight: Scott Brownfeld

By Nick De Palma

In this edition of On The Road, we turn our Spotlight on Scott Brownfeld, owner of Lincroft Exxon.

Tell us a bit about yourself.

I was born and raised in Brooklyn and, for the last fifteen years, I've lived in the Lincroft section of Middletown, New Jersey (Monmouth County). I've been married to my wife Gina for 26 years and we have three daughters: Jessica, Megan, and Emma.

How did you get started in the industry?

My father had a coil and leaf spring shop on 10th Avenue in Manhattan. He opened it in 1955, specializing in suspension work for taxis and fleet cars -- which all take a real beating on city streets. I caught the entrepreneur-bug very early and dropped out of school in the eleventh grade. Looking back, I shouldn't have done that, but I wanted to work and started building leaf springs for taxi cabs at 17 years old. It was certainly a different education, but a valuable one. We were a working class Jewish family, all working together -- father, mother, and three sons. Eventually we branched out into general mechanical repair to compliment our suspension work. For a time, we were the only spring shop in New York City and my dad's business was a landmark for 40 years until he sold it in 1996.

How did you end up on this side of the Hudson?

At the time my father sold his business, I'd opened my own shop in Manhattan on 19th Street between 9th and 10th Avenue. We were living in Bergen Beach (Brooklyn) at the time and my brother-in-law had just moved to Lincroft. It was a nice town. Bergen Beach was nice too, but the surrounding area started to change. We knew we were going to have to move at some point and decided to follow them to New Jersey. I kept my shop in Manhattan, but eventually noticed a run-down Exxon station in Lincroft. I approached the shop owner about buying the business to be closer to home. I took over in November 2000.

Tell us about the shop.

The shop has three repair bays and six multi-pump dispensers, but when I took over, the place was a mess. The previous lessee had a bad reputation, so from day one, I set out to advertise there was new management. When we did the grand reopening,

I had a barbecue, petting zoo, kids' games, invited the mayor, and just hosted a big family-style event. I needed to reestablish the location as a legitimate and honest business and I think I was successful.

You were involved in our push to get a Right of First Refusal passed. Tell us about that experience.

Before hearing from the Association, I didn't have a clue ExxonMobil was divesting their New Jersey properties. Even though I was an Exxon lessee, I was in the dark. The only thing I could remember feeling was that it was unfair. Exxon was going to fetch a nice price on the property based on the value of the business. I sunk time and money into



NJGCA Member and Lincroft Exxon owner, Scott Brownfeld. Image courtesy of Saed Hindash/The Star-Ledger

improving the station's image and reputation, why should they get to reap the reward for it? Then the Association sent out a letter to franchisees like me and asked us to attend a meeting. I wasn't an NJGCA member, but I went and didn't know what to expect. Thankfully Sal and the other speakers were able to lay it all out and get us to understand what was at stake. Next thing I knew, NJGCA had lined up support for a bill and we were in Trenton with other franchisees, speaking to Legislators, and sitting in Committee hearings. It all happened very quickly!

We were eventually successful in getting the bill passed and signed into law by Governor Corzine. What affect has having a First Right of Refusal had on you?

In general, the effect has been pretty significant. I took out a loan to purchase the location and took over other maintenance obligations from Exxon. So on paper, my profits are roughly the same. Yet, the station is now mine and I get to control what direction the business takes without getting approval or permission from Exxon. It's an incredibly empowering feeling to have after being a franchisee for so many years. Though it was a long, expensive, and stressful process, it was ultimately worth it. Station ownership puts me in a much better negotiating position than



NJGCA Member Spotlight, Scott Brownfeld, in his station office. Image courtesy of Russ DeSantis/The Star Ledger

ever before in dealing with distributors, suppliers, or just the community.

Are you involved with community at all?

Yes, quite a bit. My daughters are all cheerleaders and I sponsor a cheerleading scholarship that the school board gives out at the end of each year. I've hosted community car washes at my station for various events. I help out with the local PTA fall festival, and after Hurricane Katrina, we did a collection

for all kinds of relief items. We also contributed to the Challenger Program, which helps children with disabilities. We gave a portion of our profits to the program for one month. They ended up putting a park bench at the Challenger Playground with a little plaque recognizing our contribution.

Any tips for fellow business owners on how to run a successful business?

Be honest with yourself and your patrons. This is a 'people' business and you'll sink or swim by how you treat your customers. Obviously not everyone is cut out for it, so if you can't stand customer service, then be honest with yourself and get out! Also, make sure your employees know this too. All you need is one gas pumper being rude to a motorist and you may have lost a patron forever. Appearances matter, so keep your station looking good and your shop clean. And lastly, don't be an absentee business owner! No one will run your business or pay attention to the details like you will. The more hands on you are, the better!

Where do you see the industry going? Any thoughts on alternative fuels?

I certainly see gasoline sales continuing to decline in the future. Just at my station alone, I've seen fuel sales drop by 20% since 2008. Now part of that is the bad economy and part is that cars have gotten more efficient, but it's still something to be conscious of. Retailers may have to plan ahead and make some decisions about where to invest. Of all the alternative fuels available right now, I really like compressed natural gas (CNG). I think it's the cleanest and easiest to transition to. I've seen a lot of fleet pick up trucks and commercial vehicles that run on CNG. If I had the resources to invest in alternative energy, CNG would be my preference.

Any words on NJGCA?

Yes. If it wasn't for the Association, who knows if you'd be talking to me right now or if I would even still be doing business at my location. That's not a joke and you can quote me! Like I said, I wasn't a member when the divestiture started, but after hearing Sal speak and learning about what was happening, I immediately signed up. There was a lot of celebrating and shoulder patting going on once First Right of Refusal was signed into law. A lot of different folks were involved, and they all deserve recognition for doing their part. But I always felt NJGCA didn't get enough credit for making it happen. It was the NJGCA Crew that organized our 8am meetings in the State House, helped us understand what was going on, gave us direction, and worked to hammer out a compromise. In fact, when the distributors said they wouldn't support the bill, I can remember Sal working to bridge the gap and get them onboard. I'm not confident this would have passed or I'd have the chance to own my location if it wasn't for that. Of course, there are other perks. When I had a NFA letter from DEP, I reached out and Debbie was able to help me get it resolved. When I was looking to save a few dollars, the Association put me in touch with TMP Energy and the Amato Insurance Agency to save on my expenses. But more than anything, I really like that someone's got my back whenever a problem comes up. In all my years in business, I've never had that and it's certainly appreciated. ■

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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

Zone Pricing

On September 12th over 50 Lukoil dealers in New Jersey and Pennsylvania protested against Lukoil North America by charging as much as \$9.99 a gallon for regular gas. There were several corporate policies that these dealers were protesting against, but a big issue was Lukoil's extensive use of zone pricing. Many dealers had faced instances in which they were paying more per gallon to Lukoil than their competitor was selling at retail. Data that we have collected indicated there were times when stations not too far apart from each other were being charged over 20 cents a gallon difference. This protest was covered by around 200 news outlets worldwide, raising awareness among the public on the issue of zone pricing. Assemblyman Patrick Diegnan (D-Middlesex), the sponsor of the bill that would ban zone pricing (A-2729), sent his Chief of Staff to attend our press conference and later sent out a press release standing with the Lukoil dealers against zone pricing. Stay tuned to your email, we hope to have this bill heard in the Assembly Consumer Affairs Committee before the end of the year.

Right to Repair

We are very happy to report that on August 8th Massachusetts Governor Deval Patrick signed into law the nation's first ever Right to Repair legislation. For years now independent auto repairers have been fighting in Washington and state by state to make the Right to Repair law. In New Jersey we came close when in 2008 the General Assembly became the nation's first legislative body to pass the measure. Unfortunately, it was held up in the state Senate and did not become law. The fight in Massachusetts has been going hard for several years now, but they were finally able to break through by threatening to put the issue before voters, who favored Right to Repair by a massive margin. More than 120,000 MA citizens signed the petition to get Right to Repair on the ballot. Facing near certain defeat, the auto manufacturers and car dealers agreed to compromise and have the bill pass legislatively.

The compromise bill would still require car companies to make diagnostic and technical information available to independent repair shops. Nevertheless, in order to get automakers and their allies to agree to that stipulation, lawmakers decided to give carmakers until 2017 to comply with the law –longer than what was already approved for the November ballot question. Auto companies will need to make the diagnostic info available through online "clouds" that repairers can access with daily, monthly, or yearly subscriptions for an affordable price. The

hardest part of this battle was always getting it passed once, now that it's been done once it will be much easier to get it passed elsewhere. Advocates are optimistic about getting a similar Right to Repair bill passed by Congress that would apply to the whole nation.

E15

In the last issue of the OTR it was reported that the EPA had successfully worked out with the Renewable Fuels Association the last hurdles preventing E15 from being sold at retail. There are now two stations in Kansas and one in Iowa which are selling E15 to consumers, and there are plans for several more to follow. The stations in Kansas are already seeing E15 make up around 20% of their sales. So far, none of their customers have reported any issues whatsoever. The octane for that particular blend was 90 and the price was averaging about 2 cents lower than regular but 20-30 cents lower than its mid-grade equivalent. It is likely that E15 will continue to pop up throughout the Midwest where ethanol has always been strongest. If you are interested in bringing E15 to your site, NJGCA highly recommends looking into the Renewable Fuels Association (RFA) and their website www.by ethanol.com

Minimum Wage Increase

In May the General Assembly passed a bill that would increase New Jersey's minimum wage to \$8.50 an hour, making it the third highest in the nation. Even more significantly, the bill would automatically increase the minimum wage every year based on increases in the Consumer Price Index. Governor Christie has said that he would be willing to agree to a minimum wage increase, but not the automatic increases. Rather than agree to that compromise, Senator President Steve Sweeney (D-Gloucester) is proposing a constitutional amendment that would set the minimum wage to \$8.25 and then increase it based on national economic data. In order to become law, the amendment would have to pass the legislature and then be passed by the voters in a general election. Some liberals oppose this plan because they do not think minimum wage earners should have to wait over a year for an increase. Business groups, including NJGCA, are united in opposition to the increase, especially the automatic increases. With the economy and joblessness as bad as they are, the last thing the government should be doing is making it more difficult to hire people. One analysis found that if the automatic increases had been put in place when first proposed in 1968, it would currently be \$9.20 an hour. A rise in the minimum wage puts pressure on all workers to demand a similar raise.

Roll-your-own Tobacco Machines

In September NJGCA went to Trenton to testify in favor in S-2149, sponsored by Senator Joe Vitale (D-Middlesex). The issue of roll your own tobacco machines is something that has

Continue on next page...

only come around in the last year or so. It has not yet had much growth in New Jersey, but it has in New York and many other states. The machines, which have been bought mainly by tobacco shops are expensive. They are capable of combining tobacco and cigarette paper to manufacture cigarettes at rate of about 200 cigarettes in only ten minutes. You may be wondering why people would bother with these machines and not just buy a prepackaged carton from their local convenience store or gas station. The answer is that because of loopholes in the state's tax laws, these cigarettes cost less than half of a regular carton of cigarettes. The federal government recently ruled that any store which operates these machines must be considered a cigarette manufacturer and should therefore pay all the taxes and follow all the regulations that the other manufacturers do. S-2149 would bring New Jersey in line with that policy. It passed the Committee 8-0 and now moves onto a vote by the full Senate.

Anti-Tobacco Displays

In the last issue of the OTR we reported on a tobacco display ban put into effect by the village of Haverstraw in Rockland County, New York. The ban would have prevented retailers from displaying or otherwise advertising in any way that tobacco products are for sale in their stores. Several major tobacco companies filed suit, saying the ban violated the 1st Amendment. In late July the village agreed to repeal the ban in exchange for the lawsuit being dropped. What makes the fight in this little town important is the precedent it would have set. If Haverstraw got away with such a draconian ban, it wouldn't have been long before we saw similar bans put into effect in New Jersey. This could have been especially bad here, where we have over 500 different municipalities, each with different laws. Imagine not being able to advertise or display the tobacco products you sell in your store while a competitor five minutes down the road in the next town still can. Hopefully the quick end to this law will discourage anyone from trying it elsewhere.

In August a US Appeals Court in Washington, DC struck down a law that would require cigarette packaging to have graphic pictures of the negative health effects associated with smoking, as well as an advertisement for a quit smoking hotline. By 2-1 the court decided that this law crossed the line from factual warnings about the effects of smoking into the realm of making "every single pack of cigarettes in the country a mini billboard" for the government's anti-smoking message. Also influential was a study conducted by the FDA that found the graphic labels would do little to cut down on smoking. This ruling clashes with a similar ruling earlier this year, setting up a potential Supreme Court battle.

Alternative Energy Bills

In September Senator Bob Smith (D-Middlesex), Chairman of the Senate Environment & Energy Committee, announced his intention to begin working on a comprehensive movement in the Legislature to write and pass one package of bills that will promote alternative energy in New Jersey. NJGCA testified in support of this effort, and we look forward to playing an active role in the coming deliberations. We hope to encourage the development of infrastructure for alternative energy vehicle

to grow on top of the vast, already existing infrastructure: gasoline service stations. Remember, you're not in the gasoline business; you are in the transportation energy business.

Rewards Cards

Thanks to legislation worked on by NJGCA, Stop & Shop and Shell have expanded their fuel savings program to New Jersey. For over a year, NJGCA worked with several associations and legislators on A-3133, which was signed into law in January. Previously, these rewards programs violated New Jersey's strict below cost selling laws on gasoline. When A-3133 was first introduced it was little more than a way for the big supermarket chains to go around those laws. After a year of negotiations we were all able to agree on a compromise bill that allows the station owner to enjoy the benefits of increased business that come from these programs, while preventing them from a bearing what can be a very high cost. The law requires that the gasoline must be pumped at the posted price. Those who have a discount from their rewards program will see their savings only as a credit on the receipt. This particular program allows customers to save 10 cents per gallon at participating Shell stations for every \$100 they spend at Stop & Shop (up to \$2.20 a gallon in savings). Imagine if the cost of that customer's savings had to be borne by you! This is the first major program to come to New Jersey, but it will likely not be the last.

NJGCA PAC

As we continue to fight for the issues that matter to you in Trenton, we need your support to be successful. As we build support for our issues, we must make sure that our allies are supported and that we show them that we are speaking with the backing of thousands of small businesses. We ask that you please make a donation of only \$100 to the NJGCA Political Action Committee. Your contribution will be helpful in our attempts to fight for issues like zone pricing and Right to Repair, and to prevent the state from repealing below cost selling laws or starting to sell lottery tickets over the internet. Mail your checks made out to the NJGCA PAC to our office at 66 Morris Avenue, Suite 1E, Springfield, NJ 07081. Thank you. ■

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ALL POLITICS IS LOCAL

5 Ways Small Business Owners Can Make a Difference in Trenton

AnnMarie McDonald,
NJ Lawsuit Reform Alliance

Even in the best of times, small business owners' days are long and downtime scarce. Time spent away from one's business often requires a trade off in commerce. And keeping up with the ever-changing rules, regulations, and requirements can be a job in itself.

Too often, small business owners say that they don't vote in "off year" elections for the state legislature because they're not as important as Presidential elections.

This belief is misguided. It is the levels of government closest to the people – the mayor, town council, and state senators and assembly members – who decide the best use for the empty lot across the street from one's business, vet factors that affect the small business owner's liability insurance rates, and determine for how long trash will idle near a storefront – not the President. Assemblywoman Amy Handlin calls them "the most important politicians you've never heard of." That's why it's especially important for small business owners to exercise care and concern during "off year" elections, even if televised media coverage implies otherwise.

Two out of five New Jersey residents are employed by or own a small business. In addition to supplying the backbone of our state's economy, New Jersey's small businesses have the potential to be a force to be reckoned with if their clout is used efficiently. Engaging at the local level gives busy small businesses owners their highest return on investment. Here are five straightforward steps small business owners can take to make a difference:

1. Do your homework. At a minimum, small business owners need to know who represents them and at which level of government. Several websites, including USA.gov, allow users to search for all elected officials in one place. Your Trade Association (NJGCA) and The New Jersey Lawsuit Reform Alliance (NJLRA) can help small business owners who need assistance.

In addition to two United States Senators and member of congress, New Jerseyans have representation at the state level – one state senator and two members of the General Assembly. Our state senator and state assemblymembers are the bread and butter of change.

2. Speak up - clearly. Small business owners should ask for a meeting about issues which affect their business, especially if they have never done it before. Whether it's a new tax or regulation, traffic changes outside their storefront, or any government action which affects how they run their business, it is important to be as clear as possible. For instance, "I am concerned about a proposed ordinance I read about on page 3 of the newspaper yesterday" is easier to address than "I am mad about this new tax I heard 'they' want to impose."

This gives small business owners quality face time with their representatives and an opportunity to build a relationship with their staff. When a small business owner needs help cutting through red tape, her first call should be to an elected official's staff, who may be able to help.

3. Don't assume Republicans only assist Republicans, or Democrats only assist Democrats. A good representative will never ask a constituent's party affiliation, nor deny service even if he is an unabashed member of the opposing party. It is a small business owner's constituency and value to their local community which makes him worthy of an elected official's time and services – period. State representatives are solidly within a business owner's reach: they live, work, and socialize among us and our neighbors, and may even be patrons of her business. They won't need to search far or wide for commonalities.

4. Build a coalition. Today, it's as easy as it has ever been to rally like-minded individuals around a common cause and extend your reach. Building support for a cause has never been easier or more convenient. Make a Facebook page. Start a Twitter campaign. Demonstrating that an idea has community support (or opposition) is helpful; using it to threaten or berate an elected official is not.

5. Be persistent. The wheels of democracy turn slowly, and there is a good reason for that. Our Founding Fathers wanted to create a system of government which would withstand the whims brought on by pop culture (yes, there was such a thing back then), and change laws only after careful deliberation. The same paradigm holds true for state governments as well. Although the pace of change can seem dishearteningly slow, small business owners should keep in mind that it is a necessary evil. And in the end, it will be worthwhile. ■

AnnMarie McDonald is the Director of Communications at the New Jersey Lawsuit Reform Alliance. She can be reached at amcdonald@njlra.org.

ELECTION 2012

THE NJGCA VOTER GUIDE

DECISION 2012 THE NJGCA VOTER GUIDE

by Eric Blomgren

On Tuesday, November 6th we'll be heading to the polls to vote. Last year we voted for who our representatives will be in the state government in Trenton, this year we are voting on our representatives to the national government in Washington, DC.

At the top of the ticket is the biggest race of all, and the only political office we have that everyone in the nation votes on: the Presidency. Current President Barack Obama, a Democrat, is running for a second four year term against the Republican nominee, Governor Mitt Romney. When you cast a vote for president, you also cast a vote for that candidate's chosen pick for Vice President. President Obama has chosen to run again with current Vice President Joe Biden, and Governor Romney has chosen Wisconsin Congressman Paul Ryan.

The next big decision to make is who will represent New Jersey in the US Congress. The Congress is divided in two, with the US Senate having two members from every state elected to serve 6 year terms; and House of Representatives having 435 members divided up among the states based on who has the most population, elected to serve a two year term. In the Senate we are currently represented by Senator Bob Menendez, a Democrat from Hudson County, who took office in 2006. Running against him is New Jersey State Senator Joe Kyrillos, a Monmouth County Republican.

Every citizen is represented by one of New Jersey's twelve Representatives. Extremely high taxes have driven so many people to move to other states that one of our seats in the House had to be taken away after the 2010 Census and given to a state that had experienced higher growth. Congressman Steve Rothman, a Democrat from Bergen County who was first elected in 1996 will not be returning to Congress this January after losing a primary race with Congressman Bill Pascrell. The district that each Congressman runs in have also been altered to take into account population changes in the last ten years, which is why you may find yourself voting for a different Congressman than you have in the past. Currently the Democrats hold control of the Senate by a 53-47 majority and the Republicans control the House by a 242-193 majority.

After the primary election decided the candidates for each office, NJGCA sent a candidate survey out to each party's candidates for President, Senate, and Congress. Several returned their answers to us, but unfortunately many did not. Myself and NJGCA intern Nick Core researched as many of the candidates' public statements as possible to try and find their positions on our issues wherever possible. Asterisks (*) are used to designate if the answer was the result of public statements and not their survey.

We strongly encourage you to take some time and do some research on your own before deciding who to cast your ballot for. There are expected to be several close elections in which every vote will matter. Nearly every candidate running for office today has their own website with information on their various policy positions. You might also try typing their name into Youtube.com for some video of them speaking about the issues. While this guide is meant to help you with discovering who you will be voting for and how they stand on the issues that affect your business directly; no doubt there are many other issues you care about that will determine your vote.

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WHO ARE THE CANDIDATES?

President & Vice-President

President Barack Obama (D) & Vice President Joe Biden (D) vs. Governor Mitt Romney (R) & Congressman Paul Ryan (R)

United States Senate

Senator Robert Menendez (D) vs. Senator Joe Kyrillos (R)

US Congress District 1

Congressman Rob Andrews (D) vs. Greg Horton (R)

US Congress District 2

Congressman Frank LoBiondo (R) vs. Cassandra Shober (D)

US Congress District 3

Congressman Jon Runyan (R) vs. Councilwoman Shelley Adler (D)

US Congress District 4

Congressman Chris Smith (R) vs. Brian Froelich (D)

US Congress District 5

Congressman Scott Garrett (R) vs. Deputy Mayor Adam Gussen (D)

US Congress District 6

Congressman Frank Pallone (D) vs. Mayor Anna Little (R)

US Congress District 7

Congressman Leonard Lance (R) vs. Assemblyman Upendra Chivukula (D)

US Congress District 8

Congressman Albio Sires (D) vs. Maria Karczewski (R)

US Congress District 9

Congressman Bill Pascrell (D) vs. Rabbi Shmuley Boteach (R)

US Congress District 10

Council President Donald Payne Jr. (D) vs. Brian Keleman (R)

US Congress District 11

Congressman Rodney Frelinghuysen (R) vs. John Arvanites (D)

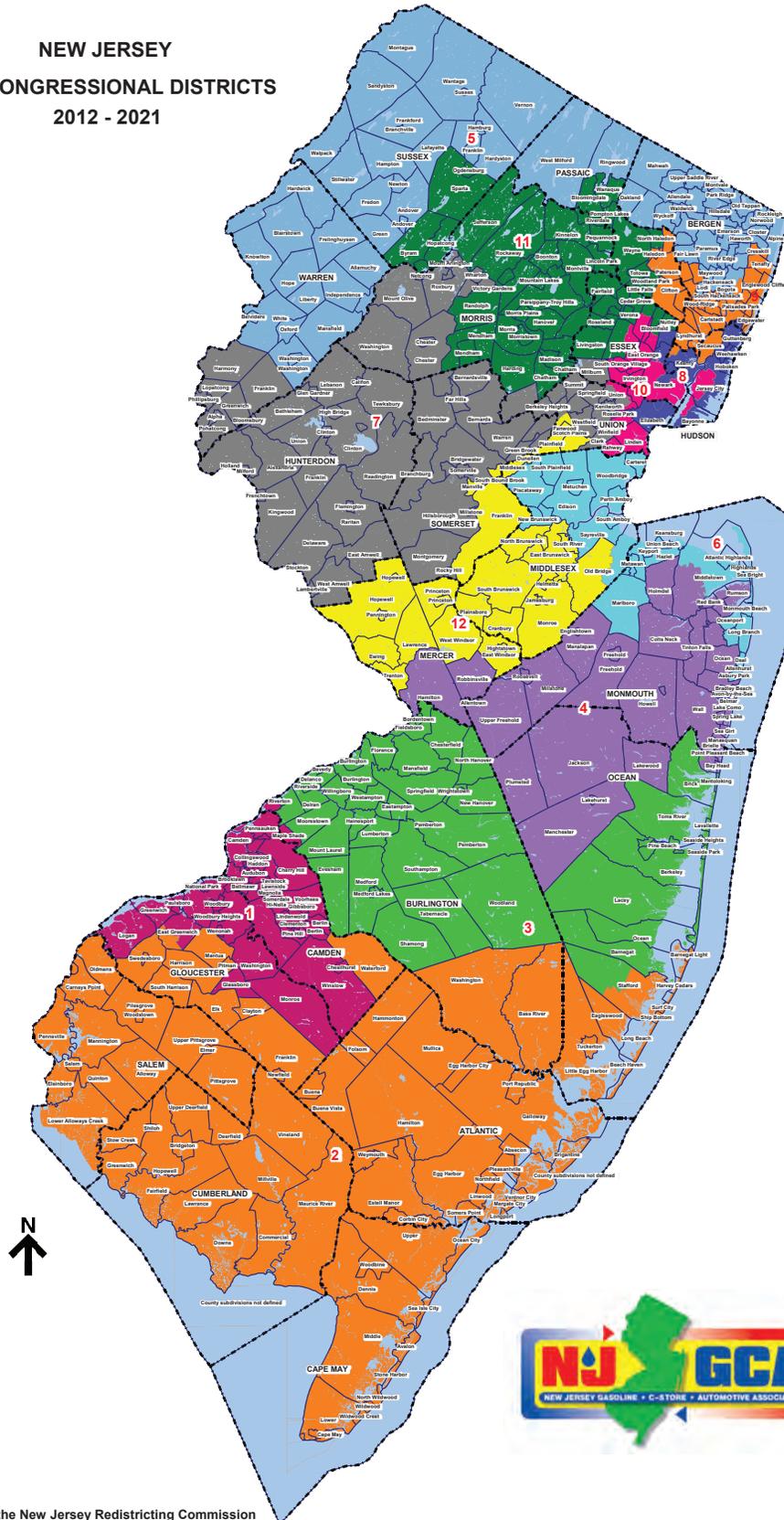
US Congress District 12

Congressman Rush Holt (D) vs. Eric Beck (R)

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THE NJGCA VOTER GUIDE

NEW JERSEY CONGRESSIONAL DISTRICTS 2012 - 2021



Adopted by the New Jersey Redistricting Commission
December 23, 2011



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WHAT DISTRICT DO I LIVE IN?

Atlantic County: 2nd District: Entire County

Bergen County: 5th District: Allendale, Alpine, Bergenfield, Bogota, Closter, Demarest, Dumont, Emerson, Fair Lawn, Franklin Lakes, Glen Rock, Hackensack, Harrington Park, Haworth, Hillsdale, Ho-Ho-Kus, Lodi, Mahwah, Maywood, Midland Park, Montvale, New Milford, Northvale, Norwood, Oakland, Old Tappan, Oradell, Paramus, Park Ridge, Ramsey, Ridgewood, River Edge, River Vale, Rochelle Park, Rockleigh, Saddle River, Teaneck (part), Upper Saddle River, Waldwick, Washington, Westwood, Woodcliff Lake, and Wyckoff. **8th District:** Fairview. **9th District:** Carlstadt, Cliffside Park, Cresskill, East Rutherford, Edgewater, Elmwood Park, Englewood Cliffs, Englewood, Fort Lee, Garfield, Hasbrouck Heights, Leonia, Little Ferry, Lyndhurst, Moonachie, North Arlington, Palisades Park, Ridgefield, Ridgefield Park, Rutherford, Saddle Brook, South Hackensack, Teaneck (part), Tenafly, Teterboro, Wallington, and Wood-Ridge

Burlington County: 1st District: Maple Shade and Palmyra. **2nd District:** Bass River and Washington. **3rd District:** Beverly, Bordentown City, Bordentown Township, Burlington City, Burlington Township, Chesterfield, Cinnaminson, Delanco, Delran, Eastampton, Edgewater Park, Evesham, Fieldsboro, Florence, Hainesport, Lumberton, Mansfield, Medford Lakes, Medford Township, Moorestown, Mount Holly, Mount Laurel, New Hanover, North Hanover, Pemberton Borough, Pemberton Township, Riverside, Riverton, Shamong, Southampton, Springfield, Tabernacle, Westampton, Willingboro, Woodland, and Wrightstown.

Camden County: 1st District: Entire County except Waterford. **2nd District:** Waterford.

Cape May County: 2nd District: Entire County.

Cumberland County: 2nd District: Entire County

Essex County: 7th District: Millburn. **8th District:** Belleville and Newark (part). **10th District:** Bloomfield (part), City of Orange, East Orange, Glen Ridge, Irvington, Maplewood, Montclair (part), Newark (part), South Orange, and West Orange (part). **11th District:** Bloomfield (part), Caldwell, Cedar Grove, Essex Fells, Fairfield, Livingston, Montclair (part), North Caldwell, Nutley, Roseland, Verona, West Caldwell, and West Orange (part).

Gloucester County: 1st District: Deptford, East Greenwich (part), Glassboro, Greenwich, Logan, Monroe, National Park, Paulsboro, Washington, Wenonah, West Deptford, Westville, Woodbury, and Woodbury Heights. **2nd District:** Clayton, East Greenwich (part), Elk, Franklin, Harrison, Mantua, Newfield, Pitman, South Harrison, Swedesboro, and Woolwich.

Hudson County: 8th District: Bayonne (part), East Newark, Guttenberg, Harrison, Hoboken, Jersey City (part), Kearny (part), North Bergen, Union City, Weehawken, and West New York. **9th District:** Kearny (part) and Secaucus. **10th District:** Bayonne (part) and Jersey City (part).

Hunterdon County: 7th District: Entire County

Mercer: 4th District: Hamilton and Robbinsville. **12th District:** East Windsor, Ewing, Hightstown, Hopewell Borough, Hopewell Township, Lawrence, Pennington, Princeton, Trenton, and West Windsor.

Middlesex County: 6th District: Carteret, Edison, Highland Park, Metuchen, New Brunswick, Old Bridge (part), Perth Amboy, Piscataway, Sayreville, South Amboy, South Plainfield, and Woodbridge. **12th District:** Cranbury, Dunellen,

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East Brunswick, Helmetta, Jamesburg, Middlesex Township, Milltown, Monroe, North Brunswick, Old Bridge (part), Plainsboro, South Brunswick, South River, and Spotswood.

Monmouth County: **4th District:** Allentown, Avon-by-the-Sea, Belmar, Bradley Beach, Brielle, Colts Neck, Eatontown, Englishtown, Fair Haven, Farmingdale, Freehold Borough, Freehold Township, Holmdel, Howell, Lake Como, Little Silver, Manalapan, Manasquan, Middletown (part), Millstone, Neptune City, Neptune Township, Ocean Township, Red Bank, Roosevelt, Rumson, Sea Girt, Shrewsbury Borough, Shrewsbury Township, Spring Lake, Spring Lake Heights, Tinton Falls, Upper Freehold, and Wall. **6th District:** Aberdeen, Allenhurst, Asbury Park, Atlantic Highlands, Deal, Hazlet, Highlands, Interlaken, Keansburg, Keyport, Loch Arbor, Long Branch, Marlboro, Matawan, Middletown (part), Monmouth Beach, Oceanport, Sea Bright, Union Beach, and West Long Branch.

Morris County: **7th District:** Chester Borough, Chester Township, Dover, Long Hill, Mine Hill, Mount Arlington, Mount Olive, Netcong, Roxbury, Washington, and Wharton. **11th District:** Boonton Town, Boonton Township, Butler, Chatham Borough, Chatham Township, Denville, East Hanover, Florham Park, Hanover, Harding, Jefferson, Kinnelon, Lincoln Park, Madison, Mendham Borough, Mendham Township, Montville, Morris Township, Morris Plains, Morristown, Mountain Lakes, Parsippany-Troy Hills, Pequannock, Randolph, Riverdale, Rockaway Borough, Rockaway Township, and Victory Gardens.

Ocean County: **2nd District:** Barnegat Light, Beach Haven, Eagleswood, Harvey Cedars, Little Egg Harbor, Long Beach Township, Ship Bottom, Stafford (part), Surf City, and Tuckerton. **3rd District:** Barnegat, Beachwood, Berkeley, Brick, Island Heights, Lacey, Lavallette, Mantoloking, Ocean Gate, Ocean Township, Pine Beach, Point Pleasant (part), Seaside Heights, Seaside Park, South Toms River, Stafford (part), and Toms River. **4th District:** Bay Head, Jackson, Lakehurst, Lakewood, Manchester, Plumsted, Point Pleasant Beach, and Point Pleasant (part).

Passaic County: **5th District:** Ringwood and West Milford. **9th District:** Clifton, Haledon, Hawthorne, Passaic, Paterson, and Prospect Park. **11th District:** Bloomingdale, Little Falls, North Haledon, Pompton Lakes, Totowa, Wanaque, Wayne, and Woodland Park.

Salem County: **2nd District:** Entire County

Somerset County: **7th District:** Bedminster, Bernards, Bernardsville, Branchburg, Bridgewater, Far Hills, Green Brook, Hillsborough, Millstone, Montgomery, North Plainfield, Peapack & Gladstone, Raritan, Rocky Hill, Somerville, Warren, and Watchung. **12th District:** Bound Brook, Franklin, Manville, and South Bound Brook.

Sussex County: **5th District:** Andover Borough, Andover Township, Branchville, Frankford, Franklin, Fredon, Green, Hamburg, Hardyston, Lafayette, Montague, Newton, Sandyston, Stillwater, Sussex Township, Vernon, Walpack, and Wantage. **11th District:** Byram, Hopatcong, Ogdensburg, Sparta, and Stanhope.

Union County: **7th District:** Berkeley Heights, Clark, Cranford, Garwood, Kenilworth, Mountainside, New Providence, Scotch Plains (part), Springfield, Summit, Union Township (part), Westfield, and Winfield. **8th District:** Elizabeth. **10th District:** Hillside, Linden, Rahway, Roselle, Roselle Park, and Union Township (part). **12th District:** Fanwood, Plainfield, and Scotch Plains (part).

Warren County: **5th District:** Allamuchy, Belvidere, Blairstown, Frelinghuysen, Hackettstown, Hardwick, Hope, Independence, Knowlton, Liberty, Mansfield, Oxford, Washington Borough, Washington Township, and White. **7th District:** Alpha, Franklin, Greenwich, Harmony, Lopatcong, Phillipsburg, and Pohatcong.

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NJGCA CANDIDATE SURVEY QUESTIONS

1. Major car manufacturers continue to deny small independent facilities the codes necessary to repair modern computer-managed vehicles, forcing them to turn away customers and centralizing more and more of the repair business in car dealerships. “Right to Repair” legislation would require the auto manufacturers to provide, for a fair price, access to the codes necessary to repair their vehicles to independent repair businesses. This would allow for an even playing field and open up competition by allowing consumers the ability to choose when, where, and how their car is repaired. Do you support a motor vehicle owner’s “Right to Repair”?
2. Do you support an increase in the federal gas tax?
3. Would you support the replacement of the federal excise tax on gasoline with a tax on the number of miles an individual vehicle travels?
4. Do you support tax increases on any tobacco products?
5. Do you support the implementation of a federal excise tax on sugary drinks?
6. The FDA has mandated that cigarette packages should be required to show graphic images of the effects cigarette has on the human body. Tobacco companies have sued to prevent these warnings from being applied. They argue that while it is acceptable for the government to require factual statements about the dangers of smoking, these warning labels cross the line by forcing a private company to use its own product to advocate against the use of that legal product. Would you support a bill which repealed the mandate requiring these graphic warnings?
7. Earlier this year a proposal was put forward in the Senate to overturn the 60 year old ban on the commercialization of rest areas on federal highways. This proposal would be disastrous for the thousands of small businesses located near highway exits that rely on travelers coming off the highway to fill up with gas or grab a bite to eat. Do you support the commercialization of rest areas on federal highways?
8. Do you support lowering the estate tax, so as to ensure that successful small business owners can pass on the business they spent their life building to their children without having to sell off large portions of it to pay the estate tax?
9. While most Americans agree that we should be using less oil in transportation fueling, too few Americans are investing in alternate energy vehicles. The main reason is that there is a limited infrastructure, and the main reason more businesses won’t install them is because of the huge cost. However, there already exists a nationwide infrastructure of businesses that consumers are accustomed to refueling at: gas stations. Would you support tax credits to businesses, particularly motor fuel retailers, which install natural gas, hydrogen, E85, or other alternate energy refueling capabilities?
10. Small businesses that sell gasoline are hostage to the roller coaster ride that is the modern oil market. Small events in foreign countries on the other side of the world can dramatically affect the price that retailers and consumers have to pay for gasoline. It is in our national and economic security interests to get more of our oil either from the United States or from stable democratic nations like Canada. In order to get that oil from Canada to market, it is necessary to construct more infrastructure, chiefly the Keystone XL Pipeline. Do you support the construction of the entire Keystone XL pipeline?
11. Any serious attempt to cut back on the use of foreign petroleum products will involve the expanded use of natural gas. Huge reserves of natural gas have been discovered beneath the soil of the United States. The technique required to access these reserves, hydraulic fracturing commonly known as “fracking”, has been met with criticism from some environmental groups who oppose the practice. Do you believe that hydraulic fracturing for natural gas should be banned by the federal

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government?

12. The Strategic Petroleum Reserve (SPR) was created so that during a significant emergency, like a major oil embargo or war, the nation would have a supply of oil to run on until the situation calmed. Last year, President Obama released 30 million barrels of oil from the SPR, not because there was a significant emergency, but because he wanted to force down prices. There were rumors earlier this year that there would be another release for the purpose of trying to lower oil prices. Do you support the use of the Strategic Petroleum Reserve for nonemergency purposes?

13. The Environmental Protection Agency has given final clearance for retailers to begin selling gasoline with an ethanol content of 15% (E15), up from the current level of 10%. This expanded use of ethanol has the potential to provide savings for consumers as well as reduce our nation's reliance on foreign oil. However, E15 may only be used in passenger vehicles Model Year 2001 and newer. There is a risk that customers' older cars may be improperly filled with E15 by accident, which may cause engine damage. The fear of lawsuits over misfueling is likely to force most gasoline retailers to hold off on selling E15, particularly in New Jersey since consumers are not responsible for misfueling. Would you support legislation that would protect motor fuel retailers from liability as long as they were following the EPA guidelines?

14. Big oil companies and mega-distributors are using a practice known as zone pricing to discriminate in the price they charge for the same product among different gasoline stations. Data has shown that some stations are being charged up to 30 cents more per gallon for the same brand product that is being sold to another station 5 miles away. The result is gasoline retailers paying more for the same brand gasoline than is being sold at retail at nearby competitors, and their customers having to pay much more than consumers down the street. Would you support a bill that eliminated the practice of zone pricing?

15. In the last few years the Obama administration and the major car manufacturers have agreed to dramatically increase CAFE fuel standards on new automobiles up to 54.5 mpg by 2025. These dramatic increases mean auto companies will have to spend more in order to develop the technology and techniques to increase their vehicles' average mileage so significantly. These costs will then be shifted to the consumer, meaning that many low income buyers will no longer be able to qualify for a loan for their car of choice. It also means that future cars will be made of more plastic and other light materials which increase mpg, resulting in vehicles that are less crash resistant. The Congressional Budget Office also released a report which predicts the increase in mpg will lead to a significant drop in gas tax revenue for state and federal governments, hurting the ability of the government to properly invest in necessary infrastructure repairs. Do you support these increases in CAFE standards?

16. Do you support requiring all businesses to use E-Verify to ensure that they are only employing individuals who are permitted to work in the country legally?

17. In many states, including New Jersey, an employee has little to no effective choice in whether or not to join a union and give up a portion of their salary as union dues. Right to Work legislation, enacted in many states, gives employees the ability to decide whether or not they will join a union. Would you support federal Right to Work legislation?

18. Do you support the effort to repeal the Affordable Care Act, also known as ObamaCare?

19. Would you support a healthcare reform bill which focused on providing tax benefits (and not tax increases) to small businesses which provided health coverage to their employees, allowed companies to sell insurance across state lines, and lowered the cost of doctors by reforming and limiting malpractice lawsuits?

20. Do you support an increase in the federal minimum wage?

21. Many auto repair businesses would like pay their mechanics a flat fee for a certain amount of hours. For example, \$1,000 per week for a 50 hour work week. Unfortunately, under current federal minimum wage laws this scenario is illegal. The employer can only pay a flat rate for the first 40 hours, after which the employee must be given time and a half, forcing the

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employer to concoct a complicated pay formula in order to accomplish the goal of paying an employee that much money for that many hours. However, mechanics at car dealerships are exempt from this provision of the law, and are allowed to be paid a flat rate even for more than 40 hours of work in a week as long as the average hourly pay does not fall below the minimum wage. Would you support expanding this exemption to all mechanics?

22. Some have advocated for laws which restrict an employer from considering a prospective employee's criminal history unless a background check has been performed after the interview process. It also prevents employers from asking about criminal history on a job application. This restriction on a business' hiring practices would force an employer to spend valuable time interviewing individuals who may never be hired for a position due to previous felonies related to the type of work. It also may open up employers to costly lawsuits from rejected applicants who think they were not hired because of an unrelated criminal history, when in fact they were not hired for being unqualified or unprofessional. Should employers be prohibited from considering a job applicant's criminal history?

23. Every small businessman lives in fear of a customer, ex-employee, or pedestrian filing a frivolous or exorbitant lawsuit against their business. The small businessman is hurt by the time, stress, and huge legal costs; the consumer is hurt when prices are raised to cover those costs; and the taxpayer is hurt by the court costs. Would you support meaningful tort reform that cracks down on people's abilities to wage expensive, lengthy, frivolous lawsuits for absurd amounts of damages?

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NJGCA CANDIDATE SURVEY RESULTS

Name	Office	District	Party	Incumbent	1. Right to Repair	2. Gas Tax Increase	3. Mileage Tax	4. Tobacco Tax Increase	5. Soda Tax	6. Repeal Graphic Labels	7. Rest Stop Priv.	8. Lower Estate Tax	9. Tax Credits for Alt. Energy	10. Keystone Pipeline	11. Ban Fracking	12. SPR for nonemergencies
Barack Obama	President	USA	D	*		YES*			YES*			NO*		NO*		YES*
Mitt Romney	President	USA	R			NO*		NO*				YES*		YES*	NO*	NO*
Bob Menendez	US Senate	NJ	D	*							NO*		YES*	NO*		
Joe Kyrillos	US Senate	NJ	R											YES*		
Rob Andrews	US House	1	D	*								YES*		NO*		
Greg Horton	US House	1	R		YES	NO	NO	NO	NO	YES	NO	YES	YES	YES	NO	NO
Frank LoBiondo	US House	2	R	*								YES*		YES*		
Cassandra Shober	US House	2	D													
Jon Runyan	US House	3	R	*								YES*		YES*		
Shelley Adler	US House	3	D													
Chris Smith	US House	4	R	*								YES*		YES*		
Brian Froelich	US House	4	D													
Scott Garrett	US House	5	R	*		NO*						YES*	NO*	YES*		
Adam Gussen	US House	5	D													
Frank Pallone	US House	6	D	*									NO*		NO*	
Anna Little	US House	6	R													
Leonard Lance	US House	7	R	*		NO*		NO*	NO*			YES*		YES*		NO*
Upendra Chivukula	US House	7	D		YES	NO	NO	NO	NO	YES	NO	YES	YES	YES	NO	NO
Albio Sires	US House	8	D	*	YES*									YES*		
Maria Karczewski	US House	8	R													
Bill Pascrell	US House	9	D	*	NO	NO	NO	NO ^[1]	YES	NO	NO	NO	YES	YES	NO	YES
Shmuley Boteach	US House	9	R													
Donald Payne, Jr.	US House	10	D													
Brian Keleman	US House	10	R													
Rodney Frelinghuysen	US House	11	R	*								YES*		YES*		
John Arvanites	US House	11	D		YES	YES	YES	YES	NO	YES	NO	YES	YES	YES	YES	YES
Rush Holt	US House	12	D	*								YES*	YES*	NO*		
Eric Beck	US House	12	R		YES	NO ^[2]	NO ^[2]	NO ^[2]	NO	NO	NO	YES	NO ^[2]	YES	NO	NO

Continue reading our Survey Results on next page...

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Name	Office	District	Party	Incumbent	13.E15 Liability Protection	14.Zone Pricing Ban	15.Support CAFE Increases	16.E-Verify	17.Right to Work	18.Repeal 'ObamaCare'	19.pro-business Healthcare Reform	20.Min. Wage Inc.	21.Mechanic Overtime Regs.	22.Ban on Employer Background checks	23.Lawsuit Reform
Barack Obama	President	USA	D	*			YES*	YES*	NO*	NO*		YES*			
Mitt Romney	President	USA	R				NO*	YES*	YES*	YES*	YES*	NO [3]			YES*
Bob Menendez	US Senate	NJ	D	*				YES*		NO*		YES*			
Joe Kyrillos	US Senate	NJ	R					YES*		YES*	YES*				YES*
Rob Andrews	US House	1	D	*			YES*			NO*		YES*			NO*
Greg Horton	US House	1	R		YES	YES	NO	YES	YES	YES	YES	NO	YES	NO	YES
Frank LoBiondo	US House	2	R	*						YES*					YES*
Cassandra Shober	US House	2	D												
Jon Runyan	US House	3	R	*						YES*	YES*				
Shelley Adler	US House	3	D							NO*					
Chris Smith	US House	4	R	*						YES*					YES*
Brian Froelich	US House	4	D							NO*					
Scott Garrett	US House	5	R	*						YES*	YES*	NO*			YES*
Adam Gussen	US House	5	D												
Frank Pallone	US House	6	D	*			YES*			NO*		YES*			NO*
Anna Little	US House	6	R							YES*					
Leonard Lance	US House	7	R	*				YES*		YES*	YES*				YES*
Upendra Chivukula	US House	7	D		YES	YES	YES	YES	NO	NO	YES	YES	YES	NO	YES
Albio Sires	US House	8	D	*						NO*					
Maria Karczewski	US House	8	R												
Bill Pascrell	US House	9	D	*	YES	YES	YES	YES	NO	NO	NO	YES	[4]	NO	NO[5]
Shmuley Boteach	US House	9	R												
Donald Payne, Jr.	US House	10	D							NO*					
Brian Keleman	US House	10	R												
Rodney Frelinghuysen	US House	11	R	*			YES*	YES*		YES*	YES*				
John Arvanites	US House	11	D		YES	YES	YES	NO	NO	NO	YES	YES	NO	NO	YES
Rush Holt	US House	12	D	*					NO*	NO*		YES*			NO*
Eric Beck	US House	12	R		YES	NO	NO	YES	YES	YES	YES	NO	YES	NO	YES

Green Cells indicate the candidate agrees with the NJGCA position on the issue

Red Cells indicate the candidate disagrees with the NJGCA position on the issue

Note: **Empty gray** cells indicate the candidate did not respond to our survey and has no voting record or clearly stated public position available

(*) denotes that the candidate did not respond to the survey but the position listed has been published in media outlets or their website

[1]: No, but would be willing to look at an increase on an individual basis

[2]: Would be willing to consider it if part of a comprehensive tax reform

[3]: Does not believe the minimum wage should be increased while the economy remains bad, but has stated support for tying increases to increases in Consumer Price Index

[4]: Need more information

[5]: Would carefully consider the specific provisions of any tort reform proposal before lending support, would not support cap on damages

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HOW DID THEY VOTE?

Since January 2011 the Republican Party has controlled the House of Representatives by a 242-193 margin while the Democratic Party has controlled the Senate by a 53-47 margin. This has led to some of the worst partisan gridlock in living memory. This Congress is on track to become one of the least productive Congresses since World War II. Several of the bills below were passed by the Republican House and then never brought up by the Democratic Senate. It is hoped that this election will break the partisan deadlock and many things will be accomplished in the coming “lame duck” session before the new Congress takes over in January 2013. The final 4 bills were all voted on in the previous Congress, when Democrats had control of both chambers of Congress.

Form 1099 Repeal

H.R. 4 repealed a provision of the Affordable Care Act which required all business owners to file a form for every vendor which they buy \$600 worth of goods or services from within a year. This would have added a huge bookkeeping burden to your business. NJGCA estimates the average service station would have likely had to file as many as 100 of these forms per year. Its backers believed that by every small business having to report all of its purchases, fewer revenues would be under reported and therefore more tax revenue would be generated. Opponents felt it was too demanding to be worth the revenue. It was signed into law in April 2011. A **YES** vote on this bill supported NJGCA's position.

Strategic Petroleum Reserve Replacement Bill

H.R. 4480 is the “Domestic Energy and Jobs Act”. This bill expands and streamlines the permitting process for oil and gas drilling on federal lands and creates a committee to analyze the impact various federal policies have on the price of gasoline. The most important aspect of the bill is the provision which seeks to protect the nation's Strategic Petroleum Reserve. It would require that anytime the President releases oil from the SPR, there must be an increase in the percentage of federal lands leased for oil and gas exploration, and that percentage increase should be the same as the percentage that the SPR was drawn down. NJGCA strongly believes that the SPR is for legitimate supply disruption emergencies only, this bill would discourage it from being used to try and artificially play with the market. Opponents felt that it was acceptably for the SPR to be used to try and lower the cost of gasoline. This bill passed the House and was stalled in the Senate. A **YES** vote on this bill supported NJGCA's position.

Increase Offshore Drilling

H.R. 6082 is the “Congressional Replacement of President Obama's Energy-Restricting and Job-Limiting Offshore Drilling Plan.” The bill requires the Obama Administration to allow more oil and gas leasing on the Outer Continental Shelf and Alaska's coast. The bill would have replaced the President's plan, which puts new offshore lease sales off limits for five years. Supporters of the bill believe that the more land that is available for drilling, the greater increase in supply, resulting in the cost of oil and gasoline decreasing. Opponents say it is not worth the risk of environmental damage. The bill passed the House and was stalled in the Senate. A **YES** vote on this bill supported NJGCA's position.

Medical Device Tax Repeal

H.R. 436 is the “Protect Medical Innovation Act of 2011”. This bill would repeal the 2.3% tax on medical devices implemented by the Affordable Care Act (ACA). Supporters of this provision believe the tax is necessary to pay for the costs of the ACA; however opponents say that the added cost of this tax will be passed onto the consumer, raising the high cost of healthcare even higher. This bill passed the House and was stalled in the Senate. A **YES** vote on this bill supported the NJGCA's position.

Freeze Regulations

H.R. 4078 is the “Red Tape Reduction and Small Business Job Creation Act.” This bill would prevent any agency of the federal government from enacting economically significant regulations until either the unemployment rate is below 6% or two years have passed from its enactment. Supporters feel that stopping new regulations will give the economy room to grow and employers more confidence to start hiring, while opponents feel that this is too long to go without the government able to make new regulations. The bill passed the House and was stalled in the Senate. A **YES** vote on this bill supported NJGCA's position.

Small Business Tax Cut Act

H.R. 9 is designed to spur small businesses to hire more employees by cutting their taxes. All small businesses with fewer than 500 employees would be able to deduct 20% of their income for one year. Supporters believe this is a great way to help out struggling small businesses by allowing them to keep more of their earnings and then invest it in growing their business. Opponents believe it will create too few jobs at too high a cost and encourage employers to hold off on spending and hiring until the bill went into effect. The

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bill passed the House and stalled in the Senate. A **YES** vote on this bill supported NJGCA's position.

Balanced Budget Amendment

H.J. Res. 2 would amend the US Constitution to require a balanced budget. The only exceptions would have been during a time of war or if three-fifths of both chambers voted in favor of deficit spending. The President would have been required to submit a balanced budget every year. For most of its history the US federal government has spent more money than it has collected, but these deficits have exploded in the last decade, particularly the last four years where we have seen yearly deficits over \$1 trillion. The current national debt stands at over \$16 trillion dollars, approximately \$51,000 per citizen. Many states, including New Jersey, have had similar provisions in their state constitutions for years. Supporters of this bill say that an amendment is necessary to finally bring an end to Washington's out of control spending. Most opponents feel that a balanced budget would require cuts to spending that would be too drastic. The bill failed to achieve the two thirds majority necessary for passage in the House. A **YES** vote on this resolution supported NJGCA's position.

Cut, Cap, and Balance Act

A bill designed to try and get the federal government's fiscal house in order. It would have enacted \$111 billion in cuts in Fiscal Year 2012, capped federal spending to force it down to around 20% of GDP per year, and permanently balanced the budget by amending the Constitution. Supporters felt it was a necessary action to balance the budget, while opponents felt the cuts were too large and that the deficit should also be reduced by increasing some taxes. The bill passed the House and was stalled in the Senate. A **YES** vote supported NJGCA's position.

Debt Ceiling Deal

Raising the debt ceiling has in the past been a fairly routine procedure performed by Congress. But in 2011, in the face of unprecedented deficits, House Republicans turned raising the debt ceiling into a major fight with the President and his Party. After weeks of negotiations, the President and House Speaker Boehner agreed to the Budget Control Act of 2011, which would raise the debt ceiling and put into place spending cuts. Economists had warned that if the debt ceiling had not been raised there would have been extremely severe economic consequences that would have hurt the nation's economy and international standing for years to come. The bill reduced spending more than the increase in the debt limit and did not raise any taxes. Supporters claimed the increase was necessary to prevent economic collapse. Some opponents thought that the deficit should have been cut by a mix of spending cuts and tax increases. Other opponents felt the deal did not go far enough in cutting spending. The bill was signed into law by the President in August 2011. A **YES** vote supported NJGCA's position.

Highway Bill

The Moving Ahead for Progress in the 21st Century Act (MAP-21) had been argued over for more than a thousand days. This 5 year bipartisan surface transportation bill streamlines the federal highway program in a variety of ways. The bill will reduce waste and bureaucracy, streamline regulations, focus more funding on safety and prioritize major projects. The bill also does not increase the gas or diesel tax. The Service Station Dealers of America (SSDA), a national trade association of gasoline service stations, worked hard on this bill and supported its passage. Some estimate it will create or protect 50,000 jobs in New Jersey. Opponents felt it was too costly. The bill was signed into law by the President in July 2012. A **YES** vote supported NJGCA's position.

*****Note, the following bills were passed in the previous Congress*****

Affordable Care Act ('ObamaCare')

The Patient Protection and Affordable Care Act (commonly known as 'ObamaCare') is a massive healthcare reform bill. Among other things, it mandates that everyone in the US either buy health insurance or pay a fine. The bill voted on included the provision requiring 1099 forms for all businesses, discussed above. It increases a variety of taxes, including on medical devices, tanning salons, and health insurance companies. It also expands coverage and requires insurance companies to cover preexisting conditions and allows adults up to the age of 26 to stay on their parent's healthcare plan in many circumstances. Supporters say the bill will hold down the price of healthcare in the long-term and expand coverage to those that don't have it. Opponents say it is an unwarranted expansion of government power, hugely costly at a time when it can't be afforded, that it will drive up the cost of healthcare for everyone while lowering the quality of care. It was signed into law by the President in March 2010. A **NO** vote supported NJGCA's position.

Cap and Trade

The bill proposed a cap and trade system designed as a way to lower the amount of carbon dioxide emissions into the air by penalizing the burning of fossil fuels. The government would set a limit on the amount of greenhouse gases that could be emitted nationwide, and companies would be given credits allowing them to burn a certain amount of these gases. These credits could be traded among

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companies for a price. Supporters felt this bill was necessary to stop global warming, which they feel is a significant threat to the environment. Opponents felt the bill would have raised energy costs for all Americans and would have been too detrimental to US businesses. The bill passed the House in 2009 and stalled in the Senate. A vote of **NO** supported NJGCA's position.

Tobacco Tax Increase

Federal Excise Tax rates on many tobacco products were raised as a way to pay for the Children's Health Insurance Program Reauthorization Act of 2009. The tax on a pack of cigarettes was raised 62 cents to \$1.01 a pack. Other tobacco products saw tax increases as well, although not to the same degree as cigarettes. In the years since this has led to some tobacco shops investing in Roll-Your-Own machines which allow customers to manufacture cigarettes using pipe tobacco which is taxed at a much lower rate than cigarettes, resulting in cartons of cigarettes being sold for half the price than those at convenience stores or gas stations. Supporters of the bill felt that the higher taxes on tobacco were worth the cost to provide more health insurance for children. Opponents were not in favor of the costs of the program or the higher taxes it implemented. The bill was signed into law in February 2009. A vote of **NO** supported NJGCA's position.

Stimulus Bill

The American Recovery and Reinvestment Act of 2009 was the first major piece of legislation during the Obama Administration. Put forward when the economic recession was at its worst, it consisted of nearly \$800 billion worth of spending and tax cuts designed to stimulate the economy and lower unemployment. The administration had estimated that if the Stimulus Act passed, it would hold unemployment to a peak of 8% and that by now it would be less than 6%. However, even with its passage the unemployment rate peaked at over 10% and is still over 8%. Opponents of the bill felt it was too much spending at a time when the government was spending too much, and much of the proposed spending was not immediate enough to have an effect. Supporters argue that without the bill, the recession would have been significantly worse and the bill was worth the cost. It was signed into law by the President in February 2009. A **NO** vote supported NJGCA's position.

Name	District	Party	1. Form 1099 Repeal	2. SPR Replacement	3. More Offshore Drilling	4. Repeal Medical Drilling	5. Freeze Regulations	6. Small Business Tax Cut Act	7. Balanced Budget Amendment	8. Cut, Cap, & Balance Act	9. Debt Ceiling Deal	10. Highway Bill	11. Enact 'ObamaCare'	12. Cap and Trade	13. Tobacco Tax Increase	14. Stimulus Bill
Bob Menendez	NJ	D	YES	NA	NA	NA	NA	NO	NO	NO	YES	YES	NA	YES	YES	
Rob Andrews	1	D	YES	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	YES	
Frank LoBiondo	2	R	YES	YES	NO	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	NO
Jon Runyan	3	R	YES	YES	NO	YES	YES	YES	YES	YES	YES					
Chris Smith	4	R	YES	NV	NO	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	NO
Scott Garrett	5	R	YES	YES	YES	YES	YES	YES	YES	NO	NO	NO	NO	NO	NO	
Frank Pallone	6	D	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	
Leonard Lance	7	R	YES	YES	NO	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	NO
Albio Sires	8	D	YES	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	YES	
Bill Pascrell	9	D	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	YES	
Rodney Frelinghuysen	11	R	YES	YES	NO	YES	YES	YES	YES	YES	YES	YES	NO	NO	YES	NO
Rush Holt	12	D	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	

Green indicates a vote in agreement with NJGCA

Red indicates a vote in opposition to NJGCA

NV indicates no vote was cast

NA indicates the bill was never available to be voted on in the Senate

Blank spaces indicate that the individual was not in Congress when the vote was taken

ELECTION 2012

THE NJGCA VOTER GUIDE

Who else is on the ballot?

The Presidential, Senate, and House races are the biggest battles this year, but there will be other issues on the ballot depending on where you live. Everyone in the state will be voting on an Amendment to the New Jersey State Constitution. The Constitution currently states that the Legislature cannot lower the salaries of judges while they are on the bench. When the Legislature and the Governor passed the landmark pension and benefit reform bill last year, they had intended for judges to be affected the same way every other government employee was. The judges however ruled that they should not have to face any cuts or alterations to their benefits. If the Amendment passes then judges will have contributions taken from their salaries to help pay the cost of their pensions and healthcare, the same as for every other state employee.

All the members of the New Jersey General Assembly faced election last year and are scheduled to be voted on again next year. This year, there are three seats in the General Assembly that residents will be voting on in special elections this November. In District 4, which covers parts of Camden and Gloucester Counties, Assemblywoman Gabriela Mosquera (D) is facing a rematch against Republican Shelley Lovett. Asw Mosquera won in 2011, but because she had not been a resident of the district for long enough, the court prevented her from taking office. She was appointed by the County Democratic Party not long after, when she did fulfill the residency requirement. The most competitive of these Assembly contests is the one in the 16th District, which includes parts of Hunterdon and Somerset Counties as well as Princeton and South Brunswick. A vacancy was created when Assemblyman Peter Biondi, who first took office in 1998, passed away. The Republican Party appointed Hunterdon County Freeholder Donna Simon to fill the seat. Running against her is Democrat Marie Corfield, a public school teacher who once got in an argument with Governor Christie. While the 16th was once a strongly Republican District, redistricting last year made it much more competitive. Finally is the race in the 26th District, covering parts of Morris, Essex, and Passaic Counties. This vacancy was created when Assembly Republican Leader Alex DeCroce passed away in June. His wife, BettyLou, was selected to replace him. She is being challenged by Democrat Joseph Raich.

Finally, there will also be a variety of different County and municipal races depending on where you live.

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When Are NSF's Not Sufficient Reason for Termination under the PMPA?



Joseph v. Sasafrasent, LLC, 2012 WL 3038541 (7th Cir. 2012), concerns a distributor's attempt to terminate a lessee dealer after he repeatedly bounced EFTs for non-sufficient funds ("NSF").

The case is significant because it attempts to strike a balance between the franchisor's right under the PMPA to terminate for the franchisee's failure to pay in a timely manner for product, and the franchisee's right to a preliminary injunction to forestall termination under the PMPA's liberal standard.

The relationship between franchisor and franchisee had been marred by repeated NSF incidents, some of which the dealer took responsibility for, while blaming the distributor's collection practices for others. The three July 2010 NSFs that triggered the distributor's notice of termination followed the dealer's decision to change banks.

The first July NSF resulted from the distributor debiting the dealer's old bank account, and the dealer conceded his responsibility because he had not provided the distributor with adequate notice of his change of accounts.

The second July NSF was caused by the distributor, which continued to debit the dealer's old account even after receiving notice of the account change.

The third July NSF, according to the dealer, was attributable to "mutual mistake." It supposedly resulted both from the dealer's failure to move money into the new account, and from the distributor's failure to deposit credit card receipts into the correct account.

When the distributor sent the dealer a notice of termination for untimely payment for product, the dealer sought a preliminary injunction in federal court. The obstacle that he had to overcome was the PMPA's express incorporation of failure to make timely payment as a valid ground for termination or nonrenewal.

When the federal district court ruled against the dealer, he appealed to the Seventh Circuit Court of Appeals.

The Seventh Circuit joined the majority of other circuits that have held that the occurrence of one of the specific events listed in 15 U.S.C. § 2802(c) – such as a failure to make timely payment – justifies, a matter of law, a franchisor's decision to terminate the franchise. But that was not the end of the court's inquiry.

The Court of Appeals reversed the district's denial of an injunction and sent the case back to the district court for further analysis because the district court had failed to consider adequately the definition of what constitutes a dealer's "failure," which is contained in §2801(13) of the PMPA.

The statute excludes from the definition of "failure" – including a failure to make payment – any failure which is "only technical or unimportant" or is due to a "cause beyond the reasonable control of the franchisee."

The district court was directed to evaluate whether the July incidents that were attributable to the dealer were significant in view of the continuing relationship between the parties, and the extent to which the NSFs were attributable to the distributor's own mistake, and therefore not under the reasonable control of the dealer.

All of this seems to be a matter of legal technicalities, and so it is. The important point, however, is that even a ground for termination expressly recognized in the PMPA may not necessarily be fatal to a dealer's position, if he is given some leeway to explain mitigating circumstances. ■

eMail: 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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THE ENERGY EXAMINER

FROM TRADITIONAL RESOURCES TO ALTERNATIVE ENERGY INNOVATIONS

By Nick De Palma



Since our debut in 2007, NJGCA *On The Road* has brought you timely updates on changes in the energy and automotive industries. Today, each new issue of *On The Road* will bring you more update and information in our *Energy Examiner*. The *Energy Examiner* will offer readers news from around the energy/transportation industry and how it will affect your small business. If you have any questions or comments on what you review in these quarterly pieces, please feel free to reach out to NJGCA. You may also visit www.njgca.org/energy-examiner for more details.

*** ENERGY EXAMINER ***

UPDATE: FOSSIL FUELS REGULATIONS DRIVE UP TURBOCHARGER SALES; NEW ELECTRIC TURBOS COMING!

*** ENERGY EXAMINER ***

With government fuel economy and emission regulations growing tighter and more stringent, the number of turbocharged engines is rising globally. As a relatively inexpensive way of creating power from smaller displacement engines, turbo sales have skyrocketed in the last two years and may jump 80-percent over the next five years. What's more, analysts now believe that turbocharging will soon be available on nearly 40-percent of all vehicles sold worldwide, up from the current level of 25-percent availability.

The news comes as the technology is becoming more dependable and affordable than ever before. Though turbocharging has been around for decades, it was reserved primarily for sports cars and expensive luxury vehicles. Traditionally, this was due in part to the additional costs associated with development and manufacturing. After all, any additional parts used to build a completed automobile either must be absorbed by the automaker or passed along to the consumer, either of which could impact product volume and affect profits. What's more, expensive engine software was often necessary to allow the turbochargers to match engine performance, prevent turbo-lag, and remain reliable for everyday use. These software costs also often made turbocharging cost prohibitive. From a cost perspective, many manufacturers simply increased engine displacement or moved to other naturally-aspirated engines in order to meet their needs – which were typically less expensive than adding additional parts or complexity to powertrains.

Today, however, many carmakers are unable to continue this pattern of offering larger-but-cheaper-to-make engines. Current global regulations are forcing automakers and part suppliers to invest more time and resources to turbo development. As engine efficiency and pollutant standard rise, automakers are being forced to cut cylinders and displacement, while not sacrificing power – a natural fit for this technology.

Unlike other alternative technologies that require additional investment and cost reductions, turbocharging can be applied to a wide range of vehicle segments through much of the world. For example, in Europe, turbocharging has transformed fuel efficient (but ho-hum) diesel motors into the preferred engine choice among motorists. In the United States, the same is happening, but nearly exclusively with gasoline engines. Ford Motor Company, General Motors, Chrysler Corporation, and others are fitting turbochargers to smaller, four-cylinder engines. However, larger displacement six-cylinder engines are also receiving this treatment, pushing this powertrain choice beyond small cars and into larger, more luxurious vehicles.

Nevertheless, as popular as they've become, the way turbos make their power is also changing, even as demand climbs. German automaker Audi has recently announced it is investing in "electric-assist" turbocharging. While the general premise is the same, this variation of the technology uses an electric motor to spool up the turbo when engine demand is low. Doing could mean sapping less power from the engine (which increases efficiency) while also virtually eliminating turbo-lag (translating to more power across a larger rev-range and making the engine more flexible for all driving situations).

Interestingly, adding a second turbo to this set up – one smaller one for light demand and a second for heavier power needs – could increase efficiencies even more. Ultimately this could help engine sizes shrink even further when a

Continue reading on next page...

second (bi-turbo) model is adapted. With turbo sales expected to triple in the United States over the next five years to 4 million units annually, any new developments will almost assuredly drive costs down further.

*** ENERGY EXAMINER ***

UPDATE: ETHANOL / BIOFUELS / BIODIESEL E15 GAINING APPROVAL FROM AUTOMAKERS; SEAWEED BIOFUEL DEVELOPMENT

*** ENERGY EXAMINER ***

In an effort to increase the amount of ethanol used in motor fuel, earlier this year the Environmental Protection Agency (EPA) approved the use of E15 (that is, gasoline that is composed of 85-percent gasoline and 15-percent ethanol) for use in motor vehicles. When implementing the new regulation, the EPA stated that E15 was safe for vehicles produced in 2001 or later. At the time, however, car manufacturers were not fully convinced that the new fuel blend would not damage internal engine parts and cause motor failures.

E-15 is the octane equivalent of mid-grade gasoline.

While automakers are still studying the effects of E15 on older vehicles, General Motors and Ford Motor Company have announced that late model vehicles may safely use the fuel. General Motors now recommends E15 for 2012 or newer products, while Ford will recommend the blend for their 2013 cars. Regulators are awaiting a similar announcement from Chrysler Corporation and hope that other automakers doing business in the United States will soon follow suit.

The news comes as the EPA takes final steps in approving procedures, labels, and related logistics to prevent vehicle misfueling in the marketplace. Though E15 is available at a handful of service stations in the Midwest, it has yet to be rolled out in most markets.

Even as regulators attempt to expand E15s footprint in the United States, there are increasing attempts at create biofuels from cheap, non-crop based plant sources. Programs are already well underway to use switch grass, wood chips, algae, corn stalks, and other plant materials as a basis for creating biofuels. However, one interesting approach seeks to use seaweed as the foundation for biofuel production.

Currently under development in India, researchers are looking at sea-based plants as a foundation for ethanol. Green seaweed is very cheap, fast growing, plentiful, doesn't require watering of any kind, and doesn't take up farm space that can be devoted to other, more important crops. However, ethanol production from the plant has eluded scientists because bacterial organisms aren't able to consume the sugars in the seaweed. The only way around this process is to either genetically manipulate bacterial strains until new organism are developed to consume green seaweed or find another approach.

One sign of hope comes from a related, red seaweed species. Red seaweed is found in shallow seas and scientists are able to complete the ethanol fermentation process using ordinary yeast bacteria. This could potentially move ethanol production to the world's oceans, by creating underwater lattice structures to grow the red seaweed in deeper water. The weeds can then be harvested and converted into ethanol and pumped back to shore without the need for an on-land facility.

*** ENERGY EXAMINER ***

UPDATE: ELECTRICITY & ELECTRIC POWERED VEHICLES NEW ALGORITHM CUTS BATTERY CHARGING TIMES; INCREASES EFFICIENCY

*** ENERGY EXAMINER ***

Engineers and researchers at the University of California in San Diego have developed a new "estimation" algorithm that may revolutionize current battery technology.

An algorithm is a mathematical equation upon which computer software programs are based. Said differently, the algorithm acts as a possible set of directions by which a task maybe completed. The new algorithm permits lithium-ion batteries to run more efficiently and allows them to charge twice as fast currently possible.

The technology is so promising that the Department of Energy is funding further research, which could have large implications beyond electronic devices.

If fully commercialized, the new algorithm could alleviate range anxiety for electric car drivers, drastically cutting down on the time it takes to recharge a vehicle's batteries and delivering more efficient performance from a single charge.

What's more, engineers believe that the estimation algorithm may also allow batteries to run more powerful electric motors without increasing actual capacity. This would allow smaller batteries to power larger engines, which would save vehicle weight, and increase total driving range.

Continue reading on next page...

UPDATE: HYBRIDS **NEW FLUID HELPS HYBRID BATTERIES STAY COOL**

Hybrid vehicle sales continue to increase and automakers are churning out more unique hybrid products to the public. While the technology is proven, it nevertheless is continually improving.

One area that has continued to vex engineers concerns cooling a hybrid car's battery packs.

Like electric vehicles, hybrid cars use batteries as part of an integrated powertrain system. However, unlike electric cars that use batteries and electric motors, hybrid cars use a combination of gasoline and electric propulsion to reduce fuel consumption. As such, mechanical energy is recovered and stored in a battery, which later is used to power an electric motor which assists the gasoline engine or powers the vehicle directly under low-speed conditions. For both hybrid vehicles and electric cars alike, keeping the vehicle's batteries cool is of incredible importance. A battery that is too hot is inefficient, begins to lose its charge, and may eventually harm performance.

However, a new coolant developed in Germany may help to address many of these concerns. The coolant fluid uses a mixture of paraffin droplets and water to improve the cooling process. When the fluid heats up, the paraffin absorbs excess heat, allowing a battery to perform properly and stay within specified heat tolerances. When the car is parked, the paraffin cools and returns to a solid state. Later, the coolant can be reused again, and the process repeats itself.

Researchers hope to have the battery coolant available by the end of the year to allow car manufacturers to field test the fluid.

UPDATE: HYDROGEN / HYDROGEN FUEL CELLS **NEW HYDROGEN FUEL STATIONS MAKE ELECTRICITY, HYDROGEN, AND HEAT**

Most analysts believe that hydrogen fuel cell vehicles offer the best long-term solution to our transportation needs. Hydrogen fuel cells provide lots of driving range while producing nearly no emissions and can be refueled relatively quickly

While costs are still mostly prohibitive, one logistical drawback in wider adaptation of hydrogen fuel cell vehicles is due to the lack of a hydrogen-refueling infrastructure to serve the needs of motorists.

Recently, however, Air products and FuelCell Energy have teamed up to develop a stationary, "tri-generation" powerplants which would create hydrogen, electricity, and useable heat. This would essentially create a single immobile generator that could produce electricity for electric car drivers, hydrogen for fuel cell vehicles, and heat which can be converted to electricity or used for climate control purposes. In doing so, it would give users "three bites at the apple" to solve their energy needs, thereby making hydrogen production more cost effective and increasing the likelihood that the infrastructure footprint will expand.

The companies hope to market this device to commercial users, but it is being developed with retail refueling in mind.

UPDATE: NATURAL GAS / PROPANE **QUICK CNG REFUELING SYSTEM DEVELOPED BY GENERAL ELECTRIC**

As part of a new program aimed at improving natural gas fueling, General Electric (GE) has produced an affordable and quick refueling system that the company hopes will increase the popularity of compressed natural gas (CNG) vehicles.

Despite their many advantages, CNG stations are a rare site for most consumers. The lack of refueling points has inhibited CNG sales and detracted non-commercial customers from making a purchase. However, CNG powered trucks, cars, heavy equipment remain very popular with government, fleet, and commercial users.

To spur interest, GE is now offering a home-based natural gas refueling station that has been funded in part by the Department of Energy. The station would cost approximately \$500 and cut refueling time down to 1 hour from the current 5-8 hours it takes to currently refuel a CNG powered car at home. By comparison, most home-based CNG refueling stations costs \$5,000 or more and require long refueling periods. The system does this by chilling and condensing the natural gas in order to make it easier to transfer into a vehicle's fuel tank.

GE and industry watchers hope that the quick refueling characteristics and affordable price tag may help ignite natural gas powered vehicle sales. When combined with the low cost of natural gas, it may tempt motorists to finally give these vehicles an opportunity to crack the wider retail market.

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ASCENTIUM CAPITAL – Finance Solutions for the Service Station Industry
ASSOCIATION MASTER TRUST (AMT) – Health Coverage
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*** ENERGY EXAMINER ***

UPDATE: NUCLEAR / WIND / SOLAR / GEOTHERMAL NEW GEOTHERMAL HOTSPOT FOUND IN UTAH DESERT

*** ENERGY EXAMINER ***

Scientists in Utah have discovered a massive geothermal hotspot in the Black Rock Desert that may offer a unique opportunity for energy production. Industry watchers believe that the area could one day host a series of power plants to produce electricity for the region.

Unlike past geothermal resources, this hotspot is much deeper and presents its own challenges if plants were built. Plant operators would have to bring water up from 10,000 feet below the surface to make electricity, then inject it back underground for reheating. Nevertheless, the geothermal industry still believes the hotspot can be exploited for energy production.

Over a two year time span, drilling crews created nine wells to test the area and now believe that a 100-square-mile area within the region could support multiple electrical plants.

The news comes after a report was released by the US Geological Survey several years ago stating that the nation's geothermal resources were not being fully exploited. The same report estimated that 80 percent of the potential sites weren't yet discovered. ■

THE LEGISLATOR SPOTLIGHT

By Eric Blomgren

NJGCA has seen many legislative successes over the past few years. We'd like to take some time to tell you a little bit more about the men and women who have been instrumental in helping your small business prosper.

ASSEMBLYMAN GARY CHIUSANO



The Honorable Gary R. Chiusano was first elected to the New Jersey General Assembly in 2007. Asm. Chiusano, a Republican, represents the 24th Legislative District alongside Assemblywoman Alison McHose. The district comprises all of Sussex County and parts of Warren and Morris Counties.

Asm. Chiusano has been a leader of the Assembly

Republicans during his time in office, and was named a Deputy Republican Leader earlier this year. Before coming to the Legislature he served as a member of the Sussex County Board of Freeholders, and as Mayor of Frankford Township before that. Last November Assemblyman Chiusano was reelected with nearly twice as many votes as his opponent.

Asm. Chiusano serves on the Assembly Budget Committee and the Assembly Financial Institutions & Insurance Committee. He has said he is committed to lowering government spending, reforming the state's overactive judiciary, and protecting both the taxpayers and traditional family values.

During his time in the Assembly, Asm. Chiusano has been one of NJGCA's most stalwart allies. He voted for the Right of first Refusal in 2009, a piece of legislation that has since directly lead to hundreds of small businessmen being able to own the business that they had managed for years and even decades. He was also a key Republican backer of our successful

effort to pass the Right to Repair in the Assembly in 2008.

Assemblyman Chiusano was also one of only a handful of current legislators to earn a perfect score on our 2011 Voter Guide Survey, agreeing with NJGCA on all ten issues asked about, including opposition to zone pricing, support for the below cost selling law, and opposition to a minimum wage increase.



Assemblyman Chiusano also has some personal experience in a previous career that allows him to better understand the gasoline service station and auto repair businesses. It's comforting to know there is someone in the Legislature with this experience.

NJGCA again thanks Assemblyman Chiusano for all his support for the small business owners of this state, particularly those in the gasoline station, convenience store, and automotive repair industries. We look forward to continuing to work with him for a long time to come. ■

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PMPA Trumps Eviction Law



In *Zad, LLC v. Bulk Petroleum Corp.*, 2012 WL 1886471, a Kentucky appellate court recently considered whether a supplier can bypass the protections against dealer termination contained within the federal Petroleum Marketing Practices Act by proceeding instead under state eviction law. At least in this instance, it could not.

When the relationship between dealer *Zad* and distributor *Bulk* deteriorated, *Bulk* filed a petition for forcible detainer in state court, seeking a summary order of eviction for *Zad*'s failure to make timely rent payments. The trial court's order finding *Zad* "guilty" of forcible detainer ultimately was reconsidered by Kentucky's Court of Appeals.

Zad argued that the trial court's summary disposition of the case should be set aside because *Bulk* had not complied with the more onerous termination requirements contained within the federal statute.

The Kentucky appellate court recognized that the parties' dispute typified "the debate that has been going on in courtrooms across the country since the PMPA was enacted – whether and to what extent the PMPA preempts state legislation which does not expressly attempt to regulate petroleum franchises."

After recognizing that decisions in other states had gone both ways, and finding none of them particularly persuasive, the Kentucky appellate court conducted its own analysis of the preemptive sweep of the PMPA when applied in the context of a state eviction proceeding.

In finding that the state eviction law was indeed preempted when applied in the context of a service station lease agreement, the Kentucky appellate court emphasized the summary nature of an eviction proceeding, as opposed to the far more demanding requirements for franchise termination set forth in the PMPA.

The appeals court observed:

[Such eviction proceedings] frequently involve merely a showing that the tenant has stopped paying rent or some other relatively basic provision of the lease agreement. Indeed, that is all the evidence *Bulk Petroleum* offered the district court that *Zad* has not paid rent for November and December of 2008 and January 2009. The PMPA, on the other hand, requires a series of thoughtful, difficult factual analyses before a franchise relationship can be deemed properly terminated, which ... forcible detainer procedures are [not] equipped to handle. We conclude that the issues are certainly not of the type Congress

intended to be addressed by a court of limited jurisdiction.

The appellate court's opinion, of course, is limited to its consideration of Kentucky law and other state courts may or may not agree with its conclusion. Nevertheless, its ruling appears to correctly recognize that Congress intended that special requirements must be satisfied if a supplier desires to terminate any of the three key characteristics of a petroleum marketing franchise: the lease, supply agreement and trademark license.

One seemingly limiting aspect of the Kentucky appellate court's opinion should be noted. The court's opinion begins with the boldface notice that "THIS OPINION IS NOT FINAL AND SHALL NOT BE CITED AS AUTHORITY IN ANY COURTS OF THE COMMONWEALTH OF KENTUCKY." That caption may or may not be removed from the opinion following exhaustion of any further appeal.

This device, which is often used by courts to limit the impact of their decisions on subsequent cases, is problematic.

In reality, lawyers are almost certain to cite the court's opinion despite the court's disclaimer, and it is highly unlikely that a lower court in Kentucky, or perhaps elsewhere, will ignore its analysis in any event.

This trend toward supposedly non-precedential opinions is troubling. If a court reaches a conclusion concerning a legal issue that is likely to recur, why should it not stand by what it says? ■

eMail: 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>

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OUR
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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.

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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

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***We have made great progress in Trenton, but more needs to be done-
I hope that you will answer the call and contribute to the NJGCA PAC TODAY!***

Contempt of Court

By Keith Krehel

As the owner of a company that plows snow, I have been to court many times. I am not a great fan of our legal system and if you read the following, you will understand my stance. Although this experience is from over twenty years ago, I remember it quite well and will relay it to the best of my memory, without a spin.

In the eighties, I was snowplowing and salting two locations for a retail chain. One store was in an upscale suburban neighborhood, the other was not. The same contract was used at both locations; the threshold in their contract was to respond after two inches of snowfall. As we were approaching that amount, it was my policy to call the manager at each store to confirm if they wanted me to service their lot. The manager of the store in the better area, asked me to plow and salt as needed, while the management of the other store instructed me not to respond.

Fast forward to the following summer. I received a letter from an attorney informing me I was being sued for a slip and fall accident for the store I did not service. The way in which the letter was written, made it appear that I had created a dangerous condition due to my incompetence. Apparently, days after that storm, the snow I did not clear had turned to ice (very possible) and someone had allegedly fallen. For those not familiar, the larger danger of a snowfall is not in the hours during or immediately after a storm, but the days that follow, if the fallen snow is left untreated, as the snow may turn to ice. I was notified to appear at depositions (giving testimony and fact finding) with lawyers representing all parties. Me, my insurance appointed lawyer (defendant), store management and lawyer (co-defendant) along with the person suing us and his lawyer (plaintiff). Upon arrival at the depositions, I met with my lawyer and told him that this was unfair, as I was told not to plow or salt the lot, therefore I should not be there and that this was a waste of my time. My lawyer then proceeded to give me a stern "chat", insisting that it was not a waste of my time or his and he began to instruct me on how to respond to questions. My education from the lawyer also included that if this case goes to trial, I am already at a disadvantage. I would be viewed by the jury as a young, white successful male and that "group" is the most abused and neglected in a court of law and no matter what the jury does to me, they, the jury, feel I will overcome it. Being viewed as young and white was obvious, but I thought to myself, the successful part was over the top. I worked too hard, made too little money, and had too much debt, to be considered successful. The lawyer continued and said you better hope the plaintiff is not a minority or a woman, as it could be even worse. When I mentioned this was also not fair, my lawyer stated "fair" had nothing to do with the day's activities.

During deposition I observed and noted the following:

- The plaintiff, approximately 40 years old, and male, had not held a job for over 5 years.
- He was not a patron of the store, but had been allegedly walking across their lot, not on the sidewalk.
- The whites of his eyes were not white, but yellow.
- He had not had a driver's license for years and since he could not drive he took mass transit buses.

•This was his fourth lawsuit for pain and suffering. Two of his prior "accidents" had occurred on these transit buses. In each of these prior "accidents" the full size bus he was riding in, had a minor collision with a car. He claimed his "injuries" made him dizzy on occasion. Both times he had no physical proof of injury, not to overlook the obvious, but when a bus and car collide, the car usually fares much worse and the plaintiff was the only one on the bus claiming to be injured.

After listening to this poor soul state his case, the lawyers begin to ask questions:

- Did he fall due to his prior injuries? (Of course he said no)
- No one asked him if he was sober, or administered a blood alcohol test at the time of accident. I would venture to guess he had not had a sober day in years, and appeared to be drunk during depositions.
- The plaintiff's attorney asked me if I was ever arrested, not sure why that was pertinent.
- I was asked who I had spoken to at the store (8 months prior) which I did not remember or record, as I thought at the time it was only important to document who said "yes" to service, in case of a challenge.
- My lawyers asked if there was alleged ice on the lot, why I had not been called to salt either before and especially after the alleged accident; no one could answer that one.

Eventually the plaintiff stated there was less than 2 inches of snow (below our contracted responsibility) that day, which ended our responsibility with the case. Why they went off his memory, I'll never know.

From this experience and others, I have come to some conclusions:

1. I believe our legal system is biased against responsible, accountable parties.
2. The legal system is self-serving, often promoting neighbors to sue neighbors.
3. "Caps" should be placed on individuals limiting how many times they can sue for pain and suffering and how much they can collect over a lifetime, or in some cases, a career.
4. There should be a burden of proof to find someone negligent. Months after a snowstorm, there is no opportunity to prove, if any dangerous situation existed and for me not to get a call before and especially after an alleged incident, is beyond comprehension.
5. Regardless of the plaintiff's lawyer's accusations, when it comes to snow and ice, as a snow professional, I do not create situations but instead try to remedy them as quickly as possible.

By the way, I now log all calls.

Keith Krehel, president of Krehel Automotive Repair, Inc., in Clifton, N.J., is a 30-year veteran of the snow industry and has been repairing, modifying and occasionally resurrecting snow plow equipment even longer. He can be reached at krehelauto@aol.com



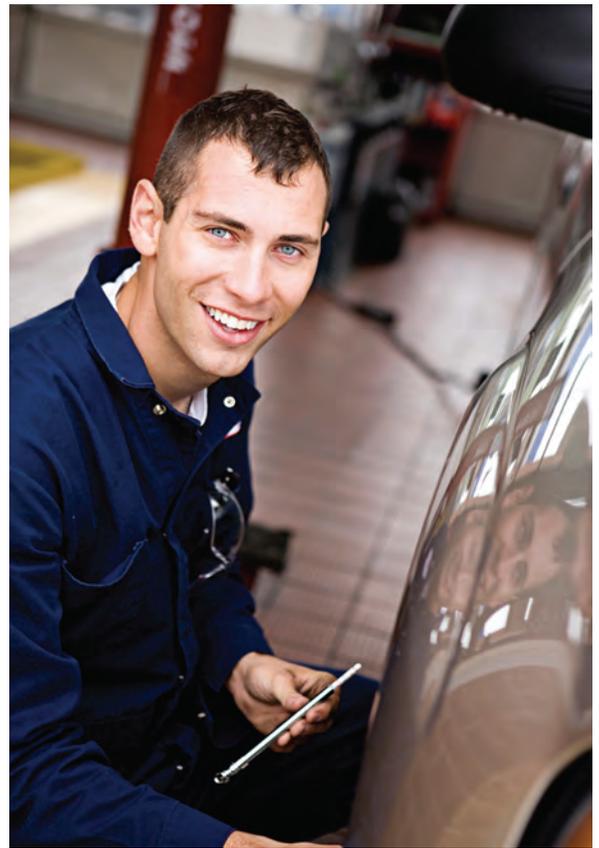
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Class Date: Wednesday, October 24, 2012

Arrive: 7:00am

Lunch Served: 12:00pm (Pizza and Soda will be served)

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Class Fee:

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Non-members - \$300.00

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PLUS: License Fee of \$50.00 - Bring a check made payable to NJMVC

To register, contact Debbie Hill at debbie@njgca.org or 973-376-0066