



New Jersey Gasoline, C-Store, Automotive Association (NJGCA)

(Formerly New Jersey Gasoline Retailers Association)

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FOR IMMEDIATE RELEASE

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Gasoline Station Owners Targeted by USDOL Learn The Hard Way About The Importance of Proper Payroll Record Keeping

Task Force finds that owners used formulas to compute wages that were not in compliance with Federal Fair Labor Standards Act

Sal Risalvato, Executive Director of the New Jersey Gasoline, Convenience, Automotive Association (NJGCA), made the following remarks regarding today's news that the USDOL found labor violations at targeted gas stations. The USDOL has been conducting investigations since last December in New Jersey and Oregon, two states that do not allow self serve gasoline at the pumps.

"I want to be clear that most of the violations that were found were due to the way that wages were computed and not because employees were shorted wages. Although employees were paid the wages that they expected, USDOL has found that additional wages should be paid because of the improper method of computation", Risalvato said.

Last week USDOL conducted two seminars for NJGCA members in order to demonstrate how to properly compute employee wages and avoid violating FLSA. The seminars were conducted in Pompton Plains for North Jersey members and Toms River for South Jersey members.

Risalvato explained, "The best way to understand this is to follow a mathematical example as presented by USDOL at the seminars. An employee that works 50 hours a week and is paid a salary of \$500 for the week will be deemed to have been paid improperly and therefore the employer will be found to owe this employee \$50 in additional wages for hours worked past 40 hours. However the same employee if paid

\$8.75 per hour and \$13.12 per hour after 40 hours would have a gross pay of \$481.20 yet be deemed to have been paid properly and not be owed any further wages”.

Risalvato continued, “Unfortunately it is a customary practice for small businesses without payroll departments and human resources personnel to simplify the computation of wages by computing the amount budgeted for that position in a lump sum form of salary, rather than breaking down the straight time and over time. In many instances like the example I just cited, an employee actually gets paid more using a salary method that doesn’t comply with the law”.

“I agree that employers who did not pay their employees at least the minimum wage of \$7.25 as required by law, should be required to pay the additional wages that their employees should have been paid. However, I am confident that very few minimum wage infractions were found, purely because even in difficult times it is impossible to find workers willing to accept wages below the hourly minimum”, said Risalvato.

Seriously concerned about a more blatant finding, Risalvato explained, “Certainly when an employer and an employee agree for wages to be paid ‘under the table’ or ‘off the books’ in order to avoid taxes from being deducted from the employees paycheck, a serious infraction has occurred. But, once again I believe that relatively few of these infractions were found by the task force, and the lion’s share of non-compliance was the result of improper methods used to compute wages. The folks at USDOL and I disagree about whether back wages should be paid to salaried employees. Actually many employees found to be owed back wages also disagree. In fact USDOL warned during the seminars that even if employees disagree with the USDOL findings and refuse the back wages, or return the back wages, that they [USDOL] would prosecute the employer involved.”

Even though I disagree with USDOL findings with regard to salaried employees, I do appreciate that USDOL agreed to conduct the seminars last week in order to educate NJGCA members how to pay the equivalent wages to an employee properly without violating the FLSA. Even I learned a few things that I didn’t know”, ended Risalvato.

NJGCA is planning to continue working cooperatively with USDOL in order to continue educating all gasoline retailers and auto repair shop owners about the proper way to compute wages for all of their employees. NJGCA members will be able to submit questions anonymously to USDOL thru NJGCA with the answers to be published in the weekly *Road Warrior* email and quarterly *On The Road* Newsletter for all members to see and learn from.

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