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NJ GCA
New Jersey Gasoline ▸ C-Store ▸ Automotive Association

Volume 3 - Issue 2

On The Road

The Official Communication of the New Jersey Gasoline C-Store Automotive Association
www.NJGCA.org

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NJGCA On the Road Table of Contents

Message From Executive Director Sal Risalvato

The future waits for no one
Why the time for Alternative fuels is NOW!

I was a junior in High School when the first gas shortage consumed America. Gas lines crippled our way of life, prices at the pump doubled to 60 cents a gallon and motorists were angry. That was 1974.

I was a young owner of an Exxon Station in 1979 when the Iran oil embargo caused panic and chaos in the world oil market, once again causing gas lines and price increases. I was the first in NJ to raise my price to 99 cents which was as high as the mechanical meter would allow.

A recurring theme that resounded from both gas shortages was "Reduce U.S. Reliance on Foreign Oil Imports". President Reagan campaigned saying that he would lead our nation in to a new era that would make us Energy Independent. I loved President Reagan, and I love recounting the things he did for our country, but unfortunately Ronald Reagan did not exert his leadership to fulfill his promise of placing America on a road to Energy Independence. I hate admitting it.

For a short while entrepreneurs began developing new ways to fuel our cars and heat our homes. Big Oil pretended to be working on solutions that would someday free us from the grip of Foreign Oil. Even I was fascinated by the potential of a new product called Gasohol, which was 90% gasoline mixed with 10% ethanol. I was so convinced it could lead us to lessen our dependence on foreign oil that I sold it at my Exxon Station. I also convinced 35 other retailers to do the same and drove around in a tank truck for 3 days filling the empty premium tanks at their locations with Gasohol.

I invested time and savings in to ethanol production. I visited ethanol plants in Kentucky, Jamaica, and St Maarten. I spent two weeks at Georgia Tech taking a crash course on ethanol production, and eventually was part of a group that worked with the University of Missouri to develop a patent on a catalytic conversion process that converted waste paper in to fermentable glucose. I even drove around in a little red car imported from Brazil that was fueled with 100% ethanol. I will discuss all of this in detail in another issue. I was about 20 years too early with my ambitions, as today every gallon of gas is a blend of 90% gasoline and 10% ethanol, only we don't call it Gasohol….we just still call it gasoline!

I still believe that ethanol should be a big part of the solution to lessen our dependence on foreign oil. However, I have great enthusiasm for emerging technologies that create energy from wind and the sun. Both technologies create electricity. Generating electricity uses an enormous amount of crude oil, that if replaced with other heat sources like nuclear, wind, and solar can reduce our consumption of oil greatly.

Why is all of this so important to you? Because as the price of gasoline goes higher and higher, the outcry from motorists and legislators gets louder and louder. Gasoline prices are an emotional issue and there isn't anything any of us can do about it. I am astounded by how little the average person knows about many serious political issues of the day, but they seem to be able to talk incessantly about their favorite sports team and gas prices. The price of gas is in every conversation around the dinner table, gatherings of friends, and the corner bar. Folks make conversation about the weather and gas prices.

As long as the price of crude oil continues to climb, forcing the price of the refined products such as gasoline and diesel to climb too, then the introduction of alternate energy sources will become both viable and attractive. The reason my investment and the investment of others in ethanol and other technologies back in the early 1980s failed, is because economically they could never work if energy from fossil fuels remained abundant and cheap. After the gas crunch of 1979, a glut of oil forced the price of gas back down almost to where it was a few years earlier. Although gasoline and other energy prices have increased greatly since, they always remained cheaper than any alternatives.

We are at a point when investors in energy recognize that the earth has a limited reserve of petroleum and all fossil fuels. They recognize what I wish President

Reagan would have made a greater emphasis on….. *That someday there will be a last drop of oil that comes out of the earth!*

As investors drive up the price of oil, and leave motorists reeling from the drastic upward and downward price cycles (that are mostly upward), then commerce in alternate technologies will have a viable chance to succeed.

Although I am not convinced that electric cars are the solution, I do believe that they will become a large part of the solution, and that affects you. I have stated many times before, and I will continue to say, "You are in the Transportation AND Energy business". You cater to customers that require energy for their transportation and many of you service their transportation too. It is time to consider how you will service your customers in the future and what you will sell them as fuel.

Recent government actions have lead to mandating that vehicle charging stations be placed in shopping malls and roadway rest areas. If the shopping mall is selling electricity to your customers to fuel their cars, then you certainly will not be selling those customers gasoline. It is also likely that customers will charge their own cars at home also taking away your sales.

We are at a crossroads. The public and the government will be debating how to solve our high gas price problem. The debate will rage for many years, and solutions will come about slowly. Until then, you are in the cross hairs of the rifle scope with a target on your back. It is easy to be angry at you whether it is justified or not. I am determined to keep the focus of the debate on solutions rather than sticking the blame on you. ■

UPDATE: New Information on Form 1099

by Eric Blomgren

You may remember Form 1099, a provision of the Patient Protection and Affordable Care Act (ObamaCare) 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, starting in 2012.

This means that the vendor that stops by every few weeks that sells you squeegees, cleaning supplies and loose parts will be required to receive a Form 1099 from you every year. An average Gasoline Service Station will likely have to file as many as 100 of these forms every January. This will add a huge burden to your bookkeeping and will also add to your accounting costs

This would have placed a huge burden on all small businesses in the nation. Thankfully, NJGCA can report that a bill which repeals the 1099 provision, H.R. 4, has passed both houses of Congress just as this issue of OTR was going to print. President Obama is expected to sign this bill soon due to its broad bipartisan support. President Obama still has concerns about how to replace revenues that he expected the Form 1099 would have generated. Apparently President Obama thought that by every small business having to report ALL of their purchases, less revenues would be under reported and therefore generate more tax revenue.

H.R. 4 was one of the very first bills the new Republican House of Representatives introduced after taking power in January. It was passed on March 3 and sent to the Senate. All 6 of New Jersey's Republican Congressmen voted for the bill (Reps. Runyan, LoBiondo, Smith, Frelinghuysen, Lance, and Garrett), as did Democratic Reps. Andrews and Sires. The other 5 Democrats from New Jersey voted against the bill (Reps. Pallone, Holt, Pascrell, Payne, and Rothman). After a month in the Senate, the bill was passed by a vote of 87-12. There was an attempt to amend the legislation by New Jersey's Democratic Senator Bob Menendez that Republicans charged was designed to stall the bill, but the amendment was defeated, and Senator Menendez voted in favor of H.R. 4. New Jersey's other Democratic Senator, Frank Lautenberg, voted against the repeal of Form 1099. This form was one of the most onerous aspects of ObamaCare and has from day one been fought by business advocates throughout the nation, and NJGCA is happy to see it disappear. ■

Common Cents *by Debbie Hill*

SPECIAL EDITION
Gasoline Service Station Compliance Check List

This is a special edition of my do's and don'ts geared for Gas Stations. Recently I was visiting one of our NJGCA members, and while I was there the NJDEP came in for a site inspection and compliancy check. The NJGCA member received a Notice of Violation for conditions that could have easily been avoided. In the past NJGCA offered classes for NJDEP compliance inspections and simple things you can do to avoid costly violations. With that in mind I thought I would give a quick reminder about some simple items that you can do to pass your inspection with ease. The following list suggests basic rules to follow, however – if there is any question in your mind – we advise you to call our office and schedule ATS come to come to your site to give you a FREE evaluation of your equipment and testing requirements.

Please DO the following

Information and Documentation Required:

•All UST's must be properly registered with the NJDEP

•All Facilities must have "Financial Assurance" – Underground Storage Tank Insurance

•All Fueling Stations require Air Permits

•All Facilities must have a Release Response plan available for inspection (See below for more detailed information)

Corrosion Protection for STEEL Systems only:

•Corrosion Protection must be present for in-service steel tanks/piping (Tank and Piping are completely isolated from contact with surrounding soil)

•Cathodic Protection (passive/impressed – using sacrificial anodes) must be tested every 3 years – and the facility must have records showing passed testing

•Impressed Current System (Rectifier) must additionally pass inspection every (60) days

Release Detection Monitoring:

•Release Detection Monitoring (RDM) Tank/Piping Testing and Functioning

•Line Leak Detectors (pressurized system) must be present and working

•Line Leak Detectors (mechanical) must be tested per manufactures requirements (Usually annually)

•**Reporting Requirements:** Frequency of monitoring, leak detection method used, Monitoring locations, name & title of person performing monitoring, manufacturers written performance claims, monthly summary of leak detection results, and maintenance checks of leak detection equipment

Spill Prevention:

•Spill Containment (Over fill Spill Buckets) must be present

•Spill Containment (Over fill Spill Buckets) must be clean of debris/water/product (Check daily – and before and after delivery)

(See below for more detailed information)

Overfill Protection:

•Tank overfill protection – present and working

•Automatic Shutoff Device – Check it periodically to make sure it is functioning properly

•Emergency Shut Off – Present and working

Tank System and Vapor Recovery Testing:

(Make sure you have your testing done for your equipment)

•Tank Tightness Testing, Line Test (including impact Valve Test)

•Pressure Decay Testing, Pressure Vacuum Valve Testing, Dynamic, Back Pressure Test, Flow vs. Liquid Test, Air to Liquid Ration Test

•There are many tests for different types of underground storage systems. Check with your Certified Contractor to make sure your equipment is performing properly.

Ball Floats:

•Ball Floats Valves are placed near the bottom of the vent line and rise with the product level during delivery, restricting vapor flowing out of the vent line.

•Have a certified contractor check to make sure it is performing properly.

Dispensers:

•Check all Hanging Hardware for Cracks – keep daily log – replace as needed

Fill Port Markings:

•All fill ports must be permanently marked to identify the product inside the tank system. This may prevent your supplier from accidently filling your tank with the wrong product.

Reporting a confirmed Release:

•You must call NJDEP Action HOT LINE: 877-WARN-

DEP (877-927-6337)

•Call Local Health Agency

Daily:

•Stick tanks & check for water (for temporary release detection method)

•Dispensers and Hanging Hardware:

•Check your Nozzles and Hoses Daily: Keep a log

•Check breakaways – are they in good condition?

•**Please use the SBAP Compliance Calendar for 2011, supplied to you courtesty of NJGCA!**

Monthly:

•Check Sumps: Any signs of leaking? Keep monthly records.

DON'T Top Off!!

Tell your employees to make sure that they don't top off the gasoline sale. Liquid Gasoline will block the vapor line. When a nozzle shuts off – the tank is full!! Nozzles that click off too soon indicate a blockage in the vapor line. The most common cause of blocked vapor lines is gas attendants topping off the gas tank. When gas tanks overfill, gas travels back down the vapor hose and blocks the line. Unless the line is cleared, the next customer will have trouble keeping the nozzle from automatically shutting off while pumping gas. Please warn your service attendants not to top off the tanks!

DO Clean your spill catchment basins!!

Keep spill catchment basins clean of product, water and debris. Check catchment basins before and after every delivery and drain as needed. Also check after every rain event; if rain water has collected, do not drain back into the tank, but collect and dispose of the liquid properly. If the liquid or debris contains gasoline or chemicals, it could be considered a hazardous waste if it exhibits a hazardous waste characteristic, such as ignitability. Typically, however, the liquid or debris is a non-hazardous waste, which may be recycled or disposed of properly. Do not, under any circumstance, pump contaminated water into storm or sewer drains as a method of disposal. Improper disposal can result in surface water impacts, damage to sewage treatment plants, and criminal prosecution. Collect the liquid or debris in a drum or other container designed to accept such materials. Your certified contractor will then be able to arrange for pick-up and disposal of the liquid or debris you have collected. Be sure to get the name of the final disposal/recycling facility in writing, and check to insure that the facility has the proper approvals for accepting your material. Contact your certified contractor or an appropriate recycling or waste disposal facility for more information, or call the Department's Hazardous Waste Technical Assistance unit at 609/292-8341 for proper classification and disposal information. If the spill catchment basin has a drain, check to insure it closes tightly. If the drain is left open it will act as a vent, possibly affecting the ability of the overfill device (if it's a ball float valve) to function properly. It is a good idea to test your spill catchment basins periodically (once a year is a good schedule) to insure that they are tight and not leaking (a leaking basin will do nothing to prevent spillages as designed)

DO Keep a Release Response Plan

You must also keep a release response plan on site to assist you in determining the appropriate actions to take in the event of a release. The release response plan must include telephone numbers for the local fire and health departments; the Department's Hot Line number listed above; the name and telephone number of the person responsible for the operation of your facility in an emergency; the name and telephone number of any retained corrective action contractor; and the specific cleanup and tank closure procedures to be followed, if necessary, in the event of a leak or discharge. Post your Release Response Plan in a prominent location at your facility.

DO Keep the following Cleanup materials and equipment on hand

You should have enough absorbent material at your facility to contain a spill of petroleum products until emergency response personnel can respond to the incident. The suggested supplies include, but are not limited to the following:

•Sphagsorb, Speedy Dri, kitty litter, chopped corn cob or similar absorbent material

•Containment booms, dikes, pillows, and other containment devices

•Spark proof shovel

•Storm drain mat

•55 gallon drums

•Buckets

•Reels of "caution tape"

•Personal protective gear, Traffic cones, Warning signs, Spark-free and safe flashlight

If you have any questions or comments, please feel free to call Debbie Hill at debbie@njgca.org or call 973-376-0066. ■

Great News for NJGCA Members

Group Health Coverage through NJGCA and Association Master Trust

Unless you're a large business with hundreds or thousands of employees, providing and administering a health benefits plan can be a huge burden. However, if you're a NJGCA member, you can now take advantage of a great group offering through the

Association Master Trust

NJGCA member companies are eligible for comprehensive self-funded health and dental benefits through Association Master Trust. The Association Master Trust covers approximately 10,000 participants from thirteen trade and member association benefit trusts.

Qualifying NJGCA member firms can now enjoy all of the benefits of network services and modern claims administration. By being a member of AMT you're part of a large group, and have access the same great health benefits plans the big guys do!

To learn more about AMT's self-funded health benefits plans call today and ask for Joy at 973-379-1090 ext. 229 for further details.

ASSOCIATION MASTER TRUST MEMO

Grandfathered Plans Under Obama-care

by Harvey Mishkin, AMT Chief Operating Officer

Some members have inquired as to why the Association Master Trust Trustees elected to change its plan from grandfathered to non grandfathered status under the patient protection and affordable care act (PPACA).

The decision was made in response to concerns involving our member company's ability to change employee contribution percentages. In order to maintain grandfathered status a plan must not experience an increase in employee contribution percentage that exceeds 5%. AMT' structure is not built to control changes to member company employee contribution rates. If AMT had elected to maintain grandfathered status under the law, and at the same time a member company increased employer contributions by more than 5% the resulting conflict may have caused AMT or our member company to be in violation. Upon their review the AMT Trustees felt the best course of action was to withdraw from grandfathered status and avoid this possible dilemma.

Not grandfathered status has had a minimal effect on AMT benefit plans and rates because of its long history of providing a very generous level of benefit. Non-grandfathered status will also allow AMT to move forward with state-of-the-art plan designs to maximize health care efficiency and related pricing which otherwise may not have been possible had AMT maintained grandfather status.

Healthcare reform brings with it many challenges that our AMT trustees confront on a regular basis. We will continue to monitor the changes required by reform and make the appropriate decisions to continue in our goal to deliver to you and your families the best possible healthcare options. ■

Legislative Roundup

The Issues important to your small 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!

Cash/Credit Pricing

Senate Bill 847 authored by Senator Shirley Turner (D-Mercer) mandates that stations which engage in cash/credit pricing must advertise the different prices on their street signs. This is already an official regulation; the bill would make that regulation an official statute. The original version of the bill sought to levy an additional $1,000 fine on top of the $1,500 fine on stations with the incorrect signage; however NJGCA and our allies the Fuel Merchants Association convinced the Senate Committee to delete this section from the final bill, which passed the Senate almost unanimously.

It was expected that the Assembly version of this bill, A-3862, would be identical to the Senate version. However, Assemblyman Vincent Prieto (D-Hudson) slipped in an amendment which requires that the cash/credit pricing for all grades must be shown on the station's street sign, essentially meaning that a gas station would be required to have up to 8 different prices on your street sign! This would certainly require stations to either purchase new larger signs, or put an end to cash/credit pricing altogether. The bill was on the fast track for Assembly passage, but we were able to convince the Assembly to pull the bill from voting until we could discuss this disastrous amendment. FMA staff met with Assemblyman Prieto just recently and he agreed to hold the bill for the time being. Stay tuned, as NJGCA may be reaching out to you soon as we determine how to move forward on this bill. Until then, you can call or write Assemblyman Prieto to let him know what the negative effects of his bill would have on your business and on the consumer. His office's phone number is 201-770-1303 and his email is AsmPrieto@njleg.org

There are several other bills that have been introduced in recent months to try and hurt your ability to use cash credit pricing. Assemblyman Craig Coughlin (D-Middlesex) and Senator Jim Whelan (D-Atlantic) have introduced A-3376 and S-2325, which would limit the difference between cash and credit pricing to 4%. Assemblyman Charles Mainor (D-Hudson) and Senator Jeff Van Drew (D-Cape May) have introduced bills A-3191 and S-2363, which would prevent the difference between the cash and credit prices from being greater than 5 cents. Assemblyman Mainor has also introduced A-3427, which would outright ban charging different prices for cash and credit. So far NJGCA has been successful blocking all of these bills, as well as any future assaults on cash/credit pricing go nowhere.

Below Cost Selling and Loyalty Programs

Assembly Bill 3133, introduced by Assemblywoman Celeste Riley (D-Cumberland) and Assemblyman John Burzichelli (D-Gloucester), permits the use of rebates and coupons as a reward to customers for shopping at select locations. With stations already operating on such narrow profit margins, the introduction of a loyalty card program would often result in a sale of gasoline below cost, something that big-box chains can handle but not independent small businesses. NJGCA and FMANJ had a major meeting in Trenton with Assemblywoman Riley's Chief of Staff and representatives from the those advocating this bill, NJ Food Council, Wawa, Quick Chek, and Stop n' Shop. We voiced our concerns with the legislation and it remains on hold for now. If significant protections for our members are not added to this bill, then we will need your help in ensuring it doesn't become law.

Internet Lottery Ticket Sales

A-2676, the bill that would allow lottery tickets to be purchased online remains stalled as we continue to meet with the sponsor, Assemblywoman Quijano (D-Union). While we all know that lottery tickets are an essential tool to entice customers into buying items in convenience stores with a larger profit margin, the Assemblywoman is less convinced. NJGCA sent out forms to our members to see how often customers purchased lottery tickets alone and how often they combined their lottery ticket purchase with something else. The data has so far proved that well over half of all lottery ticket purchasers buy another item from

Continue on next page...

the convenience store. NJGCA still needs more data, so please head to www.njgca.org to download the form and give us another tool to help protect you from this bad legislation.

'Toolkit' Bills

Legislative Republicans recently called on Democratic Leaders in the Legislature to allow progress on 15 pieces of pending legislation in Governor Christie's toolkit. The lack of these tools to control spending at the local level is forcing municipal officials to resort to tax increases and layoffs of police and fireman. In Jersey City, for example, they were forced recently to take out a loan of $9 million just to pay retiring public workers for their unused sick days. Passage of these bills will allow local officials to reign in government spending, and keep property taxes from further increasing.

Gas Taxes

Earlier in the year NJGCA responded to a study which argued for an expansion of the state sales tax to include the cost of gasoline. There also still remain advocates of an increased gas tax, in order to pay for the state Transportation Trust Fund. Thankfully, Governor Christie vocally, emphatically, and directly shelved both of these ideas when he unveiled a plan in January to provide funding for the TTF without raising or expanding any taxes.

Clean Energy Vehicles

Various members of the Legislature, particularly Senator Linda Greenstein (D-Mercer) and Assemblyman Joe Cryan (D-Union) have introduced 18 different bills providing various forms of support for non-gasoline powered cars, especially electric cars. Bills providing tax credits for installation of electric vehicle charging stations and the purchase of electric cars have already passed the Assembly, as has a bill mandating stations located on the toll roads install charging stations. NJGCA has been saying for a while now that stations must prepare for a future that is moving away from gasoline vehicles, and this legislation promises to move things further along. With prices as high as they are, we can only expect more legislation to come along which pushes for alternative forms of energy and fuel. ■

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

TRAINING CLASS SCHEDULE

-ALL CLASSES WILL BE HELD AT NJGCA HEADQUARTERS-
66 Morris Avenue - Springfield, NJ 07081 (Union County)

TWO NEW CLASSES AVAILABLE!

1. NJ EMISSION INSPECTOR TRAINING CLASS

DESCRIPTION: This is the Motor Vehicle Inspector course, plus the state approved training program. NJGCA is offering a SPECIAL ONE DAY Emissions Inspector Class & Final MVC Test.

CLASS COST (INCLUDING MANUALS):

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

CLASS SCHEDULE: Tuesday, April 26th, 2011 at 7:30am

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

2. EMISSION REPAIR TECHNICIAN RE-CERTIFICATION CLASS

DESCRIPTION: This is the ETEP course that your ERT's need in order to recertify their license.

OUR CLASS INCLUDES:

- New Jersey State Specific Information Course
- ETEP Section 6 "OBDII Monitoring Failures"
- Section 7 "Light-Duty Diesel Vehicle Technologies and Testing".
- Five-night course

Everything your technician needs to Re-Certify his ERT license!!!

CLASS COST (INCLUDING MANUALS):

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

CLASS SCHEDULE: *May 5th and May 12th (Two Thursdays) from 8:00am – 4:00pm*

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

TAKE ADVANTAGE OF OUR TRAINING CLASSES!

To Register call Debbie Hill 973-376-0066 x 203 or debbie@njgca.org

A SPECIAL NOTE ON ALL CLASSES

FUTURE CLASSES AND DATES WILL BE ADDED UPON REQUEST – CALL DEBBIE AND LET HER KNOW YOU ARE INTERESTED IN TAKING A CLASS SO WE MAY KEEP TRACK OF DEMAND!!

Save TODAY with your NJGCA Member Benefit Partners!

NJGCA continues to revamp our Member Benefit Partners (MBPs) program to better serve your small business. Most MBPs offer discounts and special programs exclusively for NJGCA members ONLY – You cannot get these negotiated arrangements anywhere else!!

Here is a list of our current MBPs:

ASSOCIATION MASTER TRUST (AMT) – *Health Coverage*
MEADOWBROOK INSURANCE GROUP – *Workers Compensation*
THE AMATO INSURANCE AGENCY – *Garage Liability, Auto, Homeowners, Flood, Disability, Income Protection*
DANA TANK INSURANCE SPECIALISTS – *Tank Insurance*
MERCHANT ADVOCATE – *Credit Card Processing & Consulting*
AFFINITY FEDERAL CREDIT UNION – *Credit Union*
ABLE-TECH – *Industry Specific Business Consulting*
ENVIRONMENTAL ALLIANCE, INC. – *Environmental Remediation Services*
ATS ENVIRONMENTAL SERVICES – *Tank & Vapor Testing, NJDEP Compliance*
PH2 SOLUTIONS – *Quick Diagnostic Emissions Tools*
AUTOBOSS USA – *Scanners, Wheel Alignment Equipment*
SERVICE STATION VENDING EQUIPMENT – *Air & Vacuum Systems*
FIRST CHOICE EQUIPMENT – *Bay Equipment, Hardware, Lifts*
TMP ENERGY SOLUTIONS – *Discounted Electricity and Natural Gas*

IT HAPPENED IN APRIL

The Pony Express started on April 3, 1860. It went from St. Joseph, Missouri to Sacramento, California and took 10 days.

The Titanic sank on April 15, 1912

Jackie Robinson breaks color barrier – April 15, 1947

Polio vaccine trials begin – April 26, 1954

Hippie musical "Hair" opens on Broadway 1968

Hank Aaron sets new home run record on April 8, 1974 – 715

Employee Records, Social Security Numbers, & Tax Reporting

By Anna C. Little, Esq.

In response to experiences that I have had with several Small Business clients regarding immigration issues, I wish to offer the following general advice to NJGCA members. Many employers have asked what their obligations are when an employee approaches them indicating that he or she has received updated immigration documents, and the employee wishes continued employment using a new name that now appears on their immigration document.

While it is possible for a person to legally use more than one name, a social security number is issued specific to only one name and cannot be transferred to a different name without the employee making application to the social security office. If the employee cannot show a social security card with the same number associated with his or her new name, it is possible that the employee has committed social security fraud and fraud against your establishment to gain employment.

The good news is that if you, the employer, have required each employee to fill out an I-9 form, then this employee swore under oath to you that his or her name and social security number were valid and that he or she was eligible to work. Thus, you are not likely to be liable for the past actions of your employee and you cannot be implicated in any fraud against the US government.

The bad news is that your establishment cannot continue to employ the individual knowing that he or she may have committed fraud. Unless the employee can provide you with a social security card indicating the same social security number associated with their new name, it is safe to assume that fraud may have been committed.

UNDER NO CIRCUMSTANCES SHOULD YOU, THE EMPLOYER, CHANGE THE NAME OF THE EMPLOYEE IN YOUR SYSTEM AND CONTINUE TO REPORT TAXES UNDER THE SAME SOCIAL SECURITY NUMBER UNLESS THE EMPLOYEE HAS SHOWN PROOF THAT THE NEW NAME IS ASSIGNED TO THAT SOCIAL SECURITY NUMBER.

If you suspect fraud on the part of your employee, I recommend that employment be terminated immediately. A statement should be placed in the personnel file of the employee that he or she left the job voluntarily or that he or she was terminated because fraud was suspected. A new employee may then be hired for the position.

It is very difficult for Social Security to prove these fraud cases because often an employee will apply for a new social security card under his or her new name failing to indicate that he or she ever had a social security card before. Social Security does not fingerprint applicants or keep pictures of applicants the way that Immigration does. Because employers do not take pictures or fingerprints of their employees for personnel files and because personnel files are kept by name and social security number only, it is possible that an employee that had previously been fired might mistakenly be rehired at a later date.

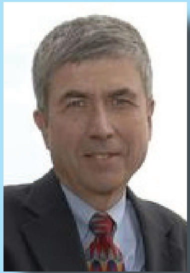
By applying for employment with an employer using a new name and a new social security number, the employer might not remember what the employee looked like unless there is a photograph in the personnel file. A photo drivers' license would provide such a photograph, however, employees are not legally required to possess a photo drivers' license in order to prove eligibility to work.

To protect yourself as an employer in such a circumstance, I recommend that you require every new hire to fill out form I-9 and provide original documents which you may photocopy for your personnel file, proving eligibility to work. As long as the employer maintains an I-9 in the personnel file, the employer is protected because you are acting on the information provided to you by your employee under oath.

I enjoy providing helpful information to Small Business owners and it is certainly a pleasure to provide this info to NJGCA members. NJGCA members should feel free to contact me when they have an immigration question. I always try to assist over the phone in order to save Small Business owners the inconvenience of traveling to my office or incurring legal fees. In situations that require more than a phone call I do charge nominal consultation fees, but my first priority is to make sure that innocent and honest employers do not get hurt by an employee that has committed fraud. I hope my advice is useful, and promotes peaceful focus on business growth in our region without the distractions and anxiety caused by this issue. An employer's focus should be on running a successful business. ■

Anna Little is an attorney that specializes in Immigration and Labor Law. Anna practices in Monmouth County and has a special interest in helping small businesses navigate cumbersome immigration regulations in order to prosper and promote economic growth. Anna Little was a candidate for The U.S. House of Representatives in 2010.
732-708-1309, annalittle@mac.com

How High a Price is Too High a Price?



It is common knowledge that major oil companies are systematically selling off service station sites leased to independent dealers. Most often, large service station packages are sold to a jobber, who also is assigned the leases and supply agreements of the affected dealers. Because the dealers' franchises are assigned rather than terminated or nonrenewed, the oil company can take the position that the station sales are unaffected by the Petroleum Marketing Practices Act.

The alternative path open to an oil company is to use its decision to sell the premises as the basis for sending the dealer a notice of nonrenewal. In that case, the PMPA obligates the oil company to provide the dealer with a bona fide offer or right of first refusal to purchase the service station site. The right of first refusal only applies, of course, where there is a third party offer to purchase the site.

How difficult is it for a dealer facing nonrenewal to attack an oil company's supposedly bona fide offer as being unreasonably high, and therefore not in compliance with the requirements of the PMPA? A recent California federal court decision, Transbay Auto Service, Inc. v. Chevron U.S.A, Inc., 2010 WL 4591596 (N.D.Cal. 2010), provides guidance.

In September 2008, Chevron offered to sell the service station premises to the nonrenewed dealer for slightly under \$2,400,000. The dealer elected to purchase the station but also filed suit under the PMPA, contending that the offer was excessive because the premises were worth only \$1,800,000.

When Chevron moved for summary judgment to dismiss the lawsuit, there were four different appraisals before the court. Two of the appraisals were prepared at Chevron's request: a February 2008 appraisal that estimated the fair market value of the service station to be \$3,240,000, and a subsequent July 2008 appraisal which valued the property at \$2,386,000. In addition, there existed an appraisal of \$2,520,000 generated by a bank from which the dealer had failed to obtain a loan, and an appraisal generated by the dealer's own expert in the amount of \$1,800,000.

The court considered whether the difference between Chevron's offer of almost \$2,400,000 and the dealer's assessment of the station's value as \$1,800,000 was substantial enough to support the assertion of a claim under the PMPA. If, as the dealer claimed, the station was really worth only about three-quarters of what Chevron wanted to sell it for, had Chevron made an "objectively reasonable offer" as required by the PMPA?

To reach its decision, the court compared the gap between offering price and the dealer's claim of true value with similar gaps at issue in other cases dealing with the evaluation of service station premises. Those decisions indicated that a variance of approximately twenty percent between an offer and the dealer's valuation would be sufficient to permit the dealer to take his PMPA claim to the jury.

Following the lead of those cases, the court held that it simply could not conclude, if it assumed the dealer's appraisal was correct, that Chevron's offer approached the fair market value of the property as a matter of law.

There remained to the dealer the obstacle of overcoming the only appraisal prepared by a disinterested party, the \$2,520,000 appraisal prepared by the bank that had turned down the dealer's loan request. Not only was that appraisal higher than Chevron's proposed sale price, but the dealer himself had submitted it to another bank, which then granted his loan request.

The court, rejecting the dealer's objections, held that the bank's appraisal could be introduced as evidence of the station's true worth. The court held, however, that the appraisal did not establish the station's value as a matter of law, and that the dealer could attack its accuracy at trial.

The Transbay Auto Service case is of interest for two reasons, first, it provides guidance as to how substantial a gap must exist between a purchase offer and a dealer's contention of true value to support a claim under the PMPA. Second, it establishes that a dealer's appraisal supporting his claim could, in and of itself, be sufficient to permit a jury to reject another higher appraisal, even when the dealer himself had relied upon that appraisal to secure a bank loan or other benefit.

Of course, the ultimate result in the case will depend upon how the jury rules after considering all the evidence – including the higher bank appraisal – at trial. But at least the dealer will have a full opportunity to present his case. ■

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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Alternative Energy Memo & the Vehicles of Tomorrow

Electric-powered Cars

By Nick De Palma

The last ten years have seen incredible volatility to both energy markets and the transportation industry. As a result, the national discussion on alternative energy and how to power our future transportation needs has been greatly debated.

We only have to look back to summer 2008 to how soaring gasoline prices can affect your establishment and your patrons. The higher the price of gasoline climbed, your profit margins shrank, often leaving you with no profit at all. Meanwhile, the rising price made fill-ups more expensive, hurting customers who had less money with which to patronize your establishment or purchase other higher-margin goods and services. When we last saw this scenario play out, gasoline prices crested $4.00 a gallon, and there was a great public outcry to accelerate new, alternative technologies.

As prices dropped and remained relatively stable for the last few years, however, public demand for alternatives eroded, even as government officials and eco-activists continued to push industry leaders to adopt greener technologies. Today, that period of stability in energy markets has been replaced by another surge in gasoline prices, and triggered a renewed (and often hostile) discussion on what should be done in the long term to address these concerns.

Even as you read this, industry leaders, the Obama Administration, energy analysts, and Congress are all pushing for different methods of addressing this issue. More immediately, however, is how a possible higher-margin energy source could benefit your small business, your patrons, and the nation as a whole.

Example of a typical electric charging station

Where does NJGCA stand on this issue? When we gave our last Cars of the Future-series column update in December 2008, we reported on the virtues (and drawbacks) of electric car propulsion. In between then and now, we have made no secret of the fact that our industry is changing and all small business owners must change with it to survive. This has been illustrated in numerous Road Warrior e-newsletter articles, our dedicated Northeast Regional Tradeshow seminar programs, and in public statements our Association has made to the news media.

In these various communications and events, NJGCA laid out the advantages and disadvantages for many possible alternative energy sources to operate a motor vehicle. They included traditional hybrids, hydrogen (and hydrogen fuel-cells), E85, electric propulsion, compressed natural gas, propane, bio-ethanol, bio-diesel, algae-based bio-fuel (and other bio-fuels), and even compressed air-driven engines.

In addition, NJGCA has also spoken out in favor of many alternative energy sources to power our homes, businesses, office-buildings, and even mass-transit. They include wind power, wave-farms, solar, geothermal, biogas, biomass, and increasing the number of nuclear power plants.

Complicating the debate even further is to distinguish renewable alternative energy forms (such as wind and solar) form non-renewable sources (such as bio-fuels and hydrogen).

And not to be ignored are further developments in internal-combustion engine (ICE) technology, which seeks to squeeze more efficiency from an already dependable engine medium. These include homogeneous charge compression ignition (HCCI), forced induction through more efficient turbo- and super-charging, new advances in software mapping, cylinder deactivation, and more.

With so many alternatives and so many interests competing for attention, is it any wonder why things can get so confusing? Depending on where one stands, the debate can often get loud, contentious, and down-right nasty. This has created a situation where competing interests, voices, and levels of expertise are routinely supported then torn-down as the arguments rage on in government, around the industry, and even at our kitchen tables.

All of the alternative sources above have their benefits and drawbacks, which maybe analyzed in enough detail to encompass 20 full-length OTR installments. Obviously this isn't possible, and rather than try to overwhelm you with too much information at once, we will present the case for many of these alternatives through future editions of the

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OTR.

In this edition, however, we will focus on electric powered automobiles.

Yes, I know what you are thinking: ***"Nick we already covered electric cars in 2008!"*** – And that is certainly true. Nevertheless, since we last discussed this topic a number of events and changes have occurred which make revisiting this alternative energy source necessary.

What do I mean by this? Well, first it's important to recognize that no technology or energy medium stands still. On the contrary, they are always advancing, even if those discoveries go unnoticed by most of us. For instance, as stated above, even the tried and true ICE, which has been around for well over 100 years, has seen significant investment, making it cleaner, more efficient and squeezing more power from small displacement motors.

In the case of electric cars, the advancements have come at a quickened pace. As you'll recall from our last Cars of the Future feature in December 2008, the modern electric car movement was re-ignited by the GM EV1, an electric vehicle produced in limited numbers in the mid-1990s. The EV1 was a technological tour-de-force, but its Lead-acid batteries – and later more advanced Nickel-Metal-Hydride batteries – severely limited its range and recharge time.

Chevrolet Volt (above); Nissan Leaf (below)

The EV1 project was eventually scuttled, but the lessons learned by GM and other automakers would create a solid foundation to build upon. With this in mind, the technology and research behind electric power has evolved exponentially in only a few short years. This development has nudged the needle to make electric vehicles more viable as an alternative to ICE-powered cars.

Want proof? You may only have to visit your local dealership to see the evidence for yourself. Automakers are now fully vested in either releasing a limited number of electric vehicles or soon will be.

In only its first year on sale, the Chevrolet Volt, an extended-range electric vehicle, has sold better than anticipated. The Volt utilizes a 16 kW•h lithium-ion battery pack (essentially the same kind of battery that is used in a laptop computer) that is linked to an electric motor rated at a peak output of 111kw (roughly 150hp) and 273 lb-ft of torque. The batteries run the electric motor, which propels the vehicle to a range of 25-50 miles depending on driving conditions.

Remarkably, the Volt is an "extended range" electric car, which means it doesn't need to rely solely on battery packs for propulsion. When battery power is running low, the engine's computer will start-up a small 1.4L, four cylinder engine connected to a 55 kW generator. Using the mechanical power from the engine, the generator is able to create electricity to recharge the batteries that run the electric motor. In this regard, when the Volt is running low on electricity, it acts very much like a diesel powered locomotive, using liquid fuel to run a generator which then powers the electric motor.

The Nissan Leaf is another example of the market responding to consumer (and government) demand. Described as a 'pure electric vehicle' the Nissan Leaf is an electric car that doesn't have any kind of 'back-up' range-extending capabilities. That means that the Leaf is solely powered by its electric batteries. The Leaf uses a 24 kW•h lithium ion battery pack attached to an 80 kilowatts (about 110hp) electric motor with 210 lb-ft of torque. Nissan claims the Leaf can travel 100 miles before needing to be recharged, making it more than adequate for daily commuting purposes.

It is easy to see the benefits of each of these vehicles. They offer clean, quiet transportation and are easily recharged using any at-home-outlet or via electric charging stations. These characteristics make vehicles like the Leaf and Volt ideal for urban area since they produce little to no pollution and don't need to travel great distances in compact, city commuting.

This doesn't mean, however, that these technological wonders don't have their own shortcomings. For one, both of these vehicles are rather expensive when compared to similarly equipped and outfitted automobiles. For another, the time it takes to recharge their batteries may depend on the kind of electrical service being used. For example, the Volt can fully recharge its battery in 8 hours using a standard 120V outlet. If the owner is using 220V service, the recharging time drops to 3 hours. As such, both Chevrolet and Nissan recommend that motorists who purchase the Volt and Leaf also buy an at-home recharging station that includes the

Continue on next page...

220V service. The average cost to consumers to buy and install the upgraded recharging units? About $2,500 with installation. Not exactly a small sum of money.

All of this may make electric cars sound as though they will only become niche products at best, and in the short-term, they very well maybe. However, these vehicles have become a reality thanks in most part to advances in battery technology. The battery industry has seen massive investments over the last decade and experts believe that newer and cheaper batteries are only a few years away from making electric vehicles even more viable. A good illustration of this is the lithium-ion battery pack found in the Volt. When General Motors started to develop the Volt, the battery pack alone was estimated to cost approximately $12,000. Thanks to further investment and research, however, the same battery pack now costs approximately $8,000.

Ironically, the Achilles' heel to new, long-term investment may actually depend on oil and gasoline markets. If the price of crude oil and refined gasoline remain high, then allocating more dollars toward battery development makes a great deal of sense since investors are sure to make a return on their investment. If the price of oil and gasoline plummet, however, then investors and automakers will be less likely to spend huge amounts of capital to advance the technology further.

Of course, this is where the government has stepped in to play a major role in shaping the future of the electric car in America. President Obama, and President Bush before him, both made significant investments in alternative energy development. In fact, the development of production-ready lithium-ion batteries that are now being utilized by automakers can be attributed in part to federal grant programs authorized by President Bush in 2005. President Obama has made it a priority to reduce our dependence on foreign oil for both national security and environmental reasons. As such, and much to the chagrin of other industries, Obama has made the development of electric vehicles the centerpiece of his alternative energy policy over other viable alternatives such as hydrogen, ethanol, propane, compressed natural gas, and other propulsion mediums. That means that significant tax dollars and tax incentives are being used by Washington to push electric car development forward.

Not to be outdone, Trenton also currently has a number of bills being considered which would mandate electric charging stations for all new commercial retail properties in New Jersey. This would basically force developers to include such devices if they wish to put up a new office complex, strip mall, or any other facility with public-access. What's more, Trenton is also looking to create incentives to help get developers on board, creating a situation where future electric vehicle drivers will head to their nearest shopping plaza to charge their vehicles rather than visit your gas station. Can you afford to lose such a customer?

This all brings us back to you and the future of your small business. In light of all of this, is it any wonder that NJGCA has been harping on why it is so important for all our Members to consider the future needs of your customers? The government, automakers, and the public are moving ahead without you…and it may be to your detriment.

And why shouldn't they? The advancement and dependability of modern hybrid powered vehicles (which are different from the electric powered vehicles discussed above) have become so engrained in the public's eye, that most consumers are much more open-minded to alternative power trains. The environmental damage sustained by the Gulf states during the recent BP/Deepwater Horizon oil spill has put ecological issues back on the front burner for many. And the soaring gasoline prices have already started to affect the kinds of vehicles people buy. A recent report states that there are more 4-cylinder vehicles on the market today than ever before simply underlines that; saving money at the pump maybe a bigger priority for many Americans than ever before.

Does this mean that electric cars will take the place of ICE-powered cars overnight? No. However, it does mean that electric cars (and possibly other alternatives) will create a sizeable niche that could eventually grow as battery technology develops further. Of course, any increase in electric car usage will tax our electrical production. Answers are still forthcoming on what steps must be taken to meet those demands. Will we get the electricity we need to recharge electric cars from fossil fuel, hydroelectric dams, nuclear power plants or some other form? Will the national electric grid need huge capital investments to handle the extra power usage?

Then, of course, there are logistics and infrastructure considerations that must also be addressed. That's where you come back into the equation. The service station of the future will adapt to support electric cars – or any other viable propulsion alternative – to remain competitive and survive. Could we see electric recharging ports standing side-by-side with traditional motor fuel pumps in the near future? Probably.

Part of our goal at NJGCA is for you to consider where the industry is going and how it will affect your business. These new solutions may be a decade away, but there is nothing wrong with considering them today.

Will you be ready? ■

What is *Redistricting* and how can it affect you?

By Eric Blomgren

If you haven't yet, you will soon be hearing a lot about the process of redistricting, and you may be wondering what exactly it is, and what it means for you. Once every ten years the government conducts a census to determine the population of every town in America. The results show that New Jersey's population had increased 5% to 8.8 million since 2000, half of the growth seen by the nation as a whole. It also showed that Hispanics are now the largest minority group in the state, and Asians' share of the population has increased to over 8%. The Census showed that not only has there been a lot of people moving away from the state to flee the horrible tax climate, but many people have also moved from the northern part of the state to the southern, with Ocean and Gloucester counties seeing their population increase the most.

Once this information was received, a commission of 11 people then redraws the legislative districts in the state to ensure that every district maintains a roughly equal population of around 220,000. There are 40 Legislative Districts in New Jersey, each of which sends one person to the state Senate and 2 people to the state Assembly. Redistricting has the potential to significantly alter the shape of politics in Trenton. Districts that were once slam-dunks for one party can now become competitive. Senators and Assembly members who had been reelected easily can wind up in districts that they don't stand a chance of winning in. Sometimes members can wind up in the same districts as each other and be forced to run against each other or retire. You might not be able to vote for the person who has represented you for years.

We also must determine who we send to Washington D.C., and in a few months this process will also be undertaken to determine the shape of congressional districts. Currently New Jersey sends 13 people to the House of Representatives, but due to low population growth over the last ten years one of those districts is going to be eliminated and put in another state. This means that unless there is a retirement, two of New Jersey's Congressman will have to face each other in an election next year.

Redistricting presents us with an enormous opportunity. This November all 120 seats in the state legislature will be on the ballot. Depending on how exactly the map is drawn, there will likely be many new members of the Legislature. It is also means that control of one or both chambers will truly be up for grabs this year. Whoever controls the Legislature controls what bills are heard or not heard in committee, and which are put up for a vote or ignored. These are the people with the power of life and death over legislation that can have incredible effects on your business. That means it is very important that NJGCA has a voice and an influence in the coming election, in order to ensure that your interests are represented in Trenton. We need your help; your contribution to the NJGCA PAC is what will allow us to fully take advantage of this once in a decade opportunity to influence the dramatic reshaping of the nature of New Jersey politics for the next ten years.

******Note: The redistricting commission is scheduled to release the new districts as this publication goes to print. We will have a full breakdown of the new districts and their effect on our legislative agenda in the next issue of OTR.***

QUOTE FOR THOUGHT

Success is not the key to happiness. Happiness is the key to success. If you love what you are doing, you will be successful.
–Herman Cain - Business man, author, and speaker

Lawsuit abuse a continuing drag on NJ business

By Marcus Rayner | Opinion / Commentary | March 29, 2011

Several hundred miles from here, Illinois business owners are learning about a place with an abundant supply of workplace talent and a high-quality lifestyle sure to make any entrepreneur envious. Weary from crippling tax hikes, a labor shortage and a shrinking consumer base, Illinois business owners can only dream about this land of milk and honey: New Jersey.

"Well-educated, diverse talent pool," reads the ad, placed by New Jersey Gov. Chris Christie. Want to start a business? "Innovative financing, incentive and assistance programs. Exceptional quality of life."

The catch? Here in New Jersey, businesses are vulnerable to lawsuit abuse. Everything the ad says about New Jersey is true. Christie's efforts to improve the business climate in New Jersey, combined with our state's existing assets make New Jersey fertile grounds for entrepreneurship. His outreach to the national business community is both constructive and sorely needed as we seek to reclaim our economic footing here in New Jersey. And business retention as well as recruitment will be critical to our economic growth over the next decade, a point that leaders in both political parties have made.

Yet New Jersey's unemployment rate remains among the highest in the region. There are many reasons behind this; most notably, the exodus of large employers and the crumbling of small and mid-sized businesses. But the legal beatings that our courts have bestowed on New Jersey's businesses also haven't helped.

A decision by the New Jersey Supreme Court found that consumers have no obligation to ask a vendor for a refund before going to court — where the potential for punitive damages and attorneys' fees are high. The Court also clarified that a glitch in the New Jersey Consumer Fraud Act leaves the door open for lawyers to sue businesses for fraud — even if the consumer wasn't defrauded in the first place.

Many New Jersey residents are employed directly or indirectly by pharmaceutical companies, which pump $29.25 billion into our state's economy annually. A report issued by the Healthcare Institute of New Jersey in late 2010, however, revealed that our pharmaceutical industry shed 7.6 percent of its work force since the prior year. A significant portion is attributed to increased legal expenses, with a rise in whistle-blower lawsuits leading the way. The number of suits has risen in tangent with their profitability in our civil courts, and has even attracted out-of-state plaintiffs in a phenomenon called "litigation tourism;" 93 percent of the plaintiffs in class action lawsuits against New Jersey's pharmaceutical companies now come from out-of-state.

Small businesses are vulnerable as well. From a college student suing a Chinese restaurant for soup she spilled on herself (Somerset County), to a drunken motorcyclist who drives into a parked car and sues a restaurant (Ocean County), lawsuit abuse has an economic impact on businesses in every corner of the state. Every dollar spent fighting nonsense lawsuits is a dollar not spent on innovation or job creation, and it doesn't need to be this way.

A piece of legislation introduced by Assemblyman John McKeon, D-Essex, seeks much-needed amendments to our Consumer Fraud Act that would limit abuse while protecting the rights of consumers. The bill, A-3333, already has received bipartisan support.

You shouldn't be able to sue for fraud if you weren't defrauded. And a person from out-of-state shouldn't be permitted to sue here because their case isn't winnable in their home state. In either scenario, we pay for these winnings and attorneys' fees with jobs, economic development and taxpayer-funded court costs.

The Prairie State's loss could be the Garden State's gain. But think of how much sweeter — and stronger — Gov. Christie's pitch would be if we protect our job creators from lawsuit abuse. ■

Marcus Rayner is the executive director of the New Jersey Lawsuit Reform Alliance. He can be reached at mrayner@njlra.org.

Motor Oil Update

How 'new' motor oil standards will affect your small business

By Nick De Palma

Advancements in automotive technology are ever changing, and new developments today will help the industry meet the needs of tomorrow. No matter if it's hybrid cars, fuel celled vehicles or electric transportation, no one denies tomorrow's motorists will drive a differing array of vehicles.

But what about changes to the internal combustion engine (ICE) and your ability to service your customers' motor? If the news out of Detroit and Tokyo are any indication, your job may have just gotten a bit harder.

Just as we have fought automakers to pass **Right to Repair** in Trenton to help you gain access to needed technical information, a new battle against the industry is about to begin.

Under the guise of squeezing more fuel economy, better protecting engine wear, and increasing power out of the ICE, automakers will begin to use a new generation of oil to lubricate their engines. Known as GF-5 or SN, these new semi-synthetic oils are now being used in 2011 GM and Honda vehicles. In fact, GM has gone so far as to create its own variant that it has trademarked as 'dexos 1'.

WHAT IS IT?

The creation of dexos 1, as well as Honda's own proprietary blend, isn't entirely a move by automakers to occupy a new niche. Rather, these manufacturers are reacting in part to new and revised industry standards. These new oil specifications were created, in part, by both the American Petroleum Institute (API) and the International Lubricant Standardization and Approval Committee (ILSAC). While API is concerned primarily with creating gasoline oil standards, ILSAC goes a step further in requiring a fuel economy testing specification. As such, the current GF-4 standards were adopted by ILSAC in 2004 and applied to various viscosity grades of oil, including 5W-20, 0W-30, and 10W-30.

The new GF-5 specifications, however, were adopted by ILSAC in late 2010 and are expected to be fully in effect by September 2011. The industry has until this deadline to make the switch or ILSAC will no longer permit licensing of GF-4 standards.

The biggest difference between the two specifications is the starting point from which producers begin to formulate these blends. The new GF-5 standard begins with higher-quality oil, and then extra additives are included to create the new formulation. Taken together, these two factors are the primary reason the new standard is more expensive than existing motor oils.

THE PERCEIVED BENEFITS

Industry leaders say that this new type of oil is essential as engine size shrinks and automakers use superchargers or turbochargers to get more power from smaller engines. They also claim that these new oil blends will last longer and are more environmentally sensitive.

Industry experts say that these new blends like dexos 1 do offer some tangible benefits since they last longer. However, they also cost about 20% more, which makes them nearly as expensive as purchasing pure synthetic oil. Nevertheless, analysts believe that this ultimately pays off for many consumers for two reasons. From a fuel economy standpoint, GF-5 oils reduce internal engine friction which boosts fuel-economy slightly; most reports say that it is roughly a 1% increase, so it's unlikely that most drivers will notice. From a maintenance perspective, a motorist can now drive over 3-times as far without servicing, shifting the routine oil change from every 3,000 miles to every 10,000 miles.

Furthermore, since engine computing technology has gradually improved over the years, oil life monitoring systems also help extend the life of the oil – meaning that if you are getting your oil changed every 3,000 miles, you maybe wasting good oil and money.

THE AUTOMAKERS' APPROACH

GM claims that their proprietary oil helps resist aeration (which is what happens when air bubbles are whipped into the oil), which aids moving components in operating smoothly and efficiently.

Sounds understandable, but some of these new blends such as GM's dexos 1 (dexos 2 is used for light-duty diesel engines) will be proprietary. Honda, too is encouraging its customers to stay away from 'aftermarket parts and products' and threatens that if they are not used, warranties may be voided. In fact, GM has gone a step further and said that if a consumer's vehicle has engine failure, and that failure can be traced back to having uses another oil other than GM's dexos 1, the General may void the vehicle's warranty.

AFFECT ON YOUR SMALL BUSINESS

This new formulation and the science behind its development all sound very impressive, but how will this affect you?
For starters, the new types of oil may stretch oil changes to every 10,000 miles, which means your customers will be frequenting your shops less.

Secondly, the price of oil changes will rise due to the new formulation – which means you may have a problem explaining why more expensive oil is needed for the typical oil change.

Thirdly, since some automakers will undoubtedly try to force their customers to use proprietary blends, it mimics our case for Right to Repair, **meaning many of your customers will be forced to go back to dealers for servicing rather than face a possible voided warranty.**

On a positive note, while GM and other carmakers will begin to fill new cars with GF-5 specified oil beginning with model-year 2012 vehicles, the new grade of oil is also showing up on the shelf at local auto-part stores. That means you'll have access to similar products.

In addition, motorists driving vehicles with GF-4 compliant blends shouldn't have an issue. That's because GF-5 oil is backward compatible, so engines with older formulations won't be harmed. This is both good and bad from a retail perspective. It is good since your shop workers don't have to worry as much about making costly mistakes, but also bad since many motorists with older cars may not want to pay a premium for the new blend.

BOTTOM LINE

In the end, this shift to GF-5 compliant oil could potentially harm your business. If oil changes become more expensive, happen less frequently, and proprietary licensing prevents customers from visiting your shops, many small establishments will be hurt.

We will update you as more information becomes available, but it is important for you to be aware of what's going on and to educate yourself on how this may affect you in the very near future.

Keep in mind that any efforts or strategy we employ in combating this problem will be hyper sensitive to the public. If you were to ask the average motorist to pony up a few more dollars but get three times the life out of an oil change, chances are they'll readily agree.

So you must use care and tactfulness in conveying this information to your customers. ■

QUOTE FOR THOUGHT

America has the potential for the greatest economic boom and spiritual renewal in our history. But we're being held back by Washington politics as usual. It's time we move forward.

- Steve Forbes

E15: What you need to know

by Eric Blomgren

E15 is so named because it contains 15% ethanol and 85% gasoline. The Obama Administration, as part of a push for more renewable energy, has abolished a 30 year old cap which limited the proportion of ethanol used in ordinary gasoline at 10%, gasoline retailers will soon be able to sell motor fuel containing 15% ethanol blend.

While details are still sketchy and no timetable has been put in place for E15's introduction, officials state they believe the new blend can be safely used on vehicles from model year 2001 forward, while cars produced before the year 2000 should not use E15. The EPA also decided not to grant any waiver for E15 use in any motorcycles, heavy-duty vehicles, or non-road engines (boats, ATVs, lawnmowers, etc.) because current testing data does not support such a waiver. Before E15 can be sold, the EPA must finalize a labeling rule to warn consumers that the higher blend is only for certain vehicles.

In February however the US House voted to prevent the EPA from allowing the sale of E15 because they feared it would cause confusion among consumers driving older cars who would accidently use the wrong type of fuel and damage their car. Some have argued that many stations may not be equipped to accommodate an additional fuel, leading them to choose between E15 and E10 fuels – and E15 will likely win out since it may be more profitable to carry. Some newer pumps are able to 'blend' fuels with different quantities of ethanol, allowing them to pump E10, E15, or even E85. Naturally, these pumps are quite expensive; it has been estimated by the government to cost an average of $120,000 to install a flex fuel distribution system, pumping system and tank at a gas station. Agriculture Secretary Tom Vilsack recently said the Obama administration hopes to install 10,000 flexible fuel pumps nationwide in the next five years.

One of the criticisms of biofuels that has been levied is that it takes away from the world food supply. Nearly 40 percent of this year's 12.447-billion-bushel corn crop will be used to make ethanol. The laws of supply and demand mean that while farmers will do quite well, the higher costs of corn will force prices on food to rise on most grocery store items. Corn syrup is used as a sweetener in a large variety of products, and corn is also used as feed for livestock. ■

The Membership Memo

Affordable Health Coverage: What are you waiting for?

by Phil Apruzzi

What's taking you so long? Where have you been all this time? What are you waiting for? NJGCA has been telling you for months now about the benefits of our three insurance offerings:

•Health Coverage - Blue Cross/Blue Shield Through The Association Master Trust (AMT)

•Workers compensation Through Meadowbrook

•Garage Keepers Through The Amato Agency

•Tank Insurance through Dana Insurance and Risk Management

When do you plan to take advantage of these fantastic low-cost benefits for your business? Let me tell you that you will not find better pricing for any of these insurance offerings when you accurately compare them to your current coverage. On top of that each of our insurance groups provides dividend programs that if nothing else will pay for your annual dues.

If you were in each insurance program with NJGCA, you could potentially receive up to three dividend checks this year. AMT declared their dividend in early January with checks being mailed out in February. Meadowbrook declares their dividend in February with checks going out by April. And, The Amato Agency dividend checks will reach you just in time for the Christmas Holidays. **All three insurance groups have declared dividends for 2011!** For example, if you had all three coverage's with the following yearly premiums:

	Premium	Dividend
AMT	$20,000	$120
Meadowbrook	$6,000	$420
The Amato Agency	$7500	$750
Total Dividend		**$ 1,290**

Not only would you have saved on the cost of your coverage's but you would have received $1,290 in dividends. Enough to pay for more than 2 years of your membership.

I know there is also the issue of loyalty to your agent/insurance broker. But let me just remind you that the survival and growth of your business depends on you making sound business decisions. In some instances, members have asked for insurance quotes and gone to their current broker to see if they can match it. Usually, the agent will match it to keep your business. When they do that the first question you should be asking yourself is "Why wasn't I getting this price over the years I have been with this agent? ". I don't know about you, but that would make me mad as hell.

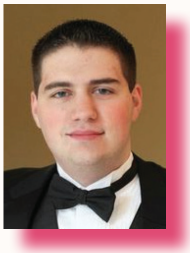
So, what are you waiting for? Quotes are free. Call me at 973-376-0066 or speak to your territory manager to have an agent get you a quote. What do you have to lose, or should I say, what do you have to gain? ■

QUOTE FOR THOUGHT

***You cannot build character and courage by taking away a man's initiative and independence* - Abraham Lincoln**

An Economic and Sustainability Analysis of the Chevrolet Volt

by Robert Smith



With gasoline prices on the rise and increasingly more stringent government requirements for emissions and mile per gallon ratings, automobile manufacturers are looking to surpass the competition in terms of sustainability. General Motors' most recent attempt to produce a car which is seen as more environmentally responsible than its competitors is the Chevrolet Volt.

General Motors classifies the Volt as an "extended range electric vehicle", but the Society of Automotive Engineers calls the Volt a series/parallel hybrid vehicle. The Volt contains both a 149 hp electric motor and an 84 hp, 4 cylinder internal combustion engine. The Chevy Volt has a 288 cell battery pack which can supply up to 9.4 kWhr of energy. This allows the Volt to travel for 44.5 miles in fully electric mode. If a longer range is required, the internal combustion engine starts up and the volt functions as either a series or a parallel hybrid vehicle (depending on the driving conditions) for a total range of 350 miles.

In this study, the Chevy Volt was compared to another GM car, the Chevy Cruze. The Cruze was selected because when the Volt was in its early stages of production, GM engineers started with the Cruze's design and transformed it into the extended range electric vehicle, the Volt. The goal of this analysis is to determine the advantages and disadvantages of the modifications that GM made to the Cruze to produce the Volt.

First the Volt was analyzed from an economic perspective. The Volt's initial cost is much higher than the Cruze's; The Volt's MSRP is $40,280 whereas the Cruze's MSRP is $16,995. The Volt's initial cost is partially subsidized by government rebates which can add up to $7,500, resulting in an initial cost of $32,780. Although the Cruze's initial cost is much lower, its fuel costs are higher, so as the vehicle is driven, the total cost of the Cruze should approach and eventually surpass that of the Volt. Using current prices for gasoline and electricity, the number of miles the vehicle must be driven before the Cruze's total cost equals that of the Volt was calculated. This calculation was done for every drive cycle from 0 miles to 350 miles per day. The results of this analysis are displayed in figure 1 (***above right***).

This study represents the best case scenario for the Volt, as it is assumed that all of the driving is city driving and the maximum rebate of $7,500 was obtained. Even in this case, however, the number of miles required to reach the economic crossover point is likely too high. At 230,000 miles, the average car will have met or exceeded its expected lifespan.

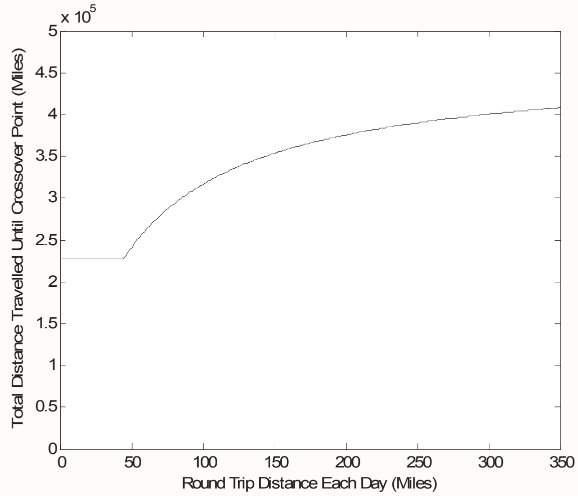


Figure 1 – Economic Analysis of Volt vs. Cruze

The Volt was then compared to the Cruze in terms of total energy usage. The total energy consumption per mile of the Cruze was calculated as follows:

$$\frac{Energy\ Consumption}{mile} = \frac{1}{MPG}\left(LHV_{gasoline}\right)$$

Where MPG is the rated mile per gallon of the Cruze and LHV is the lower heating value of gasoline in kWhr/gallon

The energy consumption of the Volt when in ICE mode was calculated in a similar manner. The energy consumption of the Volt when in electric mode was found in the following way:

$$\frac{Energy\ Consumption}{mile} = \left(\frac{Battery\ Pack\ Usable\ Energy}{Electric\ Range}\right)\left(\frac{1}{\eta_{electric}}\right)$$

Where $\eta_{electric}$ is the efficiency associated with the production of electricity (assumed to be 35%).

These calculations were done for all drive cycles from 0 miles to 350 miles for both city and highway driving. The ratios of Volt energy usage and Cruze energy usage are shown in figures 2 and 3 (***next page***).

The Chevy Volt has a 288 cell battery pack which can supply up to 9.4 kWhr of energy. This allows the volt to travel for 44.5 miles in fully electric mode.

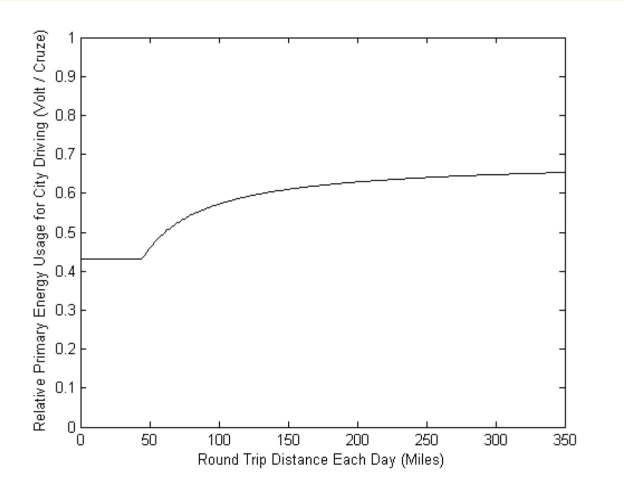


Figure 2 – Energy Consumption for City Driving

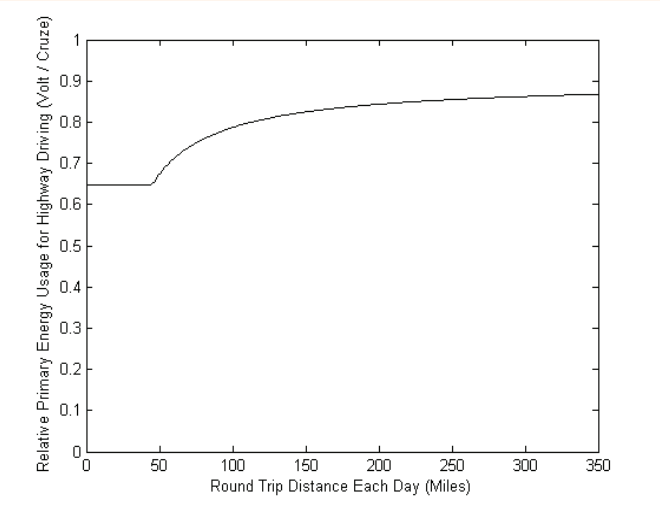


Figure 3 – Energy Consumption for City Driving

These results indicate that for all drive cycles the Volt uses less energy than the Cruze. When only used in electric mode, the Volt can use as little as 42% of the energy that the Cruze uses. In addition to the reduced energy consumption, since the energy the Volt is using is at least partially from electricity, it is produced, in part, by renewable sources, whereas the Cruze gets all of its input energy from the burning of fossil fuels.

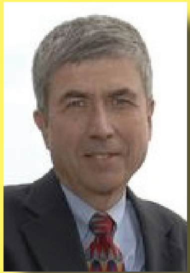
In conclusion, although the Volt may not pay off economically when compared to a much less expensive conventional vehicle, it does provide significant energy savings and can supply a greatly reduced carbon footprint. ■

Robert Smith is a senior at the prestigious engineering college Cooper Union located in Manhattan. Robert is studying mechanical engineering and is currently a senior member of the Cooper Union Formula SAE Team that is building a Formula Racecar to compete with other colleges and universities from around the world in May 2011 in Michigan. smith9@cooper.edu

When only used in electric mode, the Volt can use as little as 42% of the energy that the Cruze uses.

BY PETER H. GUNST, ESQUIRE

The Jacksonville Spill and the PMPA



In February 2006, Exxon dealer Storto Enterprises discovered that approximately 26,000 gallons of gasoline had leaked from the Jacksonville, Maryland station's underground storage tanks. The results were catastrophic.

By September 2008, ExxonMobil had agreed to pay a four million dollar environmental penalty to the state. In March 2009, a state court jury returned verdicts against ExxonMobil totaling about one hundred fifty million dollars in favor of hundreds of impacted Jacksonville residents. Other claims remain to be tried.

Compared to these developments, the ensuing litigation between the dealer and ExxonMobil would appear to be small potatoes. But that lawsuit raised some significant legal issues.

In May 2010, the dealer sued ExxonMobil in state court. Its complaint, which ExxonMobil removed to federal court, contained some interesting allegations.

According to the dealer, when it first discovered the leakage, it went to ExxonMobil, which promised to buy-out its franchise in exchange for the dealer's agreement to maintain confidentiality regarding the leak, to cooperate with ExxonMobil's cleanup efforts and to abandon the property. According to the dealer, ExxonMobil also concealed from it the fact that the line leak detector installed by ExxonMobil was defective.

Subsequently, ExxonMobil repudiated its buy-out agreement and simply terminated the franchise relationship.

The dealer claimed damages for breach of contract, fraud and misrepresentation in connection with ExxonMobil's refusal to pay any buy-out compensation, and for fraudulent concealment with respect to the defective condition of the line leak detector.

In a recent decision, Storto Enterprises, Inc. v. ExxonMobil Oil Corp., 2011 WL 231877 (D. Md. 2011), the federal court ruled on ExxonMobil's motion to dismiss the dealer's claims.

ExxonMobil's argument to dismiss the dealer's claims with regard to its failure to honor its alleged buy-out promise was fairly ingenious. ExxonMobil argued that because the dealer was complaining about the conditions surrounding the termination of its franchise, its exclusive remedy was to sue under the Petroleum Marketing Practices Act. Any claim under the PMPA, however, would be barred by the Act's one-year limitation period for filing suit.

The federal judge agreed, and dismissed all of the dealer's claims for buy-out compensation.

That result is questionable at best. As the Supreme Court recognized last year in the Mac's Shell case, the PMPA does not regulate "every aspect of the petroleum franchise relationship," and only preempts inconsistent state law pertaining to the termination and non-renewal of petroleum franchises.

Arguably, what the dealer was complaining about was ExxonMobil's earlier failure to honor its compensation promise and not its ultimate termination of the dealer's franchise.

Were the shoe on the other foot, and had the dealer filed a timely PMPA claim, it is very likely that ExxonMobil would have argued that its earlier compensation promise was not the proper measure of damages for its ultimate franchise termination. It probably would have argued that there were no damages at the time of termination because the franchise was by then worthless as a result of the massive fuel spill.

Look at it a different way. Suppose ExxonMobil just backed out of its buy-out commitment after the dealer had performed its part of the bargain, but didn't bother to terminate, figuring that the dealer would ultimately hand in the keys in any event. Would the dealer still be precluded from suing on ExxonMobil's breached buy-out commitment? It's hard to see why.

At least the dealer managed to keep alive its fraudulent concealment claim with respect to ExxonMobil's alleged failure to disclose the defective condition of the line leak detector. The court concluded that that claim was sufficiently removed from the dealer's franchise termination to escape preemption by the PMPA.

ExxonMobil argued in the alternative that the dealer's claim should be barred by a separate contractual provision in the franchise agreement that limited to one year the period in which the dealer – but not ExxonMobil – might assert a claim.

Rejecting ExxonMobil's argument, the court found that ExxonMobil had provided no reasonable justification for the discriminatory treatment of claims contained in its form franchise agreement. Absent any such "valid justification," the court concluded, enforcement of the one-sided limitations period "would be inappropriate."

This element of the court's ruling appears to be quite significant. Franchise agreements often contain one-sided provisions, such as attorney fee provisions that only obligate the dealer to pay the supplier's attorneys fees if the dealer is unsuccessful in litigation against the franchisor. Such provisions, it may be argued, are analogous to the one-sided limitations provision that the court refused to enforce. ■

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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

Phase Separation in Ethanol Blended Fuels and how to Repair it

By Mike Pepe, ATS Environmental Services

Water causes more problems than any other contaminant in fuel. This is especially true in ethanol blends. Loose fill caps, leaky fittings, faulty gaskets, tank vents, condensation, and temperature are all factors that can contribute to moisture buildup inside a tank. As the potential for moisture increases, so does the possibility of **Phase Separation.**

Phase Separation occurs when water contaminates an ethanol-blended fuel and begins to dissolve into the ethanol, dispersing throughout the tank. Once the accumulation of water exceeds the tolerance level of the fuel, the alcohol-water mixture will separate from the gasoline. Depending upon various conditions, about 40% to 60% of the ethanol will be drawn away from the gasoline by the water, forming two distinct layers. The top layer will be gasoline that is a lower octane and perhaps out of specification, while the bottom layer is a mix of water and ethanol that will not burn. (The lower the percentage of ethanol in the fuel, the easier it is to phase separate.)

This presents two problems. The first is the possibility that the bottom layer can be stirred up and pumped into a vehicle and stall the engine. The second is that the upper layer will be reduced in octane value and may no longer meet the specifications guaranteed by the label on the pump.

For many years, the only solution to Phase Separation has been to pump out the contaminated fuel, clean the tank, and bring in a new truckload. This often resulted in station down time, upset customers, damaged vehicles, loss of profit on contaminated fuel, additional tank cleaning charges, and the strain of a further investment in order to get new fuel.

New technologies have emerged because phase separation has become such a big problem in the industry. Refiners, jobbers, and retailers all have tremendous exposure when contaminated gasoline finds its way in to a customer's tank.

One method that has proven effective filters and treats phase separated fuel, which then reverses the condition of the fuel, allowing the fuel to be returned to octane specifications and can then be sold at the pump the same day.

As government mandates a greater use of ethanol, there is an increasing possibility of phase separation, and retailers must be aware of all methods to alleviate the circumstances and prevent tainted gasoline from being pumped in to fuel tanks.

Yes, I can point to success stories including one in South Jersey. In fact my company ATS Environmental Services played a significant role helping a gasoline retailer out of a jam and saved him lots of time, money, and aggravation. This is a story of which I am extremely proud because it has a happy ending.

A recent call from a frantic jobber hoping to help one of his equally frantic dealers was received in our office. Somehow water had contaminated the dealer's underground storage tank and created a giant phase separation problem. There were 6,500 gallons of product in the tank that needed to be salvaged. It was discovered that about 200 gallons of ethanol/ water phase were contaminating the entire tank full of product.

The dealer had already contacted several pump and tank contractors and was told that the tanks needed to be pumped dry and the contaminated product needed to be disposed of properly costing thousands of dollars. In addition the tank would need to be cleaned costing even more money, and of course the dealer would have to re-purchase the 6,500 gallons of product to replace his inventory.

Both contractors insisted the phase separation was severe, and all 6500 gallons of product was unusable. The water had caused the ethanol to become separated from the gasoline drastically reducing the octane level. Fortunately, the dealer stopped pumping fuel from the tank, or he would have risked damaging his customer's vehicles.

Here's the HAPPY ENDING. I am happy to report that within a few hours, ATS-using new technology that has recently been developed reversed the phase separation and reclaimed all 6,500 gallons of fuel. I am also happy to report that the dealer saved thousands of dollars, as the cost for the ATS service was only a fraction of what the dealer would have spent dumping the unusable product and buying new fuel.

This new technology really works, and ATS will continue to implement its use. Because phase separation is becoming more common, and can cause plenty of stress, you should know that your association (NJGCA) will be able to properly advise you how to proceed. Remember some contamination situations can be caused by leaky underground storage tanks, and NJGCA will help you deal with the NJDEP. It is also likely that in a phase separation situation, that NJGCA will advise you to call ATS Environmental. NJGCA knows that the technology that we use is reliable and saves their members thousands of dollars, and prevents lots of aggravation.

I am always available to give free advice and help NJGCA members properly deal with all of the difficulties they may encounter with their underground storage tanks and vapor recovery equipment.

If you would like to learn more about the phase separation technology that we employ, please visit us http://www.atsenviro.com/phase-separation ■

BACKGROUND SCREENING

Save Money and Your Reputation

By Robert Lowe

Does one bad apple spoil the bunch, or more importantly spoil your company? ABSOLUTELY!

Hiring someone with a criminal history can ruin the reputation of your company, not to mention the incalculable liability that can occur with just one incident. In today's economy the importance of hiring the best workers is more important than ever as more and more job seekers are stretching the truth to gain employment.

A stunning statistic comes from the American Management Association and the U.S Chamber of Commerce – who state 30% of all small business fail due to employee theft! As a result, background screening is essential in today's workplace. It helps you make the most informed hiring decisions and promotes a secure, productive work environment.

MeSH has joined with the NJGCA to reduce our rates and waive set-up fees for all NJGCA members! To ensure you receive the most in-depth, actionable screening results, the integrity of the data included in our reports is second to none. It's aggregated from thousands of market-leading data sources, and then the information is intelligently processed to ensure it is relevant to your search subject.

Most services are completed within 24 hours, and come with clear and easy to read reports.

So, how do you preclude a bad apple from spoiling your company? Simple -- By shining a light on the bad apples before they enter your company!

Our motto is "Precise Information. Premier Hiring" and we are confident we can alleviate the workplace risk of negligent hiring for all NJGCA members!

We welcome you to find out more about MeSH. Please contact NJGCA Membership Services Director Debbie Hill to inquire about our services at 973-376-0066! ■

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NJGCA is looking for people with experience to join our team of Territory Managers **who work in the field visiting NJGCA members. Several territories are available. NJGCA has always tried to employ previous members whenever possible. Even if you are not available now, let us know if you are interested and we will keep you in mind for the future.**

Contact Phil Apruzzi at phil@njgca.org

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