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NJ GCA
NEW JERSEY GASOLINE ▸ C-STORE ▸ AUTOMOTIVE ASSOCIATION

Volume 7 - Issue 1

On The Road

The Official Communication of the New Jersey Gasoline C-Store Automotive Association
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NJGCA *On the Road*
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Message From Executive Director Sal Risalvato

An Astonishing Year

Each year, I include one message that is a look back at the previous year's activities, and each year I am astounded at the things that I never could have predicted a year earlier. Four items have astounded me this past year. I have listed each in this message; however I have been unable to determine their order of importance. You can place your own order of importance as you see fit.

First is the fact that the agenda that I laid out at the beginning of 2014 is not the agenda that ended the NJGCA calendar year. I figured that much of the focus for 2014 would be on laying a foundation for eliminating the ban on self-serve gasoline that an overwhelming majority of members indicated they would prefer.

The year ended with a change of focus that looks like it will continue into 2015. That focus is our effort to block Trenton from including sales tax on retail gasoline purchases. I don't think that I need to explain why NJGCA's focus has changed, only that until the "sales tax monster" is dead our focus will remain on working to slay it. My fear as with all other monsters that we slay in Trenton is that the monster is never really dead and always seems to be re-born to be battled again. Can we stop sales tax from being added to gasoline sales? I don't know. Can we stop it from re-emerging at another time if we are successful now? I don't know that either. When is the final nail ever put in the coffin?

The second surprise (I predicted otherwise last January as well as numerous times throughout the year) is the fact that MVC has not issued the expected Request for Proposal (RFP) seeking a contractor to administrate the next generation of Emissions Inspections on motor vehicles. I thought for sure that the Governor would have announced by mid-summer that the State would be transitioning to an "all private" system and would seek to shutter the 21 Parsons run central lanes. As of the time I am writing this, I am truly astounded that this has not happened and I can not offer any explanation. I can only say that the state is heading in to dangerous waters as the law does not permit the present contract to be extended beyond May 2016, and time is running out in order to make a smooth transition.

The third item on my list of astonishments is definitely an NJGCA accomplishment that I never saw coming. You all know how more of our members have become increasingly concerned with tobacco related issues. More and more of our members are engaged in profit centers at their stores that rely on tobacco related sales. Surprisingly, in February last year, Gov. Christie proposed raising the tax on e-cigarettes to effectively match the tax on a pack of real cigarettes. This would have meant a new tax of 75% on every purchase of an e-cig or an e-cig device. The proposal was then made worse and amended to also include a tax of $2.70 on EVERY cigar! (for the record I smoke cigars and this would have pissed me off!)

So what is astonishing? The simple fact that we were able to defeat all of the proposed tax increases on any of the tobacco related products! NJGCA was the ONLY small business association that was vocally opposed to another assault on the sale of tobacco products. Because of the nature of the debate many interested parties who also supported our position were unable to speak out as loudly as we were. Public sentiment tends to lean against the large tobacco companies that is very similar to the negative public sentiment towards the big oil companies. NJGCA led the fight and I personally took some verbal abuse from Senators during my testimony at a hearing of the Senate Health Committee. The odds were against us but in the end the taxes were defeated.

There was also another assault that is ongoing on those who sell tobacco products. Efforts were made to raise the legal age to make tobacco related purchases from 19 to 21 years old. So far both of these assaults have been stopped but again I wonder when - if ever - the final nail will be driven in to the coffin. I expect to be fighting this fight again.

If there is one issue that may stand out as the most astonishing in 2014 it may be the incredible drop in the prices of crude oil and of course gasoline and diesel. I have become accustomed over the past few years studying the cycle of speculation that has driven the up and down prices of the marketplace. It was becoming easy to speculate on the speculators. I simply replaced the word "speculate" with the word "hope". Investors had developed a cycle of "hoping" gasoline prices higher, and then lowering them later in the year when their "hopes" or "expectations" were not realized.

I began making my usual predictions for lower prices to occur during the latter part of 2014 never realizing or expecting prices to drop so much or so fast. I have been astounded and have quoted many times to reporters that "I have not experienced anything like this since early 1981 when Ronald Reagan took office".

Continue on next page...

For those of you who were in this business in 1981, you may remember that President Reagan deregulated oil and gasoline as one of his first acts upon becoming president. This occurred on the heels of the gas shortage of 1979-80. After a period of tight supply and high prices (Reagan blamed this on government regulation) we found ourselves in a period of rapidly declining prices brought about by a worldwide glut of both crude oil and refined products. I can get into specifics here but that belongs in a separate column.

For the first time since 1981 competition in the worldwide oil market has driven down the price of crude oil. Why? Remember back in 2008 when oil climbed to $140 a barrel? Do you remember a phrase that was uttered by many public officials especially all of the Republicans who were running for president "drill baby drill"? Their argument was that America needed to be energy self sufficient and produce more of our own crude oil. They were right!

Although we didn't actually drill more oil wells, we exchanged the phrase "drill baby drill" with a different attitude. "Frack baby frack" is what we actually adopted as huge amounts of crude oil and natural gas began pouring from the earth through the process of hydraulic fracturing AKA "fracking". North America has become such a large producer of crude oil that the OPEC nations that previously dictated the worldwide price of crude oil by virtue of controlling the supply have had to lower their prices in order to maintain their worldwide market share. No longer can they slow crude production in order to raise the price. Their customers will simply purchase from the U.S or Canada. It sounds like competition to me! Doesn't it?

Gasoline retailers are used to fierce competition and working on razor thin profit margins. Now for the first time in a while there is competition all the way upstream amongst those who supply us with their product – crude oil. This has resulted in considerably fatter profit margins than we have experienced in a while.

So there you have my four unexpected and astonishing facts for 2014. I hope that when I write this message next year I will be able to look back and reflect on a successful 2015 effort to stop the gasoline sales tax monster, and that a new ALL PRIVATE Emissions Inspection program is in place, and NO new tobacco taxes have been implemented, and of course that we are all enjoying low gasoline prices with continued fatter profit margins. Oh…I didn't forget that we have to get back on track laying that foundation to eliminate the ban on self-serve! ■

NJGCA's 2014: By The Numbers

Miles Traveled by NJGCA Staff - over 53,000
New Member Locations - 111
Number of Emails/Reminders/Announcements/Updates Sent - over 150
Number of Television/Newspaper/Radio Interviews Conducted - over 50

Number of Meetings Attended with Legislators/State Officials/Industry Partners - over 150
Number of Times Testimony was Presented at Legislative Hearings in Trenton - 13
Number of Fundraisers Attended - 85
Dollars Contributed to our Friends in the NJ Legislature - $26,950

Days Spent at Industry Meetings/Trainings/Conferences/Trade Shows - 12
Number of Motor Vehicle Commission Hearings Attended - 46
Number of DEP Violations Assisted - 52
Number of Member Dinners/Meetings/Seminars - 4
Number of Emissions Inspector Classes Conducted - 6

Dollars Returned to Members Via Three NJGCA MBP Dividend Programs - over $500,000
Number of Referrals Made on Behalf of Members to NJGCA MBPs - over 90
Number of Companies Interviewed for NJGCA MBP Program - 18
Number of New Companies Admitted to NJGCA's MBP Program - 8

US Department of Labor Question & Answer

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

Member Question: **Health insurance costs have been on the rise, and the costs are becoming almost too burdensome to pay for the entire health insurance plan for my employees.**

1.) Do I have to continue paying 100% of each employee's medical benefits?
2.) Do I have to offer coverage to my employee's spouses or their children?
3.) Can I ask my employee to pay for their spouse's coverage or their children's coverage?
4.) Should I no longer be able to afford to pay the entire health insurance premium, can I ask each covered employee to pay a portion of their share?

I have employees that are gas attendants and they earn $10.00 an hour, and they work just under 40 hours. I have been paying 100% of their health insurance.

1). Can I ask them to pay 50% of the premium?
2). Does this interfere with minimum wage rates?
3.) How much notice do I have to give to my employees if I choose to ask them for a portion of the health premium?
4.) If they choose not to pay a portion of their health premium; am I permitted to eliminate them from my health plan?
5.) Do any of these changes have to happen at a certain time of the year?

Warner: **Unfortunately a lot of these questions are outside of Wage Hour's authority. You, or the member, may wish to contact:**

USDOL Employee Benefits Security Administration
New York Regional Office
33 Whitehall St, Ste 1200
New York, NY 10004
Tel (212) 607-8600
Fax (212) 607-8681

Under the FLSA, deductions made to contribute to a bona fide third party plan – which could include Life Insurance, Health Insurance, etc. – are not considered to cause a worker to fall below the minimum wage. So, for example, a worker who earns $8.25 per hour and pays $48 per week to Blue Cross through his employer, is considered to have been paid the minimum wage.

There are some other laws Wage Hour enforces, such as the McNamara-O'Hara Service Contract Act (SCA), which require employers to provide fringe benefits. Gas stations and convenience stores are usually not subject to those other laws. Nothing in the FLSA requires employers to provide health insurance or prevents employers from making payroll deductions to pay all or some portion of health insurance premiums.

EBSA would have to answer the questions about modifying or cancelling health insurance plans that an employer had been providing.

Editor's Note: NJGCA reached out to USDOL/ Employee Benefits Security Administration as per John Warner and is still waiting for a reply. ■

RE-LAUNCH of the Generator Grant Program!!

The New Jersey Economic Development Authority (NJ EDA) recently announced the re-launch of the Retail Fuel Station Energy Resiliency Program (commonly called the Generator Grant Program). Here's what you need to know:

- THERE IS NO LONGER ANY GEOGRAPHIC REQUIREMENT.
- GASOLINE STORAGE CAPACITY WAS LOWERED TO 18,000 GALLONS.
  - Any station with 18,000-35,000 gallons of gasoline storage capacity is eligible for $15,000 for a quick connect.
  - Any station with 35,000+ gallons of gasoline storage capacity is eligible for up to $65,000 for the installation of a permanent generator.
- YOU MUST SELL DIESEL TO QUALIFY.

What You Must Do:

- To Apply, go online to www.njeda.com/generators
- Contact Jacy at 973-376-0066 or jacy@njgca.org to let her know that you plan to apply.

The Gas Tax Issue

By Eric Blomgren

THE PROBLEM

For years, politicians and opinion leaders in Trenton have been talking about the gas tax and why it should be increased. Every time the subject came up it was met with the strongest opposition by the public at large (and NJGCA)... so much so that most legislators went scurrying away from any suggestion of it.

And why wouldn't it be so hated? New Jersey has the highest or among the highest taxes of all states: property tax, income tax, sales tax, corporate tax, death taxes, tobacco taxes, liquor taxes, etc. The one tax where we are low is the gas tax. Only Alaska has a lower gas tax than New Jersey. With everything else so high, it would be nice to have at least one tax that is among the lowest.

The reason that the consensus among our leaders has shifted so rapidly in the last few months is that the current situation with the State's transportation funding has reached a point where something must be done.

Just a few minutes driving the state's roads is enough to make it clear what dire straits they are in. Where you aren't stopped by potholes, you're stopped by congestion. NJ commuters have the second longest average commute in the US. Two thirds of our highways are rated as "not acceptable" and 35% of bridges are "structurally deficient or functionally obsolete."

It wasn't supposed to be like this. In 1984, Gov. Tom Kean Sr. convinced the Legislature to create the Transportation Trust Fund (TTF), a fund with dedicated revenues that would ensure that there would always be money available to pay for the state's infrastructure. Clearly, it hasn't worked out that way.

The TTF has been managed irresponsibly for over 20 years, and is now effectively bankrupt. Legislatures of the past used it to spend more and more, but didn't increase revenues along the way. Instead, they took on more and more debt. Now, we have come to a point where the payments on our debts will be more than the amount of revenue the fund will bring in. The gas taxes we pay now are literally being used to pay for snow removal and pothole fixes from twenty years ago.

The problem has become so serious that even some hardcore anti-tax leaders are expressing openness to a new source of revenue dedicated to transportation. Most significant is Gov. Christie. After bashing the very concept of a gas tax hike for years, he has softened in a big way. He appointed a Democrat and known advocate of a hike as his Transportation Commissioner and no longer says he opposes a tax hike, but instead says that, "all options are on the table".

THE OPTIONS

The best thing to do, of course, would be to lower costs. NJ has been consistently rated as one of the least efficient governments in the country when it comes to transportation construction (or anything else for that matter). A study last year found that NJ spends more than eight times the national average for every mile of road. We spend more than four times as much as the national average on roadway administration. Our laws also require that we pay construction workers at prevailing wage, which increases the cost of wages by as much as 20%.

Unfortunately, these are not really being looked at as solutions. Unions would go to the mattresses to protect their benefits and members, and even if these changes were implemented they would not save enough to dig us out from the hole we are in. In a state as densely packed as NJ, it will always be more expensive than average for us to build, maintain and administer our roadways.

That leaves us with revenue increases. Right now, NJ collects 14.5¢ in tax from every gallon of gas and 17.5¢ from every gallon of diesel fuel. Technically, this is two taxes. The first is the basic excise tax of 10.5¢ for a gallon of gas and 13.5¢ for a gallon of diesel. This tax has not been increased since 1988, meaning that inflation has eaten away at much of its value.

The other tax is the petroleum gross receipts tax. This tax was enacted in 1990, and spun as not being a gas tax increase, but instead as being a new tax on the big oil companies. In practice, they just passed that tax on at the rate of 4¢ per gallon on gas and diesel fuel.

The easiest thing to do would be to just raise one of these tax rates, or both. For every 10¢ the tax on fuel is raised, the state government would collect about $500 million additional revenue. The downside is, of course, politics. With 80 members of the General Assembly running for re-election in November, no one wants to be seen as supporting an unpopular tax hike if they can avoid it. It also doesn't help that the Governor wants to run for President and that the Senate President wants to run for Governor. The other downside to raising the current tax rates is that in 20 years we may wind up in the same situation, with inflation eating away the value of the tax, not to mention increases in vehicle mileage standards leading to fewer gallons of fuel purchased, but more miles traveled.

One solution to that problem would be to include automatic increases in the gas tax, tied to the Consumer Price Index (CPI), the same way the minimum wage is. The obvious downside is it will lead to automatic tax increases virtually every year. Both Massachusetts and Maine recently repealed their automatic increases in gas tax. NJGCA feels that legislators are elected to make the hard decisions; they should have to take a stand and vote for every tax increase if they truly believe that it is the best course of action.

Another alternative would be to follow the lead of about a dozen other states and require alternate energy vehicles to pay an annual fee to make up for the fact that they are using the roads but not paying any gas taxes. The fees range from $50-$100 per year. Of course, since there are so few vehicles on the road that do not use gas or diesel, the amount of revenue this would bring in would be very small.

Another alternative would be to add a percentage-based tax. Instead of taxing a flat 14.5¢ per gallon, they would tax, for example, 9% of the average retail price of regular gas. This is basically the bill proposed by Asm. John Wisniewski (D-Middlesex), the Chair of the Assembly Transportation Committee. His bill would effectively increase the tax by about 25¢ a gallon.

The downside to a percentage-based tax is that it is extremely volatile. We all know just how quickly and just how much the price of gas can change. 9% of $2.50 is about 23¢, but 9% of $3.50 is about 32¢; meaning the tax rate will change as much as 10¢ within a year. When prices go up, taxes will automatically go up. When they go down, taxes will go down which, while good for consumers, is bad for the state treasury, which will bring in less revenue than planned for. Several states, like California and West Virginia, have moved away from percentage taxes and back towards flat rates.

One of the alternatives that has gotten the most discussion, especially in the backrooms, has been the **sales tax**. Sales of motor fuel are exempt from the sales tax. The argument goes that if the 7% sales tax were extended to fuel, it wouldn't count as a tax increase, it would just be "closing a loophole". In practice, the price of gas at the pump would shoot up about 20¢. It is not a good political argument, but it ***is*** an argument ... and outright raising the gas tax doesn't provide much room for spin. Voters in Iowa and New Hampshire don't have to sit in our traffic or hit our potholes, and they won't care about TTF funding, but they ***will*** care about who is a tax-hiker.

Of course, such an action would be disastrous for retailers. As you know, all taxes on fuel are collected at the wholesale distribution level and then passed on to retailers. A sales tax would have to be collected at the pump, saved up, and then paid on the 20th of the month. Every different price would have a different tax rate. Stations that sell three grades of gas, plus diesel, and have a cash discount, would have eight different prices and eight different tax rates to calculate every day.

The potential for fraud would be huge. The average station would wind up collecting, and then owing, about $20,000 in sales tax every month, and that would be too great of a temptation for at least some retailers out there. Other states with a sales tax have had huge problems with fraud; Illinois, for example, just announced that they had recovered $100 million from just 50 retailers who had cheated on the sales tax. NJGCA released a lengthy and authoritative report about how catastrophic a sales tax would be. We sent copies to every legislator and I encourage you to take a few minutes and read it yourself; you can find it on the front page of our website at www.njgca.org.

One possible spin on this plan would be to not do a sales tax, but to instead do a "sales tax." By definition, a sales tax has to be collected at the point of retail sale. What may happen is that a plan to collect a sales tax is announced, but the actual law says that a 7% tax will be collected at the wholesale level. Technically, this is not a sales tax, but the politicians may try to spin it as being one. Yes this is insane and borderline Orwellian, but welcome to the world of Trenton politics ... this is really how these people think! And, as long as the tax is not collected by the retailer, it may be a scheme we will have to accept without complaint.

THE BEST (REALISTIC) SOLUTION

If taxes on fuel are going to increase, then the best possible scenario would be one in which another tax is decreased or eliminated. Another scenario that has been discussed is to combine an increase in the gas tax with the elimination of the estate and death taxes. NJ is one of only two states with both an inheritance tax and an estate tax.

These taxes have an especially detrimental effect on business owners who want to pass their businesses on when they pass away. Children, spouses, and parents are exempt from the inheritance tax but everyone else, including siblings and spouses of children, are not exempt. Tax rates for these people range from 11%-16% of the value of the business, and that is not counting what will be lost to the federal and state estate tax. The state estate tax applies to anything over $675,000 and is left to anyone other than a spouse. This rate ranges from 4%-16%, increasing as the value of the estate increases. 31 states do not have either of these taxes.

These two taxes bring in, on average, $685 million per year. Here is where the gas tax comes in. A 12¢ gas tax increase would bring in about $654 million. If the Governor were to increase the gas tax 12¢ and eliminate the death taxes, then not only would he provide stable funding for the TTF but he would also be able to say he cut taxes by over $30 million per year. A 12¢ increase can be borne by fuel retailers since they will just pass the cost on to consumers. It would not be so high as to discourage people from NY and PA from coming over the border to buy gas. All businesses would be more secure in their long term future with the elimination of these unfair taxes.

It sounds like a win-win for business and politicians, so why haven't they already done it? The answer is that the revenue from the death taxes goes to the general fund, which pays for everything from education to pensions to healthcare subsidies. If these taxes are eliminated and the gas tax increase constitutionally dedicated to the TTF, then it will be even harder to fund the state's other obligations in the years ahead. Still, compared to the other realistic alternatives, this tax swap is the proposal we should all be rooting for. ■

2014: The Year in Gas Prices

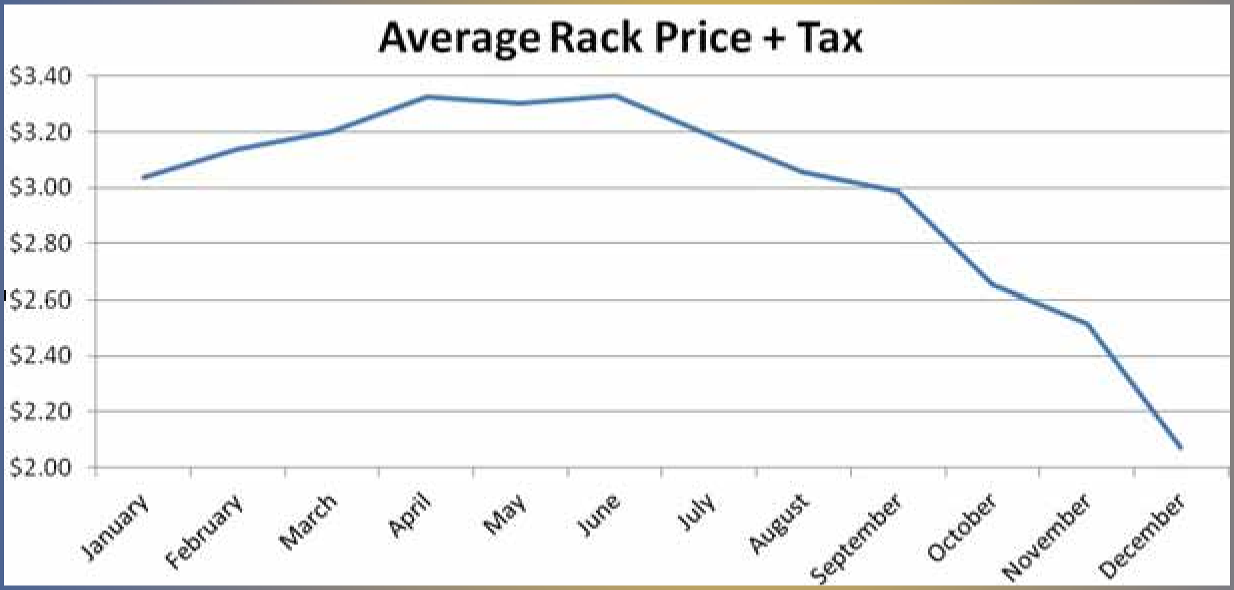
By Eric Blomgren

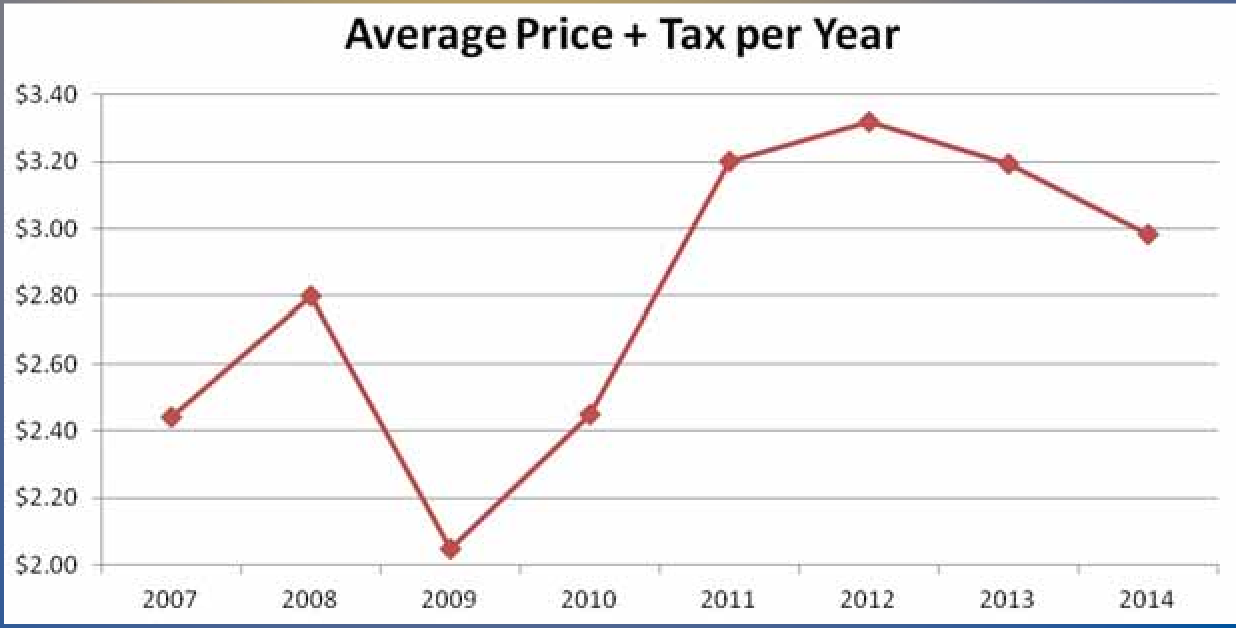
The best way to understand what happened to gas prices in 2014 is to look at the year in two parts: the first six months and the last six months. From January 1st through June 30th, the average price of gas at the rack, plus tax, was $3.22, keeping in line with the high prices we lived with throughout 2013, 2012, and 2011. In fact, if prices through the second half of the year had stayed steady then the average for the entire year would have been the second most expensive year for gas on record, after 2012.

Instead, we got something very different. In July, prices started to fall significantly. Every month from July through December the price was lower than the month before, and almost always by double digits. The average price in the second half of 2014 was just $2.74, a whopping 48¢ a gallon cheaper.

For 2014 as a whole, the average price was $2.98, lower than the previous three years and the first time under $3 since 2010. As in 2011 and 2012, the most expensive month of the year was April. The gap between the most expensive month, April, and the cheapest month, December, was $1.26 a gallon. Last year the gap between the highest and lowest month was just 45¢. The lowest average price for a single day in December was $1.87 on the 31st, the lowest rack prices seen since April 2009. ■

2014	Average Rack Price + Tax	Change from Previous Month
January	$3.04	-$0.06
February	$3.14	$0.10
March	$3.20	$0.06
April	$3.33	$0.13
May	$3.30	-$0.02
June	$3.33	$0.03
July	$3.19	-$0.14
August	$3.05	-$0.13
September	$2.99	-$0.07
October	$2.65	-$0.34
November	$2.51	-$0.14
December	$2.07	-$0.44





HORROR HIGHLIGHT

NJDEP COMPLIANCE INSPECTIONS AND UST REGISTRATIONS

WHAT DO THEY HAVE IN COMMON?

By Debbie Hill

You may be asking just that ... What do they have in common? PENALTIES? DELIVERY BANS? THE ANSWER IS BOTH!

The NJ Department of Environmental Protection maintains a list of all underground storage tank (UST) registrations for every UST in New Jersey. Should you fail to properly register or renew your UST with NJDEP, you are opening the door for a guaranteed compliance inspection. The first penalty you will receive is a fine of $15,000 for failing to properly register your UST. In addition, NJDEP is going to impose a delivery ban. The delivery ban is a notice that states, "**do not fill tanks.**" In some circumstances, NJDEP will allow you to continue selling the fuel that you already have in your tanks, but no new fuel can be delivered until the delivery ban has been lifted. This will cause problems in other areas of your business. For example: What about your gas attendants? Do you continue to pay them even when you have no gas to sell? If you don't pay them, and this delivery ban goes on for a few weeks, your employees might find other work, and you could be looking for all new employees.

Recently, an NJGCA member made an error on his UST Renewal Registration Questionnaire. This prompted DEP to conduct a compliance inspection. Once on site, NJDEP observed that the tanks were 30+ years old, and made of steel, which required some of the compliance tests to be re-done. The owner had re-lined the inside of the tanks with a sprayable chemical resistant epoxy tank lining system. NJDEP requested a list of the chemicals this lining could resist. They wanted to make sure that the partial ethanol products that we use today were listed. Thankfully, the resistance list did include the ethanol products.

However, it is important to point out several other things that occurred at this site at the time that NJDEP was present. First, the owner used his testing company to help him complete the UST Renewal Questionnaire. This is where the first error occurred... The equipment listed on the form was not the actual equipment that was in the ground. Now for a second time that the questionnaire was completed, it contained an error. Once NJDEP realized that the owners were not certain what equipment they had, they conducted a field investigation, and other problems were found. The owner eventually had to hire a petroleum equipment contractor to physically open his tanks and insert a special camera for a visual inspection. NJDEP had to be on site for this part of the investigation. The tanks passed and finally the UST Registration was issued.

The owner of the tank system is still waiting for all of the penalty paperwork. We know for sure that one penalty will be for $15,000 for "Not Properly Registering the Regulated Tank with the Department of Environmental Protection". N.J.A.C. 7:14B-2.1(a)

How can you protect yourself? Make sure you are fully aware of your tank system. Is it steel? Is it fiberglass? How old is it? What compliance tests does your system require? Annual tests? Three-Year tests? If you want to AVOID costly penalties then you have to be proactive about your tank system. NJGCA highly recommends that you are present during any compliance testing that is performed at your location. Ask Questions! Make sure that you have an understanding about your system's operation and you can save yourself a lot of money! Make sure that you understand what they are testing for, and that you understand the basic operation and requirements of your USTs. Being proactive can save you a lot of money, and keep you in business.

If you have any questions, please feel free to contact Debbie at NJGCA: (973) 376-0066 or email Debbie@NJGCA.org

Below is a list of the UST Registrations Per County and their Renewal Dates: CHECK YOURS!!

UNDERGROUND STORAGE TANK REGISTRATION RENEWALS: (THREE YEAR CYCLE $150.00)

2013:
Bergen County renewed: December 31, 2013

2014:

Passaic/Sussex County renewed:	March 31, 2014
Hudson/Warren County renewed:	June 30, 2014
Morris County renewed:	September 30, 2014
Essex County renewed:	December 31, 2014

2015:

Middlesex County will renew:	March 31, 2015
Union County will renew:	June 30, 2015
Hunterdon/Somerset will renew:	September 30, 2015
Gloucester/Monmouth will renew:	December 31, 2015

2016:

Burlington/Mercer will renew:	March 31, 2016
Camden/Ocean County will renew:	June 30, 2016
Atlantic/Cape May/Cumberland/Salem will renew:	September 30, 2106 ■

Important Issues Impacting Your Business!

By: Eric Blomgren

REWARDS FEES BILL

As Exxon prepares to join BP in offering a rewards program that is costly for dealers, this bill is more important than ever and thankfully it has seen some major progress. A-1985/S-2434, sponsored by Asw Celeste Riley (D-Cumberland), Asm Raj Mukherji (D-Hudson), and Sen Bob Gordon (D-Bergen), ensures that when big chains think up new kinds of rewards programs, they are the ones who must pay the full cost of them, not the retail dealer. On December 4th the bill passed the Assembly Consumer Affairs Committee 4-0 and the following Monday passed the Senate Commerce Committee 5-0. NJGCA thanks the Chairs of those committees, Asm Paul Moriarty (D-Gloucester) and Sen Nia Gill (D-Essex), for agreeing to hold the hearings and for supporting the bill. Next, the bill must be voted on by the full Assembly and Senate. Those opposing the bill, primarily Wawa and Sunoco, will likely try to weaken it, so we will need your support to stop them.

INSPECTIONS

We have continued to see and hear nothing official about the future of the State's emissions inspection program. The clock is starting to run out for when they can announce what their plan will be, as a new program must be fully in place by May 2016. Since they need time for contractors to bid on the program, time for the State to review the bids, and then time for an infrastructure transition, they should only have a few more months at most before they must announce the new program. With how long it is taking to announce, it seems that there is a real chance the program unveiled will not be good for auto repairers. Either way, businesses must be united to ensure we can get the best program possible for our industry. Not long after the program is announced, NJGCA plans to hold a statewide summit of auto repairers to determine how to react. Be sure to pay attention to your email for the notice. If you don't receive NJGCA emails currently, take a quick second and send an email to jacy@njgca.org to get on the list.

In addition to emissions inspections, there is a bit of good news for safety inspections. You may have heard of the new trend known as "ride sharing services" or at least of the most prominent company in this business, Uber. If you haven't, the basic idea is that anyone with a car can sign up to be a driver for one of these companies. Customers use an app on their phone to request a pickup from a nearby driver, who uses their own car to transport the customer where they need to go. Everything, including payment, is done through smart phones. In the last year or two these services have exploded in popularity, especially among younger adults who like the fact that it is cheaper and much more convenient than traditional taxis. Uber alone was recently valued at $40 billion, which means it is worth more than Delta Airlines and four times as much as Hertz. Like any business model that explodes in popularity, the government is getting ready to come in and start regulating. NJGCA testified in December in favor of A-3765 which among other things requires all vehicles used by drivers working for these ride sharing services to pass a safety inspection and undergo regular inspections. The current language calls for those inspections to occur every other year, although we are hoping to have that amended to every year to give these vehicles the same standards places on actual taxis and limos. NJGCA supports any move that leads to more motorists required to perform safety inspections.

MINIMUM WAGE INCREASED TO $8.38

As you know, last year New Jersey voters approved an amendment to the state constitution which not only raised the minimum wage, it created automatic increases based on inflation. The NJ Department of Labor ruled therefore that effective January 1, 2015 every employee in New Jersey must be paid at least $8.38 an hour. The groups that pushed the minimum wage increase have already said that they are not happy because this increase is not enough for them. They are now pushing a bill, A-3912, to allow individual towns and cities to increase the minimum wage on their own. If this bill were to pass then there could be a different minimum wage in each of the state's 565 municipalities.

TOBACCO PURCHASE AGE

In November the town of Teaneck joined Englewood and Sayreville in banning the sale of all tobacco products and e-cigs to any adult age 19 or 20. Of course, these bans only affect the businesses in their little town, so these customers will simply drive five minutes over the town border and make their purchases elsewhere. Anti-tobacco advocates are pushing this measure in every town they can, so please make sure you are paying attention to what's happening in your town, we need your vigilance in order to stop this from passing in more municipalities. The bill to enact this change statewide has already passed the state Senate and is currently in the Assembly Health Committee, where it has drawn support from Republicans in addition to Democrats. If there is a hearing in the near future, we will need help from affected small businesses to stop it.

MANDATORY PAID SICK LEAVE

The movement to mandate that every business in New Jersey provide employees with multiple days of paid 'sick' leave continued to gain strength this quarter. It passed overwhelmingly in ballot measures in Montclair and Trenton, and is now the law in those cities plus Newark, Jersey City, East Orange, and Irvington. The law there covers any employee who works 80 hours in that city per year. So if you have an employee who primarily works in a business outside those towns, but occasionally fills in at a location in one of these towns; they are now eligible for paid leave unless they spend less than 80 hours there per year. The Assembly bill, A-2354 sponsored by Asw Pamela Lampitt (D-Camden)

Continue on next page...

and Asm. Raj Mukherji (D-Hudson), was passed by the Assembly Labor Committee 6-3 and passed the Assembly Budget Committee 6-4, making it eligible for a vote by the full General Assembly. Also, the state of Massachusetts became the third state in the nation to pass this requirement, joining Connecticut and California.

DEP FEE INCREASES

In September, NJGCA added its voice to a chorus of pro-business groups opposing a proposal by the DEP to dramatically increase air permit fees. General permits would increase by $410, doubling their cost. The permit for renewing the authorization of a used oil space heater, owned by many auto repair shops, would increase $525. Preconstruction permits would go up $772 in 2015 for the first new piece of equipment. A gas station with an auto repair shop with a waste oil heater and a backup power generator would have to file 3 general permits, meaning a loss of over $1,200 as a result of these increases. DEP is considering all the public comments that were submitted and has not announced what their final decision would be. While it is a certainty that fees will increase, we are hoping that the size of the increase will be reduced to a more fair level.

STATE OF EMERGENCY DAY OFF BILL

S-1717, sponsored by Sen Peter Barnes (D-Middlesex), would prohibit an employer from punishing in any way an employee who doesn't come to work when a state of emergency has been declared. States of Emergency tend to be declared every time a weather forecast is showing snow, and they apply to the entire state, even areas that are not affected by the storm. This will particularly hurt gas stations since motorists are not allowed to pump their own gas but will still need to buy fuel even when the weather is bad. The bill passed the Senate Labor Committee 4-1 in September and is waiting to be voted on by the full Senate.

WORKPLACE BULLYING BILL

In December the Senate Labor Committee held a hearing on S-280 from Sen Linda Greenstein (D-Middlesex), also known as the "Healthy Workplace Act". The bill would put the burden on all employers to prevent their employees from feeling bullied by other employees. As you can imagine, passing laws based on people's feelings is a disaster waiting to happen. One person's goodhearted joke could be another person's insult. It also creates a new reason for lawsuits. An employee who is fired or quits or is not promoted can turn around and claim the reason for it was that they were bullied in the workplace. The bill was opposed by various business groups and not released by the Committee.

INTERNET LOTTERY

In Congress, a bill has been getting bipartisan support that would outlaw internet gambling nationwide. What is important about this bill to your businesses is how it does so. It would officially repeal a 2011 ruling by the Department of Justice which said that the Wire Act of 1961 did not prevent the use of the internet in gambling activities. In addition to effectively legalizing online gambling for states that want it, it also legalized online lottery. If this bill were to pass Congress and be signed by the President, it would not only prevent people from gambling online it would outlaw internet lottery. Both Republicans and Democrats are supporting this bill, and its sponsors are saying that at the very least it will have a hearing in the next Congress, and perhaps go much further than that. While it would be unfortunate for the State to lose over $100 million a year in revenue from internet gambling, it would certainly be worth it to outlaw internet lottery.

GIFT CARD DATA COLLECTION

Under current law, starting in July 2016 businesses will have to start collecting the zip code of every customer who purchases a gift card. A bill which would remove that requirement passed the state Senate in June 34-0 and in October passed the General Assembly 73-1. It now sits on the Governor's desk. If this bill isn't enacted into law by July 2016, then every c-store which sells these gift cards will have an extra burden to deal with.

ELECTION UPDATE

Election 2014 turned out to be a tremendous year for the Republican Party. The biggest headline was that they will have complete control of Congress for the next two years following the decisive capture of the US Senate. They saw a net increase of 9 seats and will have a solid majority of 54 seats. They also increased their majority in the House of Representatives, controlling 247 out of 435 seats, the biggest majority the Party has had in almost a hundred years. In New Jersey, Sen Cory Booker was reelected by a margin of 56%-43%. There were no surprises in the races for the state's 12 House members; all 9 incumbents running for reelection won by double digits. They will be joined by three new members, Donald Norcross (D-Camden), Tom MacArthur (R-Ocean), and Bonnie Watson Coleman (D-Mercer). Asw Celeste Riley (D-Cumberland) won her election to County Clerk and left the Legislature in January. Also, a proposal in Mercer County asking residents to declare their support for a tax on paper and plastic bags was utterly crushed.

Looking ahead, New Jersey is facing an election year for all 80 members of the General Assembly. The race for President in 2016 will also start heating up, with most of the candidates starting their campaigns in the first six months of 2015. This is especially important for us since it seems very likely that our Governor will be throwing his hat in the ring and consequently spending a lot of time out of the state. He has however stated publically and privately that he does not plan on resigning should he decide to run, which means he will still be around to veto many of the anti-business initiatives discussed earlier in this article.

NJGCA PAC

This year we at NJGCA are going to be fielding requests from the 80 different members of the General Assembly campaigning for reelection this November to support their campaigns with donations from our political action committee (PAC). In order to support our allies, we need financial support from our members. Just go to www.njgcapac.org and sign up to contribute just $10 per month to our political action committee. It will go a long way in making your voice heard, and at just the cost of lunch only once a month. Remember, whether or not you contribute you can bet Wawa, QuickChek, BP, Sunoco, Exxon, Costco, Wal-Mart, Parsons, and the other big corporations are. ■

ULTRA LOW SULFUR DIESEL

The introduction of Ultra Low Sulfur Diesel (ULSD) has brought new challenges to tank owners storing this fuel. Many diesel tank owners are now dealing with microbial growth, gums, varnishes, and sludge in the tank. Since ULSD fuel has a greater affinity for water, the microorganism growth is accelerated, eventually leading to contaminated fuel and tank system problems. Microbial buildup can extend to other tank components causing corrosion that can require expensive repairs. Regular tank maintenance is critical to avoid the many problems that accompany the storage of ULSD fuel. The following are steps that should be followed when storing and dispensing ULSD fuel:

- Tanks should be checked for water using a water paste on a measuring stick. Any water observed should be removed immediately.
- Check the fuel condition at least once a week, hazy fuel is a sign that the fuel is contaminated.
- The fuel in the tank should be tested for microbe contamination. Removing or dispensing all of the fuel from the tank will not get rid of the microorganisms and will contaminate the next delivery of new fuel.
- Both the diesel fuel and tank must be thoroughly cleaned. This includes the removal of water, sludge, gum, and microbes from the tank walls and fuel.
- After a complete cleaning, a fuel biocide must be added to the tank. This should be repeated 2 to 3 times per year.

Regularly scheduled fuel testing and tank maintenance will allow tank owners to effectively run their business without costly disruptions and loss of sales. Contact Kristi Clune at ATS Environmental Services today to schedule an evaluation and discuss a preventative maintenance plan specific to your business. 1-800-440-8265 Ext. 107 or kristi@atsenvironmental.com. ■

MEMBERSHIP MEMO

BY: GREG CANNON

LOOKING BACK AT 2014:

• Our Membership
• Billing Program Success
• Using The Website

LOOKING AHEAD TO 2015:

• Members Recruiting Members
• Growing Your Association
• Using the Resources at Your Disposal – Please???

Happy New Year Everyone! I hope you have all survived the Thanksgiving, Christmas and New Year Holidays and are now firmly entrenched in your new diets! I'd like to take a quick look back at 2014 to review where we've been and a look ahead at 2015 to see where we can go.

But first, my wife and I would like to welcome our grandson, Sweet Baby James to the Greatest Show on Earth!

THE 2014 REVIEW:

• Our Membership: During the past year we experienced a small but steady increase in our membership. The effort made by both members and Member Benefit Partners to recruit new members was a refreshing sign that NJGCA is getting bigger and stronger. We all thank you for your combined commitment.

• The Billing Program Success: It took longer than I thought it would, and there may be one or two snafus in there still, but the new billing program has been successful and I'm very grateful for the overwhelmingly positive response. There has also been an increase in the number of automatic credit card renewals using the payment plans available and the Bank Draft option.

• NJGCA.ORG: By now you hate me for telling you about our amazing website … too bad. Because it is amazing and has pretty much everything you need as an information resource … and, I'm happy to say there has been an increase in online registrations for events, membership applications and dues payments. If you have a problem signing on just call me and I'll set you up with a username and password. We'll only take a few minutes so you can access the Members Only Dashboard and use the payment section.

THE 2015 LOOK AHEAD:

• Members Recruiting Members: As I mentioned above we had an increase in membership in 2014 but also felt the sting of members not renewing. The reasons vary from "I can't afford it" to "I don't see the value" to "Why should I? I'll get the benefits either way." I can understand the first reason. The next two make my head explode and if any of you current members hear that, your head should explode too. I'd like to build on the effort in 2014 to have members recruiting members. If you have a friend that's an owner and isn't a member you should be pissed off that they're letting you pay for their benefits of membership and let em know that. Strength in numbers ladies and gentlemen. NJGCA DOES make a difference in Trenton and if we can keep that mindset, recruit members and grow, we will continue to be noticed and continue to make a bigger difference in the issues that affect your business.

• Growing Your Association: We have responded to your request for more member related events with some regional evening membership meetings and more recently with our newly developed Diner Tour Breakfast Meetings. When we call you to see if you can attend please be nice. We're doing this for you and we can use your support. I know time is a commodity, but we're trying to build a momentum and we need you to do it. All of our events are open to potential new members so invite some people along with you to see what we're about.

• Using Resources At Your Disposal: Please try to remember the tools we have developed for you to utilize:

  o The Website, The MBP Brochure, The Membership Fairness Doctrine, The Road Warrior, The OTR, Wild Fire Alerts and Special Announcements.

These are all valuable resources not only for your information, but also to be used as recruitment tools for people you may know that should be a part of your association.

Let's keep the momentum going, let's have a great year, let's have some fun… like we used to!

Thanks for taking the time, I wish you and your fam the best.

Cheers!
greg ■

Affordable Health Care Coverage? It's all about Value!

By: Harvey Mishkin, Chief Operating Officer of Association Master Trust

For many of us our first thought regarding health care coverage is usually about the ***affordability*** of good, quality health care coverage. When we become sick or injured our thoughts quickly change to ***coverage*** and how our health plan will respond to the potentially overwhelming costs associated with hospital stays, specialized doctor visits, associated tests, or specialized prescriptions.

NJGCA is a founding member and participating association in the Association Master Trust (AMT), a not for profit, multiple employer, self funded benefits trust created to address the healthcare coverage needs of its participating employers. While AMT's roots go back to1945, AMT is currently as popular as ever offering benefits to employer member participants from fifteen different NJ trade associations. Employer participation in AMT has grown by 7% over this year to more than 1500 employers. Accordingly employee enrollment is up as well with enrollment exceeding 18,000 members. Currently, NJGCA has one representative appointed to AMT's Board of Trustees helping to direct the program for the benefit of all its participants.

AMT's popularity lies within its structure. Its not for profit approach directs its resources towards benefits to members not shareholders or brokers. AMT offers an extremely wide choice of benefit plan options and contracts with Horizon Blue Cross Blue Shield of NJ for access to not only the NJ provider network but also to the National Blue Cross Blue Shield network of medical providers (over 750,000 providers nationally). AMT's service to its members is truly exceptional. Lastly AMT offers very competitive pricing that is usually less when compared to like benefit plans ("apples to apples" comparisons).

While no one likes to see rate increases, the realities of healthcare continues to demand increased funding and higher rates. Fortunately for AMT members average rate increases have been in the single digits (6.4%, 6.5% and 9.8%) over the past three years while pricing in the insured small group market continues to soar. In 2014 alone the insured small group market saw astounding health plan increases partly due to new rating methodology as well as fees and taxes brought forth under ACA. It wasn't surprising to see 40% increases in the insured small group market in 2014. AMT's average increase of 9.8% (note that approximately 3% of the increase was dedicated to ACA taxes and fees) once again speaks well of the program and let's not forget about the dividend!

For the third year in a row AMT has issued a dividend credit to eligible employers participating in the plan. The 4% credit (for 2013 plan year) was issued on the July 2014 statement and was well received. Over the last three years AMT has returned 12% of contributions (premium) to members. In the conventional insured market these funds would likely be retained by the carrier as profit. At AMT, unallocated surplus (profit) is usually returned to eligible participating members at the Trustee's discretion.

So it's all about value and wise choices. We believe that AMT represents both and encourage your participation in the plan. If you are not currently with AMT you should take a look at what it can offer. If you are participating but haven't looked at newer plan designs in a while you should. They can save you money while continuing to offer solid benefits.

Great rates, coverage and service and a health plan run by members for members. Contact AMT today at (973) 379-1090 or info@amt-nj.com and see how AMT and the NJGCA Benefits Trust advantage can work for you. ■

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

66 Morris Avenue, P.O. Box 359, Springfield, NJ 07081
973-379-1090 ext. 229 • www.amt-nj.com
info@amt-nj.com

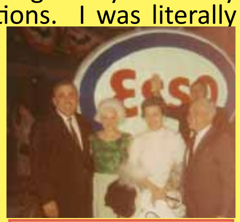
MEMBER SPOTLIGHT

This issue, NJGCA's Member Spotlight is Norm Lippmann, owner of Kingtown Diesel and NJGCA member for almost 50 years.

Tell me a little bit about how you got started in the industry.

I've been in the business for over 55 years. I started pumping gas when I was 17 years old, working alternating shifts at two Esso stations, and driving a cab after work from 10 PM to 3:00 AM. I did this seven days a week. I then weaseled my way into a job with Cummings Diesel, where I worked every shift I could, did every job I could get my hands on, and learned everything there was to know about diesel engines, despite the company's best efforts to keep their employees pigeon-holed into one specific area of expertise. When I decided that I wanted to go into business for myself, Amoco Oil refused my application, saying that I made too much money at Cummings, and I would never be able to support my family in the service station industry.

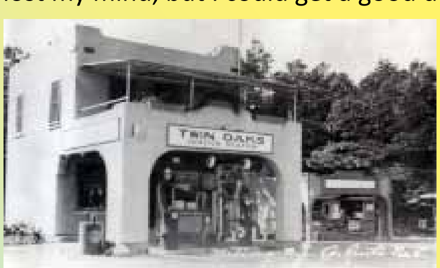
I was insistent, and eventually, I approached Esso, who sent me to dealer school, found a location to rent to me, and set me up as a lessee dealer in one location. Within a year, I had tripled my volume, not by lowering my price, but by increasing services provided to customers, purchasing well-lit signage, and increasing my hours of operation. After seeing my success, Esso offered me four additional locations. I managed to keep my rents low, by keeping my Esso salesmen (the guys who set the rents) happy, by ordering products in bulk and helping the salesmen meet their quotas. When my relationship with Esso went downhill, they prevented me from selling off my inventory to the new lessees coming into the locations. I was literally kicked out on the street with over 1,000 tires and over 300 batteries. As a result, I started a long battle in Trenton, with the support of the NJGRA, to advocate for what eventually became known as the Franchise Practices Act, to protect people in my position and prevent this from happening in the future. I am proud of the role that I played in helping to pass this historic legislation, which remains to this day a huge accomplishment for this organization.



NJGRA's Jake Puteska and Jerry Ferrara with their wives.

Wow, that's very impressive. Let's talk a little bit about your location, which I was equally impressed by when I visited.

Well, I didn't intend to purchase this property when I did, 48 years ago. My original intention was to buy a house with my wife on Schooley's Mountain (Long Valley), but instead, our lawyers offered to show me an abandoned gas station/truck repair facility in Ledgewood, near the border with Netcong, which had been vacant for about a year and a half. The property was in pretty bad shape, windows were broken, it had been vandalized by vagrants, the ceiling was caving in... My dad thought I had lost my mind, but I could get a good deal, and I knew I could be successful.



Long before it was Kingtown Diesel, it was Twin Oaks Service Station.

So, I got a run-down gas station on 6-acres of property, and my wife, unfortunately, did not get her house. However, it turned out to be one of the best investments, and one of the best business decisions, I've ever made.

Over the past 48 years, I have expanded the structure on the property from 1,800 sq. feet to over 12,000 sq. feet. In that time, I have done pretty much everything -- sold gas, diesel, home heating oil and propane, was a parts dealer, a truck stop and a three-bay tractor trailer repair facility, did state inspections, and even sold items ranging from refrigerators to roses -- anything that my customers could possibly want. About 15 years ago, I began noticing how hard it was to hold onto my skilled mechanics and repair technicians. Once they had the knowledge and experience, they left for something bigger and better... Just like I did so many years ago. At that point, I decided to transition out of the repair business, and started work on a convenience store and a truck wash. My newest addition will be the grand opening of a Subway franchise in the location early this year!

Looking forward to the Grand Opening of the Subway franchise

It sounds like you keep pretty busy running your business. How do you spend your free time?

For many years, I acted as an "NJGCA Field Rep" of sorts, before that was even an official position. I would go around and visit dealers and encourage them to join the organization, or I would try to help NJGCA members analyze their business and determine ways to keep more money in their pockets. I still often consult with fellow station owners, especially people who are interested in buying or selling a location, to make sure that they are getting a fair price. Many times, when I come across someone who wants to leave the business, I try to show them how they can finally start making a profit, in the same ways that I have. Getting retailers to increase their margins is one of the most difficult tasks to undertake in this business. The over-riding fear is that a decrease in volume automatically means lower profits, even if margins are increased. But, I have seen people cut their volume in half and double their profits!

Outside of my work within the industry, I own and fly a helicopter, I own a boat, I own a house down the shore and I own a house in Florida. And the gasoline business provided ALL of that for me. I unfortunately don't get to enjoy these blessings as often as I would like, however, my children and grandchildren will always have wonderful memories of these things. I'm even lucky enough to be able to frequently share these successes with many of my friends and customers. Finally, my wife and I, and many of our employees, are also very active with Grace Church on the Mount, which is right next door.

What is one thing that you have learned over all of these years in the gasoline business? How have you seen the industry change?

The biggest difference in this industry today, compared to even just a few years ago, is that people can no longer survive on the margins that they once got by on. Nowadays, with passage of the Right of First Refusal, and the recent divestments that we have seen with many oil companies, retailers are getting more opportunities to own their properties outright. This is a great accomplishment, and one that has allowed many people the opportunity to grow truly successful businesses. However, that also comes with many additional responsibilities and costs. You have to understand the consequences of being a property owner. You cannot run a business on 8 or 10 cents a gallon because there are many new facets of your business that you must oversee.

Property owners are now responsible for both above and below ground maintenance, instead of sharing that responsibility with the oil company. It's a new business model once you own the property, and therefore it requires a different profit margin. The margins that business owners were once able to squeeze by on, are no longer realistic to cover all of the new costs associated with owning a gasoline service station. Sal mentioned this in his weekly emails recently, as we saw worldwide oil prices start to drop: DO NOT ENGAGE IN A RACE TO THE BOTTOM. Lower your prices

Speaking of falling oil prices, how do you think this current trend impacts alternate energies? You recently joined Sal at the Natural Gas Vehicle Development and Infrastructure Summit in Boston. What do you foresee for the future of the gasoline industry and the role that alternate energies will play? Will you be pursuing this at your station?

I personally own two electric cars (Ford TH!NK cars), one of which runs, and one of which I have completely deconstructed. I want to know as much about electric cars as possible, so I enjoy tinkering around with it. I keep the running one down at my house in Florida, as we are not allowed to have gasoline powered engines on the island. The car can be charged with a normal power outlet, which is much different that the propane-powered truck that I once drove from Hackettstown to Florida. It was extremely difficult to find places to fuel that vehicle. That is part of the reason that I am so interested in alternate fuels. I want to be able to meet any demand that customers may have.

I was one of the first stations selling diesel and propane, and I have every intention of being one of the first to offer up-and-coming alternates. It is a business decision, though, and one that I take very seriously. I have to make sure that the demand is there, otherwise it will be a costly investment with no return. That is why I attended the conference in Boston. You have to do your research!

Norm, Sal and NJGCA Member Tony Briones at the NGV Summit in Boston this October

One of the biggest mistakes that you can make as a business owner is being closed-minded. If you do not change with the times, and you are not open to embracing new products and services to offer your customers, they will find somewhere else to go. However, I cannot over-emphasize how far good service and professionalism go to the success of your business. Simple things like respectfully greeting customers, saying "thank you" and washing windows can make all the difference.

As a long-time member of NJGCA, what keeps you coming back year after year? What do you find most valuable or most helpful about your membership in NJGCA? What are some of the biggest advantages that you believe NJGCA members have over other business owners in the industry who are NOT members?

I think that one of the best things NJGCA can do for small business owners is promote honest communication among the dealers. This industry should not be defined by dealers undercutting their competition's prices. We should understand that one dealer raising their prices and making more profit is good for ALL dealers, and we can all be successful and profitable in this industry together.

Secondly, NJGCA has a true value because of the Association's ability to unify our voices so that we can be heard in Trenton and effect meaningful change. This Association has been so good to me and has helped to change the industry in such a way that has enabled gasoline retailers to make a lot of money in this business -- starting all the way back in 1972, with the Franchise Practices Act, right up to the Right of First Refusal in 2009.

Finally, I truly value the Member Benefit Partner Program that NJGCA has put together, because they take a lot of the guess work out of finding qualified and honest LSRPs, legal representation, tank testing companies, contractors, etc. I have used Salomone for my underground work for years, and NJGCA really hit the nail on the head through their partnership with Salomone.

***Editor's note: The interview with Norm Lippmann was truly an enlightening experience. Experiences were shared that were unknown to present day NJGCA staff. Learning about Norm's history revealed a true look back into the archives of NJGCA. We look to share more of Norm's remarkable history in future issues. Stay tuned.*

Pilot branded truck stop (diesel fuel only) with 8 fueling points.

All grades of Citgo fuel available at 12 fueling points.

Norm (R) and business owner Mohammed (Sam) on the ***property.***

General Counsel Corner: Part 1

by **Peter H. Gunst, Esquire**

The Open Supply Saga in the District Of Columbia Continues

Over four years ago, in August 2010, the Superior Court of the District of Columbia decided in Kazemzadeh v. Eastern Petroleum Corp. that a supplier could not, by contract, completely restrict a dealer from obtaining product from alternative suppliers.

This was so because the District of Columbia Code provided that marketing agreements could go no further than to require that motor fuels resold to the public by a dealer "be of a reasonably similar quality" to the supplier's product, and that the dealer not misrepresent the product's source. D.C. Code §36-303.01(a)(6) and (11).

The Superior Court's decision was not subject to appellate review because the defendant, Eastern Petroleum Corporation, went out of business and the lawsuit was dismissed by the parties' agreement. Thus, the issue remained unresolved.

In August 2013, the Attorney General for the District of Columbia again raised the issue of the effect of the District's open supply law in an action brought against ExxonMobil and distributor Joe Mamo's marketing entities, styled District of Columbia v. ExxonMobil Oil Corporation.

In his lawsuit, the Attorney General complained that Mr. Mamo's companies dominate the District of Columbia market as "the exclusive gasoline suppliers for about 60% of the approximately 107 retail gasoline stations" located in the District.

The Attorney General claimed further that Mr. Mamo's imposition of exclusive supply requirements on independently operated service stations had the effect of stabilizing the wholesale gasoline price charged for Exxon branded gasoline in the District, and thus deprived District residents "of the benefits of competition in the wholesale supply of Exxon-branded gasoline."

In May of this year, the Attorney General's suit was derailed by Judge Craig Iscoe, the Superior Court Judge overseeing the litigation. In a detailed 24-page opinion, Judge Iscoe held that, although the District of Columbia statute permitted service station dealers to pursue an unfair business claim for the statute's violation, it did not give either the Mayor or the Attorney General standing to sue.

In reaching that conclusion, Judge Iscoe first emphasized that the District's Retail Service Station Act ("RSSA") on its face provided the Mayor with authority to enforce certain of the RSSA's provisions, but not its open supply provision. The failure to provide the Mayor authority to enforce the open supply provision was not, according to the court, "a mere oversight."

The Attorney General argued for the right to pursue an implied right of action because of the Mayor's "broad authority to enforce statutory regulations in the District." Rejecting that argument, Judge Iscoe found that the "legislative history of the RSSA clearly shows that the D.C. Council consciously chose not to grant the Attorney General or the Mayor" the ability to enforce the open supply provision.

Finally, Judge Iscoe rejected the Attorney General's claim to parens patriae standing to pursue any claim asserting injury to the District's "quasi-sovereign interest." In order to pursue such a claim, the Mayor had to identify an injury to the District that was "sufficiently concrete" and effected "a substantial segment of its population."

According to Judge Iscoe, this test had not been satisfied. Finding the Attorney General's allegations to be "conclusory and unsupported by any factual allegations," Judge Iscoe wrote:

> *The Complaint does not allege that the price of ExxonMobil's fuel is too high at service stations, it does not allege that there is another dealer who would want to purchase fuel from a third-party supplier, and it does not allege that there exists a third-party supplier, which would sign contracts with retail dealers for lower prices.*

But this may not end the open supply saga. A bill has been presented to the District of Columbia Council that, among other things, would amend the RSSA to permit the Attorney General "to maintain an action or actions in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin any person from, directly or indirectly, making, renewing, or enforcing a market agreement provision, term or condition in violation of" the RSSA.

Should this legislation fail, and the Attorney General not successfully appeal Judge Iscoe's opinion, the only remaining path to enforce the District's open supply law would be through litigation pursued by the effected dealers themselves. ■

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THE LEGISLATOR SPOTLIGHT

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

Senator Ron Rice

The Honorable Ronald L. Rice has served in the state Senate since 1986, making him the fourth most senior senator in the state. He represents the 28th legislative district, located in Essex County and consisting of Irvington, Glen Ridge, Bloomfield, Nutley, and a large portion of Newark. A Democrat, last year he was reelected overwhelmingly, winning nearly three times as many votes as his opponent.

Senator Rice is the Vice-Chair of the Community and Urban Affairs Committee; a member of the Health, Human Services, and Senior Citizens Committee; and the Chair of the Legislative Black Caucus.

Senator Rice has devoted his life to public service. He served in the US Marine Corps during the Vietnam War, from 1966-1970. After that, he worked as a detective for the Newark Police Department.

Ask just about anyone in the Statehouse to describe Senator Rice, and the word you will hear most often is almost certainly going to be "fighter". Over the course of nearly thirty years in the state Senate, Sen. Rice has proved that he is always willing to go to the mat to do what he believes is best for the people of his community. He is a proud and vocal critic of political bosses of every stripe and from every part of the state, even when standing on his principles comes at a political cost to himself.

Sen. Rice has also been an advocate of small businesses. In June, he was the only Democrat to vote against the bill to increase the tobacco purchase age to 21, recognizing that 19 and 20 year olds should be respected as the adults they are. He also made sure to take into account the concerns of fuel retailers when he drafted a bill that would increase the gas tax, but do so without forcing retailers to collect the tax at the pump.

Although Senator Rice has represented that he would strongly oppose ending the ban on self serve gasoline in New Jersey, we respect him in his opposition for what he believes is a principled view. We do expect that Senator Rice will give us a fair consideration of the facts when the time comes to present them to the Legislature. We may not convince him but we will certainly maintain our respect for him.

Sen. Rice will always let you know where he stands, a rare and welcome attribute among politicians. NJGCA looks forward to working with Sen. Rice in the years ahead as he continues to provide a unique and important perspective on the issues the state faces. ■

Guidelines For Firing Employees And Avoiding Lawsuits

By: Mark E. Tabakman, Esq.

Mark is a labor and employment lawyer at who handles both union and non-union matters for employers across the country. He counsels human resource professionals and in-house counsel in complying with the myriad federal/state employment laws to provide creative, practical and cost-effective solutions to employment issues and problems.

THE PROBLEM

Ever fire someone? If you did, did you worry about whether you would be sued?

Numerous laws, federal and state, protect workers from illegal discharge. For example, the New Jersey Law Against Discrimination (NJLAD) covers all NJ employers with one employee or more. Thus, even "small" employers can be sued under this law. The most common lawsuits involve terminations. Still, employers must not be afraid of firing people (who likely richly deserve it) and must not be paralyzed by the possibility (or threat) that they might be sued.

Employers must also understand that the "world" of law is almost a surreal world, a world in which, regretfully, perception may seem more important than reality. Someone who is fired and wants to claim, for example, "ethnic discrimination" need only (at least preliminarily) point to an adverse action (i.e. the termination) and the fact that they are a member of a protected ethnic group (e.g. Hispanic) to start a lawsuit and turn the burden of proof back on the employer. If the employer is not prepared to respond, the results can be an unjustified victory for the plaintiff and many thousands of dollars expended by the employer in legal fees and damages. This is especially true in cases brought under the anti-discrimination laws, which are fee-shifting statutes, meaning that if the plaintiff prevails, the losing party must pay the plaintiff's lawyer's fees as well.

The simple reality is that there is no guarantee that someone you fire will not sue you. However, you can control the risk that you will lose the case. This is because the employer can control the single most important aspect of any wrongful termination lawsuit—the factual predicate on which that lawsuit will be waged. You can ensure the factual foundation on which the potential battle of a lawsuit is fought will be molded in your favor if you follow these guidelines:

1. Do not make "snap" or "knee-jerk" decisions to fire an employee. Even if the employee has committed a serious offense, immediately suspend (rather than fire) the employee first. Then, evaluate the situation and when appropriate, make the decision to terminate.

2. Investigate the facts before firing the employee. Too many employers rely upon what later turns out to be unfounded assumptions about why they decided to fire the employee.

3. Review the personnel file of the employee before termination. Does the file support the termination decision?

4. Review your written policies and revise them if needed. Many employers have outdated policies that no longer reflect how the employer handles the termination, discipline or evaluation of its employees.

5. Draft appropriate policies if you don't have any. Having a formalized procedure in place will help ensure that terminations are handled consistently and not haphazardly.

6. Treat the employee respectfully during the termination process. Employees who feel they are being treated callously are more likely to want to do something about it.

7. Think about how other employees in similar circumstances were treated. If employees are normally not fired under such circumstances, then why are you firing this particular employee?

8. Document performance problems with the employee as they occur. An employee who is consistently told that there are problems in his or her performance later will not be shocked if they are let go.

9. Train your employees on personnel issues, especially managers and supervisors. There are now abundant resources available to help employers train their employees on topics such as sexual harassment.

10. Don't be afraid to contact an attorney to seek legal advice before terminating the employee. Many employers avoid legal advice to save costs - only to find that they have bought into an even more expensive lawsuit by a former employee.

THE TAKEAWAY

I am sure you have heard the expression "paper trail." It may be a cliché but clichés get their start because there is an element of truth to them that gets repeated so much that it becomes a hackneyed phrase. Nowhere is the need for a paper trail more crucial than in termination decisions and the decision making process that led up to the discharge. Understand that many laws, such as the NJLAD, are tilted in favor of workers. Employers, however, can successfully defend themselves by ensuring that they document both performance problems and misconduct issues and by following the guidelines suggested here.

Finally, you should seriously consider retaining counsel. Better to spend a few dollars before something happens and make sure that a discharge goes off "according to Hoyle" than spending untold thousands of dollars fighting/settling a case that never should have even be brought in the first place, because you failed to establish a paper trail or follow the principles outlined in these guidelines. ■

The Oil Price Collapse

By: Eric Blomgren

Perhaps the biggest story of this year for your business is the complete collapse of oil prices in the fourth quarter of 2014.

For years the price of oil has hovered in the range between $90 and $110 a barrel. This year prices averaged over $100 barrel through July, then started to decline in August and September, and then began to collapse in October and have not slowed their descent. Prices average $102.30 in July but just under $60 in December. Many thought we would never again see oil selling for rates below $90 a barrel, yet here we are with prices below $50 and falling. The big question of course is why.

The biggest reason for this collapse is the USA, specifically North Dakota and Texas. Advancements in technology, specifically hydraulic fracturing (“fracking”) and horizontal drilling have allowed oil drillers to start harvesting vast quantities of oil from shale formations that just a few years ago were seen as unviable. Remember “drill baby drill”? Well they actually went ahead and did it and now we are reaping the rewards.

It is estimated that since 2010 more than 20,000 new wells have been completed in the US. US oil production has gone from 6 million barrels per day to 9 million, which is less than 1 million fewer barrels than Saudi Arabia pumps.

All this extra supply combined with a dip in global demand has caused the price to crash. In years past, our old foes at OPEC would respond to a situation like this by cutting their production, drying up supply, and forcing the price back up.

This time though, something very different is happening. Saudi Arabia has prevented OPEC from making any production cuts because they want to use low oil prices to try and wipe out many of these US shale drillers. Their market share is shrinking and would shrink much further if they were to reduce their production in an attempt to increases prices. They have decided that maintaining their market share is more important to them than making a profit, at least for the near future.

Shale oil costs more money to drill than oil drilled from other areas. This means that once prices fall, the average shale driller will start operating at a loss before the average Saudi driller does. This sudden drop was not expected by anyone, and as a result revenue for these drillers has evaporated quickly. In the not too distant future we can expect to see many of these companies start filing for bankruptcy, and fewer new wells being drilled than had been planned just a few months ago.

In addition to helping out our bottom lines, the oil price crash will also have some significant influence in world affairs. Many of the other big oil producing nations rely on high oil prices to balance their budgets. The drop in oil prices is doing more damage to the economies of Iran and Russia than western sanctions have, and the two forces combined may force these rogue nations to fall in line with the international system (or possibly lash out like wounded animal).

Venezuela may have the most to lose. After about 15 years of failed socialist policies and rampant government corruption, their economy is in freefall as inflation hits 60%. Saudi Arabia is also being plunged into deep deficit spending; but unlike these other nations they have no national debt and a savings account with over $750 billion to live off of.

The Saudis hope that once the shale market has been purged of many shale drillers, they can then cut production and raise the price back up to the $90 range with their market share intact. Even if they are able to accomplish this, their success will be short lived.

Like all new technologies, fracking is becoming cheaper and cheaper as it becomes more widespread. One research firm estimates that the cost of a typical shale project has gone from a cost of $70 per barrel to $57 just over the last year. Just as a forest fire purges the dead wood and paves the way for greater prosperity among the survivors, we can expect to see the same in the shale fields. Those firms which survive the next few months will wind up with a lot more shale to exploit.

While traditional oil wells take years of development, a shale oil well can be drilled in a matter of weeks for just a few million dollars. North Dakota and Texas are not the only parts of the country with large deposits of shale oil, and the US is not the only nation with shale oil deposits. Over the coming years more and more oil will be drilled from shale in non-OPEC nations.

Whereas OPEC once ruled the world’s oil market, it seems that its power has finally evaporated. Four of the top five oil producing nations in the world are not members (USA, Russia, Canada, and China). The US is about to become the world’s largest producer of crude oil in addition to its largest producer of natural gas. The International Energy Agency predicts US output will reach as high as 13 million barrels per day by 2019, and the US will stay as the world’s number one producer until the 2030s.

Bank of America has predicted that oil prices will go as low as $50 a barrel, while others are saying they will bottom out at $40. After that they are expected to start stabilizing at higher levels, but still below the range we’ve seen for years. ■

THE ENERGY EXAMINER

FROM TRADITIONAL RESOURCES TO ALTERNATIVE ENERGY INNOVATIONS

By Jacy Lance

Since our debut in 2007, NJGCA *On The Road* has brought you updates and timely information on changes in the energy and automotive industry. From ordinary, everyday sources of energy like coal and oil; to renewable resources like solar and wind; to advancing alternative energies like hydrogen. We have focused – and will continue to focus – on all of these technologies and how they affect the transportation industry.

Each new issue of *On The Road* will offer our readers news from around the energy/transportation industry, how it may affect the automotive landscape, and your small business. If you have any questions or comments on what you review in these quarterly pieces, please feel free to reach out to NJGCA.

With crude oil prices nearly cut in half, and gas prices falling below $2 per gallon, it's impossible to ignore recent changes in the worldwide oil market. Falling prices tend to reduce demand for, and interest in, alternate energies. However, as oil prices rise, the buzz surrounding alternate energies grows. Furthermore, car manufacturers and automakers are actively exploring a range of new technologies to improve their fuel economy, in an effort to meet federal standards and also meet customer demand for fuel-efficient cars. Just because oil prices are low right now, does not mean that we can ignore alternate energies. It is important to keep informed about alternates and fuels of the future, no matter the world oil market, because, inevitably, the pendulum will swing the other way and alternates will be back in vogue. Those who repair and service automobiles must be aware of emerging technologies too, as these vehicles will become the next generation to appear in their shops. Here's an update on three alternates making news right now.

NATURAL GAS:

The final months of 2014 saw two natural gas vehicle (NGV) related pieces of legislation signed into law. These bills will keep the ball rolling and keep NGV research and development moving forward in the new year. One bill extended a series of tax credits that expired in 2013, reinstating the 50-cent excise tax credit for natural gas sold as a transportation fuel. As part of the congressional package, there will be some $397 million for alternative fuel credits, allowing NGV producers to take advantage of special credits for alternative fuels. NGV advocates hope to eventually make natural gas a "mainstream transportation fuel," and say that the incentives are important because they will help businesses "more quickly offset the higher upfront costs of NGVs, and they reward investments in NGV fueling infrastructure." Another bill extended a Volumetric Excise Tax Credit to natural gas vehicle users and/or fuel sellers. These efforts will help to defray the cost of transitioning into the NGV market, for both consumers and retailers.

ELECTRIC:

Recent developments in the Electric Vehicle market center around rumors that Volkswagen has bought stake in a battery startup company with the aim of developing technology that can more than triple the range of its electric cars. The news broke less than a month ago, and the company, QuantumScape Corp., has remained much of a mystery, aside from the fact that the company was founded in 2010 by former Stanford University researchers. QuantumScape is said to be working on "solid-state batteries as an alternative to liquid electrolytes, such as the lithium-ion technology used in many electric cars today." Solid electrolytes are burn resistant and could potentially store more energy and provide more power to extend the range of electric vehicles. The fact that QuantumScape's energy storage technology is fireproof gives it a huge advantage in terms of marketing to the safety-conscious EV buyer. While demand for electric cars remains moderate, the technology is critical for meeting tightening emissions regulations, especially for luxury-car manufacturers such as VW, BMW and Mercedes-Benz.

HYDROGEN:

As tough global emissions standards put more pressure on carmakers to produce larger numbers of zero-emission vehicles, the race is on to improve systems of electricity generation and storage. Graphene is a graphite-like substance first isolated in 2004. Some analysts view it as useful in improving the efficiency of batteries, but now it appears graphene could be useful in other green technologies. The material could be used to harvest hydrogen from air, as well as improve the efficiency of solar cells and hydrogen fuel cells. Graphene has the same atomic structure as the graphite found in pencils, but those atoms form two-dimensional crystal structures that researchers believe could form the basis for efficient hydrogen-harvesting membranes. Scientists from Manchester University in the U.K. suggest that a thin membrane of graphene could be used to separate hydrogen gas from air using electricity. This could provide a clean source of hydrogen to power fuel-cell cars -- lowering their overall environmental impact. The fuel cells in those cars could also potentially benefit from graphene. The same researchers found that a fuel-cell membrane made from the material allowed hydrogen protons to more easily pass through, increasing efficiency. Graphene is also viewed as potentially useful in solar cells. Of course, while these uses of graphene sound promising in theory, they're still a long way from real-world applications. It usually takes many years of development for new technologies to progress from lab experiments into commercial products -- and many don't make it out of the lab at all. We'll continue to keep you posted on technological developments across all areas of the alternate fuel industry. ■

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THE NJGCA MEMBER BENEFIT PARTNER PROGRAM

NJGCA has been working hard to bring you and your business value through our Member Benefit Partners (MBPs). Hopefully you are already taking advantage of many money-saving plans offered by our Member Benefit Partners. In 2015, NJGCA will be producing a new MBP Brochure, which will be mailed to you directly. We are excited about the "new" brochure. In the meantime, we have added some new Member Benefit Partners.

Here is a list of our current MBPs:

- **4CAST OUTDO CORP** - ***Gas Pricing Strategy Experts***
- **ABLE-TECH** - ***Computers, Financial Management, Video Systems***
- **AFFINITY FEDERAL CREDIT UNION** - ***Credit Union***
- **ALFA-TRONICS** - ***Petroleum Station Services, Specializing in Security for Dispensers***
- **AMATO INSURANCE AGENCY** - ***Business, Garage Liability, Home and Auto Insurance***
- **ARCHER & GREINER** - ***Legal Services***
- **ASSOCIATION MASTER TRUST (AMT)** - ***Health Insurance***
- **ATS ENVIRONMENTAL SERVICES** - ***Tank & Vapor Testing, NJ DEP Compliance***
- **AUTOMOTIVE TRAINING INSTITUTE (ATI)** - ***Education for a More Profitable Business***
- **BATTERY CORP.** - ***Back-Up Power and Site Management Solutions***
- **BELLOMO FUELS** - ***Gasoline and Diesel Supplier***
- **BRENNAN LAW** - ***Environmental Law Specialists***
- **BUCKEYE ENERGY SERVICES, LLC** - ***Gasoline and Diesel Supplier***
- **C-3 TECHNOLOGIES** - ***Tank and Vapor Testing, NJDEP Compliance***
- **COLE, SCHOTZ, MEISEL, FORMAN & LEONARD** - ***Legal Services***
- **CROMPCO** - ***Tank & Vapor Testing, NJ DEP Compliance***
- **DANA TANK INSURANCE SPECIALISTS** - ***Underground Storage Tank Insurance***
- **ECO-LOGIC ENVIRONMENTAL** - ***Tank and Vapor Testing, NJDEP Compliance***
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- **FIRST DATA CORPORATION** - ***Credit Card Processing & Consulting***
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- **HOUGH PETROLEUM** - ***Gasoline and Diesel Supplier***
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- **PPC LUBRICANTS/CASTROL OIL** - ***Motor Oil and Lubricant Supplier***
- **PRESTIGE ENVIRONMENTAL** - ***Environmental Remediation Services***
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- **TRINITY SOLAR** - ***Solar and Generator Power***
- **UNIFIRST** - ***Uniform Service and Station Supplies***

ROBBERY REDUCTION METHOD

BY: SCOTT STROZIER

To prosecute crime is important. To prevent it, moreso. There have and will continue to be several methods to reduce crime. Methods differ depending on the situation but there is one basic concept that remains constant throughout. The most successful methods to reduce crime are the ones that understand that the way to truly stop a crime from happening is to make it unprofitable. A similarity between people and electricity is that both will follow the path of least resistance. So in order to stop any crime, or more realistically greatly reduce it, is to make it more profitable not to commit the crime in the first place.

A good example of reducing crime by making it unprofitable would be by reconfiguring cash registers. Have cash registers made so that they scan every bill that is accepted. When scanned the serial number of the bill is put into a database on a separate hard-drive. When bills are taken from the cash register it is marked by the database. This way if the cash register is robbed every bill essentially becomes a marked bill. And the marked bills can be used the same way that banks use them.

The United States Treasury department marks United States currency with serial numbers. These serial numbers help to control and monitor the number of U.S. dollars in circulation. Which allows the Treasury department to know when bills need to be destroyed and replaced. Another use they have is in preventing bank robberies by allowing stolen bills to be tracked in the event they are stolen. A bank keeps track of the serial numbers of the bills when they are held in the banks vault. Bank robberies have been decreased because of the fact that stealing the bills can be tracked by the officials; so in summary bank robberies have decreased because serial numbers have made it unprofitable.

Having all the bills that the store currently is in possession of can help prevent robberies from stores, gas stations and other establishments. If the store is robbed the serial numbers of all the bills will be on the separate hard drive and can be given to the police when filing the report. This way just the knowledge that these bills can be tracked and lead to their capture will help prevent robberies of these nature because the risk becomes too great. The system would work even better if the information was transferred directly to the local police department so the records would always be on file.

Now while this would initially be expensive to install the system would pay for itself in every robber it helps to capture as well as those it helps to prevent. Unlike other security systems, were knowledge of the system often leads to its ineffectiveness, this system actually benefits from the knowledge of its existence. Bank robberies were reduced because of the existence of marked bills, were the robbery became too risky and therefore unprofitable. In convenience stores and gas stations where not nearly the same amount of payoff exists robberies of this type could eventually be eliminated altogether. If not completely stopped the robberies would be greatly reduced. ■

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