

FALL 2022

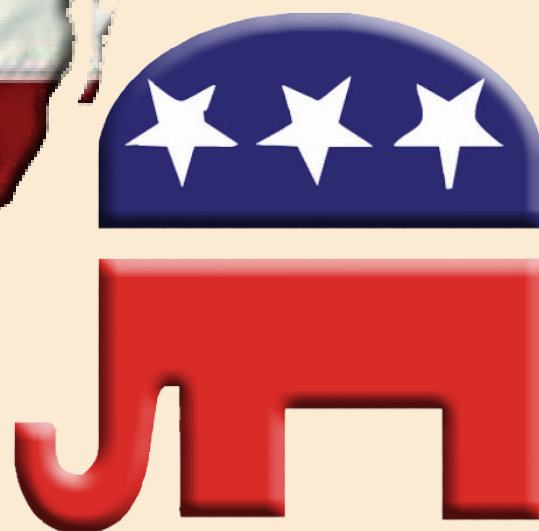
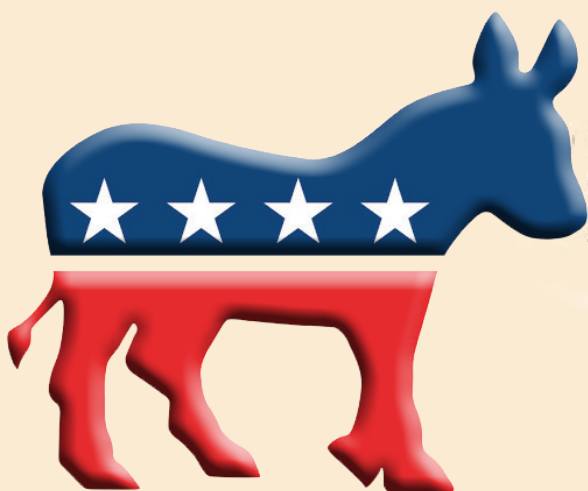


VOLUME 14 - ISSUE 4

# ON THE ROAD

THE OFFICIAL COMMUNICATION OF THE NEW JERSEY GASOLINE C-STORE AUTOMOTIVE ASSOCIATION

## Voter Guide 2022



**NEW HEALTH  
INSURANCE EXCLUSIVE  
FOR NJGCA MEMBERS  
INFORMATION  
INSIDE**

**2022 VOTER GUIDE: Midterm Election, Inflation, Climate Change, and More • Energy Examiner • 10 Year Superstorm Sandy Anniversary • Compliance Corner**

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# President's Message



Fall is here! The leaves are changing and so is your Association. By now you all have heard or read about the changes taking place within the Association. Although change is never easy, if the overall outcome is beneficial to all, it is well worth it. If nothing else, the years we have all spent in

business have shown us we must change with the times or get left behind. We've changed from points and condensers to electronics and now we are tackling ADAS. We've come from mechanical fuel suction pumps to electronic dispensers that you can activate from an app on your personal cell phone.

Well, the same technology that is changing your business is what we have been doing here at NJGCA. We are all rolling into a new era and want to make sure we are prepared to do it at our very best. The staff here at NJGCA headquarters has been working behind the scenes to improve the Association. We have moved to a new office, 615 Hope Road, Eatontown, Building 2, first floor, 07724, which has reduced our office space from 2500 square feet to 1100 square feet with an annual savings to the Association of over \$45,000 per year. Though the space is smaller we are not sacrificing our services or productivity to you, our members.

On the contrary, we have upgraded the telephone system so the NJGCA staff is available at all business hours. There is a new member management program in place designed specifically for NJGCA, we are working on a new web page and getting involved with more social media. We have added new MBPs as well as a new health care program on the horizon as of January 1, 2023 through our friends at World Insurance (details included in this *On the Road* edition). This will be an exclusive program available only to NJGCA members with competitive rates and the choice of multi-level coverage for multiple employees. Educational classes are being scheduled as you are reading this. Classes will be held in our new office space. These are just a few of the changes we are adopting to improve the effectiveness of your Association and we aren't done yet!

At the end of the day, this Association is all about you, our membership, and how we can best serve

you with the programs and products we offer you. I'm excited, and so is the entire staff of NJGCA, to implement these new changes; and we look forward to serving you better than ever. PLEASE, do not ever hesitate to give us a call or shoot an email with your suggestions, ideas, and opinions. This is YOUR Association and the staff here at NJGCA is here to serve you—the small businesses that serve the motorist.

As always, thank you for your continued support through all the 85 years this association has been around, and I as well as our staff are looking forward to a new and bright future here at NJGCA.

Joe Ocello,  
President, NJGCA  
joe@njgca.org  
848-333-9257

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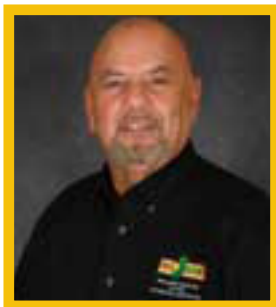
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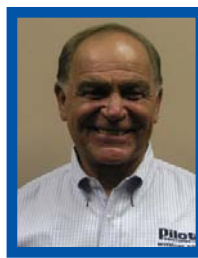
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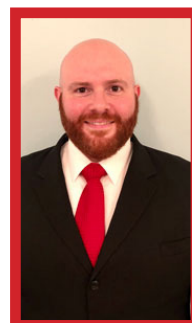
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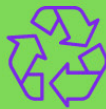
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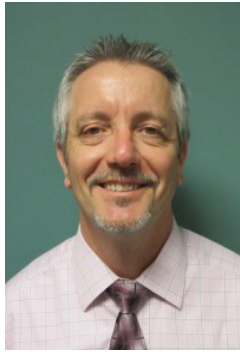
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# MEMBERSHIP MEMO

By: **Greg Cannon**



*"Perfection is not attainable. But if we chase perfection, we can catch excellence."*

**Vince Lombardi**

Hello All,  
Inspiring words that your Association is working towards as we enter a new phase in our organization!

I hope October finds everyone having had a prosperous summer, in fine spirits and ready for a good fall and winter. As you know by now, we have moved and are hard at work in our new location fine-tuning some existing programs while developing some new and exciting ones for our members, some of which may have already been rolled out.

We're looking forward to the 4th quarter and beyond.

I'm still sending dues invoices via email so please look for them however, I have returned to mailing reminder invoices so you have an option.

To that point, if you haven't paid your membership renewal for 2022 yet please help us by sending it in soon.

If you want to log on to your account on the website

([www.njgca.org](http://www.njgca.org)), your 4 digit account number appears on your invoice. Enter that number in the Account/Member Number box on the login screen. Your password will be your account number followed by njgca (9999njgca). If you have any questions or problems feel free to email me [Greg@njgca.org](mailto:Greg@njgca.org) or call 732-256-9646 and use my extension.

Please be sure to read our weekly Road Warrior email for industry and association updates.

That's it for now. I wish you all good everything.

Thank you for reading. Until next time.

Cheers!

Greg



**Peter Gudzak**

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Email: [pgudzak@cbiz.com](mailto:pgudzak@cbiz.com)

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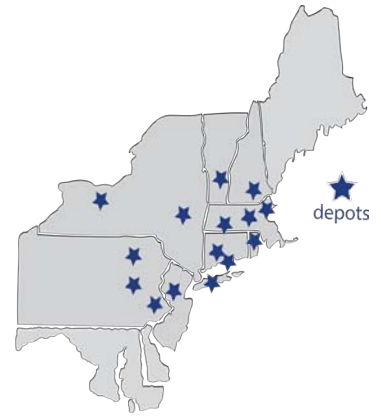
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# NJGCA HEALTH INSURANCE BENEFIT PROGRAM

By: Joe Amato Jr., Principal, World Insurance Associates LLC



At World Insurance, we understand the value provided to small businesses by industry trade associations. We continually strive to help trade associations by providing programs for their membership which cannot be matched outside of the association.

World Insurance currently provides NJGCA members a “member-only” workers compensation insurance program. The NJGCA Workers Compensation Dividend Safety Group Plan is exclusive to members, backed by AmeriTrust (an insurance carrier specializing in associations) and pays dividends back to members based on the group’s performance. Although dividends cannot be guaranteed, the plan has paid dividends each year since AmeriTrust began administering the program for us.

We are now very excited to introduce another great insurance member benefit! As of January 1, 2023, exclusively for members, we are offering the NJGCA Health Insurance Plan.

Only available for employees of NJGCA shops, stores, and vendors, our plan can meet the needs of member businesses with as few as one employee or as many as hundreds of employees. Members can choose from two national networks of providers and can choose from many plan designs. This flexibility allows us to customize our plans for the needs of all members.

Due to the program’s unique structure and our ability to look at each of the organizations as part of a much larger group vs. standing on your own, we are able to save many member companies up to 35% on the cost of health benefits. In addition, our structure ensures flatter, more predictable renewals on an annual basis.

The NJGCA Health Plan has multiple levels of service available for business owners, employees, and their families. The plan is administered by a national third-party administrator, with customer service available to answer calls at any time. We also have a patient advocate service which can help find network providers, help with claims, and anything else the patient needs. In addition, at World Insurance, we have employees specifically assigned to help NJGCA members with any of their questions and needs.

To get a quote or to discuss this health insurance plan, or for any of your insurance questions, please contact me at 732-530-3740 extension 412.

# Frequently Asked Questions

**Q: Who is eligible?**

**A: Member companies in good standing (per bylaws) may join the Health Plan. The benefits are offered to you, your employees, and their dependents.**

**Q: Why is NJGCA offering this?**

**A: We are always seeking to improve our member benefits. We saw an opportunity to offer our membership a quality healthcare solution with long term rate stability, built EXCLUSIVELY for members.**

**Q: What are the benefits?**

**A: This health insurance program was built EXCLUSIVELY for NJGCA members and offers you, your employees, and their dependents quality healthcare with affordable monthly premiums and long term rate stability.**

**Q: What is the process? How does this work?**

**A: All enrolling members will submit a PHQ. (Personal Health Questionnaire). The PHQ's are collected through a secure portal and dropped into a HIPAA compliant database. The PHQ is a summary of your health history. Utilizing the combined history of an organization's population, customized rates can be formulated.**

**Q: What does it cost?**

**A: The cost is to be determined after the census gathering portion of the process. There is no way to determine exact rates until the stop loss carrier can see a sample of the groups. But, we have traditionally seen rates anywhere from 10% - 25% lower than the marketplace for comparable products. We also implement a tiered rating system for the plan that helps reach a majority of the groups.**

**Q: How long are plans and rates offered by the Health Plan valid? Can my coverage be canceled at any time?**

**A: Plans and rates are good for one year from the initial offering date of 2023. Once launches, the Health Plan cannot cancel the coverage during the plan year. Groups will receive advance notice of changes or termination upon renewal, as state and federal laws require.**

**Q: What networks are available to plan members?**

**A:**

- First Health- PPO: <https://www.myfirsthealth.com>
- RBP - PHCS Provider and open network facilities: [www.multiplan.com/webcenter/portal/ProviderSearch](http://www.multiplan.com/webcenter/portal/ProviderSearch)

**Q: What if there is an emergency and I go to a hospital outside of the network?**

**A: If you are experiencing a true medical emergency then you can go to any hospital's emergency room. If it is not a true emergency some restrictions may apply.**

**Q: Could we go with an Open Network? Could we use Blue Cross or United Networks?**

**A: The Reference Based Pricing option is an "open network" program. While members can see a provider in the PHCS network, they can also see any provider and they will be covered.**

**Q: Can my employees or I continue the treatment plans that have been authorized by our current carrier?**

**A: When switching to a new health plan, you must go through the authorization procedures of the new plan. Through a partnership with My Advocate Pro, the Health Plan has a team of highly trained consumer advocates ready to assist with the process.**

**Q: What does the health plan cover? Does the health plan include dental coverage?**

**A: The health plan covers all essential coverages required by the ACA as any carrier product. The health plan does not provide dental but it can be purchased as a separate benefit from your agent.**

**Q: Can an individual employed by a member company enroll individually or is this benefit only available to member companies who would enroll their employees?**

**A: The plan is offered at the member company level, not the individual level.**

**Q: Can my employees and their beneficiaries be seen at our facility even if we are out-of-network?**

**A: Employees are covered at their own facility or that of their spouse or parent.**

**Q: Is there a minimum number of employees that need to be enrolled?**

**A: The plan can issue policies down to a group of one.**

**Q: How does the Pharmacy discount card work? \*[\$7350 Plan only]**

**A: On the \$7350 deductible plan there is an integrated Rx/Pharmacy card. This allows members access to discounted pharmaceutical pricing that will seamlessly accumulate towards a member's annual deductible. Discount cards are integrated with the PBM so members do not have to worry about keeping track of a separate benefit card. Show your ID card at the pharmacy counter and let the NJGCAHP do the rest. This is exclusive to the \$7350 Plan as drug copays are generally cheaper on the lower deductible plans. In many cases the discount pharmacy card has less expensive tier 1 and 2 generics for members.**

**Q: Are these plans subject to the Employee Retirement Income Security Act (ERISA)?**

**A: Yes, these plans are subject to ERISA.**

**Q: Can members utilize their local broker to obtain this coverage?**

**A: That is not an available option at this time.**

**Contact your agents today  
for more information!**

**Joe Amato Jr  
(732) 530-6740 x412  
joeamatojr@worldinsurance.com**

**Terence Gorman  
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terencegorman@worldinsurance.com**

# Cash Discounting: What is it?

By: Louis Puglisi

I hope you all had a great summer as this year is coming to a rapid end.

Working in the Merchant Services industry for over 20 years and serving **NJGCA** members for twelve, I have seen many changes in the way consumers pay, and how retailers accept payments for the services they provide. From copying the card through the manual card imprinter with carbon paper, to EMV and phone payments, times and technology are certainly changing.

“Cash is King,” but the reality is that most consumers pay with their credit and debit cards. For most businesses, accepting non-cash payments is a “necessary evil” that cannot be avoided. The cost of acceptance has climbed throughout the years (like everything else), and there was even another rate increase that just happened October 1st! Why? Visa, Mastercard, American Express, and Discover, along with their bank partners, charge your business to accept their cards. Then, they very often give back a portion of the high rates you are paying in the form of Rewards Points and Cash Back Programs. Your customers are incentivized to use credit cards even when they have the cash, just so they can receive their points or get cash back. The consumers receive the benefits that your business pays for.

As I visit NJGCA members all over the state, I hear often how many of you have been in business for many years. Some locations are on their third, fourth, or even fifth generation of family running their business location(s) now. You’re accepting more credit cards than ever before, and receiving less cash and checks. I also hear common stories about rising costs and labor and supply chain issues. The unfortunate fact is that it is harder to remain competitive and maintain your profit margin because the cost of everything is UP.

Listen, I hear you. I feel your pain.

There is a solution you may have come across in your daily lives called “Cash Discount.” The Cash Discount program allows your business to eliminate 100% of your monthly credit card processing costs. A great example is cash/credit pricing offered at the pumps. When fueling up, I understand I will pay about ten cents more per gallon to have the convenience of using my card to cover the processing fees.

Now, retailers can offer this same program. Due to rising costs, you now have the ability to offer this same program without raising your parts and labor rates.

How it works is a “convenience fee” is automatically calculated, applied to the transaction amount, and listed as a separate line item on the terminal receipt. Simply put, the customer will now pay for the rewards and cash back that your business has been absorbing until this point. The fee is diverted to cover costs on a daily basis, and clear signage is provided so customers know about the new program. Basically, the convenience fee pays the rates and your shop retains the full invoice total.

There is a modified version where the convenience fee is automatically applied to all credit cards. Debit card fees are still paid by the business at around 1%. You can either choose to save all or most of your fees. It’s up to you! Either way you want to do it; traditionally where you continue to absorb the fees, or pass some or all back to the consumer, let me know.

I am around to answer any questions and can visit your location to go over the details.

Best Wishes,

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# Decision 2022

*The NJGCA Voter Guide*

## ELECTION 2022

Introduction by Eric Blomgren

### Voting in New Jersey

Election Day this year falls on Tuesday, November 8th. After the various changes in voting laws both in this state and many others, it's increasingly better to look at Election Day not as the single day when the outcomes are determined, but as the deadline for ballots. More and more voters are using mail-in ballots and voting early, which has also meant it takes even longer for all the votes to be received and fully counted.

In NJ the first ballots for those signed up to vote by mail were sent out on September 24th. The deadline to register as a voter or to update your address was October 18th. **Ballots must be postmarked by November 8th to be counted.** New Jersey also now offers early in-person voting. This can be a great choice for those who may be too busy to get to the polls on Election Day itself, but also don't like mail ballots. Each county will operate several early voting centers, and they will be open between October 29th and November 6th from 10am-8pm. You can vote at any one of the locations in the county you are registered to vote in. Most votes will still be cast on Election Day, when polling stations will be open between 6am and 8pm.

### The State of the Nation

This year's election will decide control of the two houses of Congress—the House of Representatives and the Senate. The House is 435 seats distributed based on population and elected for just a two-year term, while the Senate has two members from each of the 50 states elected to six-year terms. Democrats won control of the House of Representatives in the 2018 election and flipped control of the Senate and

White House in 2020. This has been the first time Democrats have had control of all three components of federal lawmaking since 2010.

However, Democrats maintain control by the slimmest of majorities. The Senate is split exactly 50-50 with Vice President Kamala Harris breaking the tie for Democrats, and the House is split 222-213. That means Republicans need only a single net gain in the Senate and a net gain of just 5 seats in the House to take control.

Recent events are suggesting that may not be as easy for Republicans as it sounds. Earlier this year the elections were looking like a slam-dunk for the GOP. Inflation was skyrocketing every month to the highest levels in four decades, gas prices hit unprecedented levels, and President Biden's approval rating was underwater by nearly twenty percentage points (the latter factor due in part to the Democratic base being unhappy that none of the policies they supported could get through Congress). History was also against them, as the President's Party had lost seats in nearly every mid-term election of the last century.

Then the situation began to improve over the summer. Inflation slowed and gas prices fell sharply from their peak, major legislation was passed that pleased Democratic voters, and the Supreme Court's Dobbs decision overturned the earlier Roe v. Wade decision; which had prevented state and federal governments from enacting most restrictions on abortion. Former President Trump reemerged on the scene while under investigation for a variety of things and he supported numerous

# Decision 2022

## *The NJGCA Voter Guide*

candidates who had said the last election was stolen; a position that is deeply unpopular among a big majority of voters. Biden's approval rating increased and polls started showing Democratic candidates ahead in the key seats that would determine control.

Though growing Democratic optimism may not be enough to keep either house of Congress, the rate of inflation has slowed; while prices are still sharply higher than they were a year ago. Furthermore, the Dow is down almost 20% so far this year, gas prices may be lower but at \$3.50 they are still taking a big bite, and Biden's net approval rating is still 10 points underwater (the latter is not much better than Trump's was in his 2018 mid-term where his party lost control of the House decisively).

What it seems to come down to is whether this election will be seen by undecided voters as a 'choice' or a 'referendum'. Republicans are hoping the election is seen as a just a straight referendum on the party in power—meaning if you are unhappy with state of the country, then vote against the Democrats running the country. And in a two-party system, that means you must be voting for whoever the Republican candidate is. Democrats want the election seen as a clear choice—'who do you want running Congress for the next two years; us or those nutjob Republicans?'

### **The Key Races**

Control over the Senate will be determined by the outcome of the elections in the five closest states: Pennsylvania (a Republican seat where the incumbent is retiring), Georgia (where Democrat Raphael Warnock is running for a full term after winning a special election in 2021), Nevada (Democrat Catherine Cortez Masto running for a second term), Arizona (Democrat Mark Kelly running for a full term after winning a special

election in 2020), and Wisconsin (Republican Ron Johnson is running for a third term). Whichever party wins three of those five will control the Senate for the next two years. Republicans are also hoping to pick up seats in New Hampshire and Colorado, and Democrats are hoping to flip seats in North Carolina, Ohio, and Florida; but flipping any of those seats will just be padding their majority at that point.

In the House, the primary battlefield across the nation is the 40 or so districts that only narrowly voted for Biden in 2020, plus a handful of Democratic seats that were previously won by Trump. The premiere election in New Jersey this year is for the 7th Congressional District, based in Hunterdon and Warren and large parts of Sussex, Morris, Somerset, and Union counties. This was a historically Republican district that easily voted for Romney in 2012, but swung hard against Republicans in the Trump years. Rep. Leonard Lance was defeated for reelection in 2018 by the current Congressman, Tom Malinowski. Republican nominee Tom Kean, Jr., ran in 2020 and came within one point of winning. He is running again, hoping for a more favorable environment. If Democrats can hold onto this seat, it leaves them in a good position to pull off the upset and maintain control of the House.

### **Voter Guide**

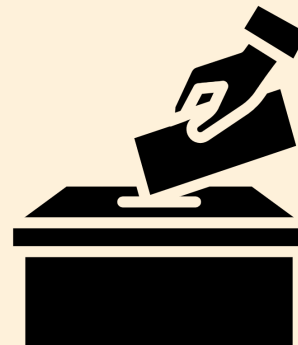
A quick note on redistricting: Every ten years after the national Census is conducted, congressional districts are redrawn to ensure they have equal population (approximately 773,000 people in each). In New Jersey this process is done by a bipartisan commission with a tiebreaker. This year the tiebreaker chose the map submitted by the Democrats, and some districts saw more changes than expected, particularly in Central Jersey. Pay close attention to which district you live in, as the

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*The NJGCA Voter Guide*

member of Congress who has been on your ballot in the past may no longer represent your home.

Our Voter Guide includes a list of which towns are in which districts so you can figure out who the candidates are you will be voting for, as well as short bios about each, how the incumbent members of Congress voted on the issues most important to your business, and how some of the candidates responded to the survey we sent out. The links to the candidates' websites are also included, make sure to do some of your own research to find out how each candidate stands on the issues that matter to you personally.



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## WHAT DISTRICT DO I LIVE IN?

*\*Note that the districts were changed this year, so you may be in a different one than you were for the past decade\**

**ATLANTIC COUNTY: 2nd District:** Entire County

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

**BURLINGTON COUNTY: 1st District:** Maple Shade and Palmyra. **3rd District:** Entire County except Maple Shade and Palmyra.

**CAMDEN COUNTY: 1st District:** Entire County.

**CAPE MAY COUNTY: 2nd District:** Entire County.

**CUMBERLAND COUNTY: 2nd District:** Entire County.

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

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

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

**HUNTERDON COUNTY: 7th District:** Entire County.

**MERCER COUNTY: 3rd District:** East Windsor, Hamilton, Hightstown, Lawrence, and Robbinsville. **12th District:** Ewing, Hopewell Boro., Hopewell Twp., Pennington, Princeton, Trenton, and West Windsor.

**MIDDLESEX COUNTY: 6th District:** Carteret, Edison, Highland Park, Metuchen, New Brunswick, Old Bridge (part), Perth Amboy, Piscataway, Sayreville, South Amboy, South Plainfield, and Woodbridge. **12th District:** Cranbury, Dunellen, East Brunswick, Helmetta, Jamesburg, Middlesex Boro., Milltown, Monroe, North Brunswick, Old Bridge (part), Plainsboro, South Brunswick, South River, and Spotswood.

**MONMOUTH COUNTY: 3rd District:** Allentown, Englishtown, Freehold Boro., Freehold Twp. (part),

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

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

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

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

**SALEM COUNTY:** **2nd District:** Entire County.

**SOMERSET COUNTY:** **7th District:** Bedminster, Bernards, Bernardsville, Branchburg, Bridgewater, Far Hills, Green Brook, Hillsborough (part), Peapack & Gladstone, Raritan, Somerville, Warren Twp., and Watchung. **12th District:** Bound Brook, Franklin Twp., Hillsborough (part), Manville, Millstone, Montgomery, North Plainfield, Rock Hill, and South Bound Brook.

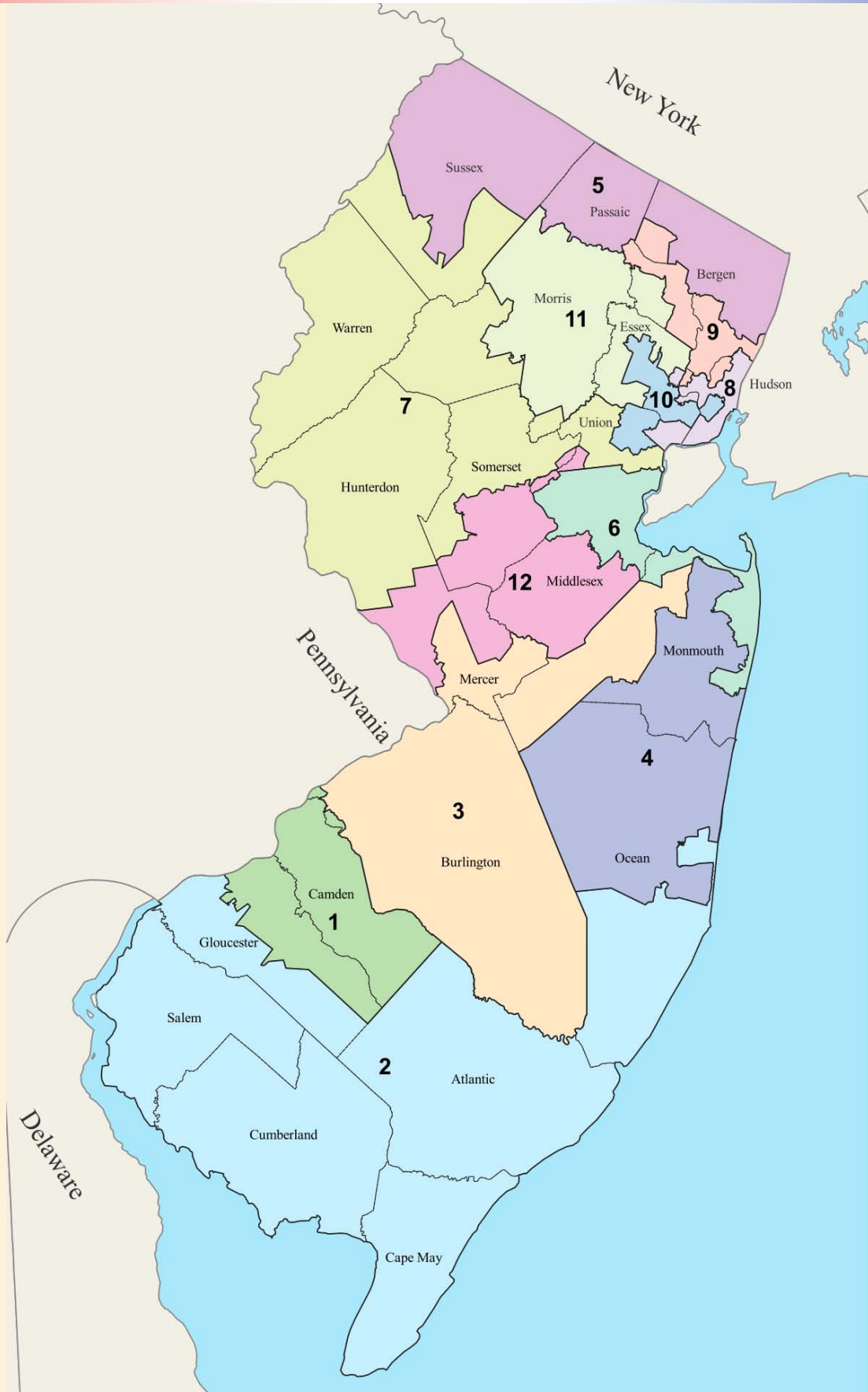
**SUSSEX COUNTY:** **5th District:** Andover Twp., Branchville, Frankford, Franklin, Hamburg, Hampton, Hardyston, Lafayette, Montague, Newton, Sandyston, Sussex, Vernon, and Wantage. **7th District:** Andover Boro., Byram, Fredon, Green, Hopatcong, Ogdensburg, Sparta, Stanhope, Stillwater, and Walpack.

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

**WARREN COUNTY:** **7th District:** Entire County.

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## WHO ARE THE CANDIDATES?

### US House of Representatives

#### Congressional District 1



**Rep. Donald Norcross (D)**

<https://www.donaldnorcrossforcongress.com>

2020 House Result: 62% D—38% R  
2020 Presidential Result: 61% D—37% R  
2016 Presidential Result: 60% D—37% R



**Claire Gustafson (R)**

<https://clairegustafson.com/>

Rep. Norcross was first elected to Congress in 2014. He previously served five years in the state Senate and briefly in the Assembly before that. For most of his career he has worked in organized labor where he was President of the Southern NJ AFL-CIO Central Labor Council, and is a trained electrician. Mrs. Gustafson owns a small business related to clothing sales and is now president of her own clothing distributor, *Gus 4 Kids*.

#### Congressional District 2



**Rep. Jeff Van Drew (R)**

<https://www.vandrewforcongress.com/>

2020 House Result: 46% D—52% R  
2020 Presidential Result: 47% D—52% R  
2016 Presidential Result: 45% D—52% R



**Tim Alexander (D)**

<https://www.timalexanderforcongress.com/>

Rep. Van Drew has represented New Jersey's 2nd congressional district since 2019. He previously served in the state Legislature for 16 years, where his voting record made him one of the most centrist members. While he served in the Legislature as a Democrat and was elected in 2018 as a Democrat, he attracted national attention when he changed parties and became a Republican in December 2019. He was a practicing dentist in Cape May for more than 35 years before his election to Congress. Tim Alexander is a former Detective Captain of the Atlantic County Prosecutor's Office in Mays Landing. He currently works as an attorney and concentrates his practice on Civil Rights and Employment Discrimination.

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## Congressional District 3

2020 House Result: 53% D—46% R  
2020 Presidential Result: 56% D—42% R  
2016 Presidential Result: 53% D—44% R

Bob Healey (R)

<https://www.bobhealeyfornj.com/>

Rep. Andy Kim (D)

<https://www.andykim.com/>



Rep. Kim has been in office since 2019 and is the first Democratic member of Congress of Korean descent. His previous career was focused on national security policy and he served on the National Security Council during the Obama Administration. Bob Healey is currently serving as Chairman of the Viking Yacht Group, and his company employs over a thousand South Jersey residents.



## Congressional District 4

2020 House Result: 38% D—60% R  
2020 Presidential Result: 38% D—61% R  
2016 Presidential Result: 35% D—62% R

Matt Jenkins (D)

<https://mattjenkinsforcongress.com/>

Rep. Chris Smith (R)

<https://smith4nj.com/>



Rep. Smith was first elected to the House in 1980 at the age of 27. He has focused his work on promoting human rights abroad and opposition to abortion, and his voting record generally stands out as one of the most centrist in a severely divided Congress. He is also the dean of New Jersey's congressional delegation. Matt Jenkins has spent years working in biomedical research before opening a custom furniture shop and growing his company into a General Contracting business building residential homes for families across the tri-state area.

## Congressional District 5

2020 House Result: 53% D—46% R  
2020 Presidential Result: 56% D—43% R  
2016 Presidential Result: 52% D—45% R

Rep. Josh Gottheimer (D)

<https://josh4congress.com/>

Frank Pallotta (R)

<https://www.pallottaforcongress.com>



Rep. Gottheimer was first elected to Congress in 2016. He previously worked in the Clinton Administration as a speech writer, followed by stints at Ford and Microsoft. Upon entering Congress, he helped form and currently co-leads the "Problem Solvers Caucus", a group of moderate Representatives from both parties. Mr. Pallotta has spent his career in the finance industry, including as founder of a small business focused on helping people avoid foreclosure.

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### **Congressional District 6**

2020 House Result: 61% D—39% R  
2020 Presidential Result: 59% D—40% R  
2016 Presidential Result: 58% D—39% R

**Rep. Frank Pallone (D)**

<https://www.pallonefornewjersey.com/>

Commissioner Susan Kiley (R)

<https://www.suekiley.com>



Rep. Pallone was first elected to Congress in 1988. He is the Chairman of the House Energy & Commerce Committee, one of the most powerful in the House and the one which handles many of the issues that most directly affect NJGCA members. Commissioner Sue Kiley is currently serving her second, three-year term on the Monmouth County Board of County Commissioners. Prior to serving on the Commissioners Board, she served her community of Hazlet as Committeewoman, Deputy Mayor and Mayor, and has had a successful 30-year career in the healthcare industry (first as a Registered Nurse and then in healthcare sales).



### **Congressional District 7**

2020 House Result: 51% D—49% R  
2020 Presidential Result: 51% D—47% R  
2016 Presidential Result: 45% D—51% R

State Senator Tom Kean, Jr. (R)

<https://tomkean.com/>

**Rep. Tom Malinowski (D)**

<https://malinowskifornj.com/>



Rep. Malinowski was first elected to Congress in 2018. Prior to his service in the House, he was Assistant Secretary of State in the Obama Administration and member of the National Security Council during the Clinton Administration. Malinowski serves on the Foreign Affairs, Transportation and Infrastructure, and Homeland Security committees. Former State Sen. Kean served in the state Legislature since 2001 and was Senate Republican Leader from 2008 until his retirement from the Senate in January 2022. During his time in the Legislature he has generally scored amongst the highest in NJGCA's candidate scorecards. He is the son of former Governor Tom Kean.



### **Congressional District 8**

2020 House Result: 74% D—25% R  
2020 Presidential Result: 72% D—27% R  
2016 Presidential Result: 76% D—22% R

**Robert Menendez, Jr. (D)**

<https://www.robmenendez.com/>

Marcos Arroyo (R)

No website/photo



Rep. Albio Sires announced his retirement from this seat earlier this year after holding it since 2006. The Democratic candidate is Robert Menendez Jr., the son of current US Senator Bob Menendez. Menendez's professional experience includes working as an attorney. He has served as a board member on the Hudson School Board of Trustees and as a commissioner of the Port Authority of New York and New Jersey. Marcos Arroyo is running as the Republican candidate and is reportedly a housing inspector in West New York.

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### **Congressional District 9**

2020 House Result: 66% D—32% R  
2020 Presidential Result: 59% D—40% R  
2016 Presidential Result: 61% D—37% R

**Rep. Bill Pascrell (D)**  
<https://pascrell.house.gov/>



Billy Prempeh (R)  
<https://www.billyprempheh.com/>

Rep. Pascrell was first elected to Congress in 1996. Prior to that he served as Mayor of Paterson as well as a state Assemblyman from the city. Before elected office he worked as a teacher. His service in Congress includes a seat on the powerful Ways and Means Committee. Mr. Prempeh is the 33-year-old son of immigrants from Ghana and is an Air Force veteran.

### **Congressional District 10**

2020 House Result: 83% D—14% R  
2020 Presidential Result: 81% D—19% R  
2016 Presidential Result: 82% D—16% R

**Rep. Donald Payne, Jr. (D)**  
<https://www.paynejr4congress.com/>



David Pinckney (R)



Rep. Payne was first elected in 2012. He succeeded his father, Donald M. Payne, who represented the area for 23 years. Before that he served on the Newark City Council and as an Essex County Freeholder. David Pinckney is a public school teacher in Irvington.

### **Congressional District 11**

2020 House Result: 53% D—47% R  
2020 Presidential Result: 58% D—41% R  
2016 Presidential Result: 54% D—43% R

**Rep. Mikie Sherrill (D)**  
<https://www.mikiesherrill.com/>



Paul DeGroot (R)  
<https://pauldegrootcares.com/>



Rep. Sherrill was first elected to Congress in 2018. She served as a pilot in the US Navy for nine years, after which she became a federal prosecutor. DeGroot has a 25 year career working for the Passaic County Prosecutor's Office. He ultimately was promoted to Chief Prosecutor for the Homicide, Narcotics, and Government while in that role.



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Rep. Bonnie Watson Coleman (D)  
<https://www.bonnieforcongress.com/>

## Congressional District 12

2020 House Result: 66% D—33% R  
2020 Presidential Result: 67% D—32% R  
2016 Presidential Result: 64% D—33% R



Darius Mayfield (R)  
<https://www.dariusmayfieldforamerica.com/>

Rep. Watson Coleman was first elected to Congress in 2014. She served in the NJ General Assembly for 17 years before that, including four years as Majority Leader. Mayfield started his business journey in the auto industry at age 17, became the youngest sales manager of a Top 25 US auto group, and became the first black general manager in the third fastest growing auto group in the US for 2019.

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## How They Voted

### 1. Gas “Gouging” Bill

When gas prices were spiking in May, House leadership decided to try and address it with the “Consumer Fuel Price Gouging Prevention Act”. This bill singles out motor fuel for special regulatory attention and would give broad and vague powers to the President and the Federal Trade Commission to regulate the pricing of motor fuel and prevent pricing they deem to be “excessive” or “exploitive”. Though sponsors emphasized this bill was targeted at Big Oil, the language would allow retailers to be targeted. New Jersey, like most states, already has laws regarding gouging, meaning retailers would have to balance two different standards and hope to avoid being targeted, not just for stiff legal penalties but being made an example of in the court of public opinion. When government interfered with pricing decades ago it led to gas lines, rationing, and shortages. H.R. 7688 passed the House 217-207 in May 2022, but was not acted on by the Senate. A **NO** vote supported NJGCA’s position.

### 2. Union Organizing Bill

The “Protecting the Right to Organize (PRO) Act” would make significant alterations to existing labor laws in order to make it easier for employees to create or join a labor union and expands the power the union would have in the employer/employee relationship. Among other provisions, it would allow unions to engage in secondary boycotts against businesses who are located in the supply chain of the business they are targeting, employers would be required to provide their employees’ contact information to union organizers, and votes among employees about whether to join a union would no longer be secret. It would make national a California law that significantly reduced the ability of a business to hire anyone as an independent contractor, and it establishes a new “joint-employer” rule that would make businesses responsible for labor violations allegedly committed by other businesses they have contracted with. H.R. 842 passed the House 225-206 in March 2021, but was not acted on by the Senate. A **NO** vote supported NJGCA’s position.

### 3. Infrastructure Bill—Flawed

The “INVEST in America Act” was the first attempt at

a big infrastructure bill. The chief problem with this version of the bill was that it called for commercial electric vehicle (EV) chargers to be built on rest stops on federal highways. The longstanding prohibition on rest stop commercialization has helped support independent small businesses located near those highways, and allowing EV chargers on those roads would undermine the ability of retailers to earn a return for any investment they make in EV charging, and make it less likely that motorists will get off the highway to patronize their business at all. The bill also provided rebates for big utility companies that use revenue collected from ratepayers to invest in chargers, undercutting private competitors who don’t have the ability to raid all the state’s utility payers for money. H.R. 3684 passed the House 221-201 in July 2021. A **NO** vote supported NJGCA’s position.

### 4. Infrastructure Bill—Good

After a variety of amendments, the big infrastructure bill became known as the Bipartisan Infrastructure Law. It removed the flawed provisions related to EV charging discussed in the previous section and appropriated \$7.5 billion to encourage the installation of more EV chargers, with much of the money focused on getting private businesses to install DC fast chargers, the most expensive kind of charger but also the model that best fits the traditional gas station/c-store business model. A total of \$550 billion in new spending over next 5 years was approved, including \$110 billion for roads and bridges to make it easier for your customers to use the roads and significant investments in the electric grid to keep the power on and in the ports to help prevent future supply chain issues. The bill was roughly deficit neutral, and did not include an increase in the gas tax nor a new tax on tires, both of which had been seriously considered. H.R. 3684, after being amended in the Senate and passing 69-30, was passed by the House 228-206 and signed into law by President Biden in November 2021. A **YES** vote supported NJGCA’s position.

### 5. PPP Extension

The Paycheck Protection Program (PPP) Act extended the deadline for a small business to apply for a PPP loan an additional two month, from March 31, 2021 to May 31, 2021. This extension allowed for more businesses to meet the requirements to

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apply for a second forgivable PPP loan. H.R. 1799 passed the House 415-3, passed the Senate 92-7, and was signed into law by President Biden in March 2022. A **YES** vote supported NJGCA's position.

### 6. "American Rescue Plan"

The first major piece of legislation after President Biden took office, this bill authorized the spending of over \$1.9 trillion. This was on top of the \$3 trillion spent in 2020 as various forms of COVID-19 relief. This additional spending, coming mostly after the worst of the pandemic seemed to be over, has been blamed for being a leading factor in the current inflation (the highest in 40 years). Some economists warned of this outcome at the time the bill was proposed. The version of the bill voted on in the House also included a national \$15 minimum wage that was more aggressive than New Jersey's for small employers. It also extended the expansion of the unemployment compensation payments, which many blamed for lengthening the labor shortage. There were some provisions that were good for small businesses, including an extension of the employee retention tax credit and the paid leave tax credit. H.R. 1319 passed the House 219-212, passed the Senate 50-49, and was signed into law by President Biden in March 2021. A **NO** vote supported NJGCA's position.

### 7. "Build Back Better"

The contents of this bill were discussed for most of the first year of the Biden Administration. The version of the bill which passed the House in September 2021 had not included some of the worst provisions for business owners, but it did include some bad policies. It would have added a new surtax on pass-through income (though only for over \$400,000 per year). Penalties would have also been sharply increased for even minor or accidental violations of complex federal employment law. Employers obligated by the ACA to provide health coverage would see increased costs as well. It also would have created a new federal tax on vaping products and other nicotine products that would have amounted to between \$1-\$3 per cartridge. Finally, the bill explicitly authorized \$2.1 trillion in new spending over the next decade, but as Sen. Joe Manchin (D-WV) pointed out, most of the spending programs were artificially authorized for brief periods, but

the revenue to pay for them was counted over the entire decade—meaning that when these programs were re-approved (as their supporters called for) the actual spending would have been \$4.3 trillion. Such an increase in spending, on top of over twenty years of massive federal deficits, would likely have further fueled the inflation the nation is currently experiencing. H.R. 5376 passed the House 220-213 in November 2021, but was not acted on by the Senate. A **NO** vote supported NJGCA's position.

### 8. IRS Expansion

While the "Inflation Reduction Act" removed many of the most burdensome tax increases that had been discussed, it did include \$80 billion in increased funding for the Internal Revenue Service (IRS) over the next decade with a goal of collecting an additional \$200 billion in revenue from additional enforcement of current tax laws through 2031. About \$46 billion will be explicitly spent on enhancing enforcement and conducting more audits, while \$34 billion will be spent on modernization and "customer service". While there was an amendment proposed that would have prevented the additional money from being used to target individuals or small businesses with under \$400,000 a year in income, it was defeated in the Senate. H.R. 5376 passed the House 220-207, the Senate 51-50, and was signed into law by President Biden in August 2022. A **NO** vote supported NJGCA's position.

### 9. Paycheck Regulation

While the "Paycheck Fairness Act" has a laudable goal of ensuring that employees cannot be discriminated against in their pay because of their gender, the actual language of the bill would make unfair lawsuits against employers far more likely. Employers need the freedom to have legitimate distinctions in pay rates to account for things like experience, skill, education, longevity, and other reasons. The bill would make it easier for trial attorneys to organize class action suits against employers. Current federal law already makes illegal discrimination based on gender and allows those affected to win their backpay, making this expansion of federal law unnecessary. H.R. 7 passed the House 222-209 in March 2022, but failed in the Senate. A **NO** vote supported NJGCA's position.


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### 10. Arbitration Elimination

The “Forced Arbitration Injustice Repeal (FAIR) Act” would effectively eliminate the ability of a business to use arbitration agreements as a way to fairly resolve disputes with employees and/or customers. Arbitration agreements are a fair and valid way for businesses to shrink the risk of costly lawsuits. There are numerous protections for employees and consumers build into the arbitration process already; the goal of this bill is to increase the number of lawsuits to the benefit of trial attorneys. H.R. 963 passed the House 222-209 in March 2022, but was not acted on by the Senate. A **NO** vote supported NJGCA’s position.

CD	Party	Name	1. Gas "Gouging"	2. Union Expansion	3. Infra-Bad	4. Infra-Good	5. Ppp Extension	6. ARP	7. Build Back Better	8. IRS Expansion	9. Paycheck Regulation	10. Arbitration Elimination
1	D	Donald Norcross	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2	R	Jeff Van Drew	No	Yes	No	Yes	Yes	No	No	No	No	No
3	D	Andy Kim	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4	R	Chris Smith	No	Yes	Yes	Yes	Yes	No	No	No	No	No
5	D	Josh Gottheimer	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
6	D	Frank Pallone	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
7	D	Tom Malinowski	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
9	D	Bill Pascrell	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
10	D	Donald Payne	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
11	D	Mikie Sherrill	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
12	D	Bonnie Watson Coleman	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes



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The NJGCA Voter Guide

## NJGCA Candidate Survey Questions

1. Many motorists don't realize it, but the modern automobile is effectively a smartphone on wheels. Under current law, whenever car data is transmitted wirelessly it is under the complete control of the big auto manufacturers, which gives them the power to cut out independent auto repair shops entirely. H.R. 6570, the "Right to Equitable and Professional Auto Industry Repair Act" ("REPAIR Act"), would fix this problem by guaranteeing consumers and auto repair shops are able to access a vehicle's data related to diagnostics, repair, service, wear, and calibration or recalibration of parts and systems of the vehicle. **Would you support the REPAIR Act?**

2. Most NJGCA members, like most small businesses, are organized as "pass-through entities" for the purposes of taxation; meaning the business is taxed when the owner pays their income tax. **Would you oppose legislation which would increase the federal tax on income less than \$400,000 per year per individual/\$500,000 for married couple filing jointly?**

3. For years the estate tax, or death tax as it is commonly known, has been a burden on small business owners who want to pass their business and their life's work onto their family. Under the 2017 tax reform law, the exemption level was set at \$11.2 million for individuals, protecting a huge portion of small businesses. **Would you oppose legislation that would lower this threshold?**

4. One of the biggest challenges for our members is the ongoing labor shortage. Even at record wages our members cannot find people to work in their convenience stores and to man their gas pumps. One way to fill the labor shortage would be through allowing more legal immigration, as immigration rates have plummeted since the pandemic. Another would be to give undocumented immigrants legal status so they could be properly and legally employed. **Would you support either of these ideas?**

5. Credit card interchange fees have become one of the largest expenses a business incurs. Visa and MasterCard have created a virtual monopoly and are able to charge retailers whatever rate they wish, knowing no business in this modern age can survive without accepting credit cards. Small

businesses in the US pay credit card fees that are seven times higher than rates charged in Europe. There is bipartisan legislation being developed to lower the cost of credit card fees by injecting competition into the market by providing choice in how transactions are routed. It would not set any caps on fees, just allow for more competition. **Would you be supportive of this legislation?**

6. Since 2015, Congress has been raiding the nation's Strategic Petroleum Reserve (SPR) and selling off its contents for no reason other than to fund federal spending. The recent supply crisis has shown how critical the SPR is for our nation's energy security, and with the SPR about to be at the lowest level in 40 years, we must focus on refilling it rather than selling it off for cash. **Would you oppose future sales of SPR oil being conducted just to generate revenue?**

7. Electric vehicle charging must be an open competitive market, but it won't be if big utility companies are able to raise electric rates on all ratepayers and use the funds to subsidize chargers, thereby allowing them to monopolize the charging marketplace. **Would you oppose legislation which allows utilities to "double dip" by receiving federal grants for charger installation even if they had raised rates on all of their customers for the same purpose?**

8. When the federal interstate highway system was created in 1956, Congress chose to protect local businesses by not allowing rest-stops on the highways to be commercialized by state governments (except for a few roads grandfathered in), thereby ensuring that travelers would support local businesses when they needed food or fuel. Some are now proposing to allow rest-stop commercialization, which would hurt the local businesses that have grown over the last several decades and would put the government in competition with independent private businesses. **Do you oppose rest-stop commercialization?**

9. **Would you oppose reinstating the federal excise tax on passenger motor vehicle tires?**

10. **Would you oppose an increase in the federal excise tax on motor fuel?**

11. With motor vehicles getting better gas mileage than ever, and more vehicles hitting the road which don't use gas at all, the reliance on a gas tax for infrastructure won't be possible for long. One potential solution is some kind of tax based

# Decision 2022

## THE NJGCA VOTER GUIDE

on vehicle miles traveled. **Would you support the creation of a serious pilot program to test the viability of replacing the motor fuel excise tax with some kind of mileage tax?**

12. A lack of infrastructure has been pointed at as one of the primary reasons more motorists have not adopted zero emission vehicles. There already exists a nationwide infrastructure of businesses that motorists are accustomed to refueling at: gas stations. **Would you support providing grants or other funding to motor fuel retailers which install hydrogen refueling stations or battery fast chargers?**

Question	Tom Malinowski- CD 7 (D)	Sue Kiley- CD 6 (R)	Matt Jenkins- CD 4 (D)	Frank Pallotta- CD 5* (R)	Billy Prempeh- CD 9 (R)	Tom Kean- CD 7* (R)
1.Support Right to Repair 2.0?	Yes	Yes	Yes	Yes	Yes	Yes
2.Oppose Tax Increase?	Yes	Yes	Yes	Yes	Yes	Yes
3.Oppose Expanding Death Tax?	No	Yes	Yes	Yes	Yes	Yes
4.Support Immigration Reform?	Yes	Yes	Yes	No	Yes	
5.Lower Credit Card Fees?	Yes	Yes	Yes		Yes	
6.Oppose Wasting SPR Oil?	Yes	Yes	Yes		Yes	
7.Oppose Grants to Big Utilites?	No	Yes	Yes	Yes	Yes	Yes
8.Oppose Rest-stop Commercialization?	Yes	Yes	Yes	Yes	No	Yes
9.Oppose Tire Tax?	Yes	Yes	Yes	Yes	Yes	Yes
10.Oppose Gas Tax Increase?	Yes	Yes	Yes	Yes	Yes	
11.Research Mileage Tax?	Yes	Yes	Yes		No	
12.Grants to Stations for EV chargers?	Yes	Yes	Yes	Yes	No	Yes

\*Means the candidate's responses were from the 2020 survey



# NJ CANNABIS WORKPLACE GUIDANCE IS STILL A BIT BUZZED

By: Steven Horowitz



Yes...I titled an article about the new New Jersey Guidelines about Cannabis in the workplace with a pun about getting stoned. Dude.

But the fact is the new Guidance issued by the Cannabis Regulatory Commission (CRC) during the first week of September of this year is anything but clear.

Governor Phil Murphy signed the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (“CREAMM” Act) into law in 2021. But just because marijuana may be legal in New Jersey, that does not mean that your employees have the right to smoke or ingest this substance (or any other drug) while at work. Moreover, employers still can require that employees not show up for work while impaired. That means that employers can still drug test under certain conditions. Those include when an employer has a “reasonable suspicion” of an employee working while impaired. Instances of a reasonable suspicion include following a work related accident. Employers can also test employees randomly, part of a pre-employment screening, or when conducting random/regular screening of current employees.

The CREAMM Act also required that every employer have at their disposal an individual with the necessary certifications, known as a “Workplace Impairment Recognition Expert” (WIRE), to conduct the physical examination. The problem is that the State never established regulations that adequately defined these WIRE experts.

The new Guidelines attempted to assist with regards to the WIRE expert by clarifying those roles. But here is where the confusion comes in: The new Guidance specifically states that adverse employment actions against employees cannot be based “solely” on the presence of cannabinoid metabolites in their body. Yet at the same time, the Guidance reemphasizes that employers have a right to a drug

free environment, AND that employers can require drug tests based on a reasonable suspicion of being impaired while performing the job. The solution, per the Guidelines, is to recommend that there be an objective drug test COMBINED WITH “evidence based documentation of physical signs or other evidence of impairment during an employee’s prescribed work hours...”

This allows for employers to have the option of conducting reasonable suspicion testing without a WIRE. The guidance also provides for the use of an Observation Report Form, which when used in conjunction with a positive drug test for cannabis, could be sufficient for termination of that employee. This form can be found at the following link:

<https://www.njgca.org/Impairmentguidance.pdf>

NOTE that this form is NOT simple to fill out, and in order for any potential discipline/termination to be considered as justified, must be filed out within 24 hours of the observation of the employee’s impaired conduct. This Form is complex, and whomever from your business that will be in charge of filling it out must be familiar with it fully. The form lists literally dozens of signs of impairments that need to be recognized.

What will satisfy this new requirement of having someone who is less than an expert “WIRE” versus someone who more than a typical lay-person for spotting impairment issues while at work? Here is what the Guidelines recommend: Have a designated “interim staff member to assist with making determinations of suspected cannabis use” during work hours. This person needs to be “sufficiently trained” and “qualified” to determine both spotting impairments in employees and in filling out the Observation Report Form mentioned above. The Guidelines also continue to permit the use of a third-party contractor to serve in this capacity, but it is not required. Lastly, the Guidelines recommend that the Employer establish a “Standard Operating Procedure” for completing the Observation Report Form by two (2) employees to engage in and document observations, which includes:

1. The employee’s Manager/Supervisor or any

employee at the manager/supervisor level; and  
2. The other being the interim staff member designated and duly trained to assist in recognizing impairment during working hours, or a second also trained manager/supervisor

What the Guidelines fail to do is adequately define what “sufficiently trained” and “qualified” means, they fail to deal with the inefficiencies of having a third-party contractor, and even how to deal with employers that have multiple shifts (do you need a trained observer for each shift? The rule reads as though this may be required). Also, there is a lack of guidance as to what the State will accept as an approved “cognitive impairment test,” as well as what is a “scientifically valid, objective, consistently repeatable, standardized automated test of an employee’s impairment, and/or ocular scan, as physical signs or evidence to establish reasonable suspicion of cannabis use or impairment at work.”

While these Guidelines are a step in the right direction, they are far from helpful.

So, how does an employer terminate an employee based on the above? To assist in the requirement of having a sufficiently trained and qualified employee, I have been counseling employers to look to the Federal Government for Guidance. The Department of Transportation provides courses online where one can become “certified” to spot alcohol and marijuana use/impairment. Some courses even provide a certificate that is suitable for framing! In a contested termination, such a certificate can be used as direct evidence of being qualified to spot impairment. However, at this infancy stage of the CREAMM Act, it is certainly not determinative.

Most importantly, have a written handbook that spells out your company’s “Standard Operating Procedure” for implementing discipline, as well as your expectations of the employees in this regard. This should include a detailed explanations of spotting any impairments while on the clock, and the repercussions of doing so on the employee. Feel free to contact me for help putting your employee handbook together.

Unfortunately, as employers in New Jersey, you are still in the “let’s wait and see” mode until further clarifications are made. But don’t let this be an excuse to allowing impaired employees in your business. If action needs to be taken, do it, especially if the health and safety of your business, customers and other employees are concerned.



Specializing in Labor and Employment Law on behalf of businesses, including litigating State and Federal cases involving Title VII, ADA, ADEA, OSHA Compliance, Fair Labor Standards Act (Wage and Hour); preparation of Employee Handbooks; and guidance on effective hiring, discipline, and termination of employees.



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NJGCA Member Benefit Partner





# Ten Year Superstorm Sandy Anniversary: Lessons Learned

With the upcoming ten-year anniversary of Superstorm Sandy, we wanted to take a look back at how our members got through the aftermath of the hurricane, and lessons learned in the event of another national disaster in New Jersey:

Nick De Palma was on staff as the Communications Director at the time of Superstorm Sandy and recalls his experience working at NJGCA at the time of the event:

## Introduction by NJGCA Staffer Nick De Palma:



Late October 2012 will always loom large in the collective memories of Garden State residents.

A decade later, few naturally occurring events have had a lingering impact on New Jersey like Superstorm Sandy. Everyone was affected, and no one was left untouched. If the storm didn't leave physical scars on your personal property, municipality, local roadways, or larger communities, the aftermath almost assuredly affected you.

Those directly impacted by the storm may have lost a home or place of business as Sandy swept through their neighborhood. It would be months (and in some cases, years) before some residents could return to their home. All along the Shore, homes were demolished and rebuilt higher than they had originally been constructed. Other homes or structures were torn down entirely and left fallow; never to be built upon again. Still other homes escaped the devastation, but were urged to raise their homes so as to avoid any future storm damage.

For some who did not experience the raw destruction of the storm, there would be rolling electricity

blackouts, food and fuel shortages, and an overall sense of uncertainty and insecurity for months. Looking back on this time, it would not be an exaggeration for many to introspectively think "Where were you when Sandy hit?" or "How did the aftermath of Sandy affect you?" For NJGCA members and staffers, there is a vivid recollection of how the storm disturbed ordinary life for business owners and residents alike.

Former NJGCA Executive Director Sal Risalvato was called into numerous coordinated meetings between the State Police, the Office of Emergency Management, state officials, and the larger business community. These meetings took place alongside officials from the highest level of government. The discussions touched on the state's damaged infrastructure and the necessary response to the devastation. Just as in many such scenarios, and mimicking what occurred during the COVID-19 emergency, the response to a crisis literally rode on vehicles that must be fueled and serviced.

That reality placed our members into nearly every stage of emergency planning. In order to appropriately respond to the disaster, getting adequate power and fuel to service stations played a vital role in helping displaced residents, tackling dangerous conditions, or helping construction crews clear debris.



I was going to law school part-time at night while working for the Association during the day. I vividly recall pushing all normal work responsibilities aside – and setting my studies on hold – for weeks to help members and coordinate with state officials. This entailed working remotely from my

apartment around the clock to identify affected stations, talk to members, and help utility officials restore power. When power could not be restored, we coordinated with the Department of Defense to have portable generators delivered to sites around New Jersey. We helped station owners who did have power find adequate fuel supplies to meet the needs of responders and ordinary motorists. Once the waters receded, the recovery and rebuilding began, and residents looked to move past the emergency.

The destruction triggered debate in Trenton, Washington, D.C., and beyond. As your trade association and lobbyists, we were quick to respond to many of these proposals. In an effort to be helpful and appear to “do something” to prevent a similar distress in the future, many state and local municipal officials sought to implement a “generator mandate” for service stations. While such intentions were seemingly proactive and positive, many legislators and government authorities did not realize the inefficiencies and financial burdens that accompany a generator mandate. Many legislators thought a gas station could be powered with a generator that cost a few hundred bucks at Home Depot, in truth they cost tens of thousands of dollars. The cost of the actual generator aside, most generators require multi-year service contracts, ongoing maintenance (even when they were unused and remained inactive) and have a limited shelf-life before being replaced. In February 2013, NJGCA testified before the Assembly Homeland Security and State Preparedness Committee in opposition to such mandates. Rather, our Association supported a bill that would create a test program (offering 0% loans up to \$10,000 to gasoline stations) for stations located along evacuation routes who wanted to install generators or the quick connect wiring. Those affected stations would be appropriately wired to allow for a portable generator to be attached to a service station on an ad hoc basis. Ultimately the Administration of Governor Christie created a grant program to cover the costs of either quick connects or generators at around 250 stations.

Furthermore, and as we vocally pointed out at the time, having every station utilize a back-up generator would not have made a meaningful difference in the aftermath of Superstorm Sandy. The reason? These station owners could not get fuel deliveries due to the storm hampering refinery, storage, distribution, and transportation of fuel. In fact, power was restored to most areas of the state relatively quickly and most stations waited days or even as long as two weeks for fuel deliveries. That means that even if the generators were operating and powering pumps, dispensers, storefronts, and canopies – it would not have made any impact in

the recovery efforts.

Our work on the state-level aside, at one point, we were compelled to not only push back against such mandates with state officials but respond to individual municipal proposals seeking to impose the generator mandate in absence of action from Trenton.

Of course, to legislators and local officials, the appearance of “doing something” always matters more than actually doing something meaningful. As we quipped at the time, the proposed mandates for station owners was deemed a “critical” necessity. However, an equally forceful directive was not held for grocery stores or hardware retailers, which sold similarly important goods (food and building materials, respectively) to aid in any post-storm recovery.

**Joe Ocello, NJGCA Board President:  
Pit Crew Lube 4 Sunoco  
Mantoloking Road, Brick**

We were fortunate to have our underground storage tanks full (30k Gal) with no water contamination, so we did not have a supply problem. No electric from JCP&L so we needed power. We were lucky enough to have some portable generators so we could power up dispensers and submersible pumps. It took us 2 days to hook generator power into our service panel, after that was completed we were able to start servicing our customers with fuel. About 70 to 80 % of our customers' homes were underwater but our location was dry. We could only pump gas during daylight hours due to limited power from the generators, but we had no limits on gas purchases.



**Pit Crew Lube 2 Sunoco  
Ocean Drive, Avalon**

Again, our underground tanks were full (36k) with no water contamination, so supply was not an issue. We had had approx. 2 ft of water in bays and 3 in. of sand, so the cleanup began. One day to clean out the building, fortunately no equipment

was damaged as we raised it all up on concrete blocks. The next day's challenge was to work on cleaning out our submersible pump containment wells and prepare to hook up generator power with our portable generators (as we had no power from Atlantic City Electric) and start firing up our systems. Again, all systems were working but could only pump fuel during daylight hours due to limited generator power available. No fuel limits were imposed, and the island became alive again after about 3 days filled with contractors and residents trying to get back to their homes.

Looking back on this experience I consider our families and businesses fortunate. There were many that were not as fortunate! With the help of my sons Joe Jr and Jesse and their contacts this feat was possible.

**Paul Kelly, Kelly's Sea Bay Sunoco  
Lavallette, NJ**



*Photos of Paul Kelly's repair shop after the Hurricane devastation*

Our gas station and repair shop business is located one block from the ocean on the island. We were in business for thirty years when Sandy hit. We were maybe one of the first businesses in the Jersey Shore, let alone the state, to reopen. One of the decisions we made that made this possible was to make sure that our tanks were completely

filled with gas before the storm hit and that the tank caps were on tight to prevent leaks. This was a lesson we learned after Hurricane Irene years earlier, when every gas station had run out of gas and haulers could not get enough gas in fast enough to meet demand.



The next day, we returned to find little structural damage to the business, but two feet of water had flooded the shop. You quite literally needed a boat or kayak to get around the streets at the time. The shed on our property had floated down the street and crashed into a building. Much of our inventory was also ruined, of the three cars in the shop two of them had to be totaled due to water damage. We had no power to pump gas or service vehicles. My sons as well as the staff helped clean up and get the place open.



*Pauls son, Paul Jr. in front of the remains of the boardwalk*

Immediately following the storm is where we saw our community at large, as well as the business community, come together to help people like myself get back up and running. We were asked what we needed, and from there we were able to get back to work and aid others who were helping get the island back in order. First, we were asked from our suppliers what we needed. While we were able to pump gas at the time, we were unable to process credit card payments. They quickly sent in a pump

and tank company to allow them the ability to take credit cards again. They also held off withdrawing our account for gas for about a month or two until we were able to recoup the money lost from the storm. Another day during the clean up process,



we saw DEP trucks turn into our business. Unlike their normal visits, this time they came to ask how they could help, which was truly unexpected.

One day, we encountered a Salvation Army truck that needed servicing while they were helping out around the Jersey Shore. From there, we became friendly with the captain and allowed them to park their trucks on our property,

including their Canteen truck, which had food and supplies to hand out. They also gave us the clear to help our neighbors and friends throughout the island who had reached out to us on social media and were unable to get to their homes to check the damages.

Another main takeaway that we will implement should another natural disaster hit our state would be to make sure bathrooms are up and running and clean. This was one of our smartest moves because all the sudden, all of these people and volunteer groups coming into town to try to help would stop in and ask to use bathroom since we had running water and toilets. Because the streets were in total disrepair, we ended up doing a lot of tire repairs from people stopping in asking to use our restroom. One group from Georgia came in to use the bathroom while they were helping to get power back up after the storm. They were so thankful they asked if there was anything they could do to help us and came back two hours later with new transformers and got the power back up at our shop, allowing us to resume pumping gas and serve coffee to volunteers. We were one of the only businesses open, nothing else around was open at all. Once word got out that we were open and had power, people would come in and slowly we were able to reopen again less than two weeks after the storm.

We learned that we are so much more than a business, we learned we are here to help people. We are part of a larger community.

## Alex Tullo, T&R Oil Company (Distributor)

When Superstorm Sandy hit, we had taken over the accounts from Exxon direct marketing just weeks before. Getting fuel was hard, especially as we were working remotely and completely unable to access our offices due to flooding. While working remotely, we made sure everyone got gas and was satisfied with their delivery. All our customers got a delivery every day, and at least once during Sandy made sure all customers received two loads of gasoline at one time or another. We did not charge anything different for deliveries during or after Sandy. We sent all the bills to the oil companies which picked up the differential.

Looking back on that time, one thing that could be done differently to help get back in business faster would be the ability to access to other loading terminals outside of our oil loading area. Other terminals were wiped out from the storm, though they had product that could be distributed. To get authorized with these terminals would help get business back to pumping gas faster.

*Pictured at left: Pauls son Matt in front of nearby law offices, where parts of the boardwalk had washed up in front of.*



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**ICON Payments LLC** is a software company whose mission is to build a merchant-inspired payment platform with revolutionary technology at a reasonable cost. Currently, our main goal is to bring EMV-Compliance to gas stations without having to go through the hassle of replacing the entire pump set-up.

As of April 2021, gas stations have been required to have EMV-Compliant card readers or they risk being liable for EMV-related chargebacks. Some gas station owners are choosing to replace their pumps, which could cost upwards of \$11,000 per pump. With **ICON Payments'** solution, you would only need to upgrade the card reader at a fraction of the cost of replacing an entire pump.

Getting a quote for your site is simple and easy. Get in touch with one of our dedicated staff members and together we can figure out how to bring EMV-Compliance to your stations!

## **ICON Payments LLC**

*Payment Processing / EMV-Compliance  
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(212)334-6825

Support@iconpayments.com

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A composite image for a gas station EMV solution. At the top, a blue banner contains the text 'Gas Station EMV Solution' in white. Below the banner is a photograph of a gas station pump with a black payment terminal. The terminal screen shows 'Apple Pay' and 'Google Pay' logos, along with 'Credit' and 'Debit' buttons. A blue credit card is being processed by the terminal. At the bottom, a blue banner contains two bullet points: 'AFFORDABLE PRICE' and 'PROFESSIONAL SERVICE'. Below this banner, the contact information 'Contact Daniel: +(917)239-3568' is displayed, followed by the ICON Payments logo in the bottom right corner.

**Gas Station  
EMV Solution**

- AFFORDABLE PRICE
- PROFESSIONAL SERVICE

Contact Daniel: +(917)239-3568

The logo for World Insurance, featuring the word "WORLD" in a white, sans-serif font. The letter "O" is stylized with a blue and green circular graphic element.

LARGE RESOURCES.  
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A photograph of a gas station at night, illuminated by overhead lights. The station has a blue and white canopy. The background shows a dark sky and some trees.

# EXCLUSIVE NJGCA HEALTH PLAN FOR MEMBERS ONLY

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## **CONTACT:**

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# Compliance Corner

*Compliance – Governance – Regulatory –  
Administrative Updates*



*By Nick De Palma, Counsel and Director of Member Services*

## **MOTOR VEHICLE INSPECTION PROGRAM UPDATE**

*OPUS Inspection contract moves forward; judicial hearing set*

Over the last year, NJGCA has reported on the status of the next inspection program numerous times. In our July 2022 edition of *On The Road*, we presented a practical review of the contract awarded to OPUS Inspections (“OPUS”), some detailed information gleaned from the final bid submission, and news that Parsons (as the current program operator) had filed an appeal seeking a stay of the contract award.

Since that time, we have learned that in addition to Parsons protesting the awarding of the contract to OPUS, the Service Employees International Union, Local 32B-J (SEIU) has also taken legal action. Local 32B-J represents the inspectors performing inspections at the Centralized Inspection Facilities (CIFs, or “state lanes”). The SEIU protesting the award of the contract to OPUS are alleging that the bid specification failed to require the winning vendor to offer employment to the current workforce.

In August, we also learned that the legal action filed by Parsons seeking a stay of the contract award has been denied by the court. Rather, the merits of Parsons motion will be decided in a hearing, which will take place in/around December. This ultimately this means that OPUS is permitted to continue to implement the new contract and make preparations to assume control of the inspection program.

While we cannot predict the outcome of the December hearing, we can confidently confirm that officials from OPUS will be reaching out directly to the PIF community soon to discuss the transition, new equipment sales, and other pertinent details.

What’s more, NJGCA will be working with OPUS to get all timely information updates to our members. NJGCA also had an excellent meeting with the new Acting Chief Administrator of the Motor Vehicle Commission (MVC), Trish Littles-Floyd, and her top team. Our industry has had a ‘rocky’ relationship with MVC over the last twenty-five years (to say the least), but after our

meeting we are hopeful that the new team and new inspection program will be a big improvement. We are also hopeful it will be easier than ever to schedule new training and testing sessions to certify new inspectors.

As we reported in our last issue, here are some notable bid highlights for your review:

- The Next Generation (NG) Workstations will continue to be computer-based, but will be come in three different variants, including:
  - **PC-based PIF Workstation** (includes PC, monitor, barcode reader, printer, scan tool, keyboard, and mouse) = \$1,993.78
  - **Tablet-based PIF Workstation** (includes tablet, printer, scan tool) = \$1,944.60
  - **Laptop-based PIF Workstation** (includes laptop, printer, barcode reader, scan tool) = \$2,332.79
  - **PIF Inspection Transaction Fee** (please note that the transaction fee will include all maintenance) = \$2.50 per transaction (there will no longer be a monthly fee)
- Replacements parts and hardware devices will also be made available to PIFs as needed, at a pre-determined price throughout the multi-year contract. This includes monitors, printers, scanners, and other ancillary (but necessary) components.
- Section 3.13.1.12A of the final bid solicitation directs the ultimate award winner to work with NJGCA to determine PIF recruitment needs. This means that the Association will have a direct line to OPUS officials to assist our members (and the wider PIF community) during the transition, and thereafter.
- OPUS is responsible for setting up all ordered equipment and training each user on the new software.
- OPUS may accept deposits for the NGWorkstations when an order is placed, but the deposit cannot exceed 25% of the total purchase price.
- OPUS must deliver your new NGWorkstation equipment to your PIF location within 90 days of collecting your deposit.
- A PIF support hotline will be created for all locations to report hardware or software issues. Service requests may be submitted through the hotline, and it will be staffed Monday to Saturday 8:00 a.m. to 5:00 p.m. (with an automated service taking messages after hours).

- If a problem is reported to the hotline, and the customer service representative cannot correct the problem within 30 minutes, a field technician will be dispatched to the PIF location.

For additional details on our earlier reporting on the bid award and equipment sales, please see the July 2022 edition of On The Road.

If you have any questions on this update, please contact Nick at [nick@njgca.org](mailto:nick@njgca.org)

## DEADLINE FOR ENHANCED VAPOR RECOVERY UPGRADE

*CARB-based EVR rule takes effect in 2024 – Don't wait!*

NJGCA has been in contact with officials from the NJ Department of Environmental Protection ("NJDEP") regarding the forthcoming Enhanced Vapor Recovery ("EVR") upgrade mandate. This requirement is not "new" to New Jersey, and the upgrade will impact all station owners with underground storage tanks installed prior to December 23, 2017. Any tanks installed on/after December 23, 2017 are unaffected; and should have had these enhancements made at the time of installation.

The upgraded system is a California Air Resources Board (CARB) Certified Phase 1 system, and includes enhanced rotatable fill adaptors, dust caps, spill buckets, hoses, and other requirements. Stations that have not migrated to the new system must make the upgrade to new, full EVR requirement by December 23, 2024.

Stations that do not upgrade their facility by December 23, 2024 may face fines or penalties for non-compliance. This may include a \$600 fine per piece of equipment not upgraded per day until compliance is achieved; and a \$500 per test per month until compliance is achieved.

Those stations with tanks installed prior to December 23, 2017 that have not already made the these changes should contact their compliance vendor immediately to schedule their completion before the deadline.

Please note that any new Phase 1 system installation complying with the new mandate must follow the 14-day notification requirement for all vapor recovery testing. Your environmental compliance professional should have this information on hand. However, for purposes of completeness, the installer must email DEP officials at [14dayustnotice@dep.nj.gov](mailto:14dayustnotice@dep.nj.gov) and the testing performed must include static pressure performance, press/vacuum vent values, and torque test.

In following the same mindset that forewarned the implementation of the Stage II Vacuum Assist Vapor Re-

covery decommissioning (which ended on December 23, 2020), NJGCA highly recommends that all affected stations comply with the upcoming mandates well ahead of the deadline.

It is worth nothing that even though station owners had years to comply with the Stage II decommissioning, many waited until a month or two before the deadline to contact their environmental compliance company to schedule the upgrade. Unfortunately, those that waited too long were later cited and fined. That's because in waiting so long, there was a frantic rush to get stations into compliance before the deadline; which resulted in owners having to wait on contractor staff and/or parts availability.

Don't get caught up by a false sense of time and don't procrastinate. Call to schedule your appointment today!

If you have any questions on this update, please contact Nick at [nick@njgca.org](mailto:nick@njgca.org)

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# Horror Highlight

## **Sting Cars and Catalytic Converters** ***Coverst car violations up, but routine overt audit inspections make a comeback***

**By: Nick De Palma, Counsel Director of Member Services**



Over the last few months, members have reported a spike in MVC covert sting car visits to the state's Private Inspection Facilities (PIFs). The uptick in these interactions has resulted in a corresponding surge of violations handed out to shop owners.

Cynically, one might think that more undercover sting car visits would result in more fines; and a means for state officials to extract additional revenue from small business owners.

Such suspicions aside, it is also important to note that the rise in covert sting car visits parallels a rash of news reports highlighting a steep hike in catalytic converter thefts. According to one national news source, the increase of reported converter theft claims has risen from approximately 1,300 claims in 2018, to over 52,000 in 2021 alone. Catalytic converters are expensive and contain rare-earth metals such as rhodium, palladium, and platinum. As the economy suffers and the price of these elements increase, so have the number of thefts. On average, thieves are receiving up to \$350 per catalytic converter from an ordinary passenger car. If a catalytic converter is taken from a hybrid vehicle, the prices may soar above \$1,000 per unit. It is relatively easy to access a catalytic converter from beneath a vehicle, and this alarming uptick has created public pressure to "do something" to curb thefts.

The business community has responded by offering up simple-but-effective aftermarket solutions that can thwart (or, at least, slow down) an attempt to steal a converter. This includes bolt on shields or similar device, or identifying stampings on the converter itself to make it more difficult for a thief to later sell.

The government's reaction to this phenomenon has varied. Many states have enacted anti-theft measures to try and stem the number of robberies. Others are attempting to stop these incidents through bureaucratic means.

In New Jersey there is legislation, S-249/A-2210 from Senator Sandra Cunningham and Assemblyman Lou

Greenwald (D-Camden), which NJGCA has supported. It would require scrap yards in the state to keep records for each converter they buy, including the VIN of the vehicle it came off of and a receipt showing ownership (although this doesn't apply if the seller is a repair shop). It has passed two Senate Committees and we are hopeful it will become law in the coming months.

Indirectly, this has meant MVC officials are seemingly compelled to further scrutinize the PIF community; pressing shops to visually confirm that a vehicle has a catalytic converter installed when performing an emissions inspection.

Unfortunately for small business owners, many shops are getting handed violations that are easily avoidable. Consider the NJGCA member who was cited by MVC after a sting car visit.

In this situation, the undercover covert car came into our member's shop and asked for the vehicle to be inspected. The business owner was very busy, short-handed, and told the "customer" that they'd have to wait for a while before the inspection could be performed. After a long stretch, our member finally inspected the vehicle -- outside his garage bay. He didn't pull in the vehicle since other customers' cars were on the lift. What's more, it began to rain outside as he was conducting the inspection. The member passed the vehicle and the covert sting car left; only to return later with a citation for failing to visually check for the catalytic converter.

In this instance, our member did look under the vehicle to see if the catalytic converter was present. We even had video footage from his exterior camera to prove he did look under the vehicle. However, as it had begun to rain and the vehicle was just outside the garage, our member didn't check thoroughly enough and let the vehicle go without noticing the missing converter. He wanted to get out from the rain and finalize the inspection.

Thankfully NJGCA was able to defend our member in a hearing and reduce his liability. While he was not able to get all violations dropped, having the video footage at least demonstrated to the hearing officers that our member had taken steps to verify if the catalytic converter was present -- even if he failed to notice it was gone.

Knowing what transpired, what should the inspector have done to avoid the fine and penalty?

First, no one should ever rush through an inspection. In this instance, our member conducted the inspection outside with a rainstorm coming. He was thinking more about getting wet than he was about doing the job properly. Even as he was looking under the vehicle for the catalytic converter, he was passively searching and had already focused on passing the vehicle rather than performing a proper inspection. His failure to think a few steps ahead cost him money to defend himself.

Second, while every location has a different layout and available bays, controlling customer expectations and offering realistic wait times is incredibly important. No doubt our member was very busy and his bays were full. Still, it is entirely possible that managing the shop's work-flow could have allowed for the vehicle to come inside to be inspected – and thus permitted a slower and more thorough inspection to be done.

Third, while it would not have made a difference in this instance, inspectors should regularly consult a checklist to remind themselves of the proper steps (and what to look out for) when performing an inspection. All station owners and staffers get distracted throughout the hustle n' bustle of the workday. Having a resource to consult can help an inspector stay on task and recall appropriate procedures.

These above take-away examples are notable, but just a one or two small adjustments can be enough to avoid costly fines and blemishes on your INL license.

The takeaway, of course, is ***“Please do not let this happen to you!”***

Today, nothing can be done to help our member; but such lapses can serve as a strong warning for others that are similarly situated. With this in mind, and so to avoid future violations, it should also be noted that MVC has restarted spot-checking existing PIF locations by reviving overt audits. It's entirely possible that your location has already been visited; while others are learning of this for the first time.

Longtime inspectors and shop owners will recall that overt inspections used to be a regular event in the PIF community. There were two types: overt equipment inspections checks, and overt inspector performance evaluations.

According to Title 40 of the Code of Federal Regulations, the state must perform both overt and covert audits. Covert audits (like the undercover sting car variety described above) have been regular and ongoing. Overt performance audits, on the other hand, were to be conducted twice a year, for “each lane or test bed” and includes checking for proper record keeping, written evaluations, observation of each inspector's abilities, and other performance metrics. (40 CFR §51.363(a)(3)).

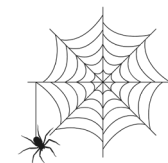
Over the years, MVC officials shifted away from conducting regular overt audits due to lower staffing levels. Federal mandates aside, the Commission has refocused on overt inspection audits as the number of locations cited for violations has steadily risen. According to MVC officials, many PIFs are getting written-up for trivial mistakes (e.g. missing gas caps, catalytic converters, etc) or poor administrative record keeping (e.g. failure to complete paperwork properly, etc). Such lapses have compelled the State to revisit overt audits, while allowing existing PIFs and inspectors an additional avenue to ask questions of compliance officers and auditor while walking through an inspection.

Officials at the Commission have stated that asking questions of an overt auditor or safety specialist can help you improve your overall inspection performance; thereby reducing the chances that you will be cited for a violation in the future. This is very factually depending on the inspector's personal circumstances. For example, if the inspector keeps making the same mistakes multiple times over numerous overt performance evaluations, then that inspector will likely receive several warnings before ultimately being written up. But if the inspector learns from their mistakes, does not repeat them, and their overall perform improves, no citations will be issued.

If you have an overt inspection audit, use it as an opportunity to brush up your procedures and ask questions directly of the MVC staffer. This can be a tool for you to take advantage of.

Undercover sting car operations and overt performance valuations aside, remember to use MVC resources to help you work through any questions. All PIFs and inspectors should call these resources (in the following order) with pointed procedural questions: Your auditor, the specialty inspection locations (in Westfield, Winslow, or Asbury Park), or MVC HQ in Trenton. You can never get in trouble for calling to confirm a course of action or ask a question. Even in the middle of an actual inspection, you will never be penalized for taking that extra step. If you do get direction, always write down the name of the person who assisted you, marking the date and time. That way, if an auditor should question why you did something, you have the name of the person to point to.

If you have any questions about this Horror Highlight, or if you have a story you think is worth sharing anonymously with fellow members, please email me at [nick@njgca.org](mailto:nick@njgca.org)





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FROM TRADITIONAL RESOURCES TO ALTERNATIVE ENERGY INNOVATIONS

By Michelle Horowitz Jackson



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

### **National Climate News:**

The big news nationally in terms of climate change came in August with President Biden signing the Inflation Reduction Act into law. Over the summer, Democrats had been unable to agree on a package of climate policies to increase clean energy opportunities and reduce emissions, putting the future of moving forward on any climate change policy at risk. In July, however, Senator Joe Manchin agreed to include hundreds of billions of dollars for climate and energy programs in a bill that would also try to reduce prescription drug prices, and raise taxes on the highest incomes and largest corporations. President Biden signed the Inflation Reduction Act in August, with the main purpose of the bill aimed at tackling deficit reduction, health care access and prescription drug pricing, as well as addressing climate change and investing in cleaner energy generation. The bill claims to put the country on a path to reduce greenhouse gasses by 40% below 2005 levels by 2030 (without the bill we were on track for a 30% reduction). The EPA says in the U.S., the transportation, electric generation, and industry sectors each make up around 25 percent of national emissions. Building up the nation's capacity to build renewable technology (i.e., solar panels or electric vehicle components), and then ensuring people can use those things more easily through increasing infrastructure is a key facet of the Inflation Reduction Act. Meanwhile, subsidies for consumers are also included to make these changes more affordable for those with lower to middle incomes to access electric-powered options, from EVs to heat pump systems and more.

### **New Jersey Climate News:**

In the last few months the Murphy Administration has made it clear that New Jersey would be building up its wind power industry for both clean energy and economic reasons, and has partnered with wind energy companies to follow through on these goals. State procurements of offshore wind along the East Coast are highly desirable because of the ability to plug in the new source of electricity close to demand centers, and are also geared toward getting developers to invest in manufacturing components for the developing industry in the U.S. In September, Governor Murphy pledged to increase the Garden State's target for offshore wind electric generation by 50 percent, saying at a press conference "we are positioning New Jersey to be the focal point for offshore wind component manufacturing and logistics and marshaling, not just along the Eastern Seaboard, but nationally." This is the second time the governor has increased the state's offshore wind target, setting the highest goal in the nation at 11,000 megawatts by 2040. New Jersey's previous goal for offshore wind was 7,500 MWs by 2035. The new goal puts New Jersey ahead of the mandate set by New York. It will almost certainly, however, lead to higher electric bills to subsidize the costs of offshore wind, which are much higher than generating the same level of electricity from natural gas powered plants.



## UPDATE: ETHANOL/BIOFUELS/BIODIESEL

### USDA ACCEPTING GRANTS TO INCREASE US BIOFUELS

The U.S. Department of Agriculture (USDA) Secretary Tom Vilsack announced that they are accepting applications for \$100 million in grants to increase the sale and use of biofuels derived from U.S. agricultural products. Funding is being made available through the Higher Blends Infrastructure Incentive Program (HBIIP). The goal of the program is to market higher blends of ethanol and biodiesel by sharing the costs to build and retrofit biofuel-related infrastructure such as pumps, dispensers and storage tanks. This funding follows previous investments made in the spring of \$5.6 million through HBIIP that is expected to increase the availability of biofuels by 59.5 million gallons per year in several states including New Jersey. The Inflation Reduction Act also includes another \$500 million aimed at increasing the sale and use of agricultural commodity-based fuels.

## UPDATE: ELECTRICITY & ELECTRIC POWERED VEHICLES

### NEW NATIONAL CHARGING PROGRAM; NJ 100% EV SALES BY 2050?; BATTERY INVESTMENTS

A collaboration between Pilot Company and General Motors promises 2,000 DC fast chargers across the nation that will be installed, operated and maintained by EVgo at up to 500 Pilot and Flying J travel centers. GM is already working with EVgo to add more than 3,250 fast chargers in American cities and suburbs by the end of 2025, and the collaboration is aimed at installing charging stalls at 50-mile intervals across the U.S. Additionally, GM customers will receive special benefits such as exclusive reservations, discounts on charging, a streamlined charging process through Plug and Charge and integration into GM's vehicle brand apps, which provide real-time charger availability information and help with route planning. The project demonstrates how public and private entities can come together to build out the nation's charging infrastructure, particularly along American highways, connecting urban and rural communities, the East and West Coasts, and different metropolitan areas.

**GM and Pilot Company to build a coast-to-coast fast charging network.**

- 2,000 EV charging stalls will be installed at up to 500 Pilot and Flying J travel centers
- Will help enable coast-to-coast EV travel and connect communities across America
- Initial Phase 1 EV charging stalls (shown in reference map) expected to be operational in 2023
- Chargers will be capable of delivering up to 350kW\*

Logos: gm, Pilot, FLYING J, EVgo

Additionally, the New York Power Authority (NYPA) will work with the NACS EV Charging Infrastructure Program to fund the deployment of EV charging equipment at convenience stores within New York state. Convenience stores that are selected for the program can participate at no cost to them. The initiative will include a major expansion in the state's fast charging stations, programs to educate consumers about the benefits of EVs and incentives to promote their adoption. The state's Power Authority will install, maintain and operate four 150kW DC Fast Chargers at convenience store sites. The power authority will work with the local utility for any utility upgrade that is required.

The United States Postal Service plans to order twice the number of electric vehicles than it had originally pro-

jected for its new fleet, planning to purchase 50,000 next-generation delivery vehicles and of those vehicles, at least 50% of them will be electric vehicles. This is a generous increase from the original 10% electric that was originally proposed in February of 2022. The Post Office plans to purchase another 34,500 commercially available vehicles over two years, bringing its total amount of vehicles purchased under its latest proposal to 84,500. The first of those should be rolling onto delivery routes next year.

This summer Jeep announced four new EV models in the US and Europe by 2025 and has set as goal for 50 percent of US sales and 100 percent of EU sales to be battery electrics (BEVs) by 2030. The new model lineup expands upon the success of the Wrangler 4xe plug-in hybrid and recently announced Grand Cherokee 4xe. They'll also include a new Recon and Wagoneer early next year. The Recon will debut next year with production expected to begin in 2024 and reservations for that model open early 2023. The Wagoneer will be an entirely new take on the Jeep with the company reportedly targeting a range of 400 miles on a single charge, 600 hp and a 0-60 mph time of around 3.5 seconds and will also be available to reserve early next year.



*Jeep Recon*



*Jeep Wrangler EV*

California also pledged this summer that starting in 2035 they will ban the sale of new gas-powered vehicles. 35% of automakers' new sales in California will need to be zero-emission vehicles in 2026. The targets — which allow for some plug-in hybrids — steadily increase each year, hitting 68% in 2030 and 100% in 2035. Meeting this goal will be challenging due to a shortage of battery components that have slowed output, leading to long wait times for vehicles, as well as a lack of infrastructure nationally. It also will put immense pressure on automakers to accelerate production of vehicles that they currently can't build enough of. Autotrader analyst Michelle Krebs told Axios on the initiative "Whether or not these requirements are realistic or achievable is directly linked to external factors like inflation, charging and fuel infrastructure, supply chains, labor, critical mineral availability and pricing, and the ongoing semiconductor shortage, these are complex, intertwined and global issues well beyond the control of either CARB or the auto industry." Across the board, prices of EVs were supposed to be declining by now due to increased economies of scale. Instead, they've been increasing, with the average transaction price of an EV in July at \$62,893, up 14.8% from \$54,797 a year earlier, according to Edmunds. That compares with an average of \$47,198 for all vehicles in July.

### ***New Jersey EV Update:***

New Jersey and California are among seventeen states, Washington, D.C., and the Canadian Province of Quebec to have signed on to the "Multi-State Medium- and Heavy-Duty Zero-Emission Vehicle Action Plan," which aims for 100% electrification of medium and heavy-duty vehicle sales by 2050. Nearly half of the U.S. population is represented under the plan, as well as 36% of the country's medium- and heavy-duty vehicles. States participating in the plan have committed to strive for at least 30% electric medium and heavy-duty vehicle sales by 2030, and 100% by 2050. Also included in the plan are action items for utilities and utility regulators to coordinate on a charging infrastructure for these medium- and heavy-duty electric vehicles.

Beginning in July, the state also pledged to incentivize motorists to purchasing electric vehicles through the new and improved \$60 million Charge Up New Jersey program. The program will give up to \$4,000 per vehicle under \$45,000 and up to \$2,000 for vehicles priced between \$45,000 and \$55,000 and includes \$250 to help pay for home charging. \$4 million of the total will go towards giving incentives for apartment buildings and condominiums to install charging stations for their residents to use. The money used to fund the incentive program comes from this year's Clean Energy Fund.

### **EV Battery Update:**

Toyota is investing up to \$5.6 billion on electric-vehicle batteries in Japan and the United States, designating \$3 billion to an energy plant in Japan, and \$2.5 billion to Toyota Battery Manufacturing, a plant that is being built in North Carolina and is set to begin production in 2025. Toyota is investing billions in EVs and their components in order to be prepared for when electric vehicles hit their peak popularity.

Within the next decade, two companies plan to make Washington a hub of the lithium-ion battery and will research how much silicon could be included in a battery. Silicon, when packed into the same space as graphite, can hold a lot more lithium which can increase the amount of energy stored in the battery. Automotive companies are turning to silicon as part of a broader effort to engineer lighter, more affordable, more durable and more powerful batteries as they phase out internal combustion engines fueled by fossil fuels that are spurring climate change. This research also has implications for the cell phone industry improving the battery life between charges and aircrafts that could stay aloft for more hours of flight.

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## **UPDATE: HYDROGEN/HYDROGEN FUEL CELLS HYDROGEN DIESEL VEHICLES COMING SOON?; AMAZON INVESTS IN HYDROGEN**

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Loop Energy, a hydrogen fuel cell developer, says its latest cell system can deliver better fuel economy than a diesel engine at current price levels. As the trucking industry begins to consider alternative fuels amid climate change concerns, big freight truck makers like Daimler Truck and Volvo are investing heavily in hydrogen fuel cells to for long distance hauls as currently developed batteries weigh too much to make electric trucks viable. As we have detailed in previous *Energy Examiners*, hydrogen fuel cells have faced two challenges for broad adoption: they have so far been less efficient than diesel and fueling infrastructure is virtually non-existent.

Amazon will be giving hydrogen a big boost with its latest investment. Shares of hydrogen fuel cell maker Plug Power went up 9% after Amazon struck a deal with the company to power some of its operations with green hydrogen. Plug will supply 10,950 tons of green hydrogen per year for Amazon's transportation and building operations starting in 2025. Amazon expects Plug to provide enough green hydrogen to power 30,000 forklifts or 800 long-haul trucks. Green hydrogen is produced when the energy used to power this process comes from renewable sources such as wind or solar. It is a way to store energy from renewable energy sources for times when the sun isn't shining or the wind isn't blowing. Because the production of hydrogen uses energy, hydrogen is not always considered a fully environmentally conscious option. However, when renewable energy methods are employed, hydrogen can be considered one of the most climate friendly options out there, even more so than battery-operated options.

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## **UPDATE: FOSSIL FUELS ENERGY SECRETARY URGES REFINERS TO HOLD ON TO SUPPLY**

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In August, Energy Secretary Jennifer Granholm urged domestic oil refiners to hold on to their supplies of fuels and not increase exports of gasoline and diesel. The ask came just ahead of the country's hurricane season and during a season of historically high gasoline prices. Federal weather forecasters have projected an above-average Atlantic hurricane season, which can be a perilous time for refineries. Additionally, still-high gasoline prices threaten Democrats ahead of the Nov. 8 midterm elections. The administration hopes that companies will "proactively address this need" of building inventories, though federal requirements and emergency measures could be taken if supply is not addressed.

# DISRUPTIONS COMING TO YOUR BUSINESS

According to Forbes magazine, with the rise of the electric battery vehicle comes a unique opportunity for convenience stores to evolve as well, to what they call “EV stores.” Besides investing in EV chargers themselves, we may start to see convenience stores evolve into something that matches the new fueling experience. Forbes offers five ideas that convenience stores can consider to offer more services for motorists of all vehicles despite their fueling method:

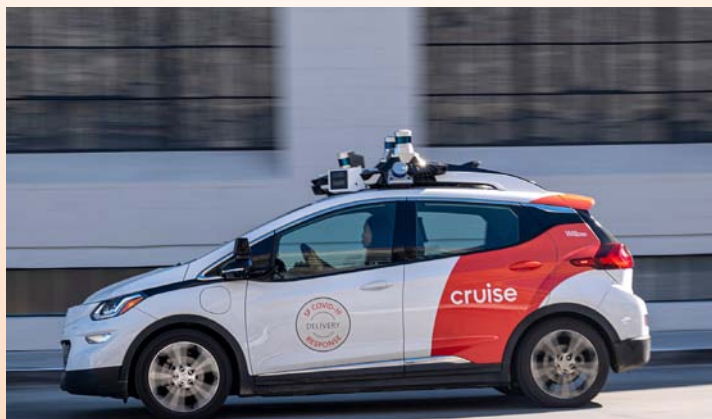
1. High-quality, innovative food offerings in a “sit-n-wait” environment as opposed to a “grab-n-go” store.
2. Rentable workstations where c-stores could offer a work pod with Wi-Fi for a rental fee.
3. Auto detailing services while the customer’s car is charging. The services may be outsourced to auto detailing specialists or kept in-house.
4. Small-device recharge hub, which c-stores could offer for free. Think cell phone charging towers. This could also encourage EV customers to grab a drink and a snack while they wait, and they could also have a display of chargers for sale nearby as well.

**Self-checkout/”just walk out”** stores have been something discussed in previous newsletters as being a huge disruptor, however, some companies are starting to walk back on these changes. Those that made the change cite too many technical issues and an increase in thefts after implementing self-checkout technology. Wegmans and Amazon Go are both reversing course on their self-checkout systems. At Wegmans, you could skip the checkout line by using an app to scan your groceries as you go, and Amazon stores included technology that track which items you pick up and put down, charging you for whatever is in your cart when you leave. Losses and disappointing sales did not justify the cost to include this technology.

## **Autonomous Vehicles**

With the confidence in fully self-driving vehicles faltering after some fatal accidents due to technology error, some companies are looking for a paired down version of autonomous driving. General Motors, Ford, BMW, and Mercedes-Benz are all looking to make attempts to add some form of partial autonomy to their vehicle lineup. Automated emergency braking, another form of partial autonomy, is standard on every new car as of September. And according to the Insurance Institute for Highway Safety, radar- or camera-linked brakes, such as automated emergency braking have cut police-reported rear-end collisions by 50 percent and automated pedestrian braking has reduced the number of car-human collisions by 30 percent versus cars without the feature. Anti-lock brakes; cameras, radar and ultrasonic sensors to manage blind spot and lane departure monitors; and adaptive cruise control have become standard partially autonomous features as well. General Motor’s Super Cruise allows an attentive driver under the proper conditions hands-free operation of the vehicle. Adaptive Cruise Control can control acceleration and braking and provides real-time cameras, sensors, GPS and LiDAR map data to help detect road curves.

Fully autonomous vehicles haven’t been completely abandoned, with Tesla, Waymo, and Argo developing and testing robotaxis (with human safety operators along for the ride). The GM Cruise robotaxis are set to hit the roads in Austin and Phoenix this winter, and in May, Argo AI launched a driverless car fleet in partnership with Ford, Lyft, Walmart and Volkswagen. Argo AI established an Austin fleet as well with 20 vehicles being used in pilot programs with Lyft for rideshare services and Walmart for grocery deliveries.





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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. Members should already received our 2022 Member Benefit Partner Brochure. If you have not received it, please contact Michelle Horowitz Jackson at michelle@njgca.org. New MBPs to our program are listed in blue and marked with asterisks below. We are excited about the great opportunities that you have to save money with these partners!

### Here is a list of our current MBPs:

**ABLE-TECH** - Computers, Financial Management, Video Security Systems

**AFFINITY FEDERAL CREDIT UNION** - Business Banking Services, Financing, Mortgages

**AMATO INSURANCE AGENCY** - Business, Garage Liability, Home and Auto Insurance

**AMERITRUST** - Workers Compensation Insurance (formerly Meadowbrook Insurance Group)

**ASSOCIATION MEMBER TRUST (AMT)** - Health Coverage

**ATS ENVIRONMENTAL SERVICES** - Tank & Vapor Testing, NJDEP Compliance

**AUTOPART INTERNATIONAL** - Premium Parts Supplier

**BELLOMO FUELS** - Gasoline and Diesel Supplier

**BOULDER PETROLEUM** - Compliance UST, Vapor Recovery Testing, Pump Calibration

**BRENNAN LAW** - Environmental, Petroleum and Real Estate Law Specialists

**CBIZ INSURANCE** - Business, Garage Liability, Home and Auto Insurance

**C-3 TECHNOLOGIES** - Tank and Vapor Testing, NJDEP Compliance

**CHIESA SHAHINIAN & GIANTOMASI PC** - Legal Services

**COLE, SCHOTZ, MEISEL, FORMAN & LEONARD** - Legal Services

**CONSUMERS OIL CORP.** - Gasoline and Diesel Supplier

**CROMPCO** - Tank & Vapor Testing, NJDEP Compliance

**DANA TANK INSURANCE SPECIALISTS** - Underground Storage Tank Insurance

**ENERGY MARKETING PARTNERS, INC.** - Gasoline and Diesel Supplier

**ENVIRONMENTAL ALLIANCE, INC.** - Environmental Remediation & LSRP Services

**FREEWIRE** - Electric Vehicle Charging

**GILL ENERGY** - Gasoline and Diesel Supplier

**\*GRATUS** - Gasoline and Diesel Supplier

**HEARTLAND PAYROLL** - Business Payroll Services

**HOUGH PETROLEUM** - Gasoline, Diesel, Motor Oil & Lubricants Supplier

**HOROWITZ LAW GROUP** - Legal Services

**\*JERSEY WHOLESALE TIRE CORP.** - Tire Suppliers and Distributors

**LIBERTY / EWING OIL** - Gasoline and Diesel Suppliers

**LISKO ENVIRONMENTAL** - Environmental Remediation & LSRP Services

**DUANE MORRIS** - Legal Services

**MERCHANT PRO EXPRESS** - Credit Card Processing & Consulting

**NATIONAL CONVENIENCE DISTRIBUTORS** - Convenience Store Distributor

**OIL DRI** - Spill Containment and Shop Supplies

**P.F.I. INC. / NORTHWEST PETROLEUM** - Gasoline and Diesel Supplier

**PRIME LUBE, INC.** - Motor Oil and Lubricant Suppliers

**PROIMAGE** - Apparel & Promotions

**\*PHOENIX RUBBER** - Waste Tire Removal

**QUICK & FRESH** - Convenience Store Distributor

**SALOMONE BROTHERS, INC** - Tank and Pump Replacement, Compliance Testing

**SERVICE STATION VENDING EQUIPMENT** - Service Station Vending, Air & Vacuum Systems

**SPARK CONTRACTORS** - Tank and Pump Replacement

**T&R OIL CO.** - Gasoline and Diesel Suppliers

**TMP ENERGY SOLUTIONS** - Discounted Electricity and Natural Gas



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