



March 2022 Bulletin

Please Pass Me Along to Share with other Stations!

ASSOCIATION CONTEST

CONGRATULATIONS TO THE FEBRUARY 2022 CONTEST WINNER OWENS CAR CARE OF CARMEL, NY.

Please read through this bulletin for your chance to win!!! Call the office with the correct answer to the trivia question and you will be entered in the monthly drawing for a chance to receive a free month's dues; a value of \$45.00.

ATTORNEY'S CORNER

This year brings a complex maze of state and federal laws on marijuana use, along with an increasingly relaxed public attitude about the drug and a brutal labor market for employers. That leaves employers in a haze [pun intended] about handling pot-related hiring issues, terminations, workplace safety, and more. Since our members are New York State and City based, we will ignore what other states are or are not doing.

The Office of Cannabis Management is a New York State agency established upon passage of the Marijuana Regulation and Taxation Act (MRTA) to implement a regulatory framework for medical and adult-use cannabis in the state of New York. The office regulates and taxes [surprise!] the cannabis industry in the State of New York. Tax revenue is estimated to start at \$83 million in 2021 and rise to \$300 million at full implementation in 2023.

Some questions, problems and issues:

1. Employee Use. The Act provides employment protections for cannabis users. Section 201-d of the New York Labor Law ("NYLL") has long prohibited New York employers from discriminating against an employee based upon the employee's lawful outside, off-duty work activities. The Act amends this Section of the NYLL to expressly include the use of "cannabis in accordance with state law" as a lawful outside work activity. Therefore, the Act prohibits employers from discriminating against employees based solely on the employee's legal use or possession of cannabis products while off duty and outside of the workplace.
2. Substance Free Workplace. Employers are permitted to enact and maintain substance-free workplace policies that prohibit cannabis use during work hours, on

company property, and while using an employer's equipment or other property.

3. Impaired Employee. Employers may prohibit and take adverse action due to an employee's workplace "impairment." The Act states that an employee is "impaired" by cannabis use when the "employee manifests specific articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, or such specific articulable symptoms interfere with an employer's obligations to provide a safe and healthy work place, free from recognized hazards, as required by state and federal occupational safety and health law."
4. Smoking. The Act does not permit smoking cannabis in locations where smoking tobacco is prohibited
5. Driving. The Act does not permit driving while under the influence of cannabis. Should you let an employee who uses Marijuana test drive customer cars? NYS Vehicle and Traffic Law § 1192 - "Operating a motor vehicle while under the influence of alcohol or drugs", it is a crime in New York to operate a motor vehicle while a person's ability to operate the motor vehicle is impaired by drugs. It is important to note that it is not a defense to a Driving While Ability Impaired [DWAI] charge based on drugs that the drugs in questions were legally prescribed to you, or that you were taking them as ordered and prescribed by the doctor. The critical question is whether the person took those drugs voluntarily, drove a car, and whether and to what extent those drugs impaired the person's ability to drive safely to any degree.

Counsel's Opinion:

- Employees who use cannabis should not operate customer cars and shop vehicles nor certain dangerous equipment such as a tire machine or even a lift [you don't want to dump a car].
- Employees may not smoke cannabis anywhere on the premises but if you allow the employee to smoke cannabis while "on the job" [not a good idea] it must be restricted to locations where smoking tobacco is prohibited.
- You may enact and maintain substance-free workplace policies that prohibit cannabis use during working hours, on company property, and while using an employer's equipment or other property.

March 2022 Bulletin

- You should review your drug testing as a positive test for cannabis use does not necessarily equate to workplace “impairment”.

Many issues remain open in terms of the application of the Act.

You should consult with SSDGNY to update drug- and alcohol-free workplace policies and drug testing protocols in your Employee Handbooks. SSDGNY can help with counsel for a nominal charge.

You should also consider whether to continue testing applicants for cannabis use considering that a positive test result cannot serve as a basis for any hiring decision. You should speak with SSDGNY counsel before taking any adverse action against employees for workplace “impairment” due to the lack of guidance regarding how to demonstrate that an employee is “impaired” by cannabis in the workplace.

SOME GENERAL GUIDELINES

Testing employees and applicants purely based on your own decision is illegal, even if you have reasonable doubt. There are no laws that require adults to submit to mandatory drug tests. Some laws and regulations enable, within the boundaries of the law, a request of employees to undergo a drug screen.

However, there must be an established, comprehensive written drug-free workplace policy, with all the necessary elements included. The legal elements consist of a statement of purpose, implementation, definition of all terms, the definition of illicit substances, and the employer’s and employee’s responsibilities.

Each and every applicant or employee must be issued a copy of the said drug-free policy for him or her to read, sign, and date. By signing that policy, the applicant and employee empower the employer to legally request mandatory drug testing, which is to be conducted by the state-approved laboratory.

The Federal Drug-Free Workplace Act requires businesses with \$100,000 or more in a single federal contract to test all of their employees for drug use. This also applies to businesses that receive federal grants.

If you test one employee, you should probably test them all.

Vincent P. Nesci, Esq.
General Counsel, SSDGNY
vnesci@nescipc.com

THE BIG CAN BAN

Part of the AIM Act requires the EPA to issue regulations that phase down the production and consumption of regulated substances (R-134a in our case). This is where we get the 10% reduction for 2022 and the new allocation program. But EPA says it also has the responsibility to make sure that this phase down occurs, and they are concerned that people will try to get around their regulations and import HFCs illegally into the United States.

To help make sure this doesn’t happen, EPA will prohibit importing or filling disposable cylinders in the US beginning on January 1, 2025 and prohibit the sale and distribution of disposable cylinders beginning January 1, 2027. Instead, EPA will require the use of refillable cylinders.

Also known as DOT-39 cylinders (because of the DOT regulation they’re required to meet), these are the 30-pound cylinders that we’ve been using in repair shops for decades. Typically shops buy these cylinders (new and pre-filled with refrigerant) as needed (maybe keeping one or two extra in stock, just in case), and then put them on their scrap pile for recycling when empty.

As reported by Steve Schaeber, MACS Technical Editor

REFERRALS

If you know of a station that needs our services and is interested in becoming a member, refer them to us and upon signing you will receive a \$50.00 Amazon gift card. If you know of someone interested, please contact our Sales Representative Bill Griese at 914-227-0144.

WELCOME NEW MEMBERS

Proper Service of Croton Falls
Croton Falls, NY

New York Auto Repair
Poughkeepsie, NY

March 2022 Bulletin



PROTECT YOUR BUSINESS FROM CATALYTIC CONVERTER THIEVES

Since 1975, all vehicles produced in the United States must have a catalytic converter as part of the exhaust system. The catalytic converter is an emissions-control device that contains precious metals that act as catalysts. When hot exhaust enters the converter, a chemical reaction occurs that renders toxic gases, such as carbon monoxide and hydrocarbons, into less harmful emissions.

With the price of precious metals skyrocketing, thieves are helping themselves to catalytic converters that contain enough platinum, palladium or rhodium to make it worth the risk to cut it from the underbelly of your vehicle. You might become aware that your catalytic converter has been stolen when your vehicle starts with a gravelly roar.

The Cost of Catalytic Converter Theft

Stolen catalytic converters are sold to scrap yards for around \$100 to \$150, but the cost to your business could be much bigger. There's the hassle of a vehicle that can't be safely driven, as well as the expense of having it towed to a local repair shop and getting the part replaced.

What Do Thieves Look For?

Catalytic converter thefts typically happen to vehicles that are parked for prolonged periods in large lots, such as shopping centers, mass transit commuter lots or company parking lots. Vehicles that sit higher from the ground, such as trucks, pick-ups and SUVs, are particularly vulnerable to catalytic converter theft because thieves can slide underneath without having to jack up the vehicle to gain access to the converter. With just a few cuts of a battery-powered saw, the catalytic converter can be stolen in less than a minute.

Preventing Catalytic Converter Theft

To combat catalytic converter thefts, a number of states have passed laws tightening the restrictions on metal scrap dealers. In many cases, dealers are required to verify the seller's identity with a photo ID and maintain complete records of sellers for 5 years.

To prevent catalytic converter theft, use common sense and follow these tips:

- Always park in well-lighted areas.
- At shopping centers and other similar parking lots, park close to the entrance of the building or near the access road where there's a lot of traffic.
- If you own or work at a business or factory, park within a fenced area that's busy during the day and secured at night.
- Engrave your license plate number on the converter to make it traceable.
- Purchase a vehicle security system and make sure it's set to trigger with just the slightest motion.
- Visit a local muffler shop and have the converter secured to the vehicle's frame with a hardened steel welded to the frame.
- Examine the different types of catalytic converter theft deterrent systems at your local auto parts store or online.

NEW YORK IS NOW USING CAMERAS WITH MICROPHONES TO TICKET LOUD CARS

OWN A LOUD CAR IN NEW YORK CITY? YOU MIGHT RECEIVE A NOTICE IN THE MAIL FROM A COMPUTER.

If you live in New York and drive a loud car, you could receive a notice from the city's Department of Environmental Protection telling you your car is too loud. Not because a police officer caught your noisy car, but because a computer did.

A photo of an official order from the New York City DEP was published to Facebook by a page called Lowered Congress on Monday, directed at a BMW M3 that may have been a bit too loud. The notice reads as follows:

I am writing to you because your vehicle has been identified as having a muffler that is not in compliance with Section 386 of the Vehicle and Traffic Law, which prohibits excessive noise from motor vehicles. Your vehicle was recorded by a camera that takes a pictures of the vehicle and the license plate. In addition, a sound meter records the decibel level as the vehicle approaches and passes the camera.

March 2022 Bulletin

The order goes on to tell the owner to bring their car to a location specified by the DEP—a sewage treatment plant, to be precise—for inspection. Show up, and you'll have the opportunity to get the car fixed to avoid a fine—much like California's "fix-it" ticket system. The document also informs the owner that if they fail to show up, they could face a maximum fine of \$875, plus additional fines for continuing to ignore the summons.

A New York City DEP spokesperson confirmed the system is part of a small pilot program that's been running since September 2021. From the description above, it sounds like it works much like a speed camera that automatically records a violation and sends it to you in the mail by reading your license plate. Instead of a speed gun, this new system uses a strategically placed sound meter to record decibel levels on the road, matching it to a license plate using a camera.

The DEP tells us this new program is unrelated to Governor Kathy Hochul's recent initiative to curb noise pollution in New York. In September 2021 she signed the SLEEP bill into law, raising fines for exhaust noise violation in the state from \$150 to \$1000—currently the highest in the nation.

The program will be reevaluated on June 30, according to the DEP. From there it'll likely either be expanded or taken out of commission. We'll be sure to follow up then to find out.

As seen on roadandtrack.com

APATHY GREATEST THREAT IN R2R

Right to Repair (R2R) has been a rallying cry in automotive aftermarket circles for years. Following Massachusetts enacting an R2R mandate in 2020, there are national R2R bills under consideration in the U.S. and Canada.

The bills need support from the automotive aftermarket since such regulations could impact how, or if, independent repair shops work on newer cars that function with telematics and computers.

Mechanics need more than a wrench these days when working on the new generation of vehicles. They need tools and access to retrieve mechanical data from, and send commands to, the vehicle for repair, maintenance and diagnostic testing.

The vehicle manufacturers argue that providing universal access to proprietary telematics information would create cybersecurity problems.

Several trade associations are backing the national R2R bills, claiming universal data access preserves consumers' right to

choose which facility they want to have their vehicle repaired and ensures independent repair shops have equal access to repair and maintenance tools and data as the vehicle makers' licensed dealerships.

They contend the R2R fight is about maintaining a level playing field for competition between independent auto repair shops and new-car dealerships, which have been grabbing a larger share of the maintenance and repair business.

"Protecting competition is really important, because that's what keeps quality high and prices low," said Gabrielle Hopkins, vice president of federal affairs at the Auto Care Association (ACA). Bill Hanvey, CEO of the ACA, urged members to make their voices heard in Congress.

Of all the dangers impacting the health and well-being of automotive aftermarket businesses, "apathy is our greatest threat," he said during the recent ACA 2022 Business Outlook webinar.

Hanvey warned that business owners can get lulled into complacency about the impact of regulations and technology, while they are enjoying booming sales and while demand for parts and services are outpacing supply.

"We need all to be much more activated in preserving our future. Our industry has 10 lobbyists collectively. ... Advocating for the auto makers, they have 270 lobbyists," he said.

"Despite the fact that we employ over 4 million people, we have a hard time activating people within our industry to become engaged in the preservation of our future."

The ACA and other trade associations are encouraging members to urge their congressional representatives to co-sponsor the R2R bill, or at least support it.

Other ways business owners can get involved, per the ACA: invite a member of Congress to your business and explain how your business works and its role in the community; donate to an automotive aftermarket PAC; or at least sign a petition that supports Right to Repair.

Associations have said that legislators at all levels want to learn more about their constituents and the issues they face, but it is difficult for them to support an issue they know little about or how it would impact their constituents.

It's time for tire dealers and auto repair shops to make their voices heard.

As seen on tirebusiness.com

March 2022 Bulletin



NYSIF has a new payment address to receive and process your workers' compensation premium payments. The new payment address is:

NYSIF
PO Box 5519
Binghamton, NY 13902-5519

Please use this address when mailing all payments to NYSIF. Note: If you have previously mailed payments directly to a NYSIF District Office, those payments will now be rerouted to their new payment address. Please make sure to update your files or your payment could be delayed.



CLASSIFIEDS

For Sale: Powersports Dealership for sale, Motorcycles, ATVS, UTVS, Snowmobiles, Generators/power washers. Parts / Service dept. 8500 sq. ft. building on 8 acres. Rent or buy. Kawasaki and Arctic Cat, Kymco, Generac generators. We are located on the Newburgh/Marlboro NY, RT 9w. High traffic road. Check our website bigboyztoysny.com Call Tony 845-781-3082 cell.

For Sale: West. Cty NYS Insp. Mach.& Lic. including window tint meter. asking \$20,000 obo. Auto repair shop of over 30 years closing. All equipment & tools for sale call Ed at 914-659-0453.

For Sale: Various 1/2 " & 3/4" Drive Socket Sets, extensions, 1 Lincoln Grease Gun Cartridge (**BATTERY POWER**), Miscellaneous Shop Tools and Supplies, 1 Ammco Combo Brake Lathe, Rotors and Drum and all adaptors, 1 Ammco Little Giant Brake Drum Lathe, 1 MGO Pump for Drum, 1 Elect Parts Washer, Portable Engine Crane, Engine Stand, 1 Hoppy Laser Headlight Aimer, Various Jack Stands Different Tonnage, 4 Floor Jacks Various Tonnage, 1 Snap-On EVAP Smoke Machine (**BRAND NEW**), 2012 Honda Rancher ES ATV with plow & Craftsman Ride On Lawn Mower.

Contact: Tony Zeppieri at 914-494-8338 for pricing.

For Sale: You can be your own boss! Est. shop that specializes in trailer repair, snowplow and salter sales, parts and repair. We also offer vehicle up-fitting. We sell and install numerous truck bodies. The shop is geared towards landscapers and contractor's needs. Service center has an excellent reputation that repairs all makes and models of box trucks, utility trailers landscape and boat trailers. Welding and fabricating repairs/parts as needed. We have the ability to make hydraulic hoses that we make on site. The showroom that is fully stocked with inventory. The shop can fit 4 vehicles inside. Shop equip. includes: 2 post lifts, torches, welder, tire changer, balancer, band saw, drill press, work benches & more. There is also a private office. We are an authorized BOSS snow plow, Ramp Rack, Buyers and Woolwax dealer. Currently we are very busy with plow repairs and sales of snowplows. Motivated to sell IMMEDIATELY due to relocating out of the area. Great opportunity to get in now during the snow season.

Please call 845-590-5800 for more information.

For Sale: Auto body shop business and property with house for sale in Town of Clarkstown. New XL spray booth and many new pieces of equipment to name. Serious inquiries only. Text interest to 845-548-7064 and someone will get back to you."

For Sale: Three bay auto repair shop with parking lot and state inspection license. Located at 467 Central Park Avenue, Yonkers, NY 10704. Please call 914-375-6150 and ask for Siaka.

TRIVIA QUESTION

What should you protect your business from? Call the office with an answer for a chance to win a free month's dues.

I hope you enjoyed reading this month's bulletin. If you have any questions, feel free to call the association. We are here to help you and your industry.

Regards,

Carla Obalde

Operations Manager