NYS ASSOCIATION OF
SERVICE STATIONS & REPAIR SHOPS, INC.

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New York State Legislature Passes Bill Requiring Wage Ranges in Job Postings

The New York State Legislature has passed Senate Bill S9427, which will require employers with four or more employees to include in job postings – including those for promotion or transfer opportunities – the minimum and maximum salary for any position that can or will be performed within the state of New York, along with a job description.

The Bill now goes before Governor Kathy Hochul, who is expected to sign it. If enacted, the Bill would take effect 270 days after it becomes law.

EIA Says Server Issues Are Continuing to Affect Its Ability to Release Data

The U.S. Energy Information Administration (EIA) on Monday said hardware issues with its main processing servers that prevented it from releasing several key energy industry reports last week are continuing to impact it ability to release data.

The agency said it will not publish data, including the Gasoline and Diesel Fuel Update, on Monday because it is still in the process repairing its system. That update is widely used by the fuel industry to determine surcharges that affect the trucking industry. The last such report was released on June 13.

"On Friday, June 17, we discovered a voltage irregularity, which caused hardware failures on two of our main processing servers. This issue prevented us from processing and releasing several reports last week, and unfortunately, it continues to affect our ability to release data this week," EIA said in a statement.

"We have replaced the affected hardware and are in the process of transferring data from our back-up systems to new servers. Once the data transfer is complete, we will perform quality checks to ensure data integrity before releasing any reports and associated data," the agency said in a statement this morning.

EIA said it expects to release data that was scheduled for publication last week, including its U.S. average gasoline and diesel prices for the week of June 20, because it was able to collect data throughout the outage and subsequent restoration. It did not, however, say when that information will be published.

"We will continue to provide timely updates as we bring our systems back online and will share a schedule for our product releases as soon as possible," it added.

EIA on Wednesday said "systems issues" would prevent it from publishing a number of reports, including the closely watched Weekly Petroleum Status Report (WPSR).
--Reporting by Frank Tang

US Environmental Protection Agency Extends E15 Waiver

The U.S. Environmental Protection Agency (EPA) is extending a waiver that allows for the use of E15 this summer.

This is the second time the waiver has been extended this year. The first waiver extension was granted on April 29. The extension is effective June 11 and runs through June 30.

"In taking this action, the agency is seeking to address the extreme and unusual fuel supply circumstances in the market by allowing the continued sale of E15 during the summer driving season," said EPA Administrator Michael Regan in the waiver.

The waiver extension applies to all regions that currently have the 1-lb RVP waiver for E10 as the EPA looks to extend fuel supply by making E15 available in the summer months.

Should a terminal or retail outlet have fuel in their tanks after the waiver expires, it would be allowed to be sold until depleted, EPA said.

According to the most recent station count from Growth Energy, there are 2,667 stations that offer E15 in 30 different states and it typically runs 3-10cts below regular 87-octane gasoline.
--Reporting by Denton Cinquegrana,

GAO Finds Holes in Northeastern Product Reserves Safety Net

The U.S. Government Accountability Office (GAO) concluded in a May 25 report that the 2 million barrels of heating oil and gasoline in Northeastern commercial storage are not sufficient to reduce the impact of severe supply disruptions in the region. The tanks hold less than two days of consumption, and GAO said it believes the Department of Energy (DOE) "has not fully considered future risks or the benefit of alternatives" to the current reserves.

GAO looked at DOE's 2020 analysis of the Northeast Home Heating Oil Reserve (NEHHOR) and the Northeast Gasoline Supply Reserve (NGSR) and found that both reserves have only been used once (following Hurricane Sandy) in 2012, with inadequate volumes given Northeastern consumption. Each reserve contains less than two days of supply, in sharp contrast to more than 30 days of crude supply in the Strategic Petroleum Reserve (SPR).

Another problem GAO found is that the reserve barrels of gasoline and heating oil are commingled with commercial supplies in storage tanks and subject to the same risk. If a storm disrupted the 5 million bbl of commercial supply atRaritan Bay in New Jersey, it would probably disrupt the 700,000 bbl of gasoline held there.

GAO determined that DOE has not updated scenarios for supply risks rather than future risks or the potential of alternate paths to mitigate those risks. This is not the first time that GAO has criticized the reserve safety net. In May 2018, GAO recommended that DOE study the potential need for product reserves in all regions that were vulnerable. DOE disagreed and has no plans to
dedicate further studies.

In a May 25 letter to Senator Dianne Feinstein, who chairs the Subcommittee on Energy and Water Development, GAO noted that the heating oil reserve was
splintered into small pieces in Revere and Chelsea, Massachusetts, as well as Groton, Connecticut, and Port Reading, New Jersey. The gasoline reserve has barrels in Revere, South Portland, Maine, and Raritan Bay, New Jersey.

GAO audited the reserve plan from September 2021 to May 2022. The audit found that product reserves cost about $13/bbl annually based on operations and maintenance. In contrast, SPR barrels of crude have a cost of just 30cts/bbl. They also found that the Northeastern region consumed an average of 600,000 b/d and 1.4 million b/d in 2019. The audit also found that it would take over one week to release heating oil or gasoline should the president declare a severe energy disruption and utilize a competitive sale of the barrels.
--Reporting by Tom Kloza

High Gas Prices Weakening Customer Traffic at C-stores

High gas prices are taking their toll on sales at convenience stores.

Fifty-nine percent of convenience retailers say customer traffic has decreased in stores over the past three months, according to the Q3 2022 NACS Pulse Survey. C-stores sell an estimated 80 percent of fuel purchased in the United States; however, operators rely on in-store sales, not fuel sales, to drive profits.

ut, as survey results revealed, high gas prices are impacting customer traffic in-store and basket size. Nearly half of all retailers (49 percent) said customers coming inside the store are buying less vs. three months ago when gas prices were $1.50 less per gallon.

Retailers also expressed concerns that elevated gas prices could depress sales over the traditionally busy summer-driving season. Fifty-three percent expect sales to be lower this summer vs. last summer, with only 25 percent anticipating increased sales.

To offset the impact, survey respondents reported that they are looking to reduce expenses. Chief among them is credit card fees, which average more than 10 cents per gallon, and pass along savings to price-conscious customers. Twenty-nine percent of retailers said they are offering cash discounts at the pump, as well, and 31 percent are offering discounts for those who pay via mobile app.

To provide more value to customers, some convenience retailers are offering greater fuel discounts tied to store purchases, like Baltimore-based High's, while Mickey Mart of Milan, Ohio, is offering more promotions and deals on in-store items.

A bright spot for retailers is that customers aren't blaming them as much as they used to for higher gas prices. Thirty-seven percent of respondents said customers understand that higher gas prices are caused by factors outside of the retailers' control, compared to 35 percent who say that consumers blame retailers for higher prices.

The U.S. Energy Information Administration reported that only 5 percent of the cost of gas in May (the latest data available) is because of "Distribution and Marketing," which includes the retail markup on fuel. Only 25 percent of retailers report that they have experienced higher levels of gas theft compared to a year ago.

"While sales and traffic have slowed as gas prices climbed, retailers continue to seek out innovative ways to provide value at the pump and inside the store to help their customers extend their paychecks and weather this period of inflated costs," said Jeff Lenard, NACS vice president of strategic industry initiatives.

The Q3 2022 NACS Pulse Survey was conducted in June by NACS Research. A total of 53 retailer member companies representing 3,023 stores participated in the survey.

Drop in Global Oil Price Provides Some Relief at the Pump

Drivers can breathe a little easier when they pull up to the fuel pump.

As the global price of oil dropped for the second week in a row, the U.S. national average for a gallon of regular gas declined to $4.89 as of June 27.

The current national average is 9 cents less than one week ago, 30 cents more than one month ago, and $1.80 more than one year ago.

The price for a barrel of crude oil fell from $110 to $107 on the week as economic fears of a potential global recession led to less demand for oil, reported AAA.

"Fear is not a good reason to move a market like the one for oil, but it is a powerful motivator," said Andrew Gross, AAA spokesperson. "The cost of oil accounts for nearly $3 for every $4.89 at the gas pump. Consumers should find more relief when fueling up if oil prices drop further."

More detailed analysis from AAA was prevented by the lack of a vital gas price indicator, according to the outlet. The U.S. Energy Information Administration (EIA) stated it was delaying the release of gasoline demand data due to "systems issues." Demand data indicates whether drivers are fueling up or not, which may be reflected in higher or lower gas prices.

This cautiously good news comes two weeks after the U.S. national average hit an all-time high of $5.01 per gallon in the midst of the summer driving season, which typically drives up demand. At this time, the cost of a barrel of crude oil was more than $120, nearly double the price compared to August 2021.

The top 10 largest weekly decreases in the U.S. took place in: Florida (15 cents per gallon), Wisconsin (13 cents), Delaware (13 cents), Indiana (12 cents), South Carolina (11 cents), Ohio (11 cents), Kentucky (11 cents), Texas (11 cents), Washington, D.C. (11 cents), and Michigan (11 cents).

The nation's top 10 least expensive markets are Georgia ($4.40 per gallon), Mississippi ($4.41), South Carolina ($4.42), Louisiana ($4.44), Arkansas ($4.44), Alabama ($4.49), Tennessee ($4.51), North Carolina ($4.53), Texas ($4.54), and Oklahoma ($4.56).

As government officials continue to seek ways to give drivers relief, several states have enacted temporary measures. On June 1, New York State temporarily suspended its excise tax and state sales tax on gasoline and diesel, reducing the tax burden on a gallon of motor fuel by 16 cents.

At the close of the formal trading session on June 24, West Texas Intermediate increased by $3.35 to settle at $107.62. Crude oil prices previously strengthened at the end of the week due to positive market sentiment based on the stock market rallying, but prices dropped earlier in the week in the midst of broad market concern about the potential that economic growth could slow or stall due to rising interesting rates and inflation, AAA reported.

A lower-than-expected economic growth rate could prompt demand for crude to fall, with prices following thereafter. This week, crude prices could decline if the EIA's reporting indicates a large increase in total domestic stocks, the association added.

Group Urges US Congress to Extend Biodiesel Tax Credit at Parity With SAF

A group speaking on behalf of U.S. fuel retailers, trucking fleets and heating fuel distributors Tuesday urged members of Congress to maintain and extend the biodiesel blenders' tax credit "at an amount that is at parity with other alternative transportation fuels that compete for the same feedstock, such as sustainable aviation fuel (SAF)."

The group sent a letter saying that the $1/gal credit has decreased carbon emissions associated with transportation fuel and worked to build a "robust" biodiesel and renewable diesel industry in the country, limiting exposure to global petroleum markets.

The letter noted that diesel prices have risen "at an extraordinary pace" in recent weeks due in part to the war in Ukraine, supply chain disruptions and "inflation rising domestically at a faster pace than at any time in more than 40 years."

The group said that if Congress provides more favorable tax treatment to other transportation fuels, such as SAF, "it will disrupt and eventually eliminate the market for biodiesel and renewable diesel by diverting limited feedstocks to SAF."

Overall carbon emissions would also increase, according to the letter, because SAF production "is a less-efficient process than renewable diesel production."

"Biofuel producers choose not to make SAF because that production process yields fewer gallons of renewable fuel than the renewable diesel production process," it said. "Because SAF is less efficient to produce, policies that prompt feedstocks to migrate away from renewable diesel toward SAF squander the feedstocks' potential environmental benefits."

Airlines are urging policymakers to overlook these factors, the group said.

However, it added: "If SAF receives a higher tax benefit than renewable diesel or biodiesel, the outcome would not be lower aggregate greenhouse gas emissions; instead, renewable fuel feedstocks would migrate away from their existing, efficient uses to a less-efficient, less-environmentally compelling use."

The letter was signed by the National Association of Convenience Stores, the National Association of Truckstop Operators, the National Energy & Fuels Institute, the Truckload Carriers Association, American Trucking Associations and SIGMA.

The tax credit has repeatedly expired and been reauthorized by Congress. The House-passed version of the Build Back Better Act would extend it for four more years through 2026.
--Reporting by Michael Schneider

Wisconsin Lawmakers Ask EPA for Federal Reformulated Gasoline Waiver

Forty-two Wisconsin legislators are asking the U.S. Environmental Protection Agency (EPA) to waive national reformulated gasoline (RFG) requirements in an effort to ease fuel prices.

In a letter to EPA Administrator Michael Regan, the lawmakers say RFG requirements are in effect in Wisconsin's southeast, where they say gasoline prices are an average 40cts/gal higher than in other areas of the state.

"Lifting the fuel blending requirement will give citizens in those counties significant savings over time," the June 7 letter says. "Lifting these federal regulations will also create a ripple effect across the country in other states required to have reformulated gas."

The national average price of regular unleaded gasoline was $4.9545/gal Wednesday, according to OPIS data. In Wisconsin, prices averaged $4.9168/gal, while in the Milwaukee area, which is under RFG requirements, it averaged $5.1844/gal, according to OPIS data.

RFG requirements are intended to reduce smog; the fuel is required in cities with high smog levels. It is optional elsewhere, according to the EPA. RFG requirements are in effect in 16 states and the District of Columbia. About 25% of gasoline sold in the U.S. is reformulated, according to the EPA.

Nine counties in Wisconsin's Milwaukee-Racine area are among the areas across the United States where RFG is required by provisions of the federal Clean Air Act, according to the EPA.

In their letter, the state legislators argue that federal regulations allow the EPA to waive the fuel requirements in the case of "extreme and unusual fuel supply circumstances" that could not be foreseen by suppliers and if the waiver is in the public interest. "With the pandemic, swelling prices due to inflation, the war in Ukraine and President Biden's executive orders impacting the oil and gas industries, we feel all three exceptions have been met," the letter says.

The legislators say that waiving the requirements "will provide much-needed relief to citizens across the United States who use reformulated gasoline every day and demonstrate the ability of the EPA to react to our nation's needs in time of economic uncertainty."

EPA did not respond to request for comment on the letter by press time.
--Reporting by Steve Cronin

Diesel Theft Suspect Used 'Ingenious Mechanism' in South Carolina: Sheriff

A Florida man faces numerous charges after being arrested while allegedly using an "ingenious mechanism" to steal hundreds of gallons of diesel fuel from a truck stop he is suspected of having robbed before, according to a South Carolina sheriff's department.

Lucas Paul Reyes, 20, of Hialeah, Florida, was apprehended by investigators looking into the previous theft of diesel fuel from a Pilot truckstop on South Carolina Highway 773 near I-26, according to the Newberry County Sheriff's Department.

As investigators and the store manager were reviewing video of the earlier theft, they saw Reyes pumping diesel fuel into his pickup truck and recognized him as the man on the video, according to the sheriff's department.

Reyes was arrested, and investigators determined that his pickup was fitted with an "ingenious mechanism" -- a pump that transferred fuel from the truck's tank to a bladder contained in a trailer the man was towing, the sheriff's department said.

Investigators also suspect Reyes of using stolen credit card numbers and forged credit cards in the theft and "was also doing something to alter the mechanisms on the fuel pump," according to the department's announcement Wednesday of the arrest.

Reyes is suspected of obtaining the stolen card numbers through skimming devices attached to fuel pumps, the sheriff's department said.

Reyes faces charges including financial transaction card theft, financial transaction card fraud, breaking into a fuel tank, violation of the computer crime act, driving without a license and resisting arrest.

The sheriff's department said it is working with other South Carolina law enforcement agencies that are investigating similar thefts in the state.
--Reporting by Steve Cronin

Skimming Security Threat Down, but Ransomware Rises: Verizon

Skimming crime -- in which thieves steal payment card information using small devices on point-of-sale systems -- has disappeared from the recently released 2022 Verizon Data Breach Investigations Report.

POS skimmers, especially at gas stations, used to be called out as a cybersecurity issue for retailers, and only a few years ago Verizon experts spoke at NACS convention workshops on the latest skimming tactics.

"Back in 2014 when we originally created the (data breach) patterns, skimmers were a big thing and, as such, got their own pattern," Gabriel Bassett, lead data scientist and contributing author to the Verizon report, told OPIS. "However, over time they have decreased to the point where when we recreated the patterns last year, they no longer justified their own pattern. I suspect part of this is skimmers used to be handled by national law enforcement, making tracking them much easier. Now I believe they're more likely to be handled locally, leading to less visibility."

However, Bassett also said that payment card protections -- such as replacing the less-secure magnetic stripe with chip payment cards -- has also reduced data breaches. "We see a similar downward trend in the compromise of payment card data," he said. "It's likely a combination of things. Both defensive and attacker economics, Common Point of Purchase analysis, chip and pin, and the Payment Card Industry Data Security Standard, along with changing criminal markets have likely all contributed to the decline."

Convenience-fuel marketers still have reason for cybersecurity concerns. As skimming declines, ransomware -- which also has impacted the downstream oil industry -- is on the rise. The data breach report said ransomware breaches were "alarming," increasing by 13% in a single year. That increase is greater than the past five years combined.

Roughly four in five breaches are linked to organized crime, and external criminals rather than insiders are about four times more likely to cause breaches, Verizon said.

"As payment card breaches have waned, ransomware and business email compromises, as well as simple attacks to obtain access have grown," Bassett told OPIS. "When an organization upgrades the point-of-sale system or moves the inventory system or banking online, they open themselves to a world of criminals who already have efficient processes for attacking. And because attackers use a take-what-we-can-get strategy, it's not the size of the organization that determines if an attacker breaches them but if the attacker has access. ... Unfortunately, if you can access the asset directly over the internet simply by entering the credentials, so can the criminals."

--Reporting by Donna Harris,

FDA Plans to Develop Product Standard Establishing Maximum Nicotine Level

The Biden Administration is taking steps to lower nicotine levels in cigarettes and other combustible tobacco products.

On June 21, the Food and Drug Administration (FDA) said it would develop a proposed product standard to establish a maximum nicotine level. The goal of the rule, according to the agency, is to reduce underage tobacco use, addiction and death.

"Nicotine is powerfully addictive," said FDA Commissioner Robert M. Califf. "Making cigarettes and other combusted tobacco products minimally addictive or non-addictive would help save lives. The U.S. Surgeon General has reported that 87 percent of adult smokers start smoking before age 18, and about two-thirds of adult daily smokers began smoking daily by 18 years of age. Lowering nicotine levels to minimally addictive or nonaddictive levels would decrease the likelihood that future generations of young people become addicted to cigarettes and help more currently addicted smokers to quit."

A paper published by the FDA in the New England Journal of Medicine in 2018 projected that by year 2100, a potential nicotine product standard could result in more than 33 million people not becoming regular smokers, a smoking rate of only 1.4 percent, and more than 8 million fewer people dying from tobacco-related illnesses. The current smoking rate is 12.5 percent.

Plans for an established maximum nicotine level comes more than a year after reports surfaced that the Biden Administration was exploring the idea of requiring tobacco companies to lower nicotine to levels that are no longer addictive.

FDA's Full Agenda

A possible product standard for nicotine levels comes two months after the FDA announced its proposed product standards to prohibit menthol as a characterizing flavor in cigarettes and the other to prohibit all characterizing flavors (other than tobacco) in cigars.

The FDA released the proposed new product standards in late April and laid out a timeline for the public to make its voice heard. The agency began accepting public comments on the proposed rules on May 4 and held public listening sessions on June 13 and 15 for individuals, communities and organizations to share their perspectives with the FDA.

It also gave the public until July 5 to submit either electronic or written comments directly to the dockets on the proposed rules. However, late last week the agency pushed back that deadline 30 days to Aug. 2.

Once all the comments have been reviewed and considered, the FDA will decide whether to issue final product standards.

The agency is also working its way through its review of the premarket tobacco applications (PMTAs) for tobacco products that fall under the 2016 deeming rule — the lion's share of which were filed for vapor products.

According to the agency, it remains focused on its regulatory oversight of e-cigarettes and other electronic nicotine delivery systems (ENDS). To date, it has taken action on approximately 99 percent of the nearly 6.7 million products for which PMTAs were received by the Sept. 9, 2020 deadline, including issuing marketing denial orders for more than 1 million ENDS products.

The FDA has also issued warning letters to ENDS product manufacturers and retailers who continue to sell products that are illegally on the market.

Taken all these actions together, the FDA is certainly busy.

"With the FDA still in the midst of PMTA reviews for vapor (concluding in September 2022), and just getting its menthol ban rule making underway, the agency clearly has a lot on its plate in terms tobacco control," said Viven Azer, director and senior research analyst at Cowen & Co.

According to Azer, menthol regulation could still be five years out, taking potential litigation into account. During that time, menthol products will most likely remain on the market.

"Menthol regulation likely to impact over 30 percent of the $80-billion cigarette market in the U.S. A reduced nicotine policy would impact the entire market but is likely still a decade out. Importantly, the research the FDA commissioned on a reduced nicotine policy assumed that there were lower risk nicotine delivery systems available to serve as a viable landing spot for cigarette smokers," she said. "With the FDA still evaluating vapor, and with no heat-not-burn [products] commercially available in the U.S. today, we expect to see an orderly prioritization of policies to ultimately ready the market and consumers for a meaningful reduction in nicotine levels in combustible cigarettes."

FDA Orders JUUL Products Off the Market

The Food and Drug Administration (FDA) has finally made a decision about JUUL vapor products.

On June 23, the agency issued marketing denial orders (MDOs) to JUUL Labs Inc. for all of its products currently on the market in the United States. With the FDA's decision on the premarket tobacco applications (PMTAs), the company must stop selling and distributing the products.

In addition, all JUUL products currently on the U.S. market must be removed.

The MDOs apply to the JUUL device and four types of JUUL pods: Virginia tobacco flavored pods at nicotine concentrations of 5.0 percent and 3.0 percent, and menthol flavored pods at nicotine concentrations of 5.0 percent and 3.0 percent.

"Today's action is further progress on the FDA's commitment to ensuring that all e-cigarette and electronic nicotine delivery system products currently being marketed to consumers meet our public health standards," said FDA Commissioner Robert M. Califf.

"The agency has dedicated significant resources to review products from the companies that account for most of the U.S. market. We recognize these make up a significant part of the available products and many have played a disproportionate role in the rise in youth vaping," he added.

According to the agency, the MDOs only pertain to the commercial distribution, importation and retail sales of these products, and do not restrict individual consumer possession or use.

After reviewing the company's PMTAs, the FDA determined that the applications lacked sufficient evidence regarding the toxicological profile of the products to demonstrate that marketing of the products would be appropriate for the protection of the public health.

According to the FDA, some of the company's study findings raised concerns due to insufficient and conflicting data — including regarding genotoxicity and potentially harmful chemicals leaching from the company's proprietary e-liquid pods — that have not been adequately addressed and precluded the FDA from completing a full toxicological risk assessment of the products named in the company's applications.

"The FDA is tasked with ensuring that tobacco products sold in this country meet the standard set by the law, but the responsibility to demonstrate that a product meets those standards ultimately falls on the shoulders of the company," said Michele Mital, acting director of the FDA's Center for Tobacco Products.

"As with all manufacturers, JUUL had the opportunity to provide evidence demonstrating that the marketing of their products meets these standards. However, the company did not provide that evidence and instead left us with significant questions. Without the data needed to determine relevant health risks, the FDA is issuing these marketing denial orders," Mital said.

JUUL Products Can Stay on the Market as Challenge Plays Out

Convenience store retailers can continue to sell JUUL vapor products as the company challenges the Food and Drug Administration's (FDA) decision to deny the organization permission to market the products in the United States.

Late Friday, June 24, the United States Court of Appeal for the District of Columbia Circuit granted JUUL Labs Inc. an emergency motion for temporary administrative stay as it prepares to appeal the FDA's ruling.

With the court's ruling, JUUL products can remain on the backbar. As part of its ruling, the three-judge panel set a timeline for the legal challenge:

- JUUL's emergency motion: by noon on June 27
- The FDA's response: by noon on July 7
- Reply: by noon on July 12

On June 23, the agency issued marketing denial orders (MDOs) for all JUUL products. Less than 24 hours after the announcement, JUUL Labs asked the U.S. Court of Appeals for the D.C. Circuit for an emergency administrative stay until it could file a motion for a stay pending review by noon today, June 27.

In issuing the MDOs, the FDA said some of the company's study findings raised concerns due to insufficient and conflicting data — including regarding genotoxicity and potentially harmful chemicals leaching from the company's proprietary e-liquid pods — that have not been adequately addressed and precluded the FDA from completing a full toxicological risk assessment of the products named in the company's applications.

JUUL disagreed with the findings, as Convenience Store News reported.

"In our applications, which we submitted over two years ago, we believe that we appropriately characterized the toxicological profile of JUUL products, including comparisons to combustible cigarettes and other vapor products, and believe this data, along with the totality of the evidence, meets the statutory standard of being 'appropriate for the protection of the public health,'" said Joe Murillo, chief regulatory officer at JUUL Labs.

The FDA's decision on JUUL's premarket tobacco applications (PMTAs) comes 18 months after the agency's deadline for all PMTAs for products that fall under the 2016 deeming rule. To date, it has taken action on approximately 99 percent of the nearly 6.7 million products for which PMTAs were received by the Sept. 9, 2020 deadline, including issuing marketing denial orders for more than 1 million ENDS products.

The agency has granted authorization to several major vapor brands, including four NJOY Ace e-cigarette products and two NJOY LLC tobacco-flavored Daily disposable electronic cigarettes; and R.J. Reynolds Vapor Co.'s Vuse Solo and certain Vuse Ciro and Vuse Vibe products.

However, it issued MDOs to Fontem US LLC for several myblu products in April.

IRS Increases Mileage Rate for Final 6 Months of 2022

The Internal Revenue Service (IRS) has announced an increase in the optional standard mileage rate for the final six months of 2022 due to soaring gas price increases.

Effective July 1 through December 31, 2022, the standard mileage rate for business travel will be 62.5 cents per mile, up 4 cents from the 58.5 cents per mile rate effective at the start of the year.

Employers are not required to pay employees mileage.

If employers have any questions or concerns, we recommend they contact us to ensure compliance.

Your Inspection License May be Worth Money

Depending on where you are located, it may be possible to sell your license. Before merely turning it in, contact the association for further information.

DMV Record Retrieval

DMV record retrieval is available to association members and affiliates at a cost of $12 per record. Additionally, you may order DMV certified paper abstracts of driver's license, vehicle registration, and vehicle title records for an additional fee of $2 per abstract. Please call 518-452-4367

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VIA EMAIL ONLY TO:
Legislative.Secretary@exec.ny.gov

Re: A.6877 by Assemblyman Zebrowski, et. al.

Dear Ms. Fine:

We are writing the Governor to urge a veto of A.6877 which will make the auto insurance photo inspection program optional and completely eliminate the authority of the Department of Financial Services to regulate the program.

In our view, the bill will hamper law enforcement efforts to fight auto theft, lead to increased insurance fraud and significant rate hikes to the public.

Attached is our Memorandum in Opposition. We would be happy to answer any questions you or your staff may have.

Thank you for your consideration.

Respectfully yours,

Wayne Bombardiere

Executive Director

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June 23, 2022

The Honorable Kathy Hochul
Governor of New York State
NYS State Capital Building
Albany, NY 12224

MEMORANDUM IN OPPOSITION
BILL NUMBER: A.6877

I am writing to you as the Executive Director of the New York State Association of Service Stations and Repair Shops, which represents over 1600 small businesses across New York State. Approximately twenty-five percent our membership participate in performing pre-insurance inspections, and depend on the additional foot traffic and revenues, to support their businesses and employees. Our long-term commitment in performing the inspections is to protect consumers from fraud and fluctuating higher insurance premiums.

I am writing in you to urge a veto of Bill, A.6877. The bill will make the New York Auto Pre-Insurance Photo Inspection Program optional and eliminate the authority of the Department of Financial Services to regulate the program.

This law was enacted over forty-five years ago to address problems of fraudulent damages to motor vehicles that were covered after the accident had been sustained. While there has been progress made in equipment that can be verified by standardized Vehicle Identification Numbers (VIN) adopted by the auto industry in the 1980's this does not eliminate the fraudulent practices that occur after an accident has taken place can. Criminals adjust to new laws and regulation. This law has worked for a long time why interfere with a program that works.

The Bill will adversely impact a very successful anti-fraud tool that insurance investigators and law enforcement agencies rely on. Existing vehicle databases are not effective at detecting or reporting stolen cars because they can be easily fooled by a fraudulent Vehicle Identification Number (VIN). That's why the in-person pre-insurance photo inspection program required by Regulation 79 is so important.

While Regulation 79 only requires the physical inspection of the approximately 8% of used cars of highly probable fraud criminal's vehicles in New York State, it is an important crime-fighting tool. After Regulation 79 became law in 1978, this inspection process resulted in automobile theft in New York State declining by 7 percent while, simultaneously, the automobile theft rate in New Jersey, Pennsylvania and Connecticut increased by 36 percent, 16 percent, and 18 percent respectively.

This program is very effective in the detection of "bad cars." The key to its effectiveness is the requirement that a photo be taken of the federal certification label ("door jamb sticker"), including the VIN and VIN bar code, allowing both law enforcement and insurance companies to verify the true identification of the vehicle being insured and spot forgeries. This cannot be done without a physical inspection of the car. As commented by the New York State Department of Financial Services in the Notice of Adoption for the fifth amendment of Part 67.

(Regulation 79) of Title 11 NYCRR, "The regulation is a necessary tool to aid in combating insurance fraud and abuse and organized automobile theft rings in the state."

Law enforcement, and Insurance Special Investigation Units ("SIU's"), rely heavily on the information from the photo inspections. Access is provided for the digital imagery records of all data, and photos, on a 24/7/365 basis for inquires by underwriting, SIU, claims and law enforcement.

More than 11,000 daily vehicle investigative searches were performed in CARCO's database by law enforcement, SIU and Underwriting Departments in the investigation of fraudulent vehicles. This is data that is not available anywhere else. The Superintendent of the New York State Department of Financial Services concluded that "Using an inspection report in settling a physical damage claim is necessary to protect both the consumer and insurer because the report confirms the condition of the insured's automobile, thus deterring fraud, which in turn may lower insurance rates."

The repair shop industry in New York is a participant in this successful program and feels it should not be eliminated.

For the above reasons the New York State Association of Service Stations and Repair Shops, Inc., its affiliates and members request a veto of A.6877.

Respectfully submitted

Wayne Bombardiere
Executive Director
New York State Association of
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5i8-452-4367

NYVIP MESSAGE No. 278

DATE: 05/26/2022

TO: ALL EMISSIONS INSPECTION STATIONS

FROM: NYS DEPT. OF MOTOR VEHICLES

SUBJECT: IMPLEMENTATION OF NYVIP3 CONTRACT + EQUIPMENT ORDERING

*****PLEASE BRING THIS MESSAGE TO THE ATTENTION OF THE STATION OWNER AND/OR MANAGER*****

This message is to inform you of upcoming changes to the New York Vehicle Inspection Program (NYVIP) and requirements to participate as an emissions station.

As previously advised, NYVIP3 will require all inspection stations to purchase a new computerized vehicle inspection system (CVIS). As such, you must proceed to WWW.NYVIP3.COM to register and complete your equipment order with Opus Inspection, Inc. (Opus).

To order your NYVIP3 equipment, the following information will be required:

1) Facility license number
2) Facility contact information
3) Owner or manager contact information
4) Payment method information

Due to verified equipment supply chain shortages, Opus has requested a modified implementation timeline for NYVIP3; as such, hardware shipments must be prioritized:

- Opus will prioritize orders from official diesel emissions (opacity) inspection stations and stations not currently conducting inspections on the NYVIP network. Two important deadlines are outlined below, please plan accordingly:
    - **July 2022**: Opus expects to begin fulfilling these orders.
    - **November 1, 2022**: Official diesel emissions (opacity) inspection stations and stations not currently conducting electronic inspections are expected to have ordered and secured NYVIP3 equipment.

- All other stations currently conducting inspections with a CVIS – excluding official diesel emissions (opacity) inspection stations as noted above – are expected to begin receiving their orders by Q2 2023.
    - This group of stations have the option of placing an order immediately, or closer to their targeted delivery date.
    - Placing an order and submitting a completed NYVIP3 Station Participation Agreement to Opus will ensure compliance and uninterrupted service with current NYVIP2 equipment.

For further information, email Opus Inspection at NYVIP3Info@Opusinspection.com. Please include your name, phone number, email address, and facility number with your question(s), or call the DMV Office of Clean Air at (518) 473-0597 and select Option #4.

DMV and Opus will follow up this communication with further information as it becomes available. Please be on the lookout for future NYVIP3 updates.