RSGDA

REPAIR SHOP & GASOLINE DEALERS ASSOCIATION

August 2023

518-452-4367 – 585-423-9924 – 607-723-1849 – 716-656-1035 –rsgda@nysassrs.com

Inside This Issue

NHTSA's Dismissal of Right-to-Repair Law is Questioned

Two U.S. senators have written to the National Highway Traffic Safety Administration (NHTSA) asking them to reconsider their message to automakers that they should not comply with the Massachusetts right-to-repair law, AOL reports.

Massachusetts Democratic Senators Elizabeth Warren and Ed Markey have called on the NHTSA to step back on its dismissal of the recently passed right-to-repair law. The law would give independent repair shops access to diagnostic data in newer cars, rather than having them sent directly to dealers and manufacturers.

The law was approved by voters as a ballot initiative in 2020 but has since been challenged by automakers, such as the lawsuit from the Alliance for Automotive Innovation that attempted to block the law.

The law was put into effect on June 1, 2023, followed by a letter from the NHTSA to several automakers that argued complying with the law would contradict a federal vehicle safety law.

In the Senators' letter, they write that the NHTSA's decision "appears to favor Big Auto" and will "undermine the will of Massachusetts voters and the Biden Administration's competition policy." They also question if members of the NHTSA have recently met with auto industry lobbyists or if they conducted any tests into the law's effect.

Auto Care Alliance Responds to Right to Repair Letter

The Auto Care Alliance (ACA) has released a statement coming out in opposition to the recently announced agreement between the Automotive Service Association (ASA), the Society of Collision Repair Specialists (SCRS), and the Alliance for Automotive Innovation.

The ACA has called into question ASA's true stance on right-to-repair, claiming that rather than supporting it, it has been fighting against right-to-repair legislation for the past two decades. As evidence of this, ACA cited a 2003 agreement made between manufacturers and ASA that the ACA said "lacked enforcement" and slowed down progress in gaining right-to-repair legislation.

Though the ASA referenced the 2014 Memorandum of Understanding as the basis of its agreement, the ACA argued that the terms of that 2014 agreement have not been honored, with requests for dispute resolution going unanswered.

The ACA has said that this new agreement from the ASA does nothing to address these issues and will only postpone legislative change or enforcement.

FDA Issues Updates on Tobacco Regulation Agenda

As a part of the Spring 2023 Regulatory Agenda, the Food and Drug Administration (FDA) has issued updates on various pending and upcoming tobacco-related regulations.

As outlined by the National Association of Tobacco Outlets, relevant new updates include:

Tobacco Product Standard for Menthol in Cigarettes

In May 2022, the FDA published a proposed regulation known as a "product standard" that would prohibit the use of menthol in cigarettes, roll-your-own tobacco and heated tobacco products. The public comment period regarding the menthol ban regulation ended on July 5, 2022, with the FDA receiving 175,535 comments in response to the prohibition of menthol, the majority of which opposed the ban.

The agency still intends to publish a final regulation, also known as a final rule, sometime in August 2023. However, this does not mean any ban would go into effect immediately, with the agency anticipating any regulation would only begin enforcement either one year or two years after the date the final regulation is published.

Prohibition of Sale of Tobacco Products to Persons Younger than 21 Years of Age

As a result of the passage of the Consolidated Appropriations Act of 2020, which raised the federal minimum age for anyone to purchase tobacco products from 18 to 21 years, the FDA was required to update its federal tobacco regulations to conform to the new age requirement. The FDA plans to publish a final regulation with these legal age updates sometime in April 2024.

Tobacco Product Standard for Nicotine Level of Certain Tobacco Products

In June 2022, the FDA proposed a new regulation that would place a cap on the maximum amount of nicotine allowed in cigarettes and possibly other combustible tobacco products and would likely result in a significant reduction in the amount of nicotine allowed in those products. While the FDA had previously stated that this proposed "very low nicotine" regulation would be published by October 2023, the proposed regulation is now expected in December 2023.

Nicotine Toxicity Warnings

The FDA plans to issue a proposed regulation that would establish acute nicotine toxicity warning requirements for liquid nicotine and nicotine-containing e-liquids, which may also apply to other tobacco products such as dissolvables, lotions, gels and drinks. The main purpose would be to increase consumer awareness and knowledge of risks of acute toxicity due to accidental nicotine exposure from these nicotine-containing products. The proposed regulation is expected to be published in October 2024.

Texas Jury Awards State Farm Policyholder $277,000

Last month, a Texas jury gave State Farm a quarter million reasons to be a better neighbor to its policyholders when a Rusk County District Court found the insurance giant had knowingly or intentionally engaged in unfair and deceptive acts or practices in Joseph Wayne Collins v. State Farm Mutual Automobile Insurance Company.

Collins' journey to this judgment began over three years ago, in 2020, when he took his Toyota Tacoma pickup truck to Burl's Collision Center to repair hail damage. After the auto body shop wrote its repair plan, State Farm declared the vehicle a total loss, despite the vehicle owner's desire to have his truck repaired. Richards did not believe the damage exceeded 100 percent of the vehicle's actual cash value (the threshold in Texas for a vehicle to be declared a total loss), so he recommended his client contact Robert McDorman at Auto Claim Specialists.

McDorman and the third-party appraiser hired by State Farm both agreed that the vehicle had been undervalued by the insurer. "State Farm was taking advantage of our mutual client, their insured," Richards noted.

In the meantime, State Farm retrieved the Toyota Tacoma from Burl's Collision Center, and although the insurer agreed to pay the total loss charges, they deducted the shop's blueprint fees and several other line items, reducing the overall settlement paid to Collins by $1,750. "Are blueprint fees necessary?" Richards asked. "I believe they're necessary, the jury believed they're necessary, and they believed the insurance company should not have deducted those fees from his settlement.

Collins hired an attorney to recoup his losses, and when the case was heard in the Fourth Judicial District Court of Rusk County, 10 of 12 jurors found that State Farm had failed to comply with its policy agreement. The insurer's decision to knowingly and intentionally engage in unfair and deceptive practices carried a penalty of over $175,000 which, when combined with court fees and the original under-indemnification, resulted in a total judgment of $277,048 that State Farm was ordered to pay to Collins.

As not only a body shop owner but also the president of the Auto Body Association of Texas (ABAT), Richards shared another reason this judgment is so important: "We constantly file complaints with the Texas Department of Insurance (TDI) and tell them that insurance companies shouldn't be making these types of deductions, but this issue has been going on for years. Each complaint yields the same generic letter that TDI doesn't make these decisions; it's up to a finder of fact to determine what's fair and reasonable. Well, that's exactly what happened here. A district judge and the jury – finders of act – felt like this award was warranted. I feel really vindicated by their findings."

1.3M Hondas Recalled for Rearview Display Issues

1.3 million Honda vehicles are being recalled because of issues with the rear image display failing to function, Reuters reports.

The recall affects certain 2018-2023 Odyssey, 2019-2022 Pilot, and 2019-2023 Passport models, and includes 1.2 million in the United States, 88,000 in Canada, and 16,000 in Mexico, according to Honda.

The issue is caused by a defective communication coaxial cable connector, which can prevent the rearview camera display from appearing to the driver.

While Honda extended the warranty for vehicles experiencing this problem a couple of years ago, between 2017 and now a total of 273,870 warranty claims related to the issue have been submitted to Honda. No injuries or deaths related to the issue have been reported.

To remedy the problem, dealers will install a new cable harness, located between the display audio and vehicle terminal connections. A straightening cover will also be put in place to protect the vehicle cable connector and ensure a stable connection to the audio display.

Brake Issues Trigger Recall of Over 124K Honda, Acura Vehicles

Honda and Acura have recalled a total of 124,077 vehicles due to an issue causing loss of brake control, Auto Blog reports.

The recall applies to several models, including 2020-2021 Honda Civics; 2020-2023 Ridgelines; 2021-2023 Passports; 2021-2022 Pilots; and the 2020 Acura MDX.

The issue is caused by a brake master cylinder that "may have been improperly fastened to the brake booster assembly during production," Honda has stated.

The problem is specifically with the tie rod fastener. If it was improperly installed, the tie rod nuts can become loose or fall off altogether. In this event, engaging the vehicle's brakes would place a bending load on the brake booster tie rod studs, causing the studs to break and the brake master cylinder to separate from the brake booster.

The first incident the company was notified of was a 2021 Pilot experiencing brake failure last year, which initiated an investigation. No crashes or injuries are linked to the issue, though Honda has received two related warranty claims since September of 2022.

Owners of affected vehicles will be notified beginning on August 7. Honda will inspect for missing or damaged tie rod nuts, as well as damaged brake booster assembly components, and will repair them as needed.

Alliance for Automotive Innovation: U.S. EV Sales Increase in Q1

Electric vehicles comprised 8.6 percent of new U.S. vehicle sales in first quarter 2023 – 2.7 percentage points above same period 2022. 97 electric models now available for sale in U.S. – light truck sales 73 percent of EV market

More than 305,000 EVs sold in U.S. in Q1 2023, an increase of 56 percent over same period in 2022. Top five list for EV sales in Q1 2023 is as follows: California (23.9 percent); District of Columbia (20.1 percent); Washington (16.9 percent); Oregon (16.0 percent) and Nevada (14.9 percent).

Installation of U.S. public chargers is not keeping up with current and projected EV sales. There are a total of 133,982 publicly available charging outlets in U.S. for 3.34 million EVs on the road, a ratio of 25 EVs per charger. Only 7,802 new chargers were added – a ratio of 39 EVs for every new public port. The number of Level 2, DC Fast public EV chargers increased 31 percent year-over-year (from 101,946 in Q1 2022 to 133,925 in Q1 2023).

Automakers and battery partners have committed $115 billion (so far) in electrification and domestic battery cell manufacturing and announced plans to build nearly two dozen battery factories in the U.S. over the next few years.

While capacity to manufacture battery cells is increasing, China is predicted to remain the largest producing country for cathode active materials through at least 2040. China has over 90 percent of the world's anode production capacity and will continue at that rate through 2030, despite global efforts to diversify the supply chain;

The U.S. imports 100 percent of its graphite, the mineral used for battery anodes. Almost one-third comes from China. China also converts over 90 percent of the world's graphite into anode material. It also currently controls more than 71 percent of the world's nickel sulphate manufacturing.

EV Production Outdoes Demand

Unsold electric vehicles are beginning to pile up at dealerships across the nation, Reuters reports.

Analysts and industry data show that EV inventories have been rising faster than demand, with U.S. dealers having over 90 days' worth of unsold EVs in their inventory, according to data from Cox Automotive.

New vehicle inventories overall are up 74% from a year ago. The number of EVs dealers have has seen a three-fold increase from the previous year, with an estimated over 92,000 EVs in stock.

As automakers plan to produce more than 90 new EV models for the U.S. market through 2026, according to AutoForecast Solutions, analysts predict a struggle to meet profitable sales volumes. Manufacturers may be forced to cut prices and profit margins or slow down assembly lines.

Though Tesla does not have dealers or report inventory, the automaker has recently been cutting prices and offering discounts, such as customer referral discounts. These actions caused average selling prices for EVs for the second quarter to rise to $53,438, which is down 19.5% from June 2022.

Poll: Americans Skeptical of Federal EV Goals

A new poll from Pew Research shows that most Americans are skeptical of the Biden Administration's goals of phasing out the sale of gasoline vehicles by 2035, Yahoo News reports.

Of those surveyed, 59% expressed opposition to gasoline vehicles being phased out by 2035, with only 21%

saying they would be excited if such a policy were to advance. This is an 8% increase in opposition from April 2021, with 51% of Americans surveyed expressing disapproval.

When divided by political parties, 84% of Republicans and 16% of Democrats expressed opposition, with Democrats approving by a margin of 64% to 35%.

Much of the disapproval may be credited to Americans doubting that the country's infrastructure will be able to keep up the pace, with 17% saying they were very confident it could happen, 30% being somewhat confident, and 53% not being confident it can happen.

DOE Says US EV Charging Port Count Has Nearly Doubled Since End of 2019

The number of public and private electric vehicle charging ports nearly doubled from 87,352 in the fourth quarter of 2019 to 161,562 the first quarter of 2023, the Department of Energy's Vehicle Technologies Office said in a Monday report.

The number of public charging devices, which includes ports at convenience stores and gas stations, has increased in each quarter since 2019. In the Q1 2023, public charging ports accounted for about 88% of all charging ports.

"Many EVs are charged at home, but public charging is still important to support long-distance travel and for those without access to home charging," the agency said.

An OPIS analysis of DOE totals for EV charging sites shows there were 58,043 public and private stations in the U.S. offering 155,291 ports as of Monday.

The total, which includes Level 1, 2 and 3 chargers, is up from 53,669 public and private U.S. stations with 144,355 EVSE ports in early January, according to the DOE's Alternative Fuels Data Center's Alternative Fueling Station Counts by State.

The report's numbers also show there are now 54,356 stations and 140,687 outlets open to the public, up about 9% from the 49,917 EV charging stations providing 129,700 ports in early January, boosted by the release of billions of dollars in federal funding. Of the current total, 32,018 of the ports are DC fast chargers, the report said.

--Reporting by Donna Harris

U.S. Government Grants $9.2B Loan to Ford

The U.S. Department of Energy will be granting a $9.2 billion loan to Ford in exchange for the manufacturer and its partner, SK, building three battery plants, Jalopnik reports.

As part of the BlueOvalSK joint venture, the factories are located in Kentucky and Tennessee and are already being constructed. Both states have contributed their own subsidies as well to help cover the $11.4 billion in costs.

According to Bloomberg, this federal funding is coming from a department in the US Department of Energy called the Loan Programs Office, which became less active after President Obama's first term and has not picked back up until recently, around the time President Biden took office.

Loan Programs Office Director Jigar Shah told Bloomberg Green that the loans for battery plants aim to "onshore and reshore" manufacturing.

"The goal of the program is not innovation but to get more of the supply chain to be manufactured in the US.," Shah explained.

GM Questions EPA's Proposed Emissions Standards

General Motors (GM) has expressed concern over being able to meet the Environmental Protection Agency's (EPA) recently proposed emissions standards, according to Green Car Reports.

As originally reported by Reuters, GM left comments with the EPA voicing doubt as to whether or not it would be possible for them to keep up with the agency's new goal of 60% in new EV sales by 2030.

In its comments, GM claimed that there are six federal and state regulations that "could require each automaker to exceed 50% EVs in at least a dozen vehicle averaging sets in the approximate 2030 timeframe."

GM expressed support for the original goal outlined by President Biden of EVs or plug-in hybrids making up 50% of new vehicle sales.

"Either a potential lack of clarity or a lack of coordination across the agencies may hinder an automaker's ability to remain in compliance, year-after-year, across each of these regulatory programs even while meeting EPA's overall EV targets," the automaker wrote.

Gasoline Price Index Rises in June, But Down from Last Year

Gasoline prices increased by 1% in June, though down 26.5% from the year-ago record highs, according to inflation data released Wednesday from the U.S. Bureau of Labor Statistics.

The gasoline price index increased in four out of the last six months but the two steeper declines in March (-4.6%) and May (-5.6%) more than offset those gains, the BLS' seasonally adjusted numbers show.

The overall energy price index rose by 0.6%, though down 16.7% year to year. After three straight months of declines, electricity rose 0.9% month to month and 5.4% from a year ago. The price index for fuel oil declined 0.4% in June and 36.6% from a year ago, and gas utility service prices saw five consecutive months of declines, dropping 1.7% in June and 18.6% from last year, the bureau reported.

Food away from home - which would include food service at convenience stores -- has increased throughout the last six months and rose 0.4% in June. The index for food away from home was up 7.7% year to year, higher than all other12-month increases for other categories except shelter (7.8%) and transportation services (8.2%).

The Consumer Price Index for all items rose 0.2% in June after increasing 0.1% in May, the bureau said. Over the last 12 months, the all-items CPI increased 3.0% before seasonal adjustment. The BLS noted that the index for shelter was the largest contributor to the monthly all-items increase, representing 70% of the growth.

--Reporting by Donna Harris

US Gas Station Dollar Sales Hit 20-Month L w in June: Census Bureau Data

Dollar sales at U.S. retail fuel stations fell to a 20-month low in June, despite remaining historically high, according to a Tuesday update to Census Bureau data.

The agency said sales last month at gas stations fell for an eighth straight month to $52.507 billion, down about 1.4% from May and nearly 23% below June 2022, when sales set a record high of $67.942 billion.

The sales figures are adjusted for seasonal variations and holiday and trading day differences, but not for price changes, the agency said.

Inflation is contributing to the still-elevated dollar figures, which surpassed $50 billion for the first time in the fall of 2021, according to figures dating back to 1992. When monthly gas station sales peaked in June 2022, retail fuel prices also hit record highs.

Gasoline sales broke above $60 billion in eight months last year. June is the eighth month since the June 2022 peak that gas station sales have slipped below $60 billion, Census numbers show.

--Reporting by Donna Harris

US Vehicle Miles Rose for Fifth Month in May

The number of miles traveled by U.S. motorists saw a fifth month of year-to-year gains in May, with travel jumping 2.5% compared to the same time last year, according to the Federal Highway Administration.

Motorists traveled 287.3 billion vehicle miles during the month, a 7.1 billion increase, according to the administration's latest Traffic Volume Trends report.

Travel increased in all five regions for which the administration divides the U.S., with a 4.6% year-to-year increase in the North-East leading the national gains. Travel rose 2.5% in the West, 2.3% in the South-Atlantic and North-Central or Mid Continent region, and 1.7% in the South-Gulf region, according to the report.

The North-Central region saw the greatest total travel during the month, at 64.6 billion miles. The North-East saw the lowest amount of travel, at 28.7 billion miles, the report said.

Year to date, U.S. motorists traveled 1.296 trillion miles in the first five months of 2023. That's higher than the 1.269 trillion seen at the same point in 2022 but lower than the 1.316 trillion traveled in 2019.

The rolling 12-month total shows motorists traveled 3.196 trillion miles between May 2022 and May 2023. That's higher than the 3.186 trillion for the comparable period last year but behind the 3.254 trillion between May 2018 and May 2019, DOT data show.

A look at travel data for individual states show all but Louisiana - with a 0.3% decrease - saw travel increase from May 2022. A 6.4% year-to-year change in New Mexico was the steepest state-level increase.

--Reporting by Steve Cronin

Goldman Sachs Cuts Oil Price Forecast by Almost 10%, CNN

Goldman Sachs has slashed its forecast for oil prices by nearly 10%, citing weak demand in China and a glut of supply from sanctioned countries, including Russia. The Wall Street bank now thinks Brent crude, the global oil benchmark, will cost $86 a barrel in December, compared with its previous estimate of $95, while West Texas Intermediate (WTI) crude will fetch $81 a barrel, down from $89.

That’s despite Saudi Arabia’s recent decision to slash its own output, and a pledge by other members of the OPEC+ alliance of leading oil producers to extend a policy of supply restraint into next year. Extra supply of around 800,000 barrels a day, mostly from sanctioned counries Russia, Iran and Venezuela, is behind the “bulk of the softening” in its price forecasts, the bank’s commodities analysts said in a research note Sunday.

“Russian supply has nearly fully recovered despite the decision by many companies to stop buying Russian barrels, and [effectively] a ban of Western financial and logistical services,” the bank wrote. Western firms can work with Russian producers only if they respect the price caps imposed on the country’s oil by Group of Seven countries.

Since late May, prices for Brent and WTI have fallen 6.8% and 7.6% to $73 and $69 a barrel respectively as disappointing economic data from China has dampened the global demand outlook.

On a separate note, also published Sunday, Goldman Sachs said weakness in China’s property market would put a “multi-year growth drag” on the world’s second-largest economy. There appears to be “no quick fix” for the country’s struggling real estate sector, which has seen declining property values and a number of defaults by private developers since late 2021.

Oil prices have been falling despite Saudi Arabia — the world’s biggest crude exporter — saying it plans to reduce production by 1 million barrels per day next month to buoy prices as it anticipates a slowdown in global demand.

Slide Seen in Midwestern Motor Fuel Visits; Western States Lag 2022

Data collected and analyzed by RBC Capital Markets is consistent with surveys by both OPIS and the U.S. Energy Information Administration which point to tepid gasoline demand when compared with 2022.

The bank's Connected Vehicle Gas Station Visits Tracker canvasses data on actual gas station visits at more than 135,000 fueling sites across the country. Numbers for the week ending June 16 suggested week-to-week increases in those visits in all regions but the Midwest. The Midwest saw station visits dip by 2.17% from the week ending June 9.

EIA estimate of gasoline demand was 9.375 million b/d. OPIS doesn't estimate actual fuel disappearance but data for the week ending June 17 suggests a modest week-over-week advance of 0.3% and a decline of 4.4% on a year-on-year basis.

Consistent in all of the RBC reports issued in the last two months has been a brisk rise in visits to Rocky Mountain fueling sites. That region saw the greatest weekly increment last week with visits rising 1.8%. When analyzed on a month over month basis, PADD 4 sees station visits up by 8.66%. The region also has the largest year-on-year surge, of a modest 0.98%.

Year-over-year comparisons throughout the country are hardly stunning, however. The frequency of visits just barely moved on the East Coast, adding 0.04%. Midwestern trips are up 0.96% on this basis, while Gulf Coast visits are up by 0.42%.

The West Coast is the clear laggard. Prices there are sharply lower than year ago levels, but trips to stations are down 1.23% from 2022.

-- Reporting by Tom Kloza

EPA Finalizes New Renewable Fuel Standards for 2023-2025

The U.S. Environmental Protection Agency (EPA) released its final rule to establish renewable volume obligations under the Renewable Fuel Standard program for 2023-2025 on June 21. This also included associated percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel and total renewable fuel.

The final rule also responded to a court remand of the 2016 annual rule by establishing a supplemental volume requirement of 250 million gallons of renewable fuel for 2023.

The EPA specifically requires 20.94 billion gallons of renewable fuel in 2023, 21.54 billion gallons of renewable fuel in 2024, and 22.23 billion gallons of renewable fuel for 2025 under the terms of the final rule. The volumes previously set in statute by Congress ended in 2022.

However, the EPA did not include its eRINs proposal to establish an eRINs program that would have only allowed automobile manufacturers to generate a RIN when electricity is produced from a qualifying renewable biomass, marking a significant departure from its draft rule, reported NACS.

In February, NACS announced its opposition to the eRINS proposal and joined with NATSO and SIGMA in submitting joint industry comment during the public comment period expressing concerns that the volumes for advanced biofuel were lower than they should have been.

NACS stated that the EPA's decision to keep eRINS as they were proposed out of the final rule "an important win for the industry."

RaceTrac Inks Deal for Gulf Oil

RaceTrac Inc. is growing its energy reach through a deal with Gulf Oil LP.

According to the Atlanta-based company its wholly owned wholesale fuel supply and trading subsidiary, Metroplex Energy, signed a definitive agreement to acquire Gulf Oil LLC.

As part of the transaction, RaceTrac will acquire Gulf’s nationally recognized fuel brand across the United States and U.S. territories, all of Gulf's branded distributor and license agreements and the exclusive rights to market fuel at Gulf's retail locations along the Massachusetts Turnpike.

This acquisition reflects RaceTrac's ongoing strategy to accelerate growth in its core business activities and drive enhanced operating efficiencies. The combination of Metroplex and Gulf creates a best-in-class fuel network with a leading presence in high-demand markets across the country and adds another renowned consumer-facing brand to RaceTrac’s family of companies, the company stated.

The transaction is subject to customary closing conditions, including approval under the Hart-Scott-Rodino Act, and is expected to be completed within 60 to 90 days. Financial terms are not being disclosed.

Driving Season Pushes US Gas Station Wages to New High: BLS

Average hourly wages for nonsupervisory workers at U.S. gas stations and gas stations with convenience stores increased to record highs after three months of average wages that declined or were steady, according to data the U.S. Bureau of Labor Statistics updated on Friday.

In May, the onset of the summer driving season, gas station wages rose 19cts, or 1.14% from April, to $16.87 per hour, a new high. Average wages at gas stations with c-stores also hit a new high in May at $16.63 per hour, up 13cts, or 0.8%, from April.

Wages for gas stations and c-stores with gas both reached historic levels in January, the bureau's numbers show. After adjustments, the average gas station wage for that month was $16.80 per hour and the average wage for gas stations with c-stores was $16.60 per hour.

On an annual basis, however, wage increases have slowed from the double-digit hikes the industry saw last year, the BLS figures show. May's average gas station wage rose 8.14% from the year-ago $15.60 per hour, and average wages at gas stations with c-stores climbed about 8% year to year from $15.40 per hour.

The average hourly wage for the retail trade overall, declined to $20.48 in May from $20.66 in April, but jumped one cent to $20.49 in June. Numbers for specific retail channels are unavailable for June.

Other competing retail channels saw average hourly wage increases in May, with food and beverage retailers increasing to $17.08 from $16.99; supermarkets and other grocers, to $17.03 from $16.89; and beer, wine and liquor retailers, to $17.31 from $17.10, the bureau's figures show.

--Reporting by Donna Harris

NRF: Despite Headwinds, U.S. Economy Moving in Right Direction

The U.S. economy performed better during the first six months of 2023 than early indicators suggested and appears to have positive momentum even as the rate of growth slows for the remainder of the year, according to the National retail Federation's (NRF) Monthly Economic Review for July.

Revised data from the U.S. Bureau of Economic Analysis shows that first-quarter gross domestic product adjusted for inflation grew 2 percent year over year rather than the 1.1 percent that was previously reported. The personal savings rate has been revised to 4.3 percent, up from 3.4 percent. Private final sales to domestic purchasers were revised to 3.2 percent growth, up from 2.9 percent.

Consumer spending, which makes up 70 percent of GSP, increased at an annual rate of 4.2 percent during the first quarter of 2023, four times the growth that occurred during the fourth quarter of 2022 and the fastest growth since mid-2021 despite strong headwinds from interest rates and inflation, NRF reported.

Unadjusted household spending was up just 0.1 percent month of month in May vs. 0.6 percent in April, indicating a slowdown when Q2 2023 results are released. Spending is slowly shifting from goods to services.

Inflation remains elevated but is easing and taking pressure off of households, according to NRF. The Personal Consumption Expenditures Price Index showed that prices were up 3.8 percent year over year in May, down from 4.3 percent in April and the first time inflation was under 4 percent since early 2021. Despite this reduction, the Federal Reserve could further boost interest rates in response to increases in consumer spending as it tries to slow inflation to its 2 percent target, NRF reported.

New Data Finds Same-Store Sales Continue to Increase Year Over Year

NRS Insights, a provider of sales data and analytics drawn from retail transactions processed through the National Retail Solutions (NRS) point-of-sale (POS) platform, found same-store sales increased 7.7 percent year over year (YOY) for the month of June.

Retail same-store sales highlights include:

- Same-store sales increased 7.7 percent YOY (vs. June 2022). Average sales per calendar day for June increased 1.5 percent compared to May 2023.
- Same-store sales in May 2023 increased 7.1 percent vs. May 2022. Average sales per calendar day in May increased 1 percent vs. April 2023.
- For the three months ended June 30, 2023, same-store sales increased 6.2 percent compared to the three months ended June 30, 2022.

The number of items sold during June 2023 increased 7.3 percent compared to June 2022 and the number of items sold per calendar day increased 1 percent compared to May 2023 The average number of transactions per store in June 2023 increased 4.3 percent compared to June 2022 and the average number of transactions per store increased 1.4 percent compared to May 2023.

The NRS average three-month moving average same-store sales has outpaced the U.S. Commerce Department's Advance Monthly Retail Trade data excluding food services by 4.9 percentage points, on average.

US Food and Fuel Retailer Settles Allegations of Sex Discrimination

Houchens Food Group Inc., a large convenience-fuel retailer and grocer, has agreed to pay $50,000 and change its policies and procedures to settle a sexual harassment lawsuit filed by the U.S. Equal Employment Opportunity Commission, the EEOC said in an announcement on Monday.

Houchens did not admit to legal violations as part of the settlement, the consent decree says.

The lawsuit alleged the Bowling Green, Ky.-based retailer subjected female employees to a hostile environment at a store in Evergreen, Ala., though the new anti-discrimination policies will apply to 16 stores, according to the settlement. The EEOC alleged female workers faced unwelcome sexual advances from a regular customer of the Evergreen store for several years, and management failed to act on repeated complaints.

The EEOC said the alleged conduct violates Title VII of the Civil Rights Act of 1964, prohibiting a hostile environment based on sexual harassment in the workplace. The commission said it filed suit in 2021 in U.S. District Court for the Southern District of Alabama after voluntary settlement negotiations failed.

The four-year consent decree requires Houchens to pay $50,000 to one harassment victim, develop or revise policies and procedures to prevent and correct sexual harassment and provide annual compliance training for employees and managers in its Evergreen store and 15 other Alabama stores. The EEOC will monitor the company's compliance while the consent decree is in effect.

"An employer has a duty to protect its employees from a hostile environment of frequent or serious sexual harassment when it knows of the ongoing harassment," said Bradley Anderson, district director of EEOC's Birmingham office, in the announcement Monday. "It is an unacceptable and unlawful practice to ignore complaints and continue to allow such misconduct, even from a customer."

Houchens Food Group operates Shell stations and convenience stores, as well as grocery stores. Its website says it has a 400-store network across 15 states.

--Reporting by Donna Harris

New York City Files Suit Against Manufacturers of Illegal Disposable Flavored E-Cigarettes

The City of New York filed a federal lawsuit against four major distributors of flavored disposable e-cigarettes, the most popular vaping devices among middle-school children and high school youth.

The four defendants — Magellan Technology Inc., Demand Vape, Mahant Krupa 56 LLC and Star Vape — are alleged to have distributed exotically flavored disposable e-cigarettes to retail smoke shops, convenience stores and consumers in New York City through online sales, a violation of federal, state and city laws governing the sale of such products.

The lawsuit seeks to block the four defendants from further sales of these illegal items. The city also seeks to recover monetary damages and civil penalties from the defendants, potentially totaling millions.

The most recent regulatory actions by the U.S. Food and Drug Administration (FDA) have reflected the serious nature of concerns for underage smokers. In addition to a public service advertising blitz and civil monetary penalties filed against several vape companies, the FDA has also spearheaded a crackdown on the illegal sale of e-cigarettes.

Despite these efforts, city agencies have still documented thousands of illegal sales of flavored vapes by city stores in 2022, according to the mayor's office. Overall, since the formation of the Joint Interagency Task Force convened by Adams last December, the sheriff's office has seized 319,636 packages of flavored vape, with an estimated value of $6.4 million dollars.

FDA Cracks Down on Illegal Vapor Products New Report Finds Increase in Overall Sales

The Food and Drug Administration (FDA) issued warning letters to 189 retailers for selling unauthorized tobacco products. The letters specifically named the Elf Bar and Esco Bars brands, both of which manufacture disposable e-cigarettes that come in flavors known to appeal to youth, including bubblegum and cotton candy.

The warning letters were the result of a nationwide retailer inspection blitz over the past several weeks cracking down on the sale of unauthorized e-cigarettes. The FDA cited concerns over the products' appeal and risks to young people as part of their reasoning for the crackdown.

The announced enforcement effort comes on the heels of a study published by the Centers for Disease Control and Prevention (CDC) which found that overall e-cigarette monthly unit sales increased by 46.6 percent from January 2020 to December 2022. Additionally, sales of disposable devices increased, along with the sales of youth-appealing flavors, such as fruit, candy and desserts.

The CDC noted that Elf Bar was the most popular disposable e-cigarette sold in the United States in December 2022, followed by Vuse, JUUL, NJOY and Breeze Smoke. That study aligns with recent findings from the International Tobacco Control Survey, which found that as of August 2022, Elf Bar was the top disposable e-cigarette brand reported among persons ages 16 to 19 in the U.S. and was responsible for driving recent increases in e-cigarette use among the same age bracket in England

A second study showed thousands of e-cigarette exposure cases reported to U.S. poison centers in the past year, most of which were among kids younger than five years old. Among the limited number of cases with brand information reported from April 2022 to March 2023, Elf Bar was cited more than all other brands combined, with nearly all Elf Bar cases occurring among that young demographic.

FDA Issues Denial Orders for myblu Menthol Vapor Product

The Food and Drug Administration (FDA)issued a new marketing denial order (MDO) to a major vapor brand on July 10.

The MDO applies to myblu Menthol 2.4%, an e-cigarette product made by Fontem US LLC, which is barred from marketing or distributing the product within the United States, or it risks enforcement action by the agency.

The company may resubmit a new application to address the products deficiencies, according to the FDA.

Juul Seeks Approval for Vape With Age-Verification Capabilities

Juul Labs Inc. submitted its first premarket tobacco application (PMTA) for its next-generation vapor platform to the U.S. Food and Drug Administration. The updated device reportedly uses technology to restrict both underage use and counterfeit pods.

"Our company DNA is product innovation. With our next-generation platform, we have designed a technological solution for two public-health problems: improving adult-smoker switching from combustible cigarettes and restricting underage access to vapor products," said Kirk Phelps, chief product officer at Juul. "This is only the beginning of new tech being developed and refined for the U.S. market and abroad to eliminate combustible cigarettes and combat underage use."

The PMTA submission includes comprehensive science and evidence for a new device and new tobacco-flavored pods at 18 milligram/milliliter nicotine concentration, along with information on novel, data-driven technologies to restrict underage access, the company said.

The next-gen product initially launched in the United Kingdom in 2021 as the JUUL2 System. According to Juul, its features include:

- A mobile and web-based app that enables age-verification technology, including device-locking, and real-time product information and usage insights for age-verified consumers with industry-leading data-privacy protections;
- A unique Pod ID chip that, among other technology capabilities, prevents the use of illicit counterfeit and compatible pods with the next-generation device;
- A more consistent vapor experience that better competes with combustible cigarettes;
- Bluetooth-enabled device with a larger, long-lasting battery and a "smart light system" that communicates battery life and e-liquid level to the user;
- Newly-designed, tamper-resistant pods that enable improved aerosol delivery; and
- An innovative heating element that improves product performance and temperature-control precision.

Juul claimed that behavioral research in the U.K. showed that more than 32 percent of JUUL2 System users have switched completely away from combustible cigarettes six months after purchasing the product.

"Our next-generation vapor platform PMTA is built on new technology that advances public-health objectives and compelling science that demonstrates a clear public-health benefit, as required to secure a marketing authorization," said Chief Regulatory Officer Joe Murillo. "We look forward to engaging with FDA throughout the review process while we pursue this important harm-reduction opportunity."

Juul noted that the company is also continuing to pursue its administrative appeal of the FDA's stayed decision regarding the JUUL System and believes it will also receive marketing authorization once a decision is made on science and evidence.

Pennsylvania Man Sentenced for Using Bogus Cards to Pay for Gas

A Harrisburg, Pa., resident has been sentenced to 24 months in prison followed by 12 months of supervised release for aggravated identity theft, the U.S. Attorney's Office for the Middle District of Pennsylvania said in a news release Tuesday.

The U.S. District Court for the Middle District of Pennsylvania also ordered the defendant to pay restitution of $32,227.71.

Amisial Elveus, 32, entered a plea agreement in September last year, the court record shows. For several months in 2020, Elveus illegally obtained and used credit card account numbers to make fraudulent credit cards that he used to pay for fuel for multiple vehicles and multiple days at a Giant gas station in Harrisburg, authorities allege. Elveus was arrested at the Giant on Nov. 6, 2020, as he was filling cars with gas using the counterfeit card.

--Reporting by Donna Harris

NOAA Predicts a Near-Normal 2023 Atlantic Hurricane Season

NOAA forecasters with the Climate Prediction Center, a division of the National Weather Service, predict near-normal hurricane activity in the Atlantic this year. NOAA's outlook for the 2023 Atlantic hurricane season, which goes from June 1 to November 30, predicts a 40% chance of a near-normal season, a 30% chance of an above-normal season and a 30% chance of a below-normal season.

NOAA is forecasting a range of 12 to 17 total named storms (winds of 39 mph or higher). Of those, 5 to 9 could become hurricanes (winds of 74 mph or higher), including 1 to 4 major hurricanes (category 3, 4 or 5; with winds of 111 mph or higher). NOAA has a 70% confidence in these ranges.

The upcoming Atlantic hurricane season is expected to be less active than recent years, due to competing factors — some that suppress storm development and some that fuel it — driving this year's overall forecast for a near-normal season.

After three hurricane seasons with La Nina present, NOAA scientists predict a high potential for El Nino to develop this summer, which can suppress Atlantic hurricane activity. El Nino's potential influence on storm development could be offset by favorable conditions local to the tropical Atlantic Basin. Those conditions include the potential for an above-normal west African monsoon, which produces African easterly waves and seeds some of the stronger and longer-lived Atlantic storms, and warmer-than-normal sea surface temperatures in the tropical Atlantic Ocean and Caribbean Sea which creates more energy to fuel storm development.

Biden Administration Extends Citgo Protections To October

The Biden administration has extended to October protections for Citgo from Venezuela's creditors who are targeting the company's assets to settle their unpaid debts.

The Treasury Department on Tuesday extended the protections until at least Oct. 20. The move allows Venezuela to try to reach a negotiated settlement with the creditors as preparations for a court-ordered sale of the oil major and its assets continue.

The order continues protections put in place by the Trump administration in 2019 that have been periodically extended since.

Treasury has urged Venezuela and its creditors to reach an agreement to restructure or refinance payments due to bondholders or other creditors and talks have reportedly taken place.

Citgo's parent company, Venezuelan state oil company Petroleos de Venezuela SA, used its majority stake in Citgo as collateral on the bonds, but defaulted on a $915 million payment in 2019.

The country also owes billions of dollars to creditors and to companies whose assets were seized and nationalized by Venezuela.

Those companies include ConocoPhillips, which is seeking to collect a $1.3 billion arbitration award to pay for assets that were seized.

Canadian mining company Crystallex convinced a U.S. court to force the sale of Citgo shares to collect about $1 billion it says it's owed from an arbitration award after Venezuela nationalized its gold mining operation in the country.

Earlier this month, the 3rd U.S. Circuit Court of Appeals cleared the way for Grumman Ship Systems Inc., ACL1 Investments Ltd., Rusoro Mining Ltd., Koch Minerals Sarl, Gold Reserve Inc. and OI European Group B.V. to join the list of creditors who could benefit from a sale of Citgo.

The Biden administration has indicated an auction of Citgo assets could occur even with the Treasury protections in place, though any winning bidders would need to obtain a license to complete the transaction.

In May, the administration said it would likely "look favorably" on license applications associated with such a sale, increasing the pressure on Venezuela to reach a negotiated settlement.

Any sale of Citgo is likely to attract strong buyer interest. The company operates refineries in Texas, Louisiana and Illinois with a combined capacity of nearly 769,000 b/d. It also owns all or parts of 38 terminals, six pipelines and three lubricant blending and packaging plants.

In addition, the company supplies a network of 4,400 independently owned, branded retail outlets, all east of the Rocky Mountains.

There is a possibility Venezuela could reach an agreement to repay the debts and maintain control of Citgo. In March, the oil major reported net income ofv 2.8 billion in 2022.

--Reporting by Steve Cronin

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.

Age Requirements for Sellers of Alcohol and Tobacco

A minor (person under the age of 18) can be employed by a grocery store or drug store licensee (1) to handle and deliver alcoholic beverages, and (2) as a cashier when in the presence and direct supervision of a person of the age of 18 or older, or (3) in a position requiring the handling of empty containers in the direct supervision of a person of the age of 21 or older.

There are no such restrictions for sale of tobacco.

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 585-423-9924, 716-656-1035, 518-452-4367 or 607-723-1849