

ATTORNEY'S CORNER

By Larry Culley

Like most other organizations, your Association is communicating to our members any and all helpful information concerning the covid-19 virus which has had such a devastating effect on our society. Gas stations, repair shops and convenience stores are considered essential businesses and can remain open to serve the public in these trying times. However, it appears that self service gas purchases can be a locus of infection of which members should be aware. Testing by health authorities shows that the nozzles people grasp to pump the gas have a high incidence of covid-19 viral contamination. As Dealers, there are a number of ways to mitigate this threat. Signs can be posted on the pumps advising that to avoid contamination paper towels are available with which to grasp the pumps. In the alternative, several bottles of hand sanitizer can be made available for convenient use once the pumps have been returned to the MPDs. We're sure that customers will appreciate your concern for their health by taking such measures to keep them safe.

Another issue to keep in mind: Throughout New York State, and especially in New York City, many of the courts and administrative tribunals have been closed indefinitely, with summonses and hearings on many civil matters being adjourned for at least a few months. To save time in a wasted trip to the courts for matters scheduled for the rest of March, April and perhaps May, it would be prudent to call the relevant court or administrative agency or tribunal to see if your case will be heard when scheduled and, if not, for what date might it be rescheduled? Such information may also be available on their websites which can be found through google. Be sure to have your summons or hearing notice with you when you search for easy reference.

The contents of this column are not intended as legal advice. I give no legal advice without an appointment and interview with a client.

Updated New York State Emission Inspection Program Proposed for 2021

What's Coming Next?

The current NYVIP Emission inspection program began December 1, 2013. It replaced a series of emission testing inspections that tested the emission coming from the tail pipes, sometime using a dynamiter to test the vehicle emission at speeds.

With the 2013 program we thought the State finally got it right. Vehicles were tested using there onboard computer system to detect fault codes and were passed or failed based on the electronic data collected from this system.

This program was assigned to the winning bidder OPUS, who provided and serviced the equipment (for a cost to the inspection station), and collected and analyzed the data to determine if the vehicle needed repairs, passed, or failed the emission inspection test.

Well it's almost time for a change. The current program is scheduled to end December 1, 2021. There is however the possibility of a one year extension until 2022 for the current program and company contractor OPUS.

In anticipation of updating to a new program, the State has issued a Request for Proposal (RFP) to any company capable of initiating a new platform similar to the existing program, with changes to include updates, other tests, and newer equipment.

The responses to the RFP are due March 20, 2020. After the new RFP's are submitted to the State, DMV and DEC will evaluate the proposals and make a decision as to which company will provide and run the next emission inspection program.

It is expected that there will be an expense to the inspection stations for the purchase of new, updated equipment. The following are only some of the changes we are currently expecting to see. As we receive additional information it will be shared with you.

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- RFP's for new updated emission inspection program are due into the state by March 20, 2020

- Program is scheduled to begin December 1, 2021 however the state has indicated they may be willing to give a one year extension. It is felt that considering the complexities of the RFP procedure and the timeframe to get equipment and programs up and running there is a strong probability that the extension will be granted.
- The company that is currently operating the program receives 46 cents per inspection the new bid may be more less or the same.
- Most stations will not see any significant changes to what they currently do. It will however require the purchase/replacement of equipment which will be set at a cap of \$1700. Computer equipment will come with a seven year service agreement.
- New to the program will be Heavy Duty OBD which will require the purchase of an opacity meter to be attached to the pc. The cost of the meter can run upwards of \$3,000 or more. This test will now have to be conducted inside the shop.
- Shops that inspect motorcycles and/or trailers will have to purchase a barcode scanner and sticker printer. You can use your currently owned pc but will need a dedicated printer for the stickers which will be provided by the approved company.
- If OPUS continues to run the program they will now sign up new inspectors and proctor the exams. You will no longer deal with NYS DMV.
- A chat line (probably printed) may be added upfront on the inspection machine to verify that you want to inspect a vehicle if the machine detects that this may be a fraudulent inspection thereby giving the inspector a chance to “back out.”
- The RFP does not address the inspection fee or the cost of the sticker. The Sticker fee is set by the legislature and the inspection fee is set by DMV. There are no initiatives to change either at this time.
- The new RFP is requiring two printers, one will print the new inspection sticker the other will print the pass or failure and an invoice

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Minimum Wholesale and Retail Cigarette Prices

As a result of price increases by manufacturers, the minimum wholesale and retail prices for certain brands of cigarettes in New York State have changed.

The minimum price enforcement date for this notice is February 24, 2020.

Minimum wholesale and retail cigarette prices must be determined by referencing manufacturers' list prices. Common list prices for certain standard brands are listed below. When a minimum price change occurs because of a manufacturer's price increase or decrease, the enforcement date of the change is the second Monday after the price change is announced. If a price change is announced on a Monday, that day is considered to be the first Monday. The enforcement date is in effect whether or not a manufacturer notifies the Tax Department of the price change.

After one manufacturer announces a price change, if other manufacturers also change their prices **before the second Monday after the initial price change is announced**, then those subsequent price changes will also be effective for enforcement purposes on the same second Monday.

When a minimum price change occurs because of an excise tax rate change, the enforcement date of the change is the date the rate change takes effect.

To determine the minimum wholesale or retail prices for any cigarette brand, you must refer to the manufacturer's price list. If you are unable to obtain the price list, please ask your supplier for assistance. In addition, Publication 508, *Minimum Price List for Cigarettes*, can help you determine the minimum prices of standard and nonstandard brands of cigarettes sold by the carton (20 cigarettes per pack, 10 packs per carton). For copies of Publication 508, see *Need help?*

The New York State minimum prices relating to each of the eleven currently applicable manufacturers' list prices for standard brands are printed in the tables below.

You must charge your customers the minimum price or any price in excess of the minimum price.

You may not offer merchandise for sale as a tie-in with cigarettes if the total price of the items sold is less than the minimum price of cigarettes plus your cost for the other merchandise.

New York State (sales outside New York City)		Minimum sales prices for standard brands*				
Manufacturer's list price ** (per carton)	Agent's basic cost (per carton)	Type of sale				
		Wholesale (per carton)			Retail sales to the consumer	
		Agent to wholesale dealers	Agent to chain stores	Agent to retail dealers	Retail (per carton)	Retail (per pack)
\$ 46.24	\$ 89.74	\$ 90.73	\$ 91.29	\$ 93.42	\$ 99.96	\$ 10.00
\$ 50.84	\$ 94.34	\$ 95.37	\$ 95.96	\$ 98.20	\$ 105.07	\$ 10.51
\$ 51.04	\$ 94.54	\$ 95.57	\$ 96.16	\$ 98.41	\$ 105.30	\$ 10.53
\$ 51.44	\$ 94.94	\$ 95.98	\$ 96.57	\$ 98.82	\$ 105.74	\$ 10.58
\$ 52.34	\$ 95.84	\$ 96.88	\$ 97.48	\$ 99.76	\$ 106.74	\$ 10.68
\$ 52.94	\$ 96.44	\$ 97.49	\$ 98.09	\$ 100.38	\$ 107.41	\$ 10.75
\$ 55.54	\$ 99.04	\$ 100.11	\$ 100.73	\$ 103.08	\$ 110.30	\$ 11.03
\$ 55.74	\$ 99.24	\$ 100.31	\$ 100.93	\$ 103.29	\$ 110.52	\$ 11.06
\$ 64.28	\$ 107.78	\$ 108.93	\$ 109.60	\$ 112.16	\$ 120.01	\$ 12.01
\$ 67.40	\$ 110.90	\$ 112.08	\$ 112.77	\$ 115.40	\$ 123.48	\$ 12.35
\$ 67.60	\$ 111.10	\$ 112.28	\$ 112.97	\$ 115.61	\$ 123.70	\$ 12.37

New York City (sales within New York City)		Minimum sales prices for standard brands*				
Manufacturer's list price ** (per carton)	Agent's basic cost (per carton)	Type of sale				
		Wholesale (per carton)			Retail sales to the consumer	
		Agent to wholesale dealers	Agent to chain stores	Agent to retail dealers	Retail (per carton)	Retail (per pack)
\$ 46.24	\$ 104.74	\$ 105.86	\$ 106.52	\$ 109.00	\$ 116.63	\$ 11.67
\$ 50.84	\$ 109.34	\$ 110.50	\$ 111.19	\$ 113.78	\$ 121.75	\$ 12.18
\$ 51.04	\$ 109.54	\$ 110.70	\$ 111.39	\$ 113.99	\$ 121.97	\$ 12.20
\$ 51.44	\$ 109.94	\$ 111.11	\$ 111.79	\$ 114.41	\$ 122.41	\$ 12.25
\$ 52.34	\$ 110.84	\$ 112.01	\$ 112.71	\$ 115.34	\$ 123.41	\$ 12.35
\$ 52.94	\$ 111.44	\$ 112.62	\$ 113.32	\$ 115.96	\$ 124.08	\$ 12.41
\$ 55.54	\$ 114.04	\$ 115.24	\$ 115.96	\$ 118.66	\$ 126.97	\$ 12.70
\$ 55.74	\$ 114.24	\$ 115.44	\$ 116.16	\$ 118.87	\$ 127.19	\$ 12.72
\$ 64.28	\$ 122.78	\$ 124.06	\$ 124.83	\$ 127.74	\$ 136.68	\$ 13.67
\$ 67.40	\$ 125.90	\$ 127.21	\$ 127.99	\$ 130.98	\$ 140.15	\$ 14.02
\$ 67.60	\$ 126.10	\$ 127.41	\$ 128.20	\$ 131.19	\$ 140.37	\$ 14.04

* Minimum prices listed are for standard brands and standard packages (20 cigarettes per pack, 10 packs per carton). See *Computing the minimum wholesale cigarette prices* on page 2 for the markups for each type of sale listed.

** Consult manufacturer's price list to verify the price for each specific brand.

Furthermore, it is illegal for any cigarette agent, wholesale dealer, or retail dealer to induce, or attempt to induce, or to procure the purchase of cigarettes at a price less than the minimum price set by law. The Tax Department will issue this publication as notification for changes in the minimum prices each time a manufacturer's price change occurs or a state or city excise tax changes.

Prepaid sales tax – The prices listed in the *Minimum sales prices for standard brands* chart do not include any prepaid sales tax. The prepaid sales tax is paid by the agent at the time the cigarette tax stamps are purchased. The prepaid sales tax is passed along in each subsequent sale down to and including the retail dealer (but is not passed down to the consumer). At the time of delivery, the seller must give the purchaser either Form ST-133, *Certificate of Prepayment of Sales Tax on Cigarettes*, or have the required information included on the invoice.

State and local sales taxes – State and local sales taxes must be collected from the consumer at the time of the retail sale. Sales tax must be collected upon the total retail sale price, including sales in New York City (effective September 1, 2003). For more information, see Important Notice N-03-22, *Computation of Sales Tax on Cigarettes Sold Within the City of New York*.

Computing the minimum wholesale cigarette prices

Publication 508, *Minimum Price List for Cigarettes*, lists the minimum prices for standard and nonstandard brands of cigarettes by the carton (20 cigarettes per pack, 10 packs per carton).

The *basic cost of cigarettes* means the invoice cost of cigarettes to the agent who purchases from the manufacturer, or the replacement cost of cigarettes to the agent, in the quantity last purchased (whichever is lower), less all trade discounts (except discounts for cash), to which is added the full face value of any stamps (excise tax only) that are required by law. (The federal excise tax placed on the manufacturer would be included in the invoice cost of cigarettes from the manufacturer.)

The basic cost of cigarettes **does not** include any sales tax prepaid by the agent at the time the cigarette tax stamps were purchased.

The *cost of the agent* means the basic cost of cigarettes (as defined above) plus the cost of doing business by the agent. Unless otherwise substantiated, the cost of doing business by the agent is presumed to be as shown in the table below:

Percentage (plus 20 cents) of the basic cost of cigarettes per carton (20 cigarettes per pack, 10 packs per carton)	
Agent to wholesale dealers	7 $\frac{1}{8}$ % plus 20 cents
Agent to chain stores	1 $\frac{1}{2}$ % plus 20 cents
Agent to retail dealers	3 $\frac{7}{8}$ % plus 20 cents

In determining the prices for nonstandard brands, remember that an agent may not sell cigarettes to wholesale dealers (as defined in the Cigarette Marketing Standards Act (CMSA)) below the basic cost of cigarettes plus 7 $\frac{1}{8}$ % and 20 cents per carton (20 cigarettes per pack, 10 packs per carton). An agent or wholesale dealer may not sell cigarettes to a registered chain store below the basic cost of cigarettes plus 1 $\frac{1}{2}$ % and 20 cents per carton (20 cigarettes per pack, 10 packs per carton). An agent or wholesale dealer may not sell cigarettes to a retail dealer below the basic cost of cigarettes plus 3 $\frac{7}{8}$ % and 20 cents per carton (20 cigarettes per pack, 10 packs per carton).

Anyone selling at a price less than the *cost of the CMSA retail dealer* minimum sales price must have proof on file that the customer was eligible for the lower purchase price. The *cost of the CMSA retail dealer* is presumed to be a 7% markup of the *agent-to-retail-dealers* price.

The selling price of cigarettes sold by one licensed cigarette agent to another, when the cigarettes are either picked up at the seller's warehouse or delivered to the purchaser's warehouse, is not required to include the cost of doing business by the agent, but it may not be less than the basic cost of the cigarettes.

If an agent sells cigarettes to a chain store with 15 or more outlets (excluding vending machine operators), the cigarettes are delivered to a central warehouse owned and operated by the chain store, and the chain store delivers the cigarettes to its outlets, the agent's selling price is not required to include the cost of doing business by the agent (that is, the agent's presumptive 1 $\frac{1}{2}$ % plus 20 cents minimum markup is not required). However, the price may not be less than the basic cost of cigarettes.

Custom stamping is the affixing of cigarette tax stamps by one agent for, or on behalf of, any other agent. It also includes the sale of stamped cigarettes by one agent to another agent. **Custom stamping** is prohibited without the prior written authorization of this department. Send your request to: NYS Tax Department, TDAB-FACCTS-Cigarette Tax Unit, W A Harriman Campus, Albany NY 12227-2992. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*. See also Cigarette Tax Regulations (Title 20 NYCRR section 74.3(a)(3)). Violations of this provision may result in the revocation or suspension of the agent's license under Tax Law Article 20.

A licensed agent who sells cigarettes at retail is considered to be a CMSA retail dealer. The cost of the agent for those retail sales must be the same as the *cost of the CMSA retail dealer*.

Computing the minimum retail cigarette prices

To compute the minimum retail selling price for cigarettes (standard, nonstandard, generic, or subgeneric brands), 20 cigarettes per pack, 10 packs per carton, you may use Publication 508.

Anyone making retail sales of cigarettes must first determine the *agent-to-retail-dealers* minimum selling price and increase that amount by at least 7%.

If a retail dealer does not know the manufacturer's list price for computing the minimum retail cigarette price, the retail dealer should mark up the cartons or packs of cigarettes 7% above its invoice cost (excluding any prepaid sales tax).

If you need help determining the legal minimum wholesale or retail selling price of cigarettes, contact your supplier or call the New York State Miscellaneous Tax Information Center (see *Need help?*).

Civil penalties – Violations of the CMSA may result in the suspension of an **agent's** or **wholesale dealer's** license or the imposition of a fine not to exceed \$20,000, or both, for a first offense. Subsequent violations within three years may result in license revocation, suspension, or suspension plus a fine not to exceed \$50,000.

Criminal penalties – Violations of the CMSA by **wholesale** or **retail dealers** are a Class B misdemeanor and may result in fines of up to \$500 (or double the amount of the gain from the commission of the offense) or up to three months imprisonment, or both.

Need help?



Visit our website at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Miscellaneous Tax Information Center:	518-457-5735
To order forms and publications:	518-457-5431
Text Telephone (TTY) or TDD equipment users	Dial 7-1-1 for the New York Relay Service



Minimum Wholesale and Retail Cigarette Prices

As a result of price increases by manufacturers, the minimum wholesale and retail prices for certain brands of cigarettes in New York State have changed.

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After one manufacturer announces a price change, if other manufacturers also change their prices **before the second Monday after the initial price change is announced**, then those subsequent price changes will also be effective for enforcement purposes on the same second Monday.

When a minimum price change occurs because of an excise tax rate change, the enforcement date of the change is the date the rate change takes effect.

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* Minimum prices listed are for standard brands and standard packages (20 cigarettes per pack, 10 packs per carton). See *Computing the minimum wholesale cigarette prices* on page 2 for the markups for each type of sale listed.

** Consult manufacturer's price list to verify the price for each specific brand.

Furthermore, it is illegal for any cigarette agent, wholesale dealer, or retail dealer to induce, or attempt to induce, or to procure the purchase of cigarettes at a price less than the minimum price set by law. The Tax Department will issue this publication as notification for changes in the minimum prices each time a manufacturer's price change occurs or a state or city excise tax changes.

Prepaid sales tax – The prices listed in the *Minimum sales prices for standard brands* chart do not include any prepaid sales tax. The prepaid sales tax is paid by the agent at the time the cigarette tax stamps are purchased. The prepaid sales tax is passed along in each subsequent sale down to and including the retail dealer (but is not passed down to the consumer). At the time of delivery, the seller must give the purchaser either Form ST-133, *Certificate of Prepayment of Sales Tax on Cigarettes*, or have the required information included on the invoice.

State and local sales taxes – State and local sales taxes must be collected from the consumer at the time of the retail sale. Sales tax must be collected upon the total retail sale price, including sales in New York City (effective September 1, 2003). For more information, see Important Notice N-03-22, *Computation of Sales Tax on Cigarettes Sold Within the City of New York*.

Computing the minimum wholesale cigarette prices

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The basic cost of cigarettes **does not** include any sales tax prepaid by the agent at the time the cigarette tax stamps were purchased.

The *cost of the agent* means the basic cost of cigarettes (as defined above) plus the cost of doing business by the agent. Unless otherwise substantiated, the cost of doing business by the agent is presumed to be as shown in the table below:

Percentage (plus 20 cents) of the basic cost of cigarettes per carton (20 cigarettes per pack, 10 packs per carton)	
Agent to wholesale dealers	7 $\frac{1}{8}$ % plus 20 cents
Agent to chain stores	1 $\frac{1}{2}$ % plus 20 cents
Agent to retail dealers	3 $\frac{7}{8}$ % plus 20 cents

In determining the prices for nonstandard brands, remember that an agent may not sell cigarettes to wholesale dealers (as defined in the Cigarette Marketing Standards Act (CMSA)) below the basic cost of cigarettes plus 7 $\frac{1}{8}$ % and 20 cents per carton (20 cigarettes per pack, 10 packs per carton). An agent or wholesale dealer may not sell cigarettes to a registered chain store below the basic cost of cigarettes plus 1 $\frac{1}{2}$ % and 20 cents per carton (20 cigarettes per pack, 10 packs per carton). An agent or wholesale dealer may not sell cigarettes to a retail dealer below the basic cost of cigarettes plus 3 $\frac{7}{8}$ % and 20 cents per carton (20 cigarettes per pack, 10 packs per carton).

Anyone selling at a price less than the *cost of the CMSA retail dealer* minimum sales price must have proof on file that the customer was eligible for the lower purchase price. The *cost of the CMSA retail dealer* is presumed to be a 7% markup of the *agent-to-retail-dealers* price.

The selling price of cigarettes sold by one licensed cigarette agent to another, when the cigarettes are either picked up at the seller's warehouse or delivered to the purchaser's warehouse, is not required to include the cost of doing business by the agent, but it may not be less than the basic cost of the cigarettes.

If an agent sells cigarettes to a chain store with 15 or more outlets (excluding vending machine operators), the cigarettes are delivered to a central warehouse owned and operated by the chain store, and the chain store delivers the cigarettes to its outlets, the agent's selling price is not required to include the cost of doing business by the agent (that is, the agent's presumptive 1 $\frac{1}{2}$ % plus 20 cents minimum markup is not required). However, the price may not be less than the basic cost of cigarettes.

Custom stamping is the affixing of cigarette tax stamps by one agent for, or on behalf of, any other agent. It also includes the sale of stamped cigarettes by one agent to another agent. **Custom stamping** is prohibited without the prior written authorization of this department. Send your request to: NYS Tax Department, TDAB-FACCTS-Cigarette Tax Unit, W A Harriman Campus, Albany NY 12227-2992. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*. See also Cigarette Tax Regulations (Title 20 NYCRR section 74.3(a)(3)). Violations of this provision may result in the revocation or suspension of the agent's license under Tax Law Article 20.

A licensed agent who sells cigarettes at retail is considered to be a CMSA retail dealer. The cost of the agent for those retail sales must be the same as the *cost of the CMSA retail dealer*.

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If a retail dealer does not know the manufacturer's list price for computing the minimum retail cigarette price, the retail dealer should mark up the cartons or packs of cigarettes 7% above its invoice cost (excluding any prepaid sales tax).

If you need help determining the legal minimum wholesale or retail selling price of cigarettes, contact your supplier or call the New York State Miscellaneous Tax Information Center (see *Need help?*).

Civil penalties – Violations of the CMSA may result in the suspension of an **agent's** or **wholesale dealer's** license or the imposition of a fine not to exceed \$20,000, or both, for a first offense. Subsequent violations within three years may result in license revocation, suspension, or suspension plus a fine not to exceed \$50,000.

Criminal penalties – Violations of the CMSA by **wholesale** or **retail dealers** are a Class B misdemeanor and may result in fines of up to \$500 (or double the amount of the gain from the commission of the offense) or up to three months imprisonment, or both.

Need help?



Visit our website at **www.tax.ny.gov**

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- check for new online services and features

Telephone assistance

Miscellaneous Tax Information Center: 518-457-5735
 To order forms and publications: 518-457-5431
 Text Telephone (TTY) or TDD Dial 7-1-1 for the
 equipment users New York Relay Service

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ASSOCIATION OF SERVICE STATIONS AND REPAIR SHOPS**

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DMV INSPECTOR TRAINING
(Instructions on how to sign in and take the training)**

1. Enter our nysassrs.com website either by cell phone or computer.
2. Find the training tab on the top of the screen (if in full screen view). If smaller there is a menu tab on the left of the screen. Click that and you will find the training tab there. It will bring you to an intro page to our training.
3. Inside the blue column SITE MAP you will see Inspector Training Material.

(Make sure you have an updated form of adobe flash player, if not you can access the abobe website from this page.)

4. Click on whichever inspector training you would like to download. We have:
 - a) Light/medium duty, and
 - b) Heavy duty inspection training available.
 - c) Motorcycle,

Note it may take a few minutes to download depending on your internet speed.

5. When download is complete you may access our full audio presentation.
6. You may also choose to access the DMV's version of the training which we provide the link for if you like. There is no audio or PowerPoint but DMV's presentation may differ a little to give you variety in training.
7. Besides training, our presentation takes you step by step to register for the testing for inspector certification.
8. If you have any questions contact the association office at 518 452-4367.

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Business Address Street:		
City:	State:	Zip:
Phone:	Fax:	E-Mail:
Name of NAPA Dealer:		
NAPA Street Address:		
City:	State:	Zip:
Phone:	Fax:	
Additional NAPA Dealer(s) you do business with:		
Name of NAPA Dealer:		
NAPA Street Address:		
City:	State:	Zip:
Phone:	Fax:	
Name of NAPA Dealer:		
NAPA Street Address:		
City:	State:	Zip:
Phone:	Fax:	

FAX this form back to:

518 452-1955

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EXCESSIVE FINES

OR

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Garage Insurance Survey

Name of Business:		
Street Address:		
City:	State:	Zip:
Phone #	Fax #	E-Mail:
Contact Person:		Phone # (if different from above)
Are you happy with the cost and service provided by your carrier/agent?		Yes No
If yes STOP here...		
If NO or NOT SURE you may want to look at the following		
Is your coverage insufficient?	Yes	No
Is the service poor to non-existent?	Yes	No
Is the cost too high?	Yes	No
Are you satisfied with your current coverage?	Yes	No
Are you interested in a quote from another insurer?	Yes	No
Is so please check each that apply:		
<input type="checkbox"/>	<input type="checkbox"/>	Property & Casualty
<input type="checkbox"/>	<input type="checkbox"/>	Workers Comp
<input type="checkbox"/>	<input type="checkbox"/>	Disability
<input type="checkbox"/>	<input type="checkbox"/>	Health
If you checked one or more of the above please provide the following information:		
Name of Current Insurer:		
Type of Insurance:		
Renewal Date:		
When/How is the best time to contact you?		

If you are interested in learning how you may save on insurance costs
Please fill out and fax to your local association at 518-452-1955



Department of
Motor Vehicles

APPLICATION FOR CERTIFICATION AS A
MOTOR VEHICLE INSPECTOR

FOR OFFICE USE ONLY					
CIA	CIO	CIC	CIS	CIG	CID
Certificate Number		County			
CIRCLE ONE: OE ADD					
Note: Check or money order must be attached to enter OE or ADD					
Group(s)	1	2	3		
	A	A	A	A	
		Y	N		
<input type="checkbox"/> Address Change					
TEST RESULTS					
Group(s)	1	2	3		
	P	P	P	P	
	F	F	F	F	
	N	N	N	N	
	W	W	W	W	
	Y	N	N	Y	

♦ **FOR ORIGINAL APPLICATIONS:** Answer **ALL** questions on **Page 1** and **Page 2** that apply to you, and **SIGN** the application on **PAGE 2** or it will be returned to you for completion. You **MUST** be at least 17 years old and have **AT LEAST ONE YEAR OF MOTOR VEHICLE REPAIR EXPERIENCE** in the last 5 years immediately preceding this application, in the area in which you apply to be certified, or you must provide a copy of an acceptable school diploma in vocational motor vehicle trades. When your application is approved, DMV will notify you by mail of the date, time and location of the inspector training class. You **MUST** present photo ID at the class as proof of identity. If you have difficulty reading or understanding written material, please contact the office identified at the bottom of page 2 of this form.

♦ **FOR AMENDMENT AND DUPLICATE APPLICATIONS:** Answer questions 1-21 and **SIGN** in #25.

♦ **REQUIRED FEES**

Non-refundable application fee (\$10) and three-year certification fee (\$15).

Make check or money order for \$25 payable to the Commissioner of Motor Vehicles. You MUST send your check with this application. Starter checks are not accepted.

1♦ Check type of application: ☐ ORIGINAL ☐ AMENDMENT (No Fee) ☐ DUPLICATE (No Fee)

2♦ Have you ever applied for or taken a test to become a Certified Motor Vehicle Inspector? ☐ Yes ☐ No

3♦ Have you ever been a Certified Motor Vehicle Inspector and/or Body Damage Estimator?
☐ Yes ☐ No If "Yes," please write your Certification No. _____

4♦ Check all certification groups for which you are applying.

- ☐ **Group 1** (Allows an individual to conduct safety, diesel emissions, OBDII emissions, and low enhanced emissions inspections of motor vehicles that have a seating capacity under fifteen passengers, and motor vehicles and trailers that have a MGW under 18,001 pounds, except motorcycles and semi-trailers)
- ☐ **Group 2** (Allows an individual to conduct safety and diesel emissions inspections of motor vehicles that have a seating capacity over fourteen passengers, motor vehicles and trailers that have a MGW over 18,000 pounds, and semi-trailers, except motorcycles)
- ☐ **Group 3** (Allows an individual to conduct safety inspections of motorcycles)

Please **print** or **type** in the open spaces next to the arrows.

LAST NAME		FIRST	M.I.	DATE OF BIRTH Month / Day / Year		SEX Male <input type="checkbox"/> Female <input type="checkbox"/>	
MAILING ADDRESS (Include Street No., Rural Delivery and/or Box No.)				HEIGHT Feet Inches		EYE COLOR	
STREET NAME			APT. NO.	HOME TELEPHONE (Include Area Code)			
CITY OR TOWN			STATE	ZIP CODE	COUNTY		
HOME ADDRESS (If Different From Mailing Address) NUMBER AND STREET (Include Street No., Rural Delivery and/or Box No.)				APARTMENT NO.	CITY	STATE	ZIP CODE

16♦ Has your address changed since your last certification was issued? ☐ Yes ☐ No

CLIENT IDENTIFICATION NUMBER (From New York State driver license or non-driver ID)

NOTE: Failure to provide a valid Client ID number will prevent issuance of a Certified Inspector card.

17♦

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☐ Check this box if you do not currently have a New York State driver license or non-driver ID. A form (ID-5 VSCI) will be mailed to you with instructions on how to obtain a Client ID number.

PLEASE CONTINUE, AND SIGN ON PAGE 2.



18 PRESENT EMPLOYER	19 FACILITY NUMBER	20 BUSINESS TELEPHONE NUMBER ()
21 BUSINESS ADDRESS (NUMBER AND STREET) CITY		STATE ZIP CODE

22 FOR ORIGINAL APPLICATIONS ONLY

Have you ever been convicted of any felony, misdemeanor or improper motor vehicle inspection?

☐ Yes ☐ No

If "YES," give details below: (Applicants will not necessarily be rejected because of a conviction record. Such applications will be reviewed on an individual basis.)

Date of Violation	Nature of Violation	Date of Conviction	Disposition & Fine	Court Location

23 FOR ORIGINAL APPLICATIONS ONLYBy month and year, list the dates of all your motor vehicle repair experience. You must have at least one year of motor vehicle repair experience in the last five years **immediately preceding** the date of this application. Attach additional sheets if necessary.

Dates (From - To)	Employer's Name and Address	Describe Type of Repairs Performed (be specific)

24 FOR ORIGINAL APPLICATIONS ONLYList any trade school, vocational school, or other motor vehicle repair courses taken. Only approved schools are acceptable. You must provide a **COPY** of your diploma if you have less than one year of work experience.

Dates Attended	School Name and Address	Type of Course	Degree, Diploma or Certificate

Section 304(a) of the Vehicle & Traffic Law provides for the certification of motor vehicle inspection personnel. A Certified Inspector agrees to comply with the rules and regulations promulgated by the Commissioner of Motor Vehicles. Failure to comply with these rules and regulations may result in the revocation of this certification.

FALSE STATEMENTS MADE ON THIS APPLICATION ARE PUNISHABLE UNDER THE PENAL LAW.

25 NAME (PLEASE PRINT) _____**SIGNATURE** _____

(Sign Name in Full - DO NOT PRINT - No Nicknames)

Date _____

♦ **SEND APPLICATION AND CHECK TO:**

BUREAU OF CONSUMER AND FACILITY SERVICES
 Attn: Certification Unit
 PO Box 2700
 Albany NY 12220-0700
 Telephone (518) 474-7998

NOTE: Notify this office of any change in your address.



GRANY

April 2020

6 WALKER WAY, ALBANY, NY 12205
(518) 452-4367 – grany@nysassrs.com – www.nysassrs.com

INSIDE THIS ISSUE

- 1 *Attorney's Corner*
- 2 *Vapor Industry Looks to FDA for Guidance in the New Regulatory Landscape*
Memorandum in Opposition
- 2-3 *BILL NUMBER: A4344 – S2751*
Assemblymen Weprin – Senator Comrie
- 3 *Bill to Ban All Flavored Tobacco*
A.5819 / S.4495
- 3-4 *MEMORANDUM IN SUPPORT*
- 4 *A.9747 by Assemblyman Abbate*
Memorandum in Opposition
- 4-5 *S.6809/A.8808*
- 5 *FDA Is Enforcing E-Cigarette Flavor Ban*
Understand The Vulnerabilities That Make The Convenience Retailing Industry A Prime Target For Data Attacks.
- 5-6 *Massachusetts Committee Hears Testimony for House Bill 4122*
- 6-7 *Majors Unlikely to Provide Fraud Coverage Past EMV Deadline*
- 7 *7-Eleven Aims to Exceed \$1B In Private Label Sales This Year*
- 7,8 *7-Eleven Testing Cashierless Store Concept*
- 8 *Buying/Recycling Lead-Acid Batteries.*
- 8 *Changing/Recycling your used oil.*
- 8-9 *Q & A on New York State \$2.50 Tire Fee*
- 9 *New York State Department of Motor Vehicles OBD II Emission Inspection Waiver*
- 9 *DMV Record Retrieval*
- 9-10 *And More*

Attorneys Corner By Fred Altman

Association Members – The following exempts the gas stations and repair shops from mandatory workforce reductions and has now classified them as essential services.

EXECUTIVE ORDER following guidance.202.6

On March 18, 2020, Executive Order 202.6 (or as revised) directed that all businesses and not-for-profit entities in New York State, shall utilize, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize.

It is directed that, no later than March 20, 2020 at 8 p.m., each for-profit or not-for profit employer (excluding state and local governments and authorities) shall reduce the in-person workforce at each business/work location by 75% from pre-state of emergency declaration employment levels. ESSENTIAL BUSINESSES OR ENTITIES, including any for profit or non-profit, regardless of the nature of the service, the function they perform, or its corporate or entity structure, are not subject to the in-person restriction. (Essential Businesses must continue to comply with the guidance and directives for maintaining a clean and safe work environment issued by the Department of Health).

This guidance is issued by the New York State Department of Economic Development d/b/a Empire State Development and applies to each business location individually and is intended to assist businesses in determining whether they are an essential business and steps to request such designation. With respect to business or entities that operate or provide both essential and non-essential services, supplies or support, only those lines and/or business operations that are necessary to support the essential services, supplies, or support are exempt from the restrictions.

For purposes of Executive Order 202.6, "Essential Business," means:

1. Essential health care operations including
 - research and laboratory services
 - hospitals
 - walk-in-care health facilities
 - veterinary and animal health services
 - elder care
 - medical wholesale and distribution
 - home health care workers or aides
 - doctor and dentist offices
 - nursing homes, or residential health care facilities or congregate care facilities
 - medical supplies and equipment providers

2. Essential infrastructure including
 - utilities including power generation, fuel supply and transmission
 - public water and wastewater
 - telecommunications and data centers
 - airports/airlines
 - transportation infrastructure such as bus, rail, or for-hire vehicles, garages
3. Essential manufacturing including
 - food processing, including all foods and beverages
 - chemicals
 - medical equipment/instruments
 - pharmaceuticals
 - safety and sanitary products
 - telecommunications
 - microelectronics/semi-conductor
 - agriculture/farms
 - paper products
4. Essential retail including
 - grocery stores including all food and beverage stores
 - pharmacies
 - convenience stores
 - farmer's markets
 - gas stations
 - restaurants/bars (but only for take-out/delivery)
 - hardware and building material stores
5. Essential services including
 - trash and recycling collection, processing and disposal
 - mail and shipping services
 - laundromats/dry cleaning
 - building cleaning and maintenance
 - child care services
 - auto repair
 - warehouse/distribution and fulfillment
 - funeral homes, crematoriums and cemeteries
 - storage for essential businesses
 - animal shelters or animal care or management
6. News media
7. Financial Institutions including
 - banks
 - insurance
 - payroll
 - accounting
8. Providers of basic necessities to economically disadvantaged populations including
 - homeless shelters and congregate care facilities
 - food banks
 - human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; those operating community shelters and other critical human services agencies providing direct care or support
9. Construction including
 - skilled trades such as electricians, plumbers

- other related construction firms and professionals for essential infrastructure or for emergency repair and safety purposes

10. Defense

- defense and national security-related operations supporting the U.S. Government or a contractor to the US government

11. Essential services necessary to maintain the safety, sanitation and essential operations of residences or other essential businesses including

- law enforcement
- fire prevention and response
- building code enforcement
- security
- emergency management and response
- building cleaners or janitors
- general maintenance whether employed by the entity directly or a vendor
- automotive repair
- disinfection
- doormen

12. Vendors that provide essential services or products, including logistics and technology support, child care and services needed to ensure the continuing operation of government agencies and provide for the health, safety and welfare of the public including

- logistics
- technology support
- child care programs and services
- government owned or leased buildings
- **essential government services**

Vapor Industry Looks to FDA for Guidance in the New Regulatory Landscape

By Melissa Kress - 02/06/2020

A lot has changed in a year when it comes to the vapor industry. In early 2019, the industry was greeted with news that Scott Gottlieb was preparing to step down as commissioner of the Food and Drug Administration (FDA). His decision came after months of speculation on the how the FDA would crack down on electronic cigarettes and vapor products — and when.

Now, we know. Except it was different than what the industry expected, as Brittani Cushman, senior vice president of external affairs for Turning Point Brands, pointed out during a panel at Tobacco Plus Expo (TPE) 2020. The panel was entitled: "Waiting to Exhale: Mastering Today's Vapor and E-Cigarette Market."

Following the first reports of vaping-related illness in summer 2019, many states took emergency action to place restrictions on e-cigarette and vapor sales. In September, U.S. Health and Human Services Secretary Alex Azar announced the FDA would make removing unauthorized non-tobacco flavored e-cigarettes from the market a priority, as Convenience Store News previously reported.

However, by mid-November, the Trump Administration appeared to back off that priority. In the end, the FDA issued

a new policy in early January, banning the sale of unauthorized flavored cartridges and pod-based e-cigarettes and vapor products. Those products have to leave the market as of Feb. 6.

"The end of the year was a whirlwind," Cushman said. "Then, the new year came and the FDA guidance focused on pod-based flavors. It was different than what we expected."

"Clearly the guidance was disappointing," said fellow panelist Chris Howard, vice president, general counsel and chief compliance officer at E-Alternative Solutions (EAS). "On one hand, vape shops got a reprieve, but it was disappointing for companies like EAS who have pod-based products."

The new policy — which does not affect e-liquids or disposable products — will impact convenience stores and be a disservice for smokers as it limits alternative options, he added.

The guidance has made things more confusing for retailers. "What are they still allowed to sell?," asked Dimitris Agrafiotis, executive director of the Tennessee Smoke Free Association, CEO of Global eVapor Consulting Inc., and founder of SEVIA USA.

Cushman and Howard echoed the confusion, noting that their companies have received questions from several customers since the guidance was made public.

FDA APPROVAL

Many customers are still unclear about what happens next, according to Howard. They are looking for security — asking if EAS is going to file premarket tobacco applications (PMTAs) for its vapor products by the FDA's May 12, 2020 deadline. The answer is yes.

Under the current regulations, the FDA must approve PMTAs for any tobacco product that was not on the market before Feb. 15, 2007.

"It is going to come down to whether the FDA thinks the product is marketed to youth or if there is now an uptick in youth use of that product," Agrafiotis said. "In my view, no product is safe."

The industry needs guidance from the FDA to help navigate the new regulatory landscape, the panelists agreed.

"Obviously, the PMTA [process] is a big topic," Cushman said. "What are the standards? Who is going to file? It's vague and cost prohibitive to many companies out there."

The new federal policy also will not stop some states from taking more restrictive steps. As Howard pointed out, many states do not think the ban on flavored cartridges and pods goes far enough.

"If we see a softer side of the FDA, or the administration in general, we will see the states ramp up activity," he said.

In the end, an approved PMTA for a vapor product "will be the best thing to happen to this industry," Agrafiotis stated.

"The more legitimate the industry becomes, the more willing states will be to slow down," he said.

TPE 2020 took place Jan. 29-31 at the Las Vegas Convention Center.

Memorandum in Opposition

BILL NUMBER: A4344 – S2751

Assemblymen Weprin – Senator Comrie

The subject bill amends the New York State Vehicle and Traffic Law, in relation to the payment of restitution by registered and unregistered repair shops. It is mistakenly intended to ensure the payment of restitution by motor vehicle repair shops to consumers.

The bill requires motor vehicle repair shops found to have committed certain violations, to pay restitution to consumers when ordered to do so by the Department of Motor Vehicles upon a finding of financial loss to such consumers. The bill also calls for an increase in any civil penalty imposed for violations, if a repair shop fails to pay DMV-ordered restitution, and allows the waiver of a civil penalty and/or suspension upon payment of restitution.

The sponsor mistakenly believes consumers who have been harmed by negligence or fraud perpetrated by a motor vehicle repair shop should be compensated. Under the Repair Shop Registration Act, the administrative law judge is authorized to order violators to pay civil penalties, pay the affected consumer restitution, and/or suspend or revoke the shop's license to operate. The Act allows the judge to offer a more "attractive" option to violators often involving lowered civil penalties and reduced license suspension periods, if the violator agrees to pay the consumer the restitution ordered.

Unfortunately, there have been instances in which unscrupulous repair shops failed to take this option within thirty days leaving the judge with no further authority to order the shop to pay restitution to the consumer. Instead, the original civil penalty becomes due, and the original suspension period applies. In this instance, the consumer is no better off then when he or she first filed a complaint with the Department of Motor Vehicles. This bill would amend the Act to provide that when a violation is found to have occurred, consumer restitution when ordered by DMV, is required to be paid.

Apparently the sponsor has never heard of "small claims courts."

The sponsor's interpretation shows ignorance of the law and a lack of knowledge of the administrative law system. DMV has the power to force restitution with the threat of suspensions of the repair shop license. Most administration hearings are rigged in favor of the consumer and usually against the repair shop.

The sponsor should study the law or return to law school before introducing such nonsensical legislation.

For the above reasons the New York State Association of Service Stations and Repair Shops, Inc., its affiliates and members oppose this bill and ask it be defeated.

A.5819 / S.4495

MEMORANDUM IN SUPPORT

The New York State Association of Service Stations and Repairs Shops, Inc., its affiliates and members support the subject bill, which provides the

State of New York with exclusive jurisdiction over the requirement that motor fuel dealers provide an air compressor to inflate tires for customers.

Agriculture and Markets Law § 192(b)6 and General Business Law § 396-x(2) both require any dealer selling motor fuel at retail to provide a functioning air compressor to inflate tires of customers. This bill provides that the State of New York would have exclusive jurisdiction over the operation or equipment required pursuant to these sections. This bill would restrict municipalities from promulgating local laws regulating tire inflation equipment. The bill specifically provides, however, that a municipality is not restricted from enforcing the provisions of the State laws mandating that motor fuel dealers provide tire inflation equipment.

A motor fuel dealer is required to provide an on premises, motor-driven air compressor to inflate automobile tires for customers during business hours. Air inflation machines have different specifications including power supply, types of pressure gauges built into the machines, hose length and coin and credit applications. The air machines are authorized under Article 16 of the Agriculture and Markets Law, which provides for coordination and administration of weights and measures by the Department of Agriculture and Markets (the “Department”). Motor fuel dealers should be governed by a uniform regulatory scheme with respect to air compressors. Municipalities should not be able to enact local laws which mandate different specifications or operations for tire inflation machines. For example, a municipality required that the tire inflation equipment be made available on a 24-hour basis rather than when the motor fuel retailer was open for business.

The Department should have exclusive regulatory authority over tire inflation machines, as it does with motor fuel pumps, to ensure uniformity and a level playing field across the retail motor fuel industry. This legislation makes it clear that the State preempts the regulatory field. With over 1,500 municipalities in New York, which could place different requirements on the operation or equipment, motor fuel dealers would have conflicting requirements if local laws were implemented. This bill places responsibility for tire inflation machine equipment and operation with the State of New York.

For the above reasons, the New York State Association of Service Stations and Repairs Shops, Inc., its affiliates and members strongly support this legislation and urge its enactment.

A.9747 by Assemblyman Abbate

AN ACT to amend the alcoholic beverage control law, in relation to authorizing retail licenses to purchase beer with a business payment card; and to repeal certain provisions of such law relating thereto

The Issue: Why force New York’s convenience stores to needlessly incur extra charges of \$1,000 per year for the privilege of paying their beer supplier with a credit card?

Summary of Provisions: This bill amends Chapter 745 of the Laws of 2019. The original bill, A.6701a, authorized beer, cider, wine and liquor wholesalers to accept credit cards as a form of payment from retailers. Such payment was subject to a mandatory surcharge to cover wholesalers’ costs of processing the credit card payments at a rate to be determined annually by the State Liquor Authority. This bill drops wine and liquor wholesalers from those eligible to accept card payments from retailers, and arbitrarily imposes a 3 percent mandatory surcharge in place of the SLA setting the rate.

Why We’re Opposed: We value our relationship with beer wholesalers, and have never objected to permitting them to accept credit card payments. But we opposed the original bill because it would force retailers to also pay them a surcharge that no other supplier is allowed by law to charge us, and that we are prohibited by law from charging our customers. Arbitrarily fixing this surcharge at 3 percent makes it even more unjust, especially when the only party to this transaction who has been excluded from the conversation about the surcharge is the one who has to pay it – the retailer.

Measuring the Impact: Some credit card swipe fees can be as high as 3 percent, but can also be as low as 1.5 percent, depending on the card and other factors. The state Tax Department charges taxpayers who pay their taxes online a 2.25% surcharge to recoup the credit card swipe fee. If that reimbursement is enough for the State of New York, why isn’t it enough for our beer wholesale partners? Based on average beer sales volume in the National Association of Convenience Stores’ 2019 State of the Industry Report, the difference between charging the typical store 3.00% versus 2.25% would amount to an extra cost of \$1,055 per store per year. Collectively, this would impose a \$9-million-a-year drain on New York’s 8,500 convenience stores.

Memorandum in Opposition S.6809/A.8808

The New York State Association of Service Stations & Repair Shops Association represents service stations and repair shops throughout New York. We are writing to inform you of our opposition to S.6809/A.8808 which would prohibit the sale and distribution of flavored tobacco products and accessories; including menthol cigarettes, wintergreen smokeless tobacco, cherry pipe tobacco, vanilla cigars, and all other commonly enjoyed adult flavored tobacco products.

There are 17,000 retailers in New York licensed to sell these products to adults over 21 years old. This legislation

would have a dramatic negative effect on these retailers who have an extremely high compliance rate on health department inspections using undercover minors to buy tobacco products. The loss of revenue from banning these highly regulated adult products from our stations would have a devastating effect on our ability to conduct business and this legislation will not achieve the public policy outcomes it purports to accomplish.

Prohibition does not work. There is already a robust black market for tobacco products in New York – a 2017 Tax Foundation study estimated that 55.4% of cigarettes consumed in the state are derived from smuggled sources. Enacting a prohibition on commonly used adult products will only force more consumers to the black market which increases criminal activity. Shifting sales from a licensed highly regulated business to criminal networks is a bad outcome for communities, retailers, and consumers alike.

There will also be massive disruption to the taxes collected on these products by the State if this legislation were enacted. Menthol cigarettes alone, which would be prohibited under this bill, account for 38% of all cigarettes sold in New York State. Prohibiting the sales of just this one product would result in a reduction in tax collections by the state totaling in the hundreds of millions of dollars.

Lastly, New York and the Federal government have recently raised the legal age of purchase (LAOP) on tobacco products to 21. This effective regulatory approach will keep these products out of the hand of children without hurting retailers and adult consumers. The usage rate of the tobacco products that would be banned by this legislation has been falling for years, and LAOP 21 will only help cement this trend.

For these reasons we urge you to oppose S.6809/A.8808. Thank you for your consideration.

FDA Is Enforcing E-Cigarette Flavor Ban

The U.S. Food and Drug Administration (FDA) has begun enforcement of the ban on flavored cartridge and pod-based e-cigarettes, which went into effect yesterday. These products must be removed from shelves and cannot be sold, with the exception of menthol and tobacco flavors.

"The agency intends to prioritize enforcement against certain illegally marketed flavored e-cigarette products, focusing on products that are particularly popular with youth and are easily accessible or marketed to them—such as flavored, cartridge-based e-cigarette products (other than tobacco and menthol)," stated FDA.

NACS has received reports from some retailers that undercover persons began conducting stings yesterday, telling store associates that while they can't purchase the product, another employee of the store left product in the back for them. If the product is sold or given to anyone, other than the wholesaler or manufacturer to which the product is being returned, it is a violation of the law.

NACS strongly urges all retailers to take precautions to ensure that products are removed from stores as soon as possible to prevent any inadvertent sales.

If there is unsold stock, NACS suggests retailers follow their own operational best practices for storing, handling and disposing of unsold stock that has been adulterated/recalled/banned or otherwise not permitted for sale. In general, these products should not be in view of customers and should be packaged, sealed and secured within an area of the store or warehouse that the public cannot access until the products can be returned to the manufacturer or wholesaler.

Flavored e-liquids are still permitted in open systems and single-use, disposable e-cigarettes.

NACS advances the role of convenience stores as positive economic, social and philanthropic contributors to the communities they serve. The U.S. convenience store industry, with more than 153,000 stores selling fuel, food and merchandise, serves more than 165 million customers daily—half of the U.S. population—and has sales that are 11% of total U.S. retail and foodservice\

Understand The Vulnerabilities That Make The Convenience Retailing Industry A Prime Target For Data Attacks.

By Jerry Soverinsky

Convenience stores are in the news, and for unenviable reasons. A recent spate of data breaches has led to the theft of credit and debit card information from millions of customers, while infiltrating critical operating systems for convenience retailers.

It's no understatement that convenience stores are under attack. To help you protect your company and customers, NACS begins a three-part Daily series to address attention, prevention and remediation.

"Attacks Targeting Point-of-Sale at Fuel Dispenser Merchants," warned a November 2019 Visa Security Alert, notifying merchants of increased efforts by cybercriminals to target fuel dispenser merchants.

"It is important to note that [the attacks] differ significantly from skimming at fuel pumps, as the targeting of POS systems requires the threat actors to access the merchant's internal network," Visa continued.

While NACS has addressed skimming prevention best practices in NACS Daily and NACS Magazine, (see our Skimming and Payments Security topic page at convenience.org for news and resources), these POS attacks are an evolving threat that requires an all-hands-on-deck approach from fuel marketers to minimize vulnerabilities.

Indeed, earlier this month, York, Pa.-based Rutter's announced that it had uncovered a data breach of customer information that may have begun as far back as August 2018. "... [A]n unauthorized actor may have accessed payment card data from cards used on point-of-sale (POS) devices at some fuel pumps and inside some of our convenience stores through malware installed on the payment processing systems."

This came just two months after Wawa, Pa.-based Wawa announced that it discovered a data breach—up to nine months after "malware began running on in-store

payment processing systems at potentially all Wawa locations,” the company said in a press release. The result? The compromise of more than 30 million payment cards, according to security news site Krebs on Security.

Why are petroleum retailers being targeted?

According to Mark Carl, CEO of ControlScan, cybercriminals are intensifying their efforts on the petroleum industry because they have discovered vulnerabilities. “As these attacks continue to deliver huge successes for the attackers, they will continue to target both upstream and downstream petroleum resources to look for additional value,” he said.

The effort is not new, according to Carl. “The threats began in earnest with the breach of a vendor back in early 2016, which likely produced a significant amount of technical knowledge that the attackers could use to perpetrate attacks. Given the success that they’ve seen, they’ve also gained significant knowledge of petroleum systems along the way.”

Jerry Soverinsky is a Chicago-based freelance writer and NACS Magazine contributing writer.

Massachusetts Committee Hears Testimony for House Bill 4122

Written by Chasidy Rae Sisk

On January 13, the Massachusetts Joint Committee on Consumer Protection and Professional Licensure heard House Bill 4122, an update to the state’s current Right to Repair law, designed to better address the needs related to increasing prevalence of telematics in vehicle technology and repairs.

AASP/MA has expressed support for HB4122 as part of its endeavors to improve the collision repair industry in Massachusetts, and Executive Director Lucky Papageorg attended the January hearing to urge legislators to support the measure which, he argued, would grant information to independent shops that could improve cycle times.

House Bill 4122 proposes additional verbiage be inserted into the current Right to Repair law from 2013: “Commencing in model year 2022 and thereafter a manufacturer of motor vehicles sold in the Commonwealth, including heavy duty vehicles having a gross vehicle weight rating of more than 14,000 pounds, that utilizes a telematics system shall be required to equip such vehicles with an interoperable, standardized and open access platform across all of the manufacturer’s makes and models. Such platform shall be capable of securely communicating all mechanical data emanating directly from the motor vehicle via direct data connection to the platform. Such platform shall be directly accessible by the owner of the vehicle through a mobile-based application and, upon the authorization of the vehicle owner, all mechanical data shall be directly accessible by an independent repair facility or a class 1 dealer licensed pursuant to section 58 of chapter 140 limited to the time to complete the repair or for a period of time agreed to by the vehicle owner for the purposes of maintaining, diagnosing

and repairing the motor vehicle. Access shall include the ability to send commands to in-vehicle components if needed for purposes of maintenance, diagnostics and repair.”

The bill also defines telematics, “any system in a motor vehicle that collects information generated by the operation of the vehicle and transmits such information... utilizing wireless communications to a remote receiving point where it is stored,” as well as mechanical data: “any vehicle-specific data, including telematics system data, generated, store in or transmitted by a motor vehicle used for or otherwise related to the diagnosis, repair or maintenance of the vehicle.”

While addressing the committee, Papageorg explained the vital need for current repair information since shops accept liability for ensuring vehicles perform as intended. He specifically pointed out the need for access to current, up-to-date information to avoid issues such as an accidental electrocution taking place, specifically when dealing with electric vehicles.

Referring to the “tremendous pressure” insurance companies place on collision repair facilities to improve cycle time, Papageorg suggested, “If we had that information readily available to us, we can cut down on that cycle time. Cycle time is paramount to collision repairers. It is critical for them to have timely information readily available at their shops as opposed to them having to send vehicles out and add to the overall expense of the repair and cause delays.”

Papageorg also stressed that shops have the correct tools but still need current information for the vehicles which “changes daily.”

OEM trade groups have taken an opposing stance on House Bill 4122, arguing that independent shops already have access to all necessary information for repairing vehicles. Wayne Weikel, Senior Director of State Government Affairs for the Alliance for Automotive Innovation, insisted, “There is a level playing field when it comes to access of repair information, and a level playing field guarantees consumer choice.”

Robert O’Koniewski, Executive Director of the Massachusetts State Automobile Dealers Association, agreed, “The current law [from 2013] works fine.”

The committee also examined House Bill 4302, the result of a ballot initiative that’s nearly identical to House Bill 4122, but interested parties are hopeful that the Legislature will address this issue, rather than allowing such a complicated question to go to the ballot.

House Bill 4122 was filed by Representative Paul McMurtry (D – Dedham) who told the committee, “Make no doubt about it. This is a consumer protection bill that closes a loophole on a matter that wasn’t dealt with in 2012 and quite frankly probably wasn’t well understood how reliant our automobiles would become on telematics.”

Committee Co-Chair Representative Tackey Chan (D – Quincy) pointed out that, rather than being a loophole, the exclusion of telematics from the 2012 Right to Repair legislation was a concession made by collision repairers during negotiations.

The Massachusetts Right to Repair Coalition, of which AASP/MA is a member, supports the bill and has also collected over 100,000 signatures to ensure an initiative petition to enact the revised law reaches the 2020 ballot.

Thomas Hickey, the Executive Director of the Right to Repair Coalition, stressed the need for revisions to the Right to Repair law to ensure consumer safety when vehicles are repaired at independent auto body shops. "Cars are becoming computers on wheels. Ninety percent of vehicles have wireless technology that [neither] consumers nor independent repair facilities have access to," he said. "This has nothing to do with personal information. This is about mechanical information necessary to diagnose, repair and maintain a car. We're hoping the Legislature take up this bill, but if they don't, we're fully prepared to move to the ballot for November 2020."

Majors Unlikely to Provide Fraud Coverage Past EMV Deadline

Don't expect the majors to indemnify their branded stations past the Oct. 1 deadline for accepting chip cards at the pump, according to marketers attending brand meetings at the Western Petroleum Marketers Association convention here.

Beyond Oct. 1, retailers failing to comply with the Europay Mastercard Visa technology standards for chip cards in the forecourt will be required to assume liability for counterfeit card fraud chargebacks. There will be no grace periods when the major brands pick up the cost of chargebacks as they did well past the Oct. 1, 2015 deadline for accepting chip cards inside the store.

Marketers said they've been told they had plenty of time to order the equipment and to wait on the certified software. The original deadline for chip card acceptance in the forecourt was Oct. 1, 2017, but the card networks extended it by three years, recognizing that equipment vendors and station operators would not be ready.

"After the Oct. 1, 2020, liability shift Shell retail sites that are not EMV compliant will be responsible for outdoor fraud transactions," Shell told OPIS in a statement.

Don't let the later dates on pump upgrade programs throw you off. Shell and other brands at the show offer incentive programs that are designed to promote chip card acceptance in the forecourt. Some of these deals apply to dispensers ordered by Nov. 15 and shipped by Dec. 31, 2020 -- even though the deadline to take chip cards at the gas islands is Oct. 1.

"Shell wants to ensure wholesalers have the tools needed to succeed in this transition, therefore we are offering wholesalers several EMV equipment purchase programs with Gilbarco, Wayne Fueling Systems, Verifone and Cybera," the major said.

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7-Eleven Aims to Exceed \$1B In Private Label Sales This Year

7-Eleven Inc. is setting the ambitious goal of \$1 billion in private brand sales in 2020. Contributing to that goal is its newest private brand, 24/7 Life, which includes a line of electronic accessories benchmarked for quality against top national brands, according to Convenience Store News sister publication Store Brands.

24/7 Life will also include all of 7-Eleven's nonfood private label products, marking a clear delineation between those products and its packaged foods, which will remain under the 7-Select brand.

Together, the private brands are expected to make a significant contribution to overall sales growth, according to Jack Stout, senior vice president of merchandising and demand chain.

"This year, 7-Eleven expects to exceed \$1 billion in private brand sales," he said.

The retailer launched 7-Select with 87 items, primarily food and beverage products, in 2008. It later added health and beauty products as well as other items. Today, 7-Eleven offers approximately 1,500 private brand items, the quantity of which prompted it to develop two primary private brands.

"As our assortment grew to nearly 1,500 products, we recognized an opportunity to separate 7-Eleven private brand products into two categories and bring nonfood items under one label," Stout said. "7-Select continues to serve as our innovative and trusted line of food and beverage products, while 24/7 Life is an expansive assortment of nonfood products that fit the needs of our customers varying lifestyles.

The name 24/7 Life reflects 7-Eleven's heritage as a round-the-clock retailer. The line includes items that are there 24/7 when consumers need them, even at the least expected times, the company said.

We provide customers with what they want, when they want it — 24/7, for life's needs, whether that's wireless earbuds on the way to the airport, medicine for a sick child, sunscreen at the beach or detergent for laundry," said Tim Cogil, formerly 7-Eleven's senior director for private brands, in a release when the items launched.

Certain 24/7 items are available via the 7NOW delivery mobile app. Currently, the line comprises more than 200 products, including:

- Batteries;
- Over-the-counter medications;
- Cleaning products;
- Paper goods and office supplies;
- Wine accessories;
- Beauty products and health-and-wellness offerings;
- Travel-size toiletries and more.

Electronic items are sold in four categories — audio, cable, charge and accessories — each of which has

specific, color-coded packaging. Items include wireless charging pads, speakers, wireless speakers, earbuds, power banks, chargers and cables, phone mounts, adapters, tech organizer bags and screen-cleaning kits. 7-Eleven particularly expects to market the electronics items in stores near hotels, airports and stadiums.

Some older nonfood 7-Select products can still be found on shelves as they are phased out.

"Our dedicated 7-Eleven private brands team is constantly in the marketplace and attending tradeshows to find trustworthy vendor partners who share the same quality standards as we do," Stout said. "Not only do we seek out partners that create products we know our customers will love, we also put time and resources into building lasting relationships with them."

To ensure compatibility with leading electronic brands, all lightning cables, chargers and adapters were certified by a third-party firm. 7-Eleven also contracted with global trend forecasters about consumer trends and emerging products to stay out in front of rapidly changing technology trends, according to Cogil.

Moving forward, 7-Eleven plans to keep innovating in both food and nonfood private brand items.

"With 7-Select as our primary packaged food brand, we continue to build equity in that category as we introduce innovative offerings," he said. "Similarly, the assortment of products under the 24/7 Life brand will constantly be evolved and diversified to appeal to the nonfoods needs of customers."

7-Eleven Testing Cashierless Store Concept

7-Eleven Inc., winner of the 2019 Convenience Store News Technology Leader of the Year award, is living up to its reputation with the debut of a cashierless store at its corporate headquarters in Irving.

During the pilot, the 700-square-foot non-traditional store is available to 7-Eleven employees.

The shopping experience is simple: Employees download an app, sign up, check in at the store, enter the store, shop and exit. A detailed receipt appears in the app automatically after he or she exits.

A proprietary mixture of algorithms and predictive technology enables the store system to separate individual customers and their purchases from others in the store, according to the c-store retailer.

"Ultimately, our goal is to exceed consumers' expectations for faster, easier transactions and a seamless shopping experience," said Mani Suri, 7-Eleven senior vice president and chief information officer. "Introducing new store technology to 7-Eleven employees first has proven to be a very productive way to test and learn before launching to a wider audience. They are honest and candid with their feedback, which enables us to learn and quickly make adjustments to improve the experience."

"This in-house, custom built technology by 7-Eleven engineers is designed for our current and future customers. We continue to innovate, and coupling fresh, innovative,

healthy food options with a frictionless shopping experience could be a game-changer," he added.

A cashierless concept marks another innovative technological advancement from 7-Eleven. Last year, it introduced Mobile Checkout, allowing customers to skip the line and pay using their smartphone. The c-store operator also added 7NOW Pins to its mobile app. The proprietary technology allows customers to order the delivery service to public locations that may not have traditional addresses, like parks, beaches and more.

"Retail technology is evolving at a rapid pace and customer expectations are driving the evolution," said 7-Eleven President and CEO Joe DePinto. "Our team is dedicated to continuing 7-Eleven's legacy of innovation with industry-leading digital solutions. Most recently that has included our award winning 7Rewards loyalty platform, 7NOW on-demand delivery, mobile checkout, and now our new cashierless store."

7-Eleven operates, franchises and/or licenses more than 70,000 stores in 17 countries, including 11,800 in North America.

Buying/Recycling Lead-Acid Batteries.

- 1) It is illegal to dispose of lead-acid (vehicle) batteries in the trash.
- 2) You will be charged a \$5 "return incentive payment" if a used batter is not returned at the time of purchase. The "return incentive payment" is refundable within 30 days from the date of purchase, upon return of a used battery.
- 3) Stores selling lead-acid batteries must accept, free of charge, up to two used batteries per month from any individual and must post a sign stating they accept batteries for recycling.

Changing/Recycling your used oil.

- 1) drain oil pans, containers and filters completely
- 2) Store used oil in a clean, rigid, screw-capped plastic container
- 3) Don't mix used oil with other materials and never dump oil into the environment.
- 4) Take used oil (up to 5 gallons per day) to a service station or retail store, during normal business hours, that sells oil (they are required by law to accept it at no charge, unless their holding tanks are temporarily full) or check with your local recycling center.

Q & A on New York State \$2.50 Tire Fee

Question - what happens to the \$2.50 fee on all new tires sold in New York State and what is it used for?

Answer - Form MT-170 (it can be retrieved on-line) must be used to report quarterly sales. The number of tires sold x \$2.25 = the amount you owe and is sent to the Department of Tax & Finance, PO Box 4100, Binghamton, NY 13902-

4100. The retailer is allowed to keep \$.025 on each tire. The funds collected by the NYS Department of Tax and Finance are used to clean-up used tire sites.

New York State Department of Motor Vehicles OBD II Emission Inspection Waiver

1. Vehicles presented to an inspection station for an inspection or re-inspection for a failure of the emission portion of the inspection must be offered a possible waiver by the official emission station if the following conditions are met.
2. The Safety Inspection has passed.
3. All emission control devices have passed inspection.
4. The cost of replacement of missing emission control devices, safety items, or warranty repairs do not count toward an emission waiver cost limit.
5. Repair and adjustment have been properly made and documented and the cost of the repair is at least \$450 based on the cost of such repair. If the above conditions are met and the repair is above \$450 the inspection analyzer will allow the inspector to issue an inspection certificate for the vehicle.
6. When issuing a safety emission sticker, the inspector must check the repair waiver issues box on the reverse side of the sticker and punch the appropriate expired month.
7. The analyzer will print a waiver certificate form that must be filled out by the station and signed by both the customer and the certified inspector.
8. The station must attach the following documents to the waiver certificate form:
 - A. Copies of invoices and receipts for all of diagnostic and repair work performed that are used to qualify the repair was over \$450.
 - B. Copies of all vehicle and inspection receipts for the initial emission inspection failure and all supplement emission inspection failures.
 - C. These documents must be kept by the station for two years for possible review by a representative of the NYS Department of Motor Vehicles.
9. DMV reserves the right to inspect the vehicle before or after the waiver is issued to verify that proper repairs have been made and documented.
10. These must include documentation of the diagnostic procedure.

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

Selling Your Inspection License

If you are thinking of retiring or selling your business and have a New York State DMV Inspection license, your license may be valuable depending on the county where your shop is located. If you have questions on the sale and/or transfer of an inspection license call the association office at 518-452-4367.

Attention Inspection Stations

The Association has received a flurry of requests for legal representation for violations of the DMV commissioner regulations known as "clean scanning." that is when a vehicle other than the one to be inspected is substitute for the OBD-II part of the test. We have no defense for these violations. DMV has the ability to trace the OBD-II inspection to the vehicle used for the inspection.

If you cannot pass a vehicle for any reason, get help. That help could come from DMV. This violation almost always results in revocation.

All Petroleum Bulk Storage Facilities

YOU WERE REQUIRED TO DESIGNATE A CLASS A AND/OR B AUTHORIZED OPERATOR TO NYS DEC NO LATER THAN OCTOBER 11, 2016

THIS WAS MORE THAN TWO YEARS AGO

If you have not done this you are now subject to a \$500 penalty from NYS DEC. This may now be unavoidable

If you have not reported this information to NYS DEC as of yet do so immediately. Communicate this information to DEC at operatortraining@dec.ny.gov

Or call the association office

SERVICE STATIONS REPAIR SHOPS USED CAR DEALER ATTENTION

Do you have problems

1. Getting into business - going out of business?
2. With government, Federal, State and Local?
3. Are you trying to settle a violation?
4. Need an attorney?
5. Have a small claims case?
6. Need a license, renew a license?
7. Learn and understand the laws that regulate your business?

We can help with almost any problem, legal environmental or regulatory.

Just call us 518-452-4367