GASDA EST. 1931 – LIPDRA DISS. 1999

GASOLINE & AUTOMOTIVE SERVICE DEALERS ASSOCIATION
372 DOUGHTY BLVD., SUITE 2C, INWOOD NY 11096
(516) 371-6201 – fax : (516) 371-1579 – gasda1@cs.com – www.nysassrs.com

August 2022

Inside This Issue

1	*Push for Gas Station Bans Grows in US, Canada*
1-2	*High Gas Prices Weakening Customer Traffic at C-stores*
2	*Bulletin: Morning Session Seeing 20ct/gal Drops on Recession Fears*
2-3	*Gas Prices Steadily Decline as Demand Remains Low*
2-3	*Fuel Demand Ticks Up as Prices Continue to Dip*
3-4	*BP Launches Fuel Card With a Modern Twist*
4	*GM, Pilot Co. Partner on EV Charging Network in US*
4	*U.S. Government Warns Motor Carriers to Upgrade Electronic Logging Devices*
4-5	*US Trucker Shortage to Persist in 2022 After Record-High in 2021*
5	*FDA Suspends Ban on JUUL Products*
5-6	*FDA Begins Slow Enforcement of Synthetic Nicotine Products*
6	*Tobacco Companies Reach Deal With Justice Department Over Retail Messaging*
6-7	*JUUL Products Can Stay on the Market as Challenge Plays Out*
7-13	*And More*

Push for Gas Station Bans Grows in US, Canada

A push to ban new gas stations has spread from Petaluma, California, to four other California cities, and similar policies are being considered in New York and Canada, according to Stand.earth, the environmental group leading the SAFE Cities movement.

SAFE is short for Stand Against Fossil Fuel Expansion. The project's goal is to phase out fossil fuels.

Stand.earth said during a recent conference that in addition to Petaluma - which passed the first ban in 2021 - Calistoga, American Canyon, Rohnert Park and Sebastopol, in California, have approved similar policies. New gas station bans are also in development in Los Angeles, Santa Rosa, Windsor and Cotati, California, as well as Bethlehem, New York, and the Comox Valley Regional District in British Columbia. All the activity has taken place within just four months, the group said.

Petaluma is taking its policy a step further, studying how to phase out existing gas stations, said Petaluma Councilwoman D'Lynda Fischer during the conference. Fischer led the drive to prohibit new gas stations.

The California Fuels and Convenience Alliance, which represents gas station operators, said it would continue to fight the bans. "Californians will be driving internal combustion engine vehicles for a long time, even after the gas-powered car ban goes into effect in 2035," Sam Bayless, CFCA's director of policy, told OPIS.

"Every day Californians are driving traditional vehicles. Electric vehicle sales have increased but still have lower market penetration than the rhetoric might lead you to believe," Bayless said. "It is shortsighted to ban essential services before Californians, the power grid, and vehicle technology are ready. Especially with the housing bills passed last year, which will force the smaller, often affluent, cities like those that have passed bans to allow higher density housing projects. More people who do not drive electric vehicles will be moving into these areas and need more places to fill up their vehicles."

--Reporting by Donna Harris

Copyright, Oil Price Information Service

High Gas Prices Weakening Customer Traffic at C-stores

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

Fifty-nine percent of convenience retailers say customer traffic has decreased in stores over the past three months, according to the Q3 2022 NACS Pulse Survey. C-stores sell an estimated 80 percent of fuel purchased in the United

States; however, operators rely on in-store sales, not fuel sales, to drive profits.

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

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

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

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

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

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

Bulletin: Morning Session Seeing 20ct/gal Drops on Recession Fears

Petroleum traders are actively liquidating key contracts Tuesday in what might be called a "recession session," and suppliers are scrambling to lower rack prices in one of the biggest down mornings of 2022.

Wide spreads have already impacted crude with the low/high variation in Brent more than $8/bbl, with WTI already varying by $9/bbl. Presstime numbers were $103/bbl for WTI (down $5.43/bbl), and Brent was off $6.53/bbl to $106.97/bbl.

But the biggest moves have occurred for gasoline. August RBOB was down 19.27cts/gal at $3.4951/gal, and August diesel fell 11.41cs/gal to $3.8248/gal.

The declines put national average rack-to-retail margins above 60cts/gal withsome Western states over $1/gal for marketers who purchase at the rack.

Spot numbers all point to aggressive decreases in rack prices shortly. New York, Gulf Coast, California and the Pacific Northwest were seeing various blends of gasoline lose about 19.5cts/gal, but steep losses of 26-27cts/gal have been witnessed in the Midwest. A Midwestern load of fuel might cost about $2,000 under weekend prices given the depth of the slide.

Diesel values have been consistently down 11-11.5cts/gal in all markets tracked by OPIS.

The drivers included a fear of global recession, but some generational records in the U.S. dollar were also playing a key role. Oil prices see downward pressure as the greenback moves higher.

--Reporting by Tom Kloza

Copyright, Oil Price Information Service

Gas Prices Steadily Decline as Demand Remains Low

As demand continues to fall, U.S. drivers are experiencing further relief at the pump.

The national average for a gallon of regular gasoline declined to $4.52 as of July 18, prompted by lower domestic demand for fuel and a significantly lower global price for crude oil.

The cost of a barrel of oil has dropped to the mid-$90s, plummeting from approximately $110 two weeks ago, reported AAA.

"Global economic headwinds are pushing oil prices lower and less expensive oil leads to lower pump prices," said Andrew Gross, AAA spokesperson. "And here at home, people are fueling up less, despite this being the height of the traditional summer driving season. These two key factors are behind the recent drop in pump prices."

The U.S. Energy Information Administration (EIA) reported that gas demand dropped from 9.51 million barrels per day to 8.06 million barrels per day last week. At the same time, total domestic stocks increased by 5.8 million barrels per day.

The combination of a decrease in demand and declining oil prices have helped to push fuel prices down. Drivers are likely to see continued relief at the gas pump while these supply and demand dynamics hold.

The current national average of $4.52 per gallon is 46 cents less than a month ago and $1.36 more than a year ago.

he top 10 largest weekly price decreases occurred in Washington, D.C. (21 cents per gallon), Ohio (20 cents), Texas (19 cents), Arizona (19 cents), California (19 cents), Wisconsin (19 cents), Oklahoma (19 cents), Kentucky (19 cents), Michigan (18 cents) and Tennessee (18 cents).

The top 10 least expensive markets in the country are South Carolina ($4.02 per gallon), Texas ($4.03), Georgia ($4.03), Mississippi ($4.04), Louisiana ($4.07), Alabama ($4.09), Tennessee ($4.10), Arkansas ($4.11), North Carolina ($4.17) and Kentucky ($4.18).

This week marks several weeks in a row of declining gas prices after the national average hit an all-time high of $5.01 per gallon in June. While experts previously cautioned that the initial dip might prove to be temporary as the summer driving season got into full swing, even a period of

robust holiday travel over the Independence Day weekend failed to push prices at the pump back up.

The primary reason was simple: cheaper crude oil, the main ingredient in gasoline. "Less expensive oil usually means less expensive gas," Gross said.

At the close of the formal trading session on July 15, West Texas Intermediate increased by $1.81 to $97.57. Crude oil prices increased slightly toward the end of the week based on the market's expectation that crude supply will remain tight throughout the summer.

Tightening of crude oil supply is being driven by the potential for slower economic growth based on rising interest rates and inflation. Declining crude demand, due to reduced economic activity, could lead prices to follow suit, according to AAA.

Additionally, the EIA noted that total domestic crude oil stocks increased by 3.3 million barrels to 427.1 million barrels last week. This is nearly 11 million barrels lower than the storage level last year.

Fuel Demand Ticks Up as Prices Continue to Dip

The national average for a gallon of gas took a dip despite a rise in demand, which was likely the result of robust July 4th holiday travel.

Pump prices fell another 12 cents since last week to $4.67. The new national average is 32 cents less than one month ago and $1.53 more than a year ago, AAA reported.

"Usually, more people buying gas would lead to higher pump prices," said Andrew Gross, AAA spokesperson. "But the price for oil, the main ingredient in gasoline, has fallen and is hovering around $100 a barrel. Less expensive oil usually means less expensive gas."

According to new data from the Energy Information Administration (EIA), gas demand increased from 8.92 million barrels per day to 9.41 million barrels per day ahead of the Fourth of July holiday, while total domestic gas stocks decreased by 2.5 million barrels. Typically, these supply/demand trends would put upward pressure on pump prices; however, falling oil prices have contributed to lower pump prices.

The nation's top 10 largest weekly decreases occurred in Texas (18 cents per gallon), Ohio (17 cents), Illinois (17 cents), California (16 cents), Wisconsin (15 cents), Indiana (15 cents), Kentucky (15 cents), Alabama (15 cents), Virginia (14 cents), and Florida (14 cents).

The nation's top 10 least expensive markets are South Carolina ($4.18), Georgia ($4.18), Mississippi ($4.18), Louisiana ($4.22), Texas ($4.22), Alabama ($4.25), Arkansas ($4.26), Tennessee ($4.28), North Carolina ($4.31), and Kentucky ($4.37).

Texas, Illinois, Indiana, Ohio, Florida, and Virginia were also among the top 10 states where the largest weekly decreases took place last week, while this week's top 10 least expensive markets remains relatively unchanged compared to one week ago.

At the close of the formal trading session on July 8, West Texas Intermediate increased by $2.06 to $104.79. Although the price of crude oil rose at the end of the week due to increased market optimism as markets rebounded, the price was still down nearly $4 per barrel from the previous week.

For this week, crude prices could continue to face strong headwinds if the market remains concerned that a potential recession will reduce demand for crude. If demand declines, crude prices will likely follow suit, according to AAA.

Additionally, EIA reported that total domestic crude stocks increased by 8.2 million barrels to 423.8 million barrels, which is nearly 22 million barrels lower than the storage level one year ago.

It was just one month ago when the national gas price average hit a new all-time high of $5.01 — the highest recorded national average price of gas since AAA began collecting pricing data in 2000, according to the association.

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

BP Launches Fuel Card With a Modern Twist

BP is teaming with the First National Bank of Omaha (FNBA) and Visa to launch the new BPme Rewards Signature Visa credit card, a modern take on the traditional fuel card.

It seeks to improve customer benefits by combining the power of BPme Rewards with traditional credit card advantages, such as cash back rewards and flexible redemption options.

The BPme Rewards Signature Visa is an enhanced credit card offer built upon the existing BPme Rewards loyalty program. The BPme app makes it easy for users to pay, view receipts, track rewards and more through their mobile phone.

"We put our customers at the heart of everything we do, this new BPme Rewards Visa gives the best rewards to our most loyal customers," said Lisa Blalock, vice president of marketing for BP. "We have enhanced the rewards, provided more choice in the way our customers can redeem and made it simple to save money on all fuel and convenience store purchases at BP and Amoco."

The BPme Rewards Visa can be used anywhere Visa is accepted. This provides cardholders with greater spending power and opportunities to earn rewards, the company said.

Benefits available at BP and Amoco c-stores include:

- An automatic 15 cents off every gallon of BP and Amoco fuel purchases;
- Five percent cash back on non-fuel purchases at BP and Amoco stores, including c-store and car wash purchases; and,
- A special introductory offer of 30 cents off every gallon on BP and Amoco fuel purchases in the first 60 days after account opening.

Additionally, rewards available on other purchases include:

- Three percent cash back on grocery purchases;
- Three percent cash back on dining purchases, including restaurants, take-out and food delivery services; and,
- One percent cash back on all other qualifying purchases.
- Cardholders can redeem rewards their way, choosing from options such as cash back, account statement credit, gift cards from major retailers and travel experiences.

There is no annual fee for the BPme Rewards Signature Visa, which has unlimited rewards potential, according to BP.

"We are honored to have the opportunity to work with such a well-known and highly regarded global brand as BP, and are confident their customers will find this new card to be of exceptional value," said Jerry J. O'Flanagan, FNBO executive vice president, partner customer segment.

More information on the new BPme Rewards Signature Visa is available at BPmeVisa.com/Launch.

The launch of the BPme Rewards Visa credit card comes several months after BP expanded Price Match as part of the BPme Rewards program.

Price Match initially allowed members to look for the best gas price by automatically comparing BP and Amoco prices to select competitor stations within a half-mile radius. If there were no competitor stations within that radius, the search expanded up to two miles.

In March 2022, the company expanded Price Match to compare against all competitors, instead of select competitors, in a two-mile radius instead of a half mile.

If there is a lower price for the same fuel grade, a cents-per-gallon savings will automatically be applied to the member's next BPme Rewards purchase.

GM, Pilot Co. Partner on EV Charging Network in US

General Motors and Pilot Co. are collaborating on a national DC (direct current) fast charging network, installing electric vehicle chargers at up to 500 Pilot and Flying J travel centers, according to a news release Thursday. The move is part of an initiative striving to install charging stalls every 50
miles across the U.S.

This network of 2,000 charging stalls will be co-branded Pilot Flying J and Ultium Charge 360 and will be installed, operated, and maintained by EVgone tend. Pilot and Flying J travel centers plan to feature "numerous" fast-charging stalls, including chargers capable of offering up to 350 kW.

Many of these sites will feature canopies to help protect customers from the elements while charging, as well as pull-through capability allowing for electric pickup trucks and SUVs pulling trailers, the announcement said.

GM customers will receive special benefits such as exclusive reservations, discounts on charging, a streamlined charging process, and integration into the company's vehicle brand apps providing real-time charger availability and help with route planning.

GM said it is making a $750 million investment in EV charging infrastructure, including: enabling access to more than 100,000 charge points in the U.S. and Canada through its Ultium Charge 360 ecosystem; working with EVgo to build out
a network of 3,250 charging stalls in major metro areas by 2025; and adding up
to 40,000 chargers in local dealer communities through its GM Dealer Community Charging Program, which focuses on underserved rural and urban areas.

Pilot's Pilot and Flying J travel center network has more than 750 sites in 44 states and five Canadian provinces.

--Reporting by Donna Harris,

Copyright, Oil Price Information Service

U.S. Government Warns Motor Carriers to Upgrade Electronic Logging Devices

As mobile carriers continue to shut down their 3G networks this year, motor carriers with electronic logging devices (ELDs) that rely on a 3G network to record hours of service data need to upgrade or replace their ELD, the U.S. Federal Motor Carrier Safety Administration (FMCSA) said in a bulletin on Thursday.

Sprint LTE is scheduled to shut down its network on Thursday, T-Mobile on July 1, and Verizon on Dec. 31. Sprint LTE shuts down its network June 30. Other major mobile carriers shut down their 3G networks earlier this year - AT&T, on Feb. 22, and Sprint 3G, on March 31.

The FMCSA said ELDs requiring 3G cellular connectivity to operate will no longer comply with the technical specifications in the ELD rule after the 3G network it relies on sunsets. In areas that do not support 3G, the device will malfunction. The carrier has eight days to get the malfunction replaced unless granted an extension, the agency said.

Carriers should contact their ELD provider to determine if the device relies on 3G. If it does, they should ask the provider to upgrade or replace the ELD with a compliant device.

"Plan accordingly to avoid service disruptions and compliance issues," the agency said. "Note that portions of carrier 3G networks will be unsupported in advance of the announced sunset dates."

--Reporting by Donna Harris

Copyright, Oil Price Information Service

US Trucker Shortage to Persist in 2022 After Record-High in 2021

The truck driver shortage is expected to persist through 2022, after reaching a record high of more than 80,000 commercial drivers in 2021, according to a new report from the American Transportation Research Institute (ATRI).

The shortage is especially acute for long-haul truckers, but as previously reported, shortages of petroleum tanker

drivers have led to fuel outages in some areas in the recent past.

Truckers are "retiring annually by the 10s of thousands and frequently churning in and out of different industry sectors," ATRI said. "Many other trucking industry positions are experiencing a dearth of applications (such as diesel mechanics), as well."

In addition to high attrition, growing freight demand is increasing the need for more commercial drivers. Trucking now represents 72.5% of tonnage carried by all modes of U.S. freight transportation, including manufactured and retail goods, according to the American Trucking Associations (ATA), which was quoted in the ATRI report. Year to date, trucking's tonnage is up 2.3% from 2021, the trade group said.

The driver deficit is expected to be double that of 2021, surpassing 160,000 by 2030, the institute said. By the end of the decade, the industry will need to hire almost 1 million drivers to meet growing demand and replace drivers as they retire or leave the industry, ATA reported.

--Reporting by Donna Harris

Copyright, Oil Price Information Service

FDA Suspends Ban on JUUL Products

The Food and Drug Administration (FDA) is taking another look at the premarket tobacco applications (PMTAs) Juul Labs submitted for its vapor products.

On Tuesday, the agency put its marketing denial orders (MDOs) for the applications on hold. The decision came less than two weeks after the FDA issued the MDOs and ordered all the vapor company's products removed from the market.

"On July 5, 2022, FDA administratively stayed the marketing denial order. The agency has determined that there are scientific issues unique to the JUUL application that warrant additional review," the FDA posted on Twitter.

The FDA's administrative stay also follows a decision by the U.S. Court of Appeal for the District of Columbia Circuit to grant Juul Labs an emergency administrative stay while the company fights the FDA's denial of its PMTAs.

"With this administrative stay from the FDA now in place, we continue to offer our products to adult smokers while we pursue the agency's internal review process. We remain confident in the quality and substance of our applications and believe that, ultimately, we will be able to demonstrate that our products do in fact meet the statutory standard of being appropriate for the protection of the public health," said Juul Labs Chief Regulatory Officer Joe Murillo.

"We now look forward to re-engaging with the FDA on a science- and evidence-based process to pursue a marketing authorization for JUUL products," he added.

On June 23, the FDA announced its MDOs for all JUUL products: the JUUL device and four types of JUUL pods: Virginia tobacco flavored pods at nicotine concentrations of 5.0 percent and 3.0 percent, and menthol flavored pods at nicotine concentrations of 5.0 percent and 3.0 percent.

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

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

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

In response, Murillo said the company "respectfully disagree[s] with the FDA's findings and decision and continue to believe we have provided sufficient information and data based on high-quality research to address all issues raised by the agency.

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

Late last week NACS threw its support behind Juul Labs' bid to remain on the market when it filed an amicus brief in the U.S. Court of Appeal for the District of Columbia Circuit.

"If allowed to take effect, the order threatens NACS members with harm independent of the harm JUUL describes in its stay application," NACS wrote in the brief. "The order saddles retailers and distributors with inventory they cannot sell and contracts they cannot fulfill, waylaying a substantial portion of their business practically overnight."

FDA Begins Slow Enforcement of Synthetic Nicotine Products

The Food and Drug Administration (FDA) issued its first two warning letters to companies marketing synthetic nicotine products without its authorization.

The two companies, AZ Swagg Sauce LLC and Electric Smoke Vapor House, have listed a combined total of approximately 10,000 products with the FDA. However, neither company submitted a premarket application for its non-tobacco nicotine products by the May 14 deadline as required by the new law, according to the agency.

Synthetic nicotine officially fell under the FDA's regulatory umbrella on April 14, one month after President Joe Biden signed a federal appropriations bill that included a section granting the FDA authority to regulate tobacco products that contain nicotine not made or derived from tobacco (e.g., synthetic nicotine), as Convenience Store News reported.

The FDA's warnings letters to two companies falls short of what some have expected of the agency. On July 12, Sens. Dick Durbin (D-Ill.) and Susan Collins (R-Maine) sent a letter to the agency urging it to remove all unauthorized synthetic nicotine electronic cigarettes from the market as required by law.

Durbin and Collins were behind the bipartisan provision in the Fiscal Year 2022 Omnibus Appropriations bill that clarified FDA's ability to regulate products containing synthetic nicotine as tobacco products. The legislative fix closed legal loopholes that allowed manufacturers of flavored e-cigarettes to sidestep FDA regulation, according to the legislators.

As Durbin and Collins pointed out, the provision established a timeline for synthetic nicotine e-cigarettes to submit premarket applications to the FDA — including mandating that any product that did not submit an application by May 14 would be subject to market removal; and any product not authorized by FDA by July 13 would also be subject to market removal.

The letter requested the FDA answer a number of questions outlined by the senators regarding the agency's enforcement actions by July 20.

"We find it deeply disappointing and unacceptable that [the] FDA appears to be on the brink of failing yet again at protecting our nation's children from the dangers of nicotine addiction," the legislators wrote. "When presented with an emerging public health challenge identified by [the] FDA, Congress took swift bipartisan action to provide FDA with the tools needed to properly regulate synthetic nicotine. We encourage [the] FDA to immediately use these tools and follow the law."

The FDA said it is currently processing applications for approximately 1 million non-tobacco nicotine products submitted by more than 200 manufacturers by the May 14 deadline. According to the agency, it is preparing to issue refuse-to-accept (RTA) letters soon for those applications that do not meet the criteria for acceptance.

"FDA is working diligently to process the substantial number of applications submitted and, as always, will make marketing decisions based on the best available science and will pursue compliance and enforcement actions when warranted," said Brian King, director of the FDA's Center for Tobacco Products. "We remain fully committed to taking whatever steps are necessary to protect the public health and to provide timely updates on our ongoing progress regulating non-tobacco nicotine products."

Kaival Brands Innovations Group Inc., the U.S. distributor of all products manufactured by Bidi Vapor LLC, announced its support of statements from Bidi Vapor regarding its continuing support of the FDA's authority over electronic nicotine delivery systems (ENDS) devices using non-tobacco derived or synthetic nicotine.

With the arrival of the July 13 deadline that will make the continued retail and distribution of all such products illegal, the company said it hopes the agency will use its powers to properly enforce its new policies.

"Now, with this new authority given to the FDA, all products containing nicotine from any source will have to undergo the same rigorous authorization process to legally go to market here in the United States," said Niraj Patel, chief science and regulatory officer of Kaival Brands. "More importantly, it focuses manufacturers who use synthetic nicotine to align with the FDA's priority of making these types of adult consumer products appropriate for the protection of the public health."

Tobacco Companies Reach Deal With Justice Department Over Retail Messaging

Major tobacco companies have come to an agreement with the U.S. Department of Justice (DOJ) over tobacco-related messaging at retail, bringing a nearly two decades-long challenge to a close.

According to NACS, the agreement requires Altria, Philip Morris USA Inc., RJ Reynolds Tobacco and ITG Brands to supply court-ordered signs to stores they have contracts with and require those stores to post the signs for 21 months.

The pact covers the last remaining dispute from the lawsuit DOJ filed against Altria, Philip Morris USA Inc., and RJ Reynolds in the 1990s. NACS and the tobacco companies spent 17 years fighting any signage requirement through the litigation process and, along with the National Association of Tobacco Outlets, also participated in the negotiations that led to the agreement in order to advocate for retailers.

"This litigation has always put the retailers in a uniquely bad position," said Doug Kantor, NACS general counsel. "Retailers were not parties to the lawsuit and should not be burdened with a court-ordered remedy, but this negotiated outcome avoids even worse results that DOJ and public health groups were advocating."

As the association reported, the agreement calls for each store under contract with one of the manufacturers to post at least one sign carrying one of 17 different, pre-approved health messages that will be distributed at random to retailers around the country. Each store will be required to rotate to a new message halfway through the time period required in the agreement.

The manufacturers will be required to hire auditors to check whether the signs are properly posted, NACS added.

A hearing on the proposed agreement will be held in the U.S. District Court for the District of Columbia on July 28 and 29. The court will then decide whether to accept the agreement and enter an order to implement it. The timing of the requirements for signs to be posted will depend on when the court decides whether to accept the agreement, NACS said.

Retailers may support or oppose the agreement in writing or at the hearing, it added.

This is not the only messaging-related rule the tobacco industry has challenged in recent history. In June 2011, the Food and Drug Administration published a final rule requiring updated health warnings on cigarette packages and

in cigarette ads. The graphic warnings feature a combination of text and images depicting some of the health risks of cigarette smoking.

However, that final rule was challenged in court by several tobacco companies and was ultimately vacated in August 2012 after the U.S. Court of Appeals of the District of Columbia held that the rule violated the First Amendment. In March 2013, the federal government announced its decision not to seek further review of the court's ruling.

Following another lawsuit filed by several public health groups, a judge in the U.S. District Court for the District of Massachusetts issued an order directing the agency to publish the proposed rule by August 2019 and issue a final rule in March 2020.

The deadline for tobacco companies to comply has been pushed back several times and now stands at April 9, 2023.

FDA Grants Extension of Menthol Ban Comment Period

The Food and Drug Administration (FDA) added 30 days to its timeline for the public to submit comments on its proposals affecting flavored tobacco products.

The agency pushed back the comment deadline to Aug. 2 from its original date of July 5. The move gives interested parties more time to submit their comments on two proposed product standards — one to prohibit menthol as a characterizing flavor in cigarettes and the other to prohibit all characterizing flavors (other than tobacco) in cigars.

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

It also gave the public until July 5 to submit either electronic or written comments directly to the dockets on the proposed rules.

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

Earlier this month NACS, NATSO and SIGMA asked the FDA to extend the public comment period by 60 days.

"Given the complexity of the rules, the extensive data to analyze and the impact to the marketplace to consider, the associations are requesting a 60-day extension of the comment period. This additional time will ensure the associations and our retail members can provide FDA with detailed and meaningful comments on these complex issues," wrote the groups in a letter to the FDA.

According to an FDA statement obtained by NACS, the industry groups were not the only ones requesting an extension.

"We have received a number of requests for a 60-day extension of the comment period for both proposed rules, which conveyed concern that the current 60-day comment period does not allow sufficient time to develop a meaningful response to the proposed rules," the FDA wrote. "Several organizations have requested that FDA close the comment period after 60 days, conveying that 60 days is enough time to receive meaningful responses and stressed a public health urgency with both product standards."

"We believe that a 90-day comment period is appropriate as it allows adequate time for interested persons to fully consider the proposed rules, including specific requests for comments, and develop and submit comments without significantly lengthening the rulemaking proceedings," the agency added.

The menthol market accounts for roughly 34 percent of cigarette sales, and flavored cigars account for 51 percent of cigar sales. The proposed rules could have the unintended consequence of pushing menthol cigarettes and flavored cigars to the black market, according to NACS.

"History has proven that prohibition of a legal product that has an established user base doesn't work and has negative consequences for our communities," stated Anna Blom, NACS director of government relations. "Unfortunately, many current users of these products will seek out illicit sources who don't check IDs and who sell counterfeit products smuggled into the country."

SSDA-AT Signs onto Main Street Employer NIIT Opposition Letter

Dear Speaker Pelosi, Leader McCarthy, Leader Schumer, and Leader McConnell:

We, the undersigned organizations representing millions of Main Street businesses and employing tens of millions of American workers, urge you not to raise taxes on small, individually, and family-owned businesses as part of any effort to enact a reconciliation bill this year. In the face of a possible recession, 40-year high inflation, unprecedented supply-chain challenges, and chronic labor shortages, raising taxes on small, individually, and family-owned businesses is the wrong approach and should be rejected.

According to recent media reports, two tax increases under consideration would fall entirely on small, individually, and family-owned, closely-held businesses: 1) expanding the 3.8 percent Net Investment Income Tax (NIIT) to individuals and families who actively participate in their business, and 2) limiting the ability of small, individually, and family-owned businesses to fully deduct their losses during an economic downturn by expanding and extending the so-called "excess business loss limitation" for "noncorporate taxpayers." Combined, these would increase revenues by more than $400 billion over ten years, shouldered entirely on the backs of small, individually, and family-owned businesses.

While expanding the NIIT is sometimes characterized as closing a tax loophole and that it would increase Medicare funding, neither of these claims are true. When the NIIT was created as part of the Affordable Care Act, it was meant to apply to investment income only. The business income of small, individually, and family-owned firms where the owners ran the business was specifically exempted. This

exemption was intentional and in no way constitutes a loophole.

Moreover, the revenue raised by the NIIT does not fund Medicare. As the NIIT initially was adopted as part of a reconciliation bill, attributing the funds of this new tax to the Hospital Insurance trust fund would have violated the Byrd Rule. That is why the NIIT did not fund Medicare when it was adopted in 2010, and that is why attributing the revenues raised by its expansion to Medicare would violate the Byrd Rule today.

As it does not close a loophole and does not fund Medicare, expanding the 3.8 percent NIIT represents nothing more than an eleven percent increase in the rates imposed on family-owned businesses. Based on Treasury data, we estimate up to 1 million small and family-owned businesses, representing over half of all pass-through business activity, would be at risk of having their rates increased under this policy. This small business tax hike would hurt the ability of businesses that survived the worst global pandemic in a century to survive in the coming months.

While expanding the NIIT would raise taxes on small and family-owned businesses when they are profitable, extending and expanding the “excess loss limitation” rules would hurt them in the next economic downturn. During the Great Recession, many businesses were able to survive, in part, by policies that allowed them to offset the losses they were incurring against taxes they had previously paid. This assistance was particularly important for cyclical industries such as construction, manufacturing, and travel and tourism. Extending and expanding the “excess loss limitation” rules into the future would prevent pass-through businesses from having this relief in the next recession, increasing the odds that they don’t survive.

This is ill-advised tax policy, and it is being considered at a moment when the economy is no longer growing. First quarter gross domestic product (GDP) fell by 1.6 percent and many economists and forecasters predict that the second quarter GDP will also be negative. Meanwhile, the small business sector may already be in recession, as those businesses have lost employment in three out of the last four months, even as large companies have increased their employment.

Raising taxes on small and family-owned businesses with the economy on the brink of a recession, a situation which is compounded by the other post-pandemic challenges they are face, harms not only these businesses but the families and communities who rely on them. We ask you to reject any tax hikes on America’s small and family-owned businesses in any legislation considered this year.

Sincerely,

SSDA-AT and other trade associations

Your Inspection License May be Worth Money

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

DMV Record Retrieval

DMV record retrieval is available to association members and affiliates at a cost of $12 per record. Additionally, you may order DMV certified paper abstracts of driver’s license, vehicle registration, and vehicle title records for an additional fee of $2 per abstract. Please call 516-371-6201

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

YOU NEED TRAINING
WE HAVE TRAINING

Just go to our website
http://www.nysassrs.com/
Click on the TRAINING link in the black bar
This will bring you to our training website
Where you will find such topics as:
Alcohol Training Awareness Program (ATAP)
Tobacco Clerk Training Program (TCTP)
Motor Vehicle Air Conditioning (MVAC)
As well as
Inspector Training Material
Class “C” Operator Training Manual
and a
Sexual Harassment Handbook

This training is brought to you by
The New York State Association
Of Service Stations and Repair Shops
Your Association Is A Member

Controlling Air Pollution from Motor Vehicles
On this page:

- How engine pollution harms the environment and health
- Zero-emission vehicles (ZEV)
- Reducing vehicle pollution
- Catalytic converters
- Research publications and technical papers
- Information on the VW Settlement and how to comment on the development of the Beneficiary Mitigation Plan and Zero Emission Vehicle Investment is available.
- Cars, trucks, buses, off-road vehicles and planes are all considered mobile sources of air pollution.

To reduce air pollution from these significant sources, as required by the federal Clean Air Act of 1990, DEC:provides technical, regulatory, and policy support for vehicle emission control programs;implemented and maintains the statewide Inspection and Maintenance (I/M) emissions testing program; and developed databases and conducts analyses of OBD-based I/M data.How

Engine Pollution Harms the Environment and Health
Carbon monoxide, nitrogen oxides, and hydrocarbons are released when fuel burns in an internal combustion engine. They may also be released when vehicle tailpipes emit air and fuel residuals. Gasoline vapors also escape into the atmosphere during refueling and when fuel vaporizes from engines and fuel systems caused by vehicle operation or hot weather.
The pollutants in engine emissions from vehicles and lawn equipment cause damage to lung tissue and can lead to and aggravate respiratory diseases, such as asthma. Motor vehicle pollution also contributes to the formation of acid rain. The pollution also emits greenhouse gases that cause climate change.
Diesel engines are durable and efficient. However, because they consume diesel fuel, a complicated mix of petroleum components, they produce some pollutants. A small amount of the fuel exits the engine unburned. These airborne hydrocarbons can form larger particles in the atmosphere when they contact airborne dust and other particles.
Unlike gasoline engines, which may not get enough air into the cylinder for combustion, diesel engines operate with excess air so emissions of carbon monoxide are very low, though still measurable. Carbon monoxide is a colorless, odorless gas that combines with blood and limits its ability to transport oxygen. Since the engines are consuming fuel and air and create heat in the combustion process, nitrogen from the air can be transformed into nitrogen oxides which are reddish brown gases that irritate the lungs and eyes.
Pollutants emitted directly from vehicles are not the only cause for concern. On warm, sunny days, hydrocarbons react with oxides of nitrogen to create a secondary pollutant, ozone. In many urban areas, motor vehicles are the single largest contributor to ground-level ozone which is a common component of smog.

Zero-Emission Vehicles (ZEV)
ZEVs include battery-electric vehicles, plug-in hybrid-electric vehicles, and hydrogen fuel-cell-electric vehicles. These technologies can be used in passenger cars, trucks and transit buses. The federal Clean Air Act allows New York State to adopt California's zero emission vehicle (ZEV) standards.
New York and seven other states joined together in an initiative to put 3.3 million ZEVs on the road by 2025. A Memorandum of Understanding outlines the steps these states will take to expand consumer awareness and demand for ZEVs. A Multi-State Zero-Emission Vehicle Action Plan for 2018-2021 (leaves DEC website) outlines the next steps these states will take to grow consumer awareness and demand for ZEVs.

Reducing Vehicle Pollution
The State programs for reducing air pollution from vehicles include:

- supporting the manufacture and sale of zero and low emission vehicles;
- selling modified fuels (oxygenated fuels in some parts of the state, reformulated gasoline in and near NYC, less-volatile fuels across the State in the warmer months, and low-sulfur diesel fuel);
- requiring special equipment at gas pumps, such as special nozzles that recover vapors instead of releasing them into the air;
- a statewide enhanced inspection and maintenance program.
- Motorists can significantly reduce pollution by following tips on Living the Green Life.

DEC Commissioner Seggos' Testimony to EPA Regarding Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One (PDF) - June 2, 2021
Catalytic Converters
A catalytic converter is an exhaust emission control device that reduces toxic gases and pollutants in exhaust gas from motor vehicle engines into less-toxic pollutants by catalyzing a redox reaction (an oxidation and a reduction reaction). Catalytic converters are used with gasoline and diesel-powered engines.
A repair shop may identify the need to replace the catalytic converter on your vehicle due to an inspection and maintenance (I/M) inspection failure or a non-I/M program-related reason, such as damage resulting from a vehicle accident, cracked or melted substrate, exhaust leak, or converter malfunction. Depending on your vehicle, the replacement could be an aftermarket catalytic converter (AMCC) or an OEM replacement part.
Part 218 (leaves DEC website) prohibits selling, offering for sale, advertising or installing used, recycled, or salvaged catalytic converters. Part 218 also requires a new California Air Resources Board (CARB) AMCC (leaves DEC website) or OEM replacement part be installed in a CARB or 50-state emissions certified vehicle of model year 1993, 1994, 1996 or newer. Additional guidance is available (PDF) for determininng the appropriate CARB AMCC to use on vehicles for which a CARB-approved AMCC does not exist. New York State vehicle owners cannot take their vehicles to a neighboring state to have a non-compliant AMCC installed. This practice is not allowed by Part 218 and is subject to enforcement. Non-compliant AMCCs may be less expensive, but they are not required to provide the warranty coverage of AMCCs certified by

CARB. Vehicle owners may also encounter problems in being able to pass the annual New York State motor vehicle emissions inspection (leaves DEC website).

Vehicle Emissions Certification
The vehicle emission control information (VECI) label, located in the vehicle's engine compartment, includes emissions certification, engine family or test group, engine displacement, on-board diagnostics, model year, fuel type, and catalyst information. Sample VECI labels are available for download (PDF). If the VECI cannot be located, an OEM dealer may be contacted to obtain a replacement VECI label containing the correct test group or engine family information.

Emission Warranties
Most vehicles purchased in New York State prior to 2016 are covered under the federal emissions warranty of 8 years or 80,000 miles. Partial zero emissions vehicles are covered under federal emissions warranty for up to 15 years or 150,000 miles. You can verify your vehicle's warranty by checking the owner's manual or by contacting an original equipment manufacturer (OEM) dealership and providing your vehicle identification number (VIN). Warranty coverage begins on the date the vehicle was first registered.
New CARB certified AMCCs, required for CARB and 50-state certified vehicles, will be covered by a warranty for a period of 5 years or 50,000 miles of use, whichever comes first. The warranty will cover defects and failures related to emissions performance and converter construction. The warranty covers loss of conversion efficiency, onboard diagnostic (OBD) system malfunctions, converter shell and pipe corrosion, and faulty welds that may occur during normal usage. The warranty does not provide coverage for defects due to overfueling, engine misfire, or physical damage caused by road debris or accidents.

Costs
The cost of new CARB AMCCs is higher, compared to a federal or non-compliant AMCC, primarily due to the increased catalyst loading required. This increased purchase price is partially offset by more robust warranty coverage.

Information for Businesses and Repair Shops
DEC has adopted California's AMCC requirements that include the prohibition of installing used catalytic converters and standards for new AMCCs. The requirements of subdivision 218-7.2(c) (leaves DEC website) apply to all:

- model year 1993 and newer on-road motor vehicles, with the exception of 1995 model year vehicles,
- vehicles certified by CARB or with 50-state emissions certification.
- An Installer's Checklist (PDF) is available for repair and muffler shop employees.

Subletting AMCC Repair and Installation
A repair shop can sublet AMCC replacement to another business, such as a muffler shop. The sublet business is required to establish and document the need for replacement even if the

replacement was done by the original repair shop. If a repair shop sublets work out to another shop, the repair shop makes a fourth copy of the warranty card to keep in its records.

Non-Compliant AMCCs
It is illegal to install non-compliant AMCCs in New York State. Part 218 states "It is unlawful for any person to install, sell, offer for sale, or advertise ..." which enables DEC to pursue enforcement against any person responsible for the sale or installation of a non-compliant AMCC.
The penalty structure for violations of the AMCC standards incorporated in Part 218 are set forth in New York State Environmental Conservation Law §71-2103 and §71-2105 (leave DEC website). Violations are subject to minimum penalty of $500 for a first violation and up to $26,000 for each subsequent violation. This penalty structure is identical to the one which is used to enforce new vehicle sales under Part 218. A violation would be for each nonc-ompliant converter sold and/or installed. Failure to maintain complete records or submit reports may also result in a violation. DEC periodically conducts audits at facilities to ensure compliance with the requirements of Part 218.

Enforcement
DEC's enforcement of the AMCC standards for the period January 1, 2019 to December 31, 2020 has resulted in:
- 201 AMCC audits conducted
- 124 violations of the AMCC standards discovered
- 13 Notices of Violation issued
- Fines ranging from $500 to $5,000
- $13,500 in penalties collected

Since enforcement of the AMCC standards began January 1, 2014 there have been:
- 1,028 AMCC audits conducted
- 458 violations of the AMCC standards discovered
- 150 Notices of Violation issued
- Fines ranging from $500 to $5,000
- $100,500 in penalties collected

Certification, Manufacturing and Distribution
For new AMCCs, the certification process typically takes 6-12 months to complete. CARB indicated that manufacturers can aid this process by ensuring that all required emission testing is completed and that all files submitted electronically to CARB are accurate and in the correct XML file format to be entered into CARB's searchable AMCC database (leaves DEC website).
New AMCCs for CARB and 50-state certified vehicles will be required to:
- Display a permanent etching, stamp or label on the catalytic converter shell showing the CARB Executive Order approval number, the manufacturer part number, date of manufacture, and proper installation direction.
- Comply with a vehicle's original emissions certification limits.

- Be compatible with the onboard diagnostic systems (OBD II) on 1996 and newer vehicles.
- Be covered by a warranty for a period of 5 years or 50,000 miles of use, whichever comes first. The warranty will cover failures related to construction defects, performance defects, and OBD II compatibility issues.
- Distribution centers located in the State may continue to supply EPA-certified AMCCs for only federally certified New York State vehicles or for sale outside of the State.

Manufacturer Reporting Requirements

Manufacturers of AMCCs are required to submit semi-annual warranty information and sales data to DEC. The reports are identical in format to those submitted to California and must contain:

- the manufacturer's name
- a description of each class or category of California-certified new AMCCs, including:
- model year and series
- the cumulative number and percentage of catalytic converters covered by the CARB Executive Order
- the number of each type of catalytic converter produced for sale
- New York State sales data

If confirmed warranty claims for new AMCCs in the State exceed 4% or 100 claims, whichever is greater, the manufacturer is required to submit additional information in the warranty information report. This required information includes:

- type of failure,
- probable cause of the failure, and
- an evaluation of the impact on vehicle emissions.
- The State is not requiring AMCC manufacturers to submit quarterly quality control reports at this time. Taxi cabs are not exempt from AMCC emission warranty reporting requirements.

Research Publications and Technical Papers

The Bureau of Mobile Sources and Technology Development, in the Division of Air Resources, carries out experimental research and technical and scientific analysis in support of emissions control program initiatives. Staff also collaborate with scientists from other institutions and co-author reports that may appear in other forums such as the Society of Automotive Engineers (SAE).

More about Controlling Air Pollution from Motor Vehicles:

Heavy Duty Vehicles - NYS Environmental Conservation Law prohibits heavy-duty vehicles, including diesel trucks and buses, from idling for more than five minutes at a time.
Low and Zero Emission Vehicles (LEV/ZEV) - NYS' LEV program is modeled after the California CAL-LEV program
VW Settlement Information - NYS expects to receive funding from the VW Settlement to support the reduction of NOx emissions, a major cause of smog and air pollution.