NYS ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

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Estate Tax Repeal Efforts

Recently, Representatives Randy Feenstra (R-IA) and Sanford Bishop (D-GA) introduced the Death Tax Re￼peal Act companion bill in the House with over 160 original cosponsors. This number of original cosponsors already eclipses the total cosponsors from last Congress.

SSDA-AT is looking forward and gearing up for a major tax reform bill next year which will certainly address the estate tax.

SSDA-AT will be continuing to promote both the House and Senate bills in order to build as much momentum as possible moving towards the next tax reform effort in 2025.

SSDA-AT and 157 other groups have already signaled support for the legislation. Repealing the estate tax remains a top priority for SSDA-AT.

Maine Re-evaluating Implementation of Right to Repair Law

Lawmakers in Maine are considering making dramatic changes to right-to-repair legislation that was recently voted into law, Portland Press Herald reports.

The Right to Repair ballot initiative, launched by the Maine Right to Repair Coalition, received 84% approval from voters this past November.

The state aims to implement the law in two steps: beginning this month, automakers are now required to make their advanced diagnostic repair data accessible. The second step requires a cyber-secure database for storing all of this data to be up and running by this time next year, along with an independent oversight board ensuring that manufacturers are supplying the data they're supposed to.

Now that the law has been passed, lawmakers are struggling with how to establish the database and oversight board, and many have suggested that the second step be thrown out entirely.

A bill presented by Rep. Bruce White, D-Waterville prior to the 2023 ballot initiative proposed to nix the database and oversight committee, but was carried over at the end of last year's legislative session due to time constraints. Now, it is being reviewed by the Innovation, Development, Economic Advancement, and Business Committee, who discussed the bill during a work session this past Friday.

Reasons for getting rid of the database and oversight committee include litigation concerns. Massachusetts was sued by the Alliance for Automotive Innovation over its own right to repair legislation that was passed in 2020, although as recently as this month there have been no further updates on the status of the case.

During Friday's work session, Rep. Amanda Collamore, R-Pittsfield also cited worries over the oversight committee having access to consumers' data through the database.

"My private information should stay with manufacturers as recommended by the federal entities because they already have access to it when I purchased the vehicle anyway," said Collamore.

US Gasoline Prices Decline in January, But Overall Inflation Up

The federal price index for gasoline declined by 3.3% in January, though the Consumer Price Index for all goods increased by 0.3% during the month on a seasonally adjusted basis - a steeper increase than in December, the Bureau of Labor Statistics reported Tuesday.

The energy price index declined 0.9% in January and 4.6% from 12 months ago. The energy index declined for four straight months and so did the indexes for gasoline and fuel oil, the figures show. Gasoline prices were down 6.4% from a year ago. Fuel oil prices declined 4.5% in January and 14.2% year to year.

Electricity prices have increased for six straight months, the numbers show. In January, electricity prices increased 1.2% month to month and 3.8% over the last 12 months. Gas utilities rose 2.0% in January after declining by 0.6% in December, but were down 17.8% from a year ago, the bureau reported.

The food away from home index - which would include convenience store food service and snacks -- rose 0.5% in January, the steepest increase in at least seven months. The index for full-service meals rose 0.4% and the index for limited-service meals increased 0.6% over the month.

--Reporting by Donna Harris

US Retail Gasoline Stations See Dollar Sales Declines in Most States

Gasoline stations in most U.S. states saw year-to-year declines in overall dollar sales in October, according to a Census Bureau report updated Wednesday.

The start of the fourth quarter of the year is when retail businesses begin preparing for the holiday season, which generally is expected to increase sales and travel. However, in all but two states, fuel retailers experienced sales declines, the figures show.

In Maine, dollar sales rose 4.1% year to year, and in New Hampshire, sales rose 3.0% from the previous year, according to the bureau's new report, Monthly State Retail Sales.

Fuel outlets in five states saw double-digit declines: Washington (19%), California (18.7%), Oregon (16%), Montana (11.8%) and Kansas (11.7%).

The declines were mid- to low-single digits in 15 states: West Virginia (4.3%), New Mexico (5.1%), Texas (5.1%), Delaware (5.2%), Tennessee (5.7%), Virginia (5.9%), Utah (6.0%), Georgia (6.2%), Ohio (6.2%), Iowa (6.3%), New Jersey (6.3%), North Carolina (6.3%), Pennsylvania (6.6%), South Carolina (6.8%) and Wyoming (6.9%).

Retail in general fared much better than the fuel sector in October. Across all retail businesses, dollar sales for retailers in 23 states were steady year to year - up or down by less than 1%. In 18 states, dollar sales declined and in nine states as well as the District of Columbia sales rose 1% or more year to year.

Retail sales for all sectors increased the most in Iowa (8.4%), followed by the District of Columbia (4.4%), Massachusetts (4.4%), New York (3.0%) and Michigan (2.1%).

The MSRS is the Census Bureau's new experimental data product featuring state-level retail sales. It combines data from the Monthly Retail Trade Survey, administrative data and third-party data, the bureau said.

--Reporting by Donna Harris

December Vehicle Miles Traveled in US Rises 2.2% Year to Year: DOT

U.S. vehicle miles traveled in December were more than 2% higher from the same month in 2022, according to data from the Department of Transportation's Federal Highway Administration.

FHA's Traffic Volume Trends report published Thursday estimated U.S. drivers in December traveled 263.7 billion miles, up 2.2% from 258 billion miles in December 2022.

Vehicle miles driven in December 2023 were the strongest since 2018 when it totaled 270.4 billion miles, FHA data shows.

After adjusting for seasonal factors, December miles traveled were down 0.2% from November.

FHA's geographical breakdown showed the North Central region comprising 17 Midwest and Midcontinent states from the Dakotas to Ohio posted the strongest gain, up 3.8% year to year. However, miles traveled in the South Atlantic region, made up of coastal states from Florida to Virginia, fell 0.2%, making it the only region with a loss.

According to OPIS DemandPro data, which canvasses more than 30,000 gas stations across the U.S., December station gasoline volumes were down 5.1% year to year. Improving fuel mileage and more electric vehicles on the road may explain how miles traveled increases even as fuel demand may have fallen.

Analysts expect vehicle miles in January could be softer compared to December due to seasonality as well as the bitter cold snap that affected a wide swath of the country. OPIS DemandPro Data currently estimates January gasoline demand fell almost 7% year to year.

--Reporting by Frank Tang

Investment Banks Expect US Retail Fuel Margins to Remain Strong in 2024

Investment banks like what they are seeing in U.S. retail fuel margins and believe they will remain robust this year.

Raymond James analysts said the U.S. average gross rack-to-retail margin was 37cts/gal in January, based on OPIS data. While that's down from 42cts/gal in December, the drop is largely due to recent increases in wholesale prices, the bank said in a Friday report.

The January average is up 31% from the same month of 2023, which the bank called a more normal year for margins than 2022, when the industry saw sharp up-and-down wholesale price moves.

Overall, while there will likely continue to be some weekly and monthly volatility in fuel margin trends depending on what happens with underlying crude oil movements, our thesis on structurally higher fuel margins remains unchanged," the bank said.

In a December report reviewing retailer Casey's General Stores earnings, Jefferies Group also said it believes current fuel margins are sustainable. The bank said the company's management expects margins to remain in the 40cts/gal range.

Raymond James said for the rest of 2024 it expects the U.S. convenience store industry will benefit from a year-to-year margin increase given that cost pressures from labor, lower tobacco sales, electric vehicles and in-store investments are likely to continue.

Further, the bank said fuel volumes remain well below pre-pandemic levels and it believes a portion of those sales won't be coming back, meaning smaller operators will need to realize more margin at the pump.

"In addition, it is also important to note that larger public operators typically outperform the industry average given their lower break-even points and more sophisticated pricing models," Raymond James said.

--Reporting by Denton Cinquegrana

US Production at Record Levels Despite Drop in Active Rigs

Efficient output, strong oil prices and vigorous investment have contributed to oil production rates that have remained at or near record highs since October despite a 30% reduction in the number of active domestic oil drilling rigs since previous records were set in 2020.

Other factors contributing to US oil production increases include advances in fracking technology and horizontal drilling, along with the use of AI to optimize exploration efforts.

US oil production is likely to continue its record pace as 2024 progresses, says Art Hogan, chief market strategist at B. Riley Wealth. Factors affecting exports of US oil, natural gas and natural gas liquids include energy security considerations, demand dynamics and the EU's plan to stop using Russian energy by 2027, according to a Rigzone market watcher.

Global Oil Demand To Rise By 2 Million bpd In 2024, Says Wood-Mac, Reuters.

Global oil demand is expected to increase by almost 2 million barrels a day in 2024, with China accounting for more than 25% of the increase, consultancy Wood Mackenzie said in a report. Wood-Mac projected total oil demand of 103.5 million barrels per day for this year.

Much of the growth in oil demand will be coming in the second half of the year. This will be fueled by improving economic growth and lower interest rates," Alan Gelder, senior vice president of research at Wood-Mac, said.

The consultancy said oil supply is expected to lag demand growth as OPEC+ supply cuts slow production growth across 2024, although it said could move into oversupply without output restraint, especially if demand growth is lower than expectations. Some analysts have predicted weak economic growth will weigh on oil markets and curb demand, keeping prices around $80 a barrel this year, according to a Reuters poll.

Tension in the Middle East, and the associated risk of supply disruption, supported oil prices. A Reuters survey found OPEC oil output rose in December as increases in Iraq, Angola and Nigeria offset ongoing cuts by Saudi Arabia and other members of the wider OPEC+ alliance to try to support of the market.

U.S. Drivers Surpass 100 Billion Miles on E15

American drivers surpassed the milestone of 100 billion miles driven on E15 fuel, according to updated data released by Growth Energy.

Drivers across the country can reportedly save 15 cents per gallon on average after filling up with the 15% biofuel blend. Last summer, some states saw drivers save as much as 60 cents per gallon using E15.

"At Growth Energy, we are proud to lead the charge on American-made, plant-based fuels," said CEO Emily Skor. "Homegrown biofuels deliver value for consumers at the pump, value for American agriculture and rural communities, and value for our nation's climate goals. We're proud of the 100 billion miles driven on E15 and excited that consumers have access to an affordable, earth-friendly option to fuel their travels."

Unrestricted sales of E15 have been allowed since 2019, but sales of the blend may again be restricted this summer due to a 2021 D.C. Circuit Court ruling in favor of oil refiners which overturned the rule allowing E15 to be sold year-round without the issuance of an annual emergency waiver from the U.S. Environmental Protection Agency.

Skor pointed to the 100 billion-mile milestone as a reason federal lawmakers should craft a legislative solution that provides for the unrestricted sale of E15 in every state, all year long.

"There aren't very many products on the market today that allow consumers to both save money and lower their carbon emissions at the same time. E15 is one of them," she said. "We need a permanent fix to ensure retailers can continue to offer this fuel option and consumers can continue to rely on it to quickly and easily lower their fuel costs and shrink their carbon footprint."

Number of U.S. Convenience Stores
Increases for Second Consecutive Year

The U.S. convenience store industry added more locations to its retail footprint for the second consecutive year.

There are currently 152,396 convenience stores operating in the United States, a 1.5% increase from last year's store count, according to the 2024 NACS/NIQ Convenience Industry Store Count.

Convenience stores sell an estimated 80% of the fuels purchased by consumers in the United States, according to NACS. The c-store census shows that as of now, 120,061 c-stores sell fuels, itself a 1.2% increase over the 118,678 stores that did so in 2023.

Overall, six out of the last 10 years experienced growth in the convenience retail channel.

The bulk of convenience stores comes from small, "A-sized" retailers who only operate between one to 10 stores and the majority of whom consist of only a single location. Second are "E-sized" operators with more than 500 stores

Store Size	Store Count	Allocation
A (1-10 stores)	96,156	63.1% of stores
B (11-50 stores)	9,157	6.0%
C (51-200 stores)	9,033	5.9%
D (201-500 stores)	5,186	3.4%
E (501+ stores)	32,864	21.6%

Nearly every state increased its store count including Texas, which continues to have the most convenience stores (16,304 stores), or more than one in 10 stores in the United States. After losing 53 stores in 2023, California added 177 back to its store count. Only seven states saw a reduction in their store count: Alaska, Iowa, Idaho, Louisiana, Maine, Oklahoma and Vermont.

While the convenience store industry grew its retail presence in local communities throughout the country, other brick-and-mortar channels had more varied experiences:

Channel	2024	2023	% Change
Convenience	152,396	150,174	1.5%
C-stores with fuels	120,061	118,678	1.2%
Fuels kiosks	13,065	13,346	-2.2%
Grocery	45,047	45,380	-0.7%
Drug	39,752	40,008	-0.6%
Dollar	38,435	37,067	3.7%

With the U.S. population at an estimated 336 million, according to the U.S. Census Bureau, there is one convenience store per every 2,204 people.

The 2024 NACS/NIQ Convenience Industry Store Count is based on stores in operation as of Dec. 31, 2023.

US Retail Fuel Station Average Wage
Sets New Record in December: BLS

The average hourly wage for U.S. retail fuel stations hit a new record in December, exceeding $17 for the first time and the average hourly wage for stations with convenience stores reached a new high just shy of $17, according to Bureau of Labor Statistics figures updated on Friday.

But the numbers show the annual rate of wage inflation has slowed significantly from 2022 and early 2023 when retail fuel sites were seeing double-digit year-to-year increases.

The $17 price point makes gasoline stations more competitive with other retail channels, like supermarkets, which in December paid an average $17.35/hour and liquor stores, which averaged $17.42/hour for nonsupervisory employees, the BLS data showed.

The average hourly wage for nonmanagerial workers at gasoline stations was $17.10 in December, up about 1% from November's $16.93 and 3.5% above a year earlier when the average wage was $16.52/hour. November's average was adjusted upward by 3cts.

For stations with convenience stores, that average was $16.97/hour in December, up about 1% from $16.80/hour in November and 4% from $16.31/hour a year ago. November's average was adjusted upward by 4cts.

Across all retail businesses, the average wage for nonmanagerial workers was $20.53/hour in December, down 2cts month to month and up 3.5% from $19.83 in December 2022. In January, the average wage was $20.66/hour, up 2.5% from the year-ago $20.16/hour, the bureau reported.

--Reporting by Donna Harris

Convenience Store Operators
Grapple With Rising Crime

Convenience store chain Stewart's Shops recently closed an Albany, N.Y., store following a surge in theft, robberies, and verbal and physical assaults, which created an unsafe environment for customers and employees, and an unsustainable business environment.

In the convenience channel today, retail crime, violence and theft are impacting the industry at unprecedented levels. National crime statistics from the U.S. Federal Bureau of Investigation (FBI) showed that robberies alone increased 1.3% across the country in 2022. Looking specifically at the convenience store industry, c-stores and gas stations combined were the site of 13.8% of robberies that year. According to the FBI, 4.5% of all reported violent crime in 2022 took place at a gas station or convenience store.

The National Retail Federation's "2023 Retail Securing Survey" reported that the average shrink rate for the 2022 fiscal year increased 1.6%, up from 1.4% for the 2021 fiscal year. When applied to NACS' 2022 "State of the Industry" data, where industry dollar sales were calculated at $906.1 billion, this represented a c-store industry loss of more than $40 million every day.

Upstart Clean Fuels Company Will Join Diamondback Affiliate to Make Gasoline

Just a day or two after announcing a $26-billion deal that gives it the number three position in the Permian Basin, Diamondback Energy announced a proposed project that could produce commodity-grade gasoline from abundant natural gas in Permian shale.

A joint development agreement has been forged between Cottonmouth Ventures, a Diamondback subsidiary, and Verde Clean Fuels. The two parties still need to ink final definitive documents and forge a final investment decision, but the expectation is that an agreement would ultimately result in production of 3,000 b/d of gasoline utilizing Verde's patented STG+ process.

Natural gas is cheap and incredibly abundant in the Permian Basin, and the gasoline produced by the enterprise would be less carbon intensive than refinery-manufactured gasoline. It would also mitigate the flaring of up to 34 million cubic feet of unwanted natural gas per day.

If proven to be scalable, the project could be a precursor for other natural gas-to-gasoline facilities in West Texas. The proposed facility will be located in Martin County, Texas.

Verde Clean Fuels has thus far concentrated on commercial production plants to convert syngas, derived from diverse biomass feedstocks, into gasoline through its proprietary STG+ process. That process converts syngas into fully finished fuels included an RBOB grade of gasoline.

--Reporting by Tom Kloza

Shell Closes Seven Hydrogen Stations in California

Shell Oil Products US will no longer operate hydrogen light-duty passenger fueling stations, the company said last week in a letter to hydrogen customers.

The company has closed seven hydrogen stations for light-duty vehicles in California, citing hydrogen supply complications and "other external market factors."

Shell has several hydrogen stations for heavy-duty vehicles, according to company literature. The letter did not say Shell would exit the heavy-duty hydrogen fueling business.

--Reporting by Donna Harris

California City Proposes Gasoline Station Ban

Sacramento, Calif., has proposed banning new gasoline stations as well as adding to existing stations unless the sites provide electric vehicle charging, according to the 2040 Sacramento General Plan.

Fuel sites would be required to provide 50kW or greater DC fast chargers at a ratio of at least one new charging station per new fuel nozzle, the plan says.

The Sacramento proposal is just the latest fuel station ban under consideration. The California Fuels and Convenience Alliance told OPIS in an email that 13 local governments have passed bans or moratoriums and three bans are pending.

CFCA is urging members to submit comments to the Sacramento Planning and Design Commission.

--Reporting by Donna Harris

EPA Revises Emissions Standards, But Maintains End Goal

The Biden administration will soon be finalizing proposed emissions standards from the Environmental Protection Agency (EPA), reports Fox News.

Having been submitted to the White House Office of Management and Budget for final review, the proposed standards would require 67% of new vehicles to be electric by 2032.

Recent revisions made to the rules will allow more time to reach earlier targets, with more strict regulations being held off until 2030. EPA's end goal hasn't changed, though, meaning between 2030 and 2032, automakers will be faced with a whirlwind of change.

EVs have faced a bumpy road to adoption. Factors such as declining sales and an increase in prices likely prompted EPA's revision of its proposal. Though its end target of 67% EVs by 2032 remains the same, the revision aims to allow automakers more time to plan accordingly.

Lawmakers and those in the automotive industry have been voicing criticism of EPA's emission standards, which were first introduced in April 2023. Besides automakers struggling to comply, other concerns that have been cited include the high cost of ownership associated with EVs and a potential loss in domestic manufacturing.

Stellantis to Begin Using Tesla's EV Ports in 2025, Cementing it as Industry Standard

Stellantis will be implementing Tesla's North American Charging System (NACS) charging plug in all of its electric vehicles beginning in 2025, making it the final major automaker to make the move, reports Kelley Blue Book.

The most commonly used charging port other than NACS is the Combined Charging System (CCS), but the disparity between the number of functional charging stations compatible with CSS compared with Tesla's coverage of chargers made auto manufacturers consider teaming up with the EV pioneer.

It began with Ford, who reached an agreement with Tesla allowing them to use NACS ports on their own EVs.

They were shortly followed by General Motors, and soon thereafter NACS was endorsed by SAE (formerly known as the Society of Automotive Engineers) to be made an industry standard.

Most automakers have slowly joined Ford and GM in implementing NACS, with Stellantis being the final one to climb aboard. Now, nearly every EV manufactured from 2025 onward will be equipped with NACS charging ports.

U.S. Adds 1,000-Plus EV Stations in Six Months

Range anxiety may become less of a reason for drivers to rule out the purchase of an electric vehicle (EV).

Nearly 1,100 new public, EV fast-charging stations opened in the United States during the second half of 2023. According to federal data, this marks a 16% increase in EV charging stations and means there is approximately one quick-turn EV charging station for every 16 traditional gas stations, reported Bloomberg Green.

A key aspect to the recent growth of chargers is that it is not only occurring in areas with high EV adoption rates. Idaho installed 12 new fast-charging stations during the second half of 2023 while Alabama, Arkansas, Mississippi and Tennessee collectively turned on 56 new fast-charging stations in the same time period, boosting their charger count by a third.

Florida and Texas now rank No. 2 and No. 3, respectively, for total charging spots among the 50 states.

"It's been kind of a worn-out talking point from some of the opponents of EVs, that the infrastructure's just not ready," Albert Gore, executive director of the Zero Emission Transportation Association, told the news outlet. "But that overlooks the fact that there's phenomenal growth taking place."

He noted that many drivers are unaware of the number of charging stations they pass because EV chargers are not as noticeable as gas stations. Additionally, EV drivers who charge up at home may not often seek out a public charger.

The pace of installation is expected to pick up. In previous years, EV chargers were primarily added by for-profit companies, but in 2024, states will begin to deploy $5 billion in federal aid money — with seven states already having done so. The goal of the National Electric Vehicle Infrastructure program is to have a minimum of one public, fast-charging station at every 50 miles along the country's major travel corridors.

"It will be a constant drumbeat of new stations," Gore said. "We're really confident that charging infrastructure is not going to be a constraint on EV deployment in the United States."

EV Battery Breakthrough? Scientists Find Alternative To Cobalt.

Researchers have found what they say is an alternative to using EV batteries with cobalt — a silvery gray metal that's mired in child labor concerns, has sparked congressional fights and federal investigations and threatens to stymie the globe's shift to EVs.

A team of chemists at the Massachusetts Institute of Technology developed a cathode — the negatively-charged part of an EV lithium-ion battery — that they say uses a small organic molecule instead of cobalt but still meets high performance standards.

Mircea Dincă, the W.M. Keck professor of energy at MIT who led the research, said the organic material on the cathode, at least in lab-scale devices and batteries, rivals cobalt- and nickel-based EV batteries in performance.

In the long run, I think on a performance basis, there's a reason to believe they can replace these batteries," he said.

Cobalt is one of the most problematic materials in EV batteries because of where it is typically mined.

In 2022, the Department of Labor added lithium-ion batteries to a list of goods made with materials known to be produced with child or forced labor under a 2006 human trafficking law. The decision hinged on the use of cobalt, a mineral largely mined in the Democratic Republic of Congo, where children have been found to work at some mining sites.

In recent months, members of Congress have held hearings to probe whether the push toward EVs is sufficiently acknowledging these concerns. At the same time, the nation's only proposed cobalt mine has shuttered, a move the developer blamed on cratering cobalt prices fueled by developments in China and Congo.

Congo produces about 70 percent of the world's cobalt, the bulk of which is processed in China for use in EV batteries.

The research from Dincă and his team, which was outlined in a study published in the journal ACS Central Science, found the organic material could be produced at a lower cost than cobalt-containing batteries and conduct electricity at similar rates. Researchers also found the new cathode has comparable storage capacity and can be charged faster than cobalt batteries.

Car company Lamborghini, which began funding Dincă's research about six years ago, has licensed the patent on the technology.

Dincă said the material discussed in the research has no metals and is made of carbon, nitrogen, oxygen and hydrogen. It's "essentially the same simple basic elements that make up all life," he said.

The material also could be made from petroleum- and oil-based chemicals that are already being produced on a large scale.

Instead of burning that oil and producing emissions, Dincă said the organic material would be used in an EV and cycled thousands of times throughout the car's lifespan, thereby reducing the carbon footprint and avoiding the need to mine for cobalt. "So basically, it would be a way to use petroleum to make batteries rather than burn it," Dincă said.

In the long run, Dincă said the team plans to establish a startup company to scale up production of the organic material and make devices that are in the right form for EVs.

U.S. Highway Guardrails Fail to Withstand Electric Vehicle Collisions

Recent crash test data released by the University of Nebraska has spotlighted another infrastructure issue facing an EV transition: guardrails on highways, reports AP News. During crash tests conducted last fall at Nebraska's Midwest Roadside Safety Facility, when a 2022 Rivian R1T electric pickup came hurtling toward a metal guardrail on the testing site, it ripped clean through it, losing hardly any speed. It wasn't until colliding with a concrete barrier a few yards away that it was deterred.

Cody Stolle of the Midwest Roadside Safety Facility knew that the test would be a challenge for an EV, which on average weighs 20% to 50% more than its gas-powered counterparts and hold a lower center of gravity.

The results of the test raise questions on if existing roadside safety systems in the U.S. are equipped to handle vehicles much heavier than the typical vehicle. Even when testing a smaller Tesla sedan, it lifted the guardrail and passed under it during the preliminary crash tests performed in Nebraska.

The increased weight of EVs brings other infrastructure concerns, such as increased wear on streets, and whether facilities like parking garages will be able to support the added weight.

The growing list of infrastructure problems presented by EVs will most effectively be addressed with collaboration between auto manufacturers and transportation engineers, according to Michael Brooks, executive director of the Center for Auto Safety.

"A lot of these parking structures were built to hold vehicles that weighed 2,000 to 4,000 pounds—not 10,000 pounds," explained Brooks.

General Motors Incorporates Hybrid Vehicles Into EV Strategy

General Motors is looking to refocus its strategy for producing electric vehicles by incorporating hybrid vehicles into its plans, reports Reuters.

GM CEO Mary Barra said in a quarterly earnings call last week that the automaker would be re-evaluating its planned products to include more plug-in hybrid electric vehicle (PHEV) options. The company looks to offer hybrid versions of certain existing vehicle models.

The automaker has not offered a hybrid vehicle in North America since 2019 when the Chevrolet Volt was discontinued and the company said it would be diverting its efforts to fully electric vehicles. A recent slump in EV sales has prompted GM to reconsider the move.

During last week's call, however, Barra clarified that the company is still pursuing the elimination of tailpipe emissions from its vehicles by 2035, but that hybrids are a viable option for reducing emissions until charging infrastructure expands more.

"In the interim, deploying plug-in technology in strategic segments will deliver some of the environment or environmental benefits of EVs as the nation continues to build this charging infrastructure," stated Barra.

Ford Shifts Focus From Electric Vehicles to Hybrids

Following in line with other major automakers, Ford has shared plans to dedicate part of its focus to producing hybrid vehicles rather than solely EVs, according to Green Car Reports.

During a quarterly investor call, Ford said it came behind only Toyota and Honda in U.S. hybrid sales and expects to see more growth in hybrid sales in the next year. The company believes that 25% of nationwide sales of the F-150 could be hybrid, in a move that reflects recent sentiments expressed by General Motors CEO Mary Barra and Toyota Chairman Akio Toyoda.

While EV and hybrid versions of the F-150 account for 50% of its sales in California, that number shrinks to only 15% in Dallas, Texas, where gas-powered vehicles claim 85% of F-150 sales, claimed CEO Jim Farley. He credits additional costs and changes in routine associated with EV ownership, such as installing home chargers, as a hurdle hampering widespread EV adoption.

Ford still plans to pursue EV production, with the Ford CEO describing them as inevitable. Ford Model E Chief Operating Officer Marin Gjaja said the company is actively working to improve EVs by developing electric powertrains and learning more about thermal propagation, along with other software improvements.

Hybrids, EVs Saw Light-Duty Vehicle Market Share Rise to 16.3% in 2023

Hybrid and electric vehicles captured a larger share of the U.S. light-duty vehicle market in 2023, but gasoline-powered vehicles continue to dominate sales.

Hybrids, plug-in hybrids and battery electric vehicles made up 16.3% of new LDV sales last year, an increase from 12.9% the year before, the Energy Information Administration said Wednesday, quoting data from Wards Intelligence.

Sales of the non-ICE vehicles were even stronger during the second half of the year, making up 17.9% of the market, according to EIA.

EIA attributed the rise in non-ICE LDV vehicles to a variety of factors, including government incentives and falling prices. The average price for BEVs was $50,798 in December, a 24.2% decline from the price peak seen in the second quarter of 2022.

Much of that price decline was the result of price cuts by Tesla, with the average transaction price for the company's vehicles falling 29% between June 2022 and December 2023, EIA said.

Meanwhile, the overall average LDV price rose by 1.5%, bringing EVs more in line with average ICE vehicle prices. EV prices averaged $2,000 above the overall average at the end of last year, compared to $19,000 in June 2022, EIA said.

Still, EVs tend to be among the higher priced vehicles, with luxury vehicles making up 80% of BEV sales. BEV sales made up 31.3% of the total luxury vehicle market last year, according to EIA.

Although excluded from government credits, hybrids increased in popularity, with sales rising 53% in 2023, compared to a combined 1% increase in deliveries of plug-in hybrids and battery electric vehicles, according to Wards. Plug-in hybrid EVs saw sales rise 103% in December, the company said.

However, Wards forecast that with more BEV models expected to be available this year, sales of electric-only vehicles will overtake hybrids.

--Reporting by Steve Cronin

7 Tax Prep Tips for New Shop Owners

Alison Johnson

For the vast majority of new automotive repair shop owners, fixing cars is the easy part of running a business. Preparing for tax season is not.

The name of the game, of course, is to take advantage of all available deductions and only pay the money you truly owe to the government. That requires plenty of planning and, ideally, a close partnership with a knowledgeable Certified Public Accountant (CPA).

"Most people who start a shop understandably have little to no background in financial compliance," says Eric Joern, a partner with Kaizen CPAs & Advisors, a five-office practice in Illinois and Wisconsin that specializes in working with auto repair shops. "If you're not careful, you could end up losing a lot of money."

"Every shop has very individual goals and needs that need to be taken into account when decisions are made," adds Hunt Demarest, a senior accountant with Paar, Melis & Associates in Maryland with a similar focus. "You want to be proactive and avoid big surprises."

Here are some of their top tips for owners:

- Select the best tax structure.

  Determining if your business should operate as an S corporation, Limited Liability Company (LLC), partnership, or sole proprietorship for tax purposes is a crucial but often-overlooked piece of planning.

  In some cases, simply switching how the Internal Revenue Service views your business as a legal tax entity can result in significant savings.

  And what works well for a small shop might not be the best answer for a larger one. If you begin as an LLC with a sole proprietor, for instance, once you pass an approximately $60,000 profit benchmark, you likely would benefit from tackling the paperwork to convert to S corporation tax status. Note: you will remain an LLC for banking and operational systems.

- Avoid business decisions based solely on taxes.

Ask yourself these questions: 'Will this purchase or investment make me or my team more money, or make our lives easier and more efficient?'" Demarest advises. "If it makes business sense, don't let taxes be what stops you."

On the flip side, don't make choices only because of taxes, either. If you need new equipment, purchase it. If you don't, you shouldn't buy anything just to score a write-off. Ditto for capital investments and physical expansions.

If you're already planning on making an acquisition or doing an upgrade project soon, however, consider acting before the end of a tax year.

- Plan ahead.

Many new shop owners make the mistake of waiting until year's end to review their financial statements, which can lead to unexpected tax bills.

Instead, look at statements monthly and provide your accountant with six months of financials in the summer for a mid-year review. Use a separate bank account and credit card for all business transactions to capture everything that could qualify for a deduction.

By October or early November, submit the rest of your documents to date. "That will give you time to make decisions before the end of the tax year," Joern says. "If you've had a strong year of profits, for example, you might opt to spend some money to mitigate your tax bill."

After Jan. 1, turn in all financial information for the year as soon as possible. If your taxes are completed earlier and you owe more than expected, you won't face a last-minute scramble. Finally, ask your accountant to help you develop a rough tax plan for the new year.

- Always fund your retirement accounts.

While tax-saving strategies generally involve spending money, contributing to a Traditional IRA, Roth IRA or 401(k) amounts to getting a tax deduction for putting money in your own pocket.

- Understand deduction rules for acquiring equipment.

Whether you pay cash-in-full for an item, sign a lease-to-own agreement, or obtain a bank loan with monthly payments, all count just like upfront cash for tax purposes, in whatever year you sign an agreement.

In other words, if you buy a Hunter Alignment Rack for $100,000 but don't have enough cash on hand, you may decide to spread out the expense with $2,000 monthly payments. You can still write off the entire $100,000 in that year.

Purchasing shop vehicles. New and used vehicles are no longer considered differently for tax purposes. Instead, size matters: anything with a gross vehicle weight rating above 6,000 pounds qualifies for accelerated depreciation, meaning you can write off the entire purchase amount in the first year.

Unlike those bigger SUVs, pickup trucks, and vans, cars and small SUVs have a first-year write-off limit of $18,000, with the rest depreciated over five years.

Doing renovations. Work that improves your buildings or grounds but doesn't expand existing square footage or acreage is defined as a Qualified Leasehold Improvement and again offers a one-time write-off opportunity.

That includes repaving parking lots, replacing flooring, roofing or siding, painting interior spaces, and renovating waiting rooms. Expansions, on the other hand, usually must be written off over a much longer period.

- Follow state-specific sales tax and payroll deduction rules.

  Charging the incorrect amount of sales tax or not remitting enough money back to the state can lead to large penalties.

  So can errors involving payroll withholding, including late payments to the government, Joern notes: "The IRS takes that particularly seriously. It's considered to be stealing." Be sure to have a good payroll system in place before ever hiring your first employee.

- Reward your team.

  Salary bonuses, which are taxable, are not the only way to boost employee morale. You might reimburse technicians for tools that they buy, host staff parties, or send out gift cards, which are tax-deductible for you and not considered reportable income for recipients. Just be sure to do so before the last payroll of the year.

Numbers: How Often Are You Meeting?

For auto repair shop owners, check-ins offer a regular opportunity to get to know a team member on a personal and professional level. You can gain valuable insight into how they perceive their workload, the shop's workflow, their career aspirations and what they'd like to see improve in the shop.

Given this, what percentage of shop owners from the 2023 Ratchet+Wrench Industry Survey Report indicated that they did regular check-ins?

- 51% Not having meetings
- 49% Holding regular meetings

Numbers: Under the Hood

Efficient shops are profitable shops. As reported by 2023 Ratchet+Wrench Industry Survey Report respondents, nearly half of auto repair shops hit an efficiency between 80%-100% and 41% hit productivity in the same range. But what about under the hood? How long is the average repair?

- Under 2 hours: 15%
- 2-2.5 hours: 35%
- 2.5-3 hours: 23%
- 3-3.5 hours: 12%
- Over 3.5 hours: 15%

Honda, Acura Vehicles Recalled for Faulty Airbag Weight Sensor

Honda has recalled over three-quarters of a million U.S. vehicles due to a faulty airbag sensor, ABC News reports.

Included in the recall are 2020-2022 model year Honda Pilots, Accords, Civic sedans, HR-Vs, and Odysseys, as well as the 2020 Fit and Civic Coupe; 2021 and 2022 Civic hatchback; 2021 Civic Type R and Insight; and the 2020-2021 CR-V, CR-V Hybrid, Passport, Ridgeline, and Accord Hybrid.

Also covered by the recall are Acura vehicles: the 2020 and 2022 MDX, 2020 and 2022 RDX, and 2020-2021 TLX.

According to the National Highway Traffic Safety Administration, the problem lies with the front passenger seat weight sensor cracking and short-circuting, causing the airbag to not be deactivated when necessary. Honda has received 3,834 warranty claims, but no reports of injury or death.

Owners of affected vehicles will begin to be notified on March 18.

No Further Action Needed From Hyundai/Kia Following NHTSA Probe on Engine Fires

The National Highway Traffic Safety Administration (NHTSA) has closed an investigation into potential risk of engine fires in Hyundai and Kia vehicles, determining no further action will be needed, Reuters reports.

The agency first launched its investigation of the problem in 2019, with the effort escalating in 2021 after receiving reports of 161 fires caused by engine failures. This investigation is separate from the probe NHTSA opened in November, related to oil leaks in 6.4 million Kia and Hyundai vehicles posing fire risks.

Kia and Hyundai have issued a total of eight recalls for engine fire risks. During its investigation, NHTSA found that those who received the recall fixes experienced fewer incidents related to engine fires than those who failed to receive the repairs.

The automakers said that they have extended their limited engine warranties and are utilizing an engine control software modification that will detect potential engine failure, limit engine power, and warn the driver.

Hyundai will be reminding drivers affected by the recalls to receive repairs for the next three years. Kia will send reminders out every eight months for the next three years as well.

Toyota Issues "Do Not Drive" for 50k Vehicles With Takata Airbags

Toyota has issued a "do not drive" notice for around 50,000 older vehicles related to Takata airbag recalls, Courier Journal reports.

his past Thursday, the automaker released the notice that applies to the 2003-2004 Corolla, 2003-2004 Corolla Matrix, and 2004-2005 RAV4, due to them containing

Takata airbags that the company said are currently under an urgent safety recall.

"Due to the age of the vehicles, if the airbag deploys, a part inside is more likely to explode and shoot sharp metal fragments which could cause serious injury or death to the driver or passengers," said Toyota's notice.

Owners of these vehicles have been instructed to not drive them and to instead contact a local dealer, who will either provide a mobile repair service or have the vehicle towed to the dealership at no cost.

Honda Urged to Issue Recall for HR-V's Shattering Rear Window

Honda is being urged to issue a recall on its 2023 model HR-V vehicles after receiving hundreds of complaints related to the rear windshield spontaneously shattering, CBS News reports.

Over 300 complaints of the problem have been filed with the National Highway Traffic Safety Administration (NHTSA). Michael Brooks, executive director at the advocacy group Center for Auto Safety, told Consumer Reports that it's atypical for a newer model to receive so many complaints.

Consumer Reports has called on the automaker to issue a recall, with one of its auto testers having experienced the problem himself after using the vehicle's remote start function to begin warming up on a cold morning.

One HR-V owner who filed a complaint experienced their window shattering on Jan. 20 in Flanders, New Jersey. Though temps fell to a low of 18 degrees, the vehicle had been parked inside the garage when the window shattered.

The problem seems to be linked to the use of the rear window defrost. Honda has cited the assembly process as the root cause, and that the rear window sealer being warmed up by the defroster is causing the glass to weaken with use.

In response, Honda will be launching a voluntary product update campaign, estimated to begin in April or May 2024. In the meantime, they are instructing drivers who experience problems with their rear windows to contact a Honda dealer or their customer service.

However, some have presented a recall as the best path forward, such as William Wallace, associate director of safety policy at Consumer Reports.

U.S. Supreme Court Declines to Hear Challenge to California's Flavored Tobacco Ban

After declining to institute an injunction against California's flavored tobacco ban in 2022, the U.S. Supreme Court now has decided not to hear a challenge against the law brought by British American Tobacco subsidiary R.J. Reynolds Tobacco Co., allowing the ban to remain in effect.

The court rejected an appeal by R.J. Reynolds and other plaintiffs, stemming from a lower court's ruling holding that California's law did not conflict with a federal statute regulating tobacco products, according to reporting from Reuters. The law now makes California the largest state to ban the sale of any flavored tobacco products.

The final determination by the court followed a rather long and circuitous path since the original legislation was signed by Gov. Gavin Newsom in 2020. Though passed by near universal consensus by both the state assembly and senate, the ban was not without controversy.

Two months after signing, the California Coalition for Fairness submitted more than 1 million signatures from registered voters to the Secretary of State's office in a bid to get a veto referendum to overturn the legislation onto the November 2022 ballot. The potential referendum then delayed the implementation of the legislation, which had originally been scheduled to go into effect at the beginning of 2021.

Despite the lobbying effort by R.J. Reynolds and others to whip up support for the voters' veto, the referendum failed by 25 points, with 62.3 percent of the public voting to uphold the ban.

Two days after the referendum vote, tobacco companies filed a lawsuit against California and sought a preliminary injunction to place the ban on hold while they sought judicial relief. However, neither the District Court for the Southern District of California, the U.S. Court of Appeals for the Ninth Circuit nor the Supreme Court agreed to block the law, and with the suit's appeals exhausted, California can move ahead with full legal implementation.

This will likely not be the end of the battle over flavored tobacco products and regulations in the U.S. In November, numerous industry associations, including NACS and the Convenience Distribution Association, spoke out against the newest attempt by the U.S. Food and Drug Administration's to ban menthol from cigarettes and flavored cigars, while numerous municipalities have moved ahead with their own localized flavored tobacco bans.

British American Tobacco & Philip Morris International Settle Patent Dispute

British American Tobacco (BAT) and Philip Morris International Inc. (PMI) have resolved a years-long dispute over heat-not-burn tobacco technology.

The companies announced Feb. 2 that a global settlement was reached that resolves all ongoing patent infringement litigation between the parties related to their heated tobacco and vapor products.

BAT, parent company to Reynolds American Inc., filed suit for patent infringement in Spring 2020. It alleged that the heating blade technology used in the IQOS heat-not-burn tobacco product was an earlier version of the technology used in BAT's glo tobacco heating devices.

More than a year later, the U.S. International Trade Commission ruled that PMI and Altria Group Inc. had to stop selling and importing IQOS following a finding that the product infringed on two BAT patents, as Convenience Store News previously reported. Altria later sold its U.S. rights to IQOS to PMI, ending their pact.

Both BAT and PMI stated that patent protection is a critical component of the innovation driving their strategies, and that they welcome this settlement as the best path forward for their business plans.

Terms of the BAT-PMI settlement include nonmonetary provisions between the companies that resolve all ongoing global patent infringement litigation, encompassing all related injunctions and exclusion orders, and prevent future claims against current heated tobacco and vapor products.

The settlement also allows each party to innovate and introduce product iterations. BAT and PMI are both committed to continued innovation in reduced risk products to further advance tobacco harm reduction, the companies said.

Man Charged With Using Pump Device to Steal More than $1,700 in Fuel

Police in Delaware last week arrested a 34-year-old man on charges he installed a device on a Wawa fuel pump that allowed him to steal more than $1,700 fuel.

Delaware State Police say Kelvin Giron-Brand, of Paterson, N.J., was arrested Jan. 23 at a station in New Castle after police responded to reports of fuel theft. Police said that during their investigation they learned that several Wawa stations had been robbed of diesel fuel by suspects who installed a device on fuel pumps allowing them to dispense large amounts of fuel for a fraction of the cost.

Police said they found such a device on the pump used by Giron-Brand. A search of Giron-Brand's van revealed multiple containers filled with fuel worth more than $1,700, police said. Giron-Brand paid less than $20, according to police.

He was charged with shoplifting over $1,500 worth of goods, possession of burglary tools and conspiracy. He was ordered held on a $14,000 bond, police said.

Fuel theft -- particularly diesel fuel -- has escalated in recent years, with thefts rising last year as fuel prices hit record highs, authorities have told OPIS.

Organized theft rings and individuals can steal hundreds of gallons of fuel at a time, often by tampering with the pump so that it dispenses much more fuel than what they pay for, authorities have said.

--Reporting by Steve Cronin

Your Inspection License May be Worth Money

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

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

February 1, 2024
Submitted via www.regulations.gov
Joel Christie
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Docket number FTC–2023–0077; Request for comment on petition for rulemaking submitted by U.S. Public Interest Research Group Education Fund and iFixit.

Dear Mr. Christie:

The undersigned groups are writing to express our support for the petition for rulemaking submitted by U.S. Public Interest Research Group Education Fund (PIRG) and iFixit urging the Federal Trade Commission (FTC) to promulgate rules governing consumers' right to repair products and devices.

The status quo is not working and will only get worse for consumers who need passenger car and truck services as vehicle computerization further escalates.

Consumers rely on the independent automotive maintenance and repair industry for timely and cost-effective services, and FTC clearly described in its 2021 "Nixing the Fix: An FTC Report to Congress on Repair Restrictions" how the Magnusson Moss Warranty Act (MMWA) has not fully met those needs:

"The debate around repair restrictions illustrates the limitations of MMWA's anti-tying provision in repair markets. While the anti-tying provision gives consumers the right to make repairs on their own or through an independent repair shop without voiding a product's warranty, repair restrictions have made it difficult for consumers to exercise this right. Although manufacturers have offered numerous explanations for their repair restrictions, the majority are not supported by the record."

The report goes on to state:

"To address unlawful repair restrictions, the FTC will pursue appropriate law enforcement and regulatory options, as well as consumer education, consistent with our statutory authority."

The report accurately describes the extensive breadth of problems vehicle owners face and recognizes that FTC can take certain steps without further statutory authority.

Our groups have put together a list of recommendations that underscore the need for a comprehensive Right to Repair regulation. Although we are discussing real world examples applicable to the motoring public and aftermarket automotive businesses, we believe the issues raised and most of the solutions suggested can apply across industries.

We also agree with PIRG that Section 5 of the Federal Trade Commission Act applies, and we encourage FTC to use it to consumers' maximum advantage. Lastly, those of us who submitted comments to FTC's 2019 call for comments related to Nixing the Fix: A Workshop on Repair Restrictions incorporate that information by reference here.

OEM Notification of Rights

One of the major roadblocks experienced by consumers is not knowing about or understanding their MMWA rights or how to enforce them when their warranty claim is denied. This creates a ping pong effect where motorists are caught between the independent shop and the OEM-authorized dealer attempting to determine the actual problem with their vehicle and who is responsible for repairing it. Consumers would benefit in this situation from additional, official guidance regarding their ability to hold an OEM/authorized dealer accountable to explain in writing the justification for denial of the warranty coverage. The importance to consumers of understanding their warranty rights is highlighted by the fact that automobiles are still the first or second-most expensive purchase the average American consumer makes, and most of those consumers rely on those vehicles to get to the jobs necessary to make ends meet.

An example of a common real problem faced by motorists is a claim by an OEM/authorized dealer that the destruction of an engine was caused by the use of a non-OEM oil filter. The evidence necessary to prove that claim can only come from an engine tear-down, i.e., a mere visual inspection that indicates the use of a non-OEM oil filter is not sufficient evidence to prove a non-OEM part caused damage. However, most car owners don't know that it is the duty of the manufacturer to demonstrate the cause of the issue and thus the dealer or manufacturer often gets away with avoiding warranty responsibility simply by blaming the aftermarket part for the issue.

In order to promote compliance with MMWA by dealers and manufacturers, we urge FTC to:

- Require OEMs/authorized dealers to provide written notice of MMWA rights at the time of any vehicle warranty repair denial and a written explanation of the evidence justifying warranty coverage denial.
- Require OEMs/authorized dealers to provide written notice of any maintenance or repair claimed to be required as a result of prior vehicle maintenance with an aftermarket part and/or done by an aftermarket service provider. This must be done prior to performing the maintenance or repair.

- Update FTC educational materials to note that consumers have the right to modify their vehicle and that warranty repairs may not be denied simply by the presence of a nonoriginal or specialty part.
- Mandate that disclosure of MMWA rights be included with warranty information provided at the time of vehicle purchase.
- Update FTC's online consumer complaint form by adding notice of MMWA rights and contract dispute resolution options, e.g., BBB Auto Line, for vehicle warranty denials.
- Provide a specific site where automotive consumers can report MMWA-related issues experienced with OEMs/authorized dealers rather than forcing them to navigate the general consumer complaint site. Such action would both guide consumers in their stressful time of transportation crisis and provide improved compliance efforts for FTC.

Manufacturers' Marketing Practices

FTC's Nixing the Fix report discusses several examples where manufacturers provide communications that appear to discourage the use of non-original equipment parts or services, either in a technical service bulletin or in language used in an owner's manual. Despite FTC's 2015 enforcement action against BMW for including an owner's manual command to consumers to use only MINI dealers for oil changes, automakers continue to include similar commands in owners' manuals. Should FTC pursue the requested rulemaking, the undersigned Associations can provide a comprehensive list of problematic owners' manuals. OEM in-vehicle telematics also command owners to return to the dealer for service. Even technical bulletins include recommendations couched in terms that appear to threaten or outright deny warranty coverage if a non-OEM brand part is used.

In addition, manufacturers have been advocating for bills in state legislatures across the nation that would require repair shops to use OEM procedures when performing collision repairs. While we do not dispute that shops must use the proper procedures in order to perform repairs, these procedures also "promote" the use of OEM replacement parts, making it appear that they are required in order to correctly complete the repairs.

In order to ensure that consumers receive accurate information, we urge FTC to:

- Recognize and prohibit OEM commands to use dealer service and/or OEM brand parts.
- Establish guidelines for a MMWA anti-tying compliance notice to be included in any communications between OEMs and franchised dealers regarding recommendations for use of original equipment parts or services, including maintenance and repair directives.
- Require manufacturers to include a disclosure in all repair procedures not covered by a warranty or recall that service providers are not required to use OEM parts and that they should consider all parts sourcing options when authorizing repairs.

Sideways Tie-in Brand Product Sales

Automakers have been exploiting a semantic technicality to avoid the MMWA prohibition against tie-in sales of brand products by requiring OEM brand specification fluids such as antifreeze and transmission fluid to maintain warranty coverage. In this anti-consumer scenario, an OEM requires their brand fluid and/or the brand fluid's specification which may have its own name as well (e.g., General Motors AC Delco Dexron™ transmission fluid), but restricts access to the brand specification as proprietary property. That means a competitor can only make a competing brand specification fluid if they pay to get that fluid approved by the OEM or they'll be attacked for fraud and/or stealing intellectual property. All fluids of that approved brand specification type are then (1) far more costly to consumers due to the expensive OEM fees involved, and (2) only available as the OEM allows, both of which are against the public interest.

Moreover, no OEM has proven that its brand specification fluid is the only one with which a vehicle can function properly (15 U.S.C. §2302(c)(1)) because they can't. In fact, transmission fluid performance claims can be met or exceeded via different additive packages than those used in an OEM's proprietary blends, which means there is no science-based rationale for discriminating against non-OEM brand fluids achieving required performance claims with a different "recipe." The national fleet is flush with millions of examples of vehicles successfully operating with non-OEM brand specification fluids that may actually be superior products.

If an OEM requiring a brand product to maintain warranty coverage is an unlawful tie-in sale, then so is an OEM requiring a brand product specification where the OEM retains exclusive control of the specification's use. Therefore, if a manufacturer makes a brand fluid or other part specification requirement, then they must either make that specification available so non-OEM companies can provide competitive, compliant products or acknowledge the alternative acceptability of fluids meeting a "suitable for use" aftermarket standard, such as the one for transmission fluid that is codified in NIST Handbook 130.

We urge the FTC to:

- Recognize that an OEM requiring a brand product specification where the OEM retains exclusive control of the specification's use is a form of prohibited tie-in sale of branded products under 15 U.S.C. §2302(c).
- Establish disclosure requirements for OEMs when any brand fluid/part specification is required to maintain warranty coverage such that non-OEM suppliers can ensure to consumers that their products are consistent with or superior to manufacturer specifications.

Enforcement Measures

Developing better enforcement tools for FTC is more critical than ever. Having a database focused on MMWA would help the FTC better track those types of consumer complaints from the rest. Further, it would be helpful to cross check automotive-related MMWA complaints with consumer complaints made to the National Highway Traffic Safety Administration (NHTSA).

The Hyundai/Kia Theta II engine defect case is a perfect example of how disconnects in the current federal complaint system allow defective vehicles and related OEM mistreatment of consumers to avoid enforcement for years. In the Theta II case, OEMs/authorized dealers made an official practice of denying warranty coverage for the engine defects to consumers who obtained oil changes at non-OEM/dealer locations by claiming a non-OEM oil filter caused every defect. Consumers reported this problem to NHTSA but apparently not to FTC, although several of the undersigned Associations alerted the Bureau of Consumer Protection to the problem as early as 2012. Meanwhile, NHTSA waited years for a sufficient number of fire related engine complaints before taking significant action.

The major repair costs experienced by consumers in the Theta II case could have been avoided with MMWA-specific questions and/or educational information within the complaint systems and an automatic cross-check on complaints between the FTC and NHTSA.

We urge the FTC to:

- Work with NHTSA to create a link between NHTSA's consumer complaint/recall system and FTC's consumer complaint system for consumers experiencing (a) warranty denial based on unlawful tie-in sales of brand products and/or services; and/or (b) repeated repair denials based on OEM/authorized dealer inability to diagnose or repair a substantial symptom such as stalling, shuddering, and knocking.

Telematics

The vast majority of new vehicles sold today have the capacity for wireless transmission of data through telematics. This data has the potential to provide extensive benefits to consumers including improved safety and more efficient repairs. Although the MOUs with automakers may have been a good start, automakers continue to impose control over access to this data, meaning that a vehicle may be owned by an individual, but that individual has no control over their vehicle data. Instead, the vehicle data is collected, used, and may be sold by the OEM with little to no notice to, or consultation with, the owner of the vehicle. Access to mechanical vehicle data is critical to ensuring that independent shops can provide repairs and maintenance for vehicles.

Therefore, if the current control of data by OEMs is left unchecked, they will be the gatekeepers for in-vehicle data, ultimately determining whether a competitive marketplace continues to exist to the point of rendering the MMWA irrelevant.

Should FTC conclude it does not have the authority to restore and preserve consumers rights and a fair marketplace with regard to vehicle telematics, then we urge FTC to support H.R. 906, The REPAIR Act, because this consumer nightmare will not end without federal intervention.

We also incorporate by reference the comments submitted by the Auto Care Association on this issue.

Thank you for giving us the opportunity to comment.

Sincerely,
Service Station Dealers Association & Allied Trades, Tire Industry Association, Preventative Automotive Maintenance Association, Independent Lubricant Manufacturers Association, Automotive Maintenance & Repair Association