SSRA

Service Station & Repair Shop Association of Central New York
1235 Upper Front Street, PMB 105, Suite 5, Binghamton, NY 13901
(607) 398-7260 – ssra@nysassrs.com – www.nysassrs.com

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Growth Of E85 Fuel Moves Beyond The Midwest

E85 fuel has been a common site at gas stations across the Midwest, and now more outlets in other regions of the country are adding the alternative fuel to their pumps.

According to the Alternative Fuels Data Center (AFDC), Minnesota continues to lead the nation with 336 E85 retail locations. However, in recent years, the fastest growth of E85 outlets is taking place in states outside the Midwest.

Currently, 2 percent of all retail stations in the United States offer E85, serving the approximately 5 percent of U.S. light-duty vehicles that are capable of running on the fuel, which is a blend of 85 percent ethanol and 15 percent gasoline.

Gas stations selling E85 historically have been concentrated in the Midwest, where retail outlets benefit from the readily available ethanol fuel supplied to blenders. In 2007, the earliest year for which state-level E85 data is available, the majority of E85 stations were located in just five states: Minnesota, Illinois, Indiana, Iowa and Wisconsin, according to the U.S. Energy Information Administration (EIA).

While Midwest states continue to add significant numbers of new E85 retail locations, California, New York, Colorado, Georgia and Texas also have experienced rapid growth of E85 availability, adding more than 49 retail locations each between 2007 and 2013. As a result, the share of nationwide E85 stations in the five traditional ethanol-producing states of the Midwest fell from 54 percent in 2007 to 36 percent in 2013, EIA reported.

The fastest growth is coming from California and New York, both of which increased from fewer than a dozen stations combined in 2007 to more than 80 stations each in 2013. On the flip side, New Hampshire and Alaska are the only states without any E85 stations -- down from nine states in 2007.

Still, growth of E85 locations is slowing down. The number of E85 fueling stations in the United States increased from 1,229 to 2,442 between 2007 and 2011, but only increased by 7 percent from 2011 to 2013, when the total reached 2,625, according to EIA.

With the exception of New York, the Northeast has continued to see slow adoption of E85 by retailers. In 2007, there were no retail stations selling E85 in New England. By 2013, only 13 had been added, most located in Massachusetts.

In addition, several states -- most notably, Minnesota and North Carolina -- actually reported fewer E85 retail locations in 2013 than the year before.

Inside This Issue

1	*E85 Fuel Moves Beyond The Midwest*
1-2	*E-Cigarette Tax Hike In Washington State Moves Forward*
2	*NHTSA Announces Long-Awaited Advancement Of Connected Vehicle Technology*
2	*Menu Labeling Pushed Until End Of Year*
2-3	*EPA Releases Final Cleaner Fuel, Car Standards*
3	*AASP Denounce Insurer Meddling In Parts Procurement*
3-4	*AASP Issues Statement on Industry Repair Standards*
4	*Colorado Lawmakers Seek Online Lottery Ban*
4-5	*Rhode Island C-Store Owners Plead Guilty ToFood Stamp Fraud*
5	*Filling Your Tank Up On Sales Tax*
5	*The Premium Tax Credit*
5-6	*The Small Business Health Care Tax Credit*
6-7	*General Counsel Corner*
7	*Getty Realty Puts 47 Properties On The Market*
7	*Vermont legislators Keep Tobacco Age At 18*
7	*DMV Record Retrieval*

E-Cigarette Tax Hike In Washington State Moves Forward

Washington state lawmakers have approved a 75% tax on electronic cigarettes, the Associated Press reports.

The House Finance Committee passed H.B. 2795 with a 7 to 6 vote. Originally, the bill called for a 95% tax on the distribution of e-cigarettes.

The vote was contentious, with Rep. Car Condotta criticizing the tax, maintaining e-cigarettes are an important tool in smoking-cessation efforts.

"This (tobacco substitute) industry has accomplished more in just a few years than they've done in 25 years in getting people off (tobacco)," he said.

Rep. Gerald Pollett questioned the safety of the vaping devices. "The industry itself refuses to do the long-term credible studies that are needed," he said.

However, Rep. J.R. Wilcox said any charges of safety concerns are simply a red herring. "This bill has nothing to

do with safety or health," he said. "There's nothing in this bill that regulates. It's just a tax bill."

The bill would drop the taxation if the federal government approves e-cigarettes as a smoking-cessation device.

NHTSA Announces Long-Awaited Advancement Of Connected Vehicle Technology

Officials from U.S. Department of Transportation and the National Highway Traffic Safety Administration announced that they will move connected vehicle technology forward in an effort to greatly improve safety and save lives on the nation's roadways. Also known as vehicle to vehicle technology (or V2V), the system allows vehicles to communicate potential risks to drivers and avoid rear-end, lane change, and intersection crashes.

"V2V crash avoidance technology has game-changing potential to significantly reduce the number of crashes, injuries and deaths on our nation's roads," said NHTSA Acting Administrator David Friedman in a statement. "Decades from now, it's likely we'll look back at this time period as one in which the historical arc of transportation safety considerably changed for the better, similar to the introduction of standards for seat belts, airbags, and electronic stability control technology."

The American Association of State Highway and Transportation Officials praised the USDOT and NHTSA for their support for life-saving connected vehicle technology. Former AASHTO President and Michigan Department of Transportation Director Kirk Steudle, a national expert and leader in traffic safety and connected vehicle technology, said that "today's announcement by NHTSA officials is a positive step for our ultimate goal of delivering the safest and most efficient transportation system imaginable."

Steudle added, "This is a significant announcement for the future of safe mobility and a day that will lead to great reductions in traffic fatalities. USDOT should be commended for its leadership and vision." Steudle, who recently represented AASHTO before the House Transportation and Infrastructure Subcommittee on Highways and Transit at a hearing on connected vehicle technology, highlighted three additional points:

- Connected vehicle technology holds the promise of a future in which we move around our communities in accident-free vehicles.
- State DOTs look forward to working with the research community, automakers, and federal officials to further the research, development, and testing required to fully implement autonomous vehicle technology.
- The continued strong support and cooperation between state transportation departments, the U.S. Department of Transportation, and global automakers will be critical to the successful and rapid deployment of the safest possible vehicles and transportation infrastructure.

USDOT is currently conducting a safety pilot program in Michigan, the largest ever of its kind, to test 3,000 vehicles equipped with the connected vehicle technology.

The purpose is to test the interoperability of the technology from various vehicle manufacturers and suppliers to make sure they are able to work together once

Menu Labeling Pushed Until End Of Year

Americans will wait a little longer to find out how many calories are in menu items at chain restaurants with more than 20 U.S. locations, the National Review reports. The U.S. Food and Drug Administration missed its February deadline for issuing final rules on menu-labeling requirements.

The agency had indicated it would finalize those guidelines early this year, but instead has yet to finish the requirements. “We are currently reviewing comments submitted in response to the proposed rules and hope to issue final regulations by the end of the year,” said Theresa Eisenman, FDA spokeswoman.

The menu label requirement has come under attack from food retailers and others because of onerous rules and lack of clarity as to which type of establishment the guidelines would effect. In a 2013 interview, FDA Commissioner Margaret Hamburg indicated that crafting the rules had become very complicated. “There are very, very strong opinions and powerful voices both on the consumer and public health side and on the industry side, and we have worked very hard to sort of figure out what really makes sense and also what is implementable,” she said.

Proposed rules posted in April 2011 garnered more than 900 comments, which has met with supermarkets, small foodservice establishments and food chains to hear their concerns and suggestions. But three years has passed with the agency still not ready to submit final rules.

EPA Releases Final Cleaner Fuel, Car Standards

Based on extensive input from auto manufactures, refiners, states and public health and environmental organizations, the U.S. Environmental Protection Agency (EPA) yesterday announced new standards for cars and gasoline that the agency claims will significantly reduce harmful pollution, prevent thousands of premature deaths and illnesses and enable efficiency improvements in vehicles.

These cleaner fuels and cars standards are an important component of the Obama administration’s national program for clean cars and trucks, which also include historic fuel efficiency standards that are saving new vehicle owners at the gas pump today. The standards will significantly reduce ground-level ozone, particulate matter, benzene and other air toxics in the air we breathe.

Automobile makers, states and environmental and public health organizations expressed their support of the changes. “EPA’s Tier 3 rule will provide a significant

opportunity to further reduce emissions from the light-duty vehicle fleet by utilizing an integrated systems approach that combines advanced emission control technologies with advanced engine designs and very low sulfur gasoline fuel," said Joseph Kubsh, executive director of the Manufacturers of Emission Controls Association, in a press release.

"EPA has taken a giant step forward by finalizing regulations that cut harmful pollutants from existing and new cars and trucks," said Kenneth Kimmell, commissioner of the Massachusetts Department of Environmental Protection. "We will see cleaner air and healthier families in Massachusetts because of this common sense, cost-effective rule to reduce the amount of sulfur in gasoline."

George Slover, senior policy counsel for Consumers Union, added, "Millions of Americans struggle with health issues like asthma and respiratory problems that come from breathing air that's heavy with smog and other pollutants. These rules will reduce air pollution by promoting cleaner gasoline and cleaner cars, and as a consumer group, we think it's going to make a big difference for public health. Low-sulfur gasoline will help automakers develop new technologies for more fuel-efficient cars and trucks, and when you add up the benefits for better health and better vehicles, we think it's a big win for consumers."

The refining industry, however, reacted with concern. In a statement, Charlie Drevna, president of the American Fuel and Petrochemical Manufacturers, said "EPA's decision to move forward on Tier 3 is the most recent example yet of the agency's propensity for illogical and counterproductive rulemaking. Tier 3 not only lacks scientific justification, but in fact will lead to higher greenhouse gas emissions due to the greater energy-intense refining process required to reduce sulfur in gasoline from 30 ppm to just 10 ppm. To date, refiners have achieved a 90 percent reduction in sulfur levels and the nation's energy-related emissions are at their lowest level since 1994 according to EPA data. The Agency's own data also shows that in the absence of Tier 3, emission reductions will continue."

AASP Denounces Insurer Meddling in Parts Procurement

The Alliance of Automotive Service Providers (AASP) views State Farm's newly- mandated bidding process for parts procurement as an unprecedented and uninvited intrusion into the business of collision repair. Despite posturing from the largest national insurance carrier on what it believes to be positive attributes of the program, collision repair facilities, parts suppliers, parts manufacturers and interested parties around the country have been consistent in their perception that this type of activity will ultimately harm their businesses and the customers they serve.

Collision repairers are in the business of selling parts, labor and materials at a retail level. Each of these revenue sources contributes to the overall success of the roughly 35,000 small businesses across the nation, allowing the business to provide employment opportunities to individuals within their community, and invest in the necessary equipment and training needed to provide customers with safe, quality repairs. As is the case with all types of business – including the business of insurance – the pursuit of a return on investment (profit) is a core principle, and one that collision repairers should neither apologize for nor relinquish to the influence of other parties.

Insurers are in the business of insuring risk and then settling losses at market value when those losses occur. As the payer of claims, insurers should not be "market makers" for pricing of individual products and services that are components of final invoices. To date, insurance pressure and influence over collision repair market pricing has driven average profit margins to low single-digit figures, despite the fact that the business of collision repair has a high cost of entry and requires ongoing capital investments to keep pace with automotive technologies.

Feedback from other markets outside the U.S. familiar with insurer-mandated bidding platforms indicates that the State Farm parts bidding program is a win-lose scenario, with repairers losing both profit and control of their business. Furthermore, the negative impact of this parts program has the very real potential to quickly spread beyond parts to other areas, such as paint, and beyond the boundaries of voluntary Direct Repair Program (DRP) agreements to the industry at-large. If State Farm contends that this parts program is indeed good for the collision industry, surely the industry would embrace the program on a voluntary basis – assuming the benefits of the program did indeed extend to more participants than just the carrier.

The collision repair industry has gradually transitioned from a proud trade of hard- working owners and employees, to a service provider that subcontracts to the insurance industry, working on net margins that it no longer controls and that jeopardize its ability to invest in its business and to attract and train qualified employees to ensure safe and quality repairs. AASP has grave concerns for its members' future welfare if giant insurance corporations are permitted to trample on the free market philosophies that support a culture of small business success.

AASP Joins Other Collision Repair Organizations to Issue Statement on Industry Repair Standards

In an effort to define a foundation and a road forward, the most prominent collision repair organizations representing the voice of collision repairers nationally, issued and signed a joint statement officially recognizing OEM vehicle manufacturer published repair procedures as the industry's repair standards.

In addition to AASP, the organizations making the declaration included the Automotive Service Association (ASA), Society of Collision Repair Specialists (SCRS), and Assured Performance Network. The statement was presented on Wednesday, November 3, 2011 to those attending the Collision Industry Conference (CIC) in Las Vegas, Nevada. The statement read as follows:

"The undersigned organizations continue to be the leading voice of collision repair businesses and technicians

across the United States, just as they have for decades. Representing their interests, we hereby recognize published repair procedures, as provided by automotive original equipment manufacturers (OEM), as the official industry recognized "Repair Standards" for collision repair. These standards, where they exist, shall be the basis for the establishment of training, testing, repair practices, and documentations.

"Whereas, we acknowledge that OEM repair procedures are incomplete in comparison to the full scope of vehicles and repair operations which exist in the marketplace; the OEM published repair procedures shall serve as the baseline for industry repair standards, with the recognition that further development of procedures will be necessary in areas not covered by published procedures.

"Therefore, we officially ask the board of directors for the Inter-Industry Conference on Auto Collision Repair (I-CAR), to establish within their overall organizational structure, an industry council to identify gaps in existing OEM procedures and develop processes to close gaps, vet industry proposed alternatives, modifications, and additions to OEM procedures. The Council will include volunteer representatives serving at least ASA, SCRS, AASP, and I-CAR."

While most assume OEM repair procedures are standards by default, it has never been officially established until now. As these groups collectively represent collision repair businesses and technicians across the United States, their official adoption and declaration provides a much needed foundation and focus to the industry's effort to establish collision repair standards.

Colorado Lawmakers Seek Online Lottery Sales Ban

The Colorado House voted "yes" this week on a bill that prohibits the sale of lottery tickets online, CBS Denver reports.

The bill bans the Colorado Lottery Commission from approving such sales and permits only in-person sales at licensed stores. A final vote is expected this week in the Senate.

State Rep. Brian DelGrosso, the sponsor of the bill, said it's a way to curb underage gambling, while state Rep. Dan Pabon opposed the bill, calling it a protectionist measure to stop market forces.

Rhode Island C-store Owners
Plead Guilty To Food Stamp Fraud

A two-year federal investigation resulted in the sentencing of two Rhode Island convenience store retailers to federal prison after they plead guilty to food stamp fraud, according to a statement from the U.S. Department of Justice. Nine other Rhode Island c-store owners, managers and employees are scheduled to be sentenced in the coming months following their own guilty pleas.

` The coordinated investigation involved U.S. Attorney Peter F. Neronha; the U.S. Department of Agriculture, Office of Inspector General; the U.S. Department of Agriculture, Food and Nutrition Service, Retailer Investigations Branch; the Internal Revenue Service, Criminal Investigation; and the Rhode Island State Police.

The investigation revealed that the defendants defrauded the Supplemental Nutrition Assistance Program (SNAP) of more than $3 million.

Store owners and/or their employees violated the program's laws and regulations by allowing SNAP benefit recipients to exchange those benefits for cash. The defendants then added a surcharge to the recipients' withdrawal of SNAP benefits that was usually equal to the amount of cash exchanged.

The defendants include:

- Asra Qadir and Waqif Qadir, owners of Express Food Mart in Warwick, R.I., pleaded guilty Feb. 21 to conspiring to defraud the food stamp program. The Qadirs are scheduled to be sentenced by U.S. District Court Judge Mary M. Lisi on May 15.
- Amir Rasheed, owner of Stop & Go c-store in Providence, pleaded guilty to conspiring to defraud the food stamp program, food stamp fraud and money laundering. Rasheed is scheduled to be sentenced May 22.
- Cristina Ramirez, owner of Cristina's Market in Providence, was sentenced by Lisi on Dec. 19 to 12 months and one day in federal prison, to be followed by three years of supervised release, with the first six months to be served in home confinement. Ramirez was also ordered to pay $399,000 in restitution to SNAP. Ramirez pleaded guilty Oct. 4 to conspiracy to commit food stamp fraud and money laundering.
- Glenda Lopez, owner of the Dugout convenience store in Providence, was sentenced by Lisi on Dec. 19 to 18 months in federal prison, to be followed by three years of supervised release, with the first six months to be served in home confinement. Lopez was also ordered to pay $398,000 in restitution to SNAP. Lopez pleaded guilty on Oct. 4 to conspiracy to commit food stamp fraud, money laundering and filing a false tax return.
- Stop & Go employee Mashhod Afzal pleaded guilty Dec. 9 to one count each of conspiracy to commit food stamp fraud and making false statements. Afzal is scheduled to be sentenced March 7.
- Corner Store manager Mohamad Barbour pleaded guilty Dec. 17 to one count of conspiracy to commit food stamp fraud and is scheduled to be sentenced March 6.
- Stop & Go manager Karuna Mehta pleaded guilty Dec. 20 to one count of conspiracy to commit food stamp fraud and seven counts of food stamp fraud. Mehta is scheduled to be sentenced April 3.
- Mustafa Al Kabouni, owner of the Corner Store and the Regency Mart in Providence pleaded guilty Feb. 4 to one count of conspiracy to commit food stamp fraud, three counts of food stamp fraud, eight counts of wire fraud and six counts of money laundering, and is scheduled to be sentenced May 1.

- Regency Mart employee Mohammad Amir Al Kabouni pleaded guilty Feb. 4 to one count of conspiracy to commit food stamp fraud and four counts each of food stamp fraud and wire fraud, and is scheduled to be sentenced May 1.
- Regency Mart employee Muhammad Eid Al Kabouni pleaded guilty Feb. 7 to one count of food stamp fraud and is scheduled to be sentenced May 2.

Assistant U.S. Attorneys Sandra R. Hebert and Richard B. Myrus are prosecuting the cases.

Filling Your Tank Up on Sales Tax

For most people, a conversation about gasoline prices is a debate about whether prices are a little too high or a lot too high. But to the owner of that gas station, a conversation about gasoline prices is often a headache about taxes. Many customers fail to realize that the price they pay at the pump includes numerous federal, state and local taxes. One of the most costly taxes included is sales tax.

Sales tax is different from many other taxes in that it is a fiduciary responsibility. Therefore, not only can a business be assessed sales tax plus interest (and penalties in many cases) but a "responsible person" of the business can also be assessed. That's right; you can be on the hook personally!

So where do these sales tax assessments stem from? Generally, assessments stem from audits. Gas stations, especially those with a convenience store or repair facilities, are often targeted for sales and use tax audits in New York State.

When audited, there are three different areas of sales that auditors typically review: gasoline sales, cigarette sales and convenience/repair store sales. As a vendor in New York State, you need to be able to show an auditor that the correct amount of sales were reported, that tax was collected on sales when it was supposed to be collected and that the tax which was collected was remitted to New York State. If you cannot adequately document all of those things you could be assessed. If you can document all of those things but you made a mistake somewhere in the documents which led to an underreporting, you can be assessed. Just because you made an honest mistake doesn't mean you won't be assessed tax and interest (and potentially penalties.)

Auditors also typically review the purchases of a gas station to verify tax was paid when it was supposed to be paid. Sales tax almost always has to be paid on the purchase of gasoline and on cigarettes by a gas station. This is actually a prepayment of the sales tax which, if done correctly, should be credited when filing a sales tax return. There are many other items on which tax should be paid. One of the most important things to know is that just because a vendor did not charge sales tax does not mean tax is not due. A business may have to self-assess use tax.

Between sales, purchases and the possibility of additional penalties, it is important that a gas station file its sales and use tax returns correctly. Unfortunately, because of the other taxes imposed on gasoline sales, completing the correct calculations can be complex and confusing for some owners and accountants alike.

The best advice we could give is to be proactive. If you have any concerns that the sales and use tax returns are not being completed correctly, look into it. If you are selected for audit, don't ignore the auditor. Be proactive now and you'll be grateful you were later.

Written by Joseph Calamia II, Senior Tax Specialist
Sales Tax Defense LLC
www.SalesTaxDefense.com 631-491-1500

The Premium Tax Credit

The premium tax credit can help make purchasing health insurance coverage more affordable for people with moderate incomes. To be eligible for the credit, you generally need to satisfy three rules.

First, you need to get your health insurance coverage through the Health Insurance Marketplace. The open enrollment period to purchase health insurance coverage for 2014 through the Health Insurance Marketplace runs from October 1, 2013 through March 31, 2014.

Second, you need to have household income between one and four times the federal poverty line. For a family of four for tax year 2014, that means income from $23,550 to $94,200.

Third, you can't be eligible for other coverage, such as Medicare, Medicaid, or sufficiently generous employer-sponsored coverage.

If a Marketplace determines that you're likely to qualify for the tax credit at the time you enroll, you have two choices: You can choose to have some or all of the estimated credit paid in advance directly to your insurance company to lower what you pay out-of-pocket for your monthly premiums during 2014. Or, you can wait to get all of the credit when you file your 2014 tax return in 2015.

If you wait to get the credit, it will either increase your refund or lower your balance due.

If you choose to receive the credit in advance, changes in your income or family size will affect the credit that you are eligible to receive. If the credit on your tax return you file in 2015 does not match the amount you have received in advance, you will have to repay any excess advance payment, or you may get a larger refund if you are entitled to more. It is important to tell your Marketplace about changes in your income or family size as they happen during 2014 because these changes will affect the amount of your credit.

More Information

- Find out more about the health care law and the Marketplace at www.HealthCare.gov.
- Find out more about the premium tax credit at www.IRS.gov/aca.

The Small Business Health Care Tax Credit

The Small Business Health Care Tax Credit helps small businesses and tax-exempt organizations pay for health care coverage they offer their employees.

A small employer is eligible for the credit if it has fewer than 25 employees who work full-time, or a combination of full-time and part-time. For example, two half-time employees equal one employee for purposes of the credit.

For 2013, the average annual wages of employees must be less than $50,000, and the employer must pay a uniform percentage for all employees that is equal to at least 50% of the premium cost of the insurance coverage.

The maximum credit is 35 percent of premiums paid for small business employers and 25 percent of premiums paid for small tax-exempt employers such as charities.

If you are a small business employer who did not owe tax during the year, you can carry the credit back or forward to other tax years.

For small tax-exempt employers, the credit is refundable, so even if you have no taxable income, you may be eligible to receive the credit as a refund so long as it does not exceed your income tax withholding and Medicare tax liability.

More information

- Find out more about the small business health care tax credit at IRS.gov/aca.
- The Small Business Health Care Tax Credit Estimator can help you find out whether you're eligible for the Small Business Health Care Credit and how much you might receive.
- Find out more about the health care law at HealthCare.gov.

General Counsel Corner

By Peter H. Gunst, Esquire

Price-Fixing is Not Worth It

(This article originally ran in 2012...we are running it again as it is still a very relevant topic!)

Recently, five Michigan service station dealers admitted guilt to criminal charges that they had fixed the street prices they charged consumers within a penny or two of each other on at least 5 separate days in February and March 2011. They were lucky to escape by paying fines of between $10,000 and $15,000 each.

Most states have laws that mimic the Sherman's Act's condemnation of price fixing, which they can enforce against local conspirators too small to be targets of the Justice Department or the Federal Trade Commission. These defendants fit that profile.

Under most if not all state antitrust laws price-fixing is a felony. Under Michigan's Antitrust Reform Act, the dealers could have faced up to two years in prison. Also, their businesses could have faced fines up to $1,000,000 each.

Conviction for price-fixing can cause collateral damage as well. There is the risk that consumers can use the guilty plea as proof in civil cases demanding up to triple damages and attorneys' fees as well. In addition, under the Petroleum Marketing Practices Act, such criminal misconduct can constitute a ground for termination or nonrenewal of the franchise relationship.

To be found guilty of price-fixing, the state does not need to prove that dealers enter into an ironclad agreement to set prices at a specific level. An agreement can consist of a "nod and wink" among participants.

As in the Michigan, it is no defense that there was some discrepancy among the competitors' prices so long as there is some underlying agreement that affects pricing. Price-fixing agreements may consist of, for example, agreements to hold prices firm, to eliminate or reduce discounts or to maintain price differentials between different grades of product. The best defense is not to discuss retail pricing with your competitors at all.

Be sure your managers know about the danger and obey the law. Their actions can result in liability to your business. In these days, the climate of hostility towards gasoline pricing makes it an inviting target for aggressive state enforcement agencies.

Don't become a target; price-fixing isn't worth it.

General Counsel Corner

By Peter H. Gunst, Esquire

A Shot In The Dark

A customer filling up at a Circle K convenience store in Tallahassee, Florida was the unintended victim of a gunfight that broke out in the parking lot. He sued both Circle K and its gasoline supplier, Shell Oil, for negligence. A federal district court considered the sufficiency of his claim earlier this year in Cain v. Shell Oil Co. et al.

The court had no difficulty in finding that the wounded customer could not assert a claim against Shell, which was Circle K's franchisor as well as gasoline supplier. Like many courts before it, the district court decided that a mere franchise relationship is not a sufficient basis for holding a franchisor reliable for its franchisee's negligence.

The customer, in arguing that the franchisor exercised sufficient control over the franchise premises to be held jointly liable, pointed to provisions in the franchise agreement imposing minimum operational standards on the franchisee. The court, however, while conceding that "these conditions may be interpreted to impose some control in the broadest sense over how the store operated," concluded that they did not give Shell control over the specific means utilized by the franchisee to satisfy the contractual standards.

More surprising was the court's treatment of the customer's claim against the franchisee. Circle K argued that, as a matter of law, the shooting was not foreseeable because the customer's injuries were caused by "a freakish and improbable chain of events" that were "utterly unpredictable in light of common human experiences."

Rejecting Circle K's claim to an absolute defense against liability, the court found that the circumstances were sufficient to permit a jury to decide whether Circle K should bear legal responsibility for its customer's injuries.

The court pointed out that the c-store was located in a high crime area, which was particularly dangerous late at night after the neighborhood bars closed.

Further, the Tallahassee police department had contacted Circle K to express concerns regarding the issue of crowd control at the store and its adjoining parking lot. The police department had requested and received permission from Circle K to “basically shut the store down” and “turn the lights off” when conditions were particularly bad, with the hope that this would discourage a crowd from gathering in the store’s vicinity.

Although the police department had not acted on the evening of the incident, the store manager had been warned by an employee on duty of a gathering crowd, but had insisted that the lights remain on and the store remain open.

Based on these circumstances, the court concluded that the customer had “presented sufficient facts for a reasonable jury to find that the shooting was foreseeable and not merely a freakish, improbable, or extraordinary event.”

The lesson appears to be clear. A c-store operator has a positive duty to take reasonable steps to avoid the risk of harm to its customers, even if that risk of harm is not obvious or readily ascertainable. It may not be sufficient to argue that a shot in the dark is either a “freakish” or “extraordinary” event.

Getty Realty Puts 47 Properties On The Market

Getty Realty Corp. retained NRC Realty & Capital Advisors LLC to sell 47 retail properties in eight states.

The sale will include 16 gas stations, 29 commercial and retail properties formerly used as gas stations, and two industrial sites. The highest concentration of properties is in Massachusetts (21 sites), followed by New York (11) and Rhode Island (6). Many of the sites are currently being operated by licensees under month-to-month license agreements.

The 16 gas stations are located in a variety of urban and suburban markets in each of the eight states, which also include Pennsylvania, Connecticut, Illinois, Maine and North Carolina. All are fee-owned properties. These properties are being sold without a gas brand or fuel supply.

According to NRC Realty, most of the 29 commercial and retail properties are improved with operating or closed gas stations.

Also up for bid will be two industrial sites in Port Ewen, N.Y., and Providence, R.I. Both are former fuel distribution terminals and could potentially be redeveloped.

"These sites are very attractive for a variety of gasoline, automotive, retail and commercial and industrial uses," said Evan Gladstone, NRC’s executive managing director. "A majority of the sites are located on high-traffic corners in mature neighborhoods and in small towns. Investors will also be interested in bidding on many of the locations, which have license agreements with operators."

The properties will be sold using NRC's "buy one, some or all" sealed bid process. Due-diligence packages are expected to be available in May, with a bid deadline of May 13.

Vermont Legislators Vote To Keep Tobacco Age at 18

Lawmakers in the Vermont House of Representatives rejected a measure that would have hiked the legal age to buy tobacco to 21.

According to a report by The Associated Press, the Tuesday vote by the House Human Services Committee came after State Health Commissioner Dr. Harry Chen said he opposed the legislation because 18- to 20-year-olds are legally adults and should have the freedom to smoke.

Last month, state Rep. George Till (D-Jericho) tried to add an amendment to a bill seeking to reduce exposure to secondhand smoke that would have raised the age for buying tobacco products. He agreed to withdraw this amendment after Majority Leader Willem Jewett and Human Services Committee Chairwoman Ann Pugh agreed the committee would address the age increase in separate legislation, the AP reported.

State Rep. Anne Donahue (R-Northfield) said there was not enough time left in the legislative session, which is due to wrap up in early May, to consider what she called a "major policy change." Friday is the last day for getting most bills out of their committee of origin.

State Rep. Matt Trieber (D-Rockingham) made motions to reject two versions of the age increase, one of which would have exempted members of the military. The motion to reject the measure without the military exemption was approved 10-1; the motion to reject the version with the military exemption was passed 11-0.

Trieber said he opposed raising the age for buying tobacco products, but added that he could be persuaded to change his mind after hearing more committee testimony showing there is scientific data supporting such a move, according to the report.

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.

Attention Inspection Stations

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

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

$afety Group 536

With a Financial history like this you have lots of reasons to smile.

Dividend History		Discount History	
35%	2010-2011	25%	2012
35%	2009-2010	25%	2011
35%	2008-2009	20%	2010
35%	2007-2008	20%	2009
30%	2006-2007	20%	2008
30%	2005-2006	25%	2007
25%	2004-2005	25%	2006
22.5%	2003-2004	25%	2005
17.5%	2002-2003	20%	2004
10%	2001-2002	20%	2003
15%	2000-2001	20%	2002
30%	1999-2000	20%	2001
40%	1998-1999	30%	2000

Current Group Management took over for the 04-05 policy year
2008 20 % Discount due to 18% rate decrease

Lawley

NYSIF New York State Insurance Fund
Workers' Compensation & Disability Benefits Specialist since 1914

SERVICE STATION & REPAIR-SHOP OPERATORS ASSOCIATION OF CENTRAL NEW YORK

1235 Upper Front Street, PMB105, Suite 5
Binghamton, New York 13901

Phone: (607) 398-7260
Fax: (518) 452-1955

N A P A PROGRAM
FREE MONEY

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

FAX this form back to:
518 452-1955

SSRA

Service Station and Repair-shop Association of Central New York

HEALTH INSURANCE PROGRAM

If you are going without health insurance, you are taking a big risk. Now is the best time to stop exposing yourself to high medical costs. Even if you have insurance, you will want too check how our health insurance programs can better suit your needs. Here are some of the benefits of our program:

- **Reduced premiums by being a member of our groups.**
- **Programs provided by a variety of providers.**
- **Choose from a wide selection of plans.**
- **Tailor your insurance to best suit your needs.**
- **Participating employees may choose different plans.**

Let us work with you to find the best program at the best price. We will send you more information, and help you to navigate the selection of plans and options to find the one that is best for you.

To find out more information call Ralph Bombardiere at (607) 398-7260