

AT THE PUMP & DOWN THE AISLE

PROVIDING LIFE'S ESSENTIALS TO WEST VIRGINIA-
FUEL, FOOD & CONVENIENCE

OMEGA
west virginia oil marketers & grocers assoc.

October 2011

Number 606

WV OMEGA Raises



\$203,074 for Make-A-Wish Foundation of WV

Providing Life's Essentials to West Virginia - Fuel, Food and Convenience.

Value...

one way we stand out!



Building Brand Value:

- Marathon employs 33 Territory Managers and 5 Program Territory Managers to deliver value to our customers.
- Marathon has excellent supply with truck loading racks at our 84 terminals, all operated with the driver in mind.
- Marathon has 9,600 miles of pipeline, which ensures stable and flexible supply.
- Marathon is the 5th largest refiner in the United States, owning and operating 6 refineries with a combined capacity of 1,142,000 barrels per day.



For Brand and Wholesale opportunities visit
www.marathonpetroleum.com



Fueling the American Spirit.

From the President ...



I am proud of our accomplishments. Who would have thought in 2003 when we decided for our industry to make a difference statewide that in eight years we would have donated over \$1.3 million dollars to children in WV. I am thrilled that once again this year we topped the past year with our donation of \$203,074 to Make-A-Wish.

This month I attended the PMAA and NACS meeting in Chicago. I am proud to represent OMEGA on the Board of Directors for PMAA and the Southeast Region on the Executive Committee. There is indeed a lot going on at the federal level and I am glad that we are at the table.

The election here in West Virginia is behind us. I am eager to work with Governor Tomblin and continue to move WV forward. We have a great state and

I am proud to be a West Virginian working to make it better. Please turn to page 8 to see some of the great things happening in WV. WV is indeed a great place to live, work and play.

I'd like to say thanks to Sandra for her service to OMEGA. The Association is improved because of her efforts. Also, thanks to Michael Graney who served well beyond the call of duty and now goes off of the executive committee, but will not be put out to pasture. Michael has promised to continue his dedication to OMEGA. We look forward to working with Jim. As the first grocer at the helm, we will embrace his ideas and perspective on our association management and issues.

As always, we are your Association. We always look forward to hearing your ideas, suggestions, compliments and complaints. Together we can grow stronger!

Jan

OMEGA 2011 - 2013 Officers

Chairman

Jim Oppe

TWJ, Inc.

Vice Chairman

Greg Rogers

R. T. Rogers Oil Co.

Secretary/Treasurer

Joe DeFazio

DeFazio Oil Co.

President

Jan Vineyard

Immediate Past Chairman

Sandra Morgenstern

Par Mar Oil Co.

Senior Board Members

John Heater

Go-Mart, Inc.

H. C. Lewis, II

H. C. Lewis Oil Co.

Douglas M. Roach

R. M. Roach & Sons

Board Members

Cory Beasley

Little General Store, Inc.

Sam Chico, III

Chico Enterprises Inc.

Edward J. Coyne, II

Tri-State Petroleum Corp.

Greg Darby

Little General Store, Inc.

Patrick C. Graney, III

Petroleum Products Co.

Michael Graney

One Stop

Wayne Harris

Harris Oil Co.

Gary Hatch

Bruceton Petroleum

Art Hartley, Jr.

City Ice & Fuel Co.

Sam Heater

Go-Mart, Inc.

Ed Hensley

Reduce Inc..

Tom Jamieson

Jamieson Family Markets

Rick Joseph

Kanawha City Foodland

Jeffrey L. Kramer

Prima Marketing LLC

H. C. Lewis, III

H. C. Lewis Oil Co.

Thad Ours

Petersburg Oil Co.

Steve Roach

R. M. Roach & Sons

R. T. "Ted" Rogers
R. T. Rogers Oil Co.

Darroll Talbott

Guttman Oil Co.

Dennis Thompson

Dawson-Thompson Oil Co.

Curt Woodford

Woodford Oil Co.

Associate Supplier Members

Proctor Dean

Eagle Transport Corp.

Randy Emanuelson

Sledd Co.

Victor Flanagan

Pullin Fowler Flanagan

Brown & Poe LLC

Randal Flesch

Marathon Petroleum Co.

Brian Hicks

Pepsi Beverages Co.

Denny Huff

Sammie Huff Contractors

Jim Linsenmeyer

Proud Eagle, Inc.

Rod Moore

Enviroprobe Integrated

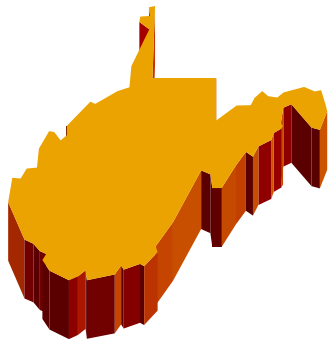
Solutions

Greg Walls

Frito Lay

Allan Williams

BrickStreet Insurance



West Virginia News

OMEGA Elects New Officers

The West Virginia Oil Marketers & Grocers Association (OMEGA), an organization representing convenience stores, independent groceries and petroleum marketers across the state, recently announced its 2011-2013 slate of officers. They include:

Chairman
Jim Oppe
Owner
TWJ, Inc.,
Parkersburg, WV

Immediate Past Chairman
Sandra Morgenstern
President/COO
Par Mar Oil Company
Marietta, OH

Vice Chairman
Greg Rogers
President
R.T. Rogers Oil Company
Hinton, WV

President
Jan Vineyard

Secretary/Treasurer
Joe DeFazio
Owner
DeFazio Oil Company
Monongah, WV



Letter from The Chairman

Well, I guess it has finally happened! Since I haven't seen this much press coverage since the election, it must be official - I am officially the Chairman of OMEGA. The first thing I would like to express is my sincere gratitude to Sandra for her excellent guidance through the last two years in the chairman role of our organization and I look forward to words of wisdom from her in the immediate past chairman position. Also, I would be remiss if I didn't thank Michael for his long service to our organization and especially the last two years as immediate past chairman. Michael, your knowledge and words of wisdom are always welcome.

The greatest thing we have going for OMEGA is our leadership team at the office. With Jan leading the way and Traci and Marti backing her and the organization up, our continued success is most assured. Another asset for our Organization is that our members within our group are some of the most dedicated, hardest working people within the state of West Virginia, most of which are entrepreneurs and small business folks who are the backbone on our great country. The one area I am most proud of is our giving back to the community in the way we do. To hand the Make-A-Wish folks a check for over \$203,000 is almost unimaginable! It has to make everyone associated with OMEGA swell with pride. I expect no great changes during my tenure and hope for smooth sailing on the course the past chairmen have set. If at any time you would like to share any ideas or concerns with me I would be glad to listen.

Sincerely,
Jim Oppe



Moving West Virginia Forward - Together

From the Governor's Desk: A Weekly Column by Gov. Earl Ray Tomblin

As I travel throughout our beautiful state, I have the privilege of meeting the honest, hard-working people that make West Virginia great. Our state is filled with people who care for their neighbors, who are willing to work for an honest day's pay and who live within their means. Whether we live high in the mountains; on a farm in the valley; or along a riverbank, I found a consistent sense that we are united by our desire to move our state forward.

There is a growing momentum in our state that is propelling us toward being all we can be and then reach even further. We are making sound budget decisions that are saving money, which means fewer burdens on our taxpayers. Our state bond ratings are the highest they've been in decades, and our unemployment is lower than the national average. In the first half of the year, we saw a 43 percent increase in exports, which was greater than the United States export growth rate. In addition, this year alone, businesses like Macy's and Kureha chose to start new ventures in the state; and businesses like Cabela's, Toyota and Amazon announced expansions.

While our traditional industries such as energy production from coal and natural gas extraction have continued to support the state's economic engine; we continue to work toward developing a more diverse economy. Distribution centers are finding our state attractive for a variety of reasons including our location; and the specialty chemical and manufacturing industries find our state attractive because of our infrastructure. And high on both their lists of reasons to do business in West Virginia is our state's business climate and stable government.

Of course, the list also includes our skilled, talented and dedicated workforce. Government, business, labor and the education system have partnered to ensure that our workforce is well trained and effective. In addition, this partnership provides training options for new industries coming to the Mountain State.

Business and industry leaders from around the nation - and the world - are taking notice of what West Virginia has to offer. By working together, we will continue the momentum.

Do we have challenges to overcome? Sure we do. But it's not enough to point out the things that need improvement. We need to join together to roll up our sleeves and work side-by-side to take on those challenges. Let's take advantage of the momentum we have and continue to make West Virginia all it can be.

FDA Award DHHR \$2,254,067.00 over Three Years to Do Enforcement in WV

The Behavioral Health and Human Health Facilities (BBHFF) submitted a response to solicitation FDA-11-Tobacco announced by the Food and Drug Administration earlier this year. This solicitation specifically focused on state compliance with the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) signed into law on June 22, 2009, by the President. The Act provides FDA the authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. The FDA will contract with WV to carry out the necessary enforcement activities to comply fully with this Act.

WV will receive \$743,000.00 - \$755,000 annually the next three years to carry out enforcement activities authorized under the Act. To do so the WV DHHR-BHFF will employ a Project Director who will oversee and coordinate all authorized activities. In addition, other staff to be employed or contracted include: Inspection Director to oversee and coordinate all inspection activities; 6 Commissioned (by FDA) Inspectors to carry out all undercover and advertising and labeling compliance activities; a data specialist to support data collection, maintenance and reporting and an administrative support staff person. A partnership with the WV State Police supported the original solicitation submission and will continue as the WVSP will be partner supporting compliance activities to fulfill the requirements of the solicitation and resulting contract. Lt. Colonel Foreman has been our primary contact with the WVSP.

(Continued on Page 6)

Following highlights the areas of enforcement:

Age and Photo Identification Restrictions – Retailers:

- May not sell cigarettes or smokeless tobacco to anyone younger than 18 years of age;
- Must verify that any person purchasing cigarettes or smokeless tobacco is at least 18 years old or older by means of photo identification containing the bearer’s date of birth

Advertising and Labeling Restrictions - Retailers:

- May only sell cigarettes or smokeless tobacco in direct, face-to-face transactions;
- May not have impersonal modes of sales at their facility (e.g., vending machines or self-service displays that enable direct access by consumers to cigarettes or smokeless tobacco) unless they ensure that persons younger than 18 years of age are not present or permitted to enter the facility at any time;
- May not offer or cause to be offered coupons that may be redeemed by mail for cigarettes or smokeless tobacco;
- May not break or otherwise open packages of cigarettes to sell or distribute single cigarettes or any package with less than 20 cigarettes;
- May not break or otherwise open packages of smokeless tobacco product to sell or distribute any quantity of cigarette tobacco product or smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual use;
- May not distribute or cause to be distributed free samples of cigarettes or smokeless tobacco products, except for samples of smokeless tobacco products in limited circumstances, as defined by the regulations;
- May not offer or cause to be offered any non-tobacco gift or item to any person in consideration for the purchase of cigarettes or smokeless tobacco including redemption of credits, proofs-of-purchase, or coupons towards the purchase of a non-tobacco item whether or not such redemption is for all or part value of the non-tobacco item;
- May not sponsor or cause to be sponsored any athletic, musical, artistic, or other social or cultural event, or any entry or team in any event, in the brand name, logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco

For many years pursuant to receipt of Federal Block Grant funds the BBHMF has implemented state Synar regulation compliance for which the Substance Abuse and Mental Health Services Administration is responsible. Synar compliance activities regarding underage tobacco sales target underage sales and distribution with an annual non-compliance rate not to exceed 20%.

FDA release the following the that inspectors are checking for:

1. No self-service displays of cigarettes, roll-your-own tobacco or smokeless tobacco in a store that allows minors to be present.
2. No sales of individual cigarettes or "loosies" as they are referred to by FDA staff.
3. Store clerks must request and check photo identification of customers that are under 27 years old.
4. Store clerks do not sell tobacco products to an underage minor accompanying the inspector.



To date, more than 19,000 retail stores have been inspected and approximately 97% of the stores have been successful in passing the inspections. Retailers should note that these state-commissioned inspectors generally do not announce themselves to store personnel, and store personnel will not be aware that the inspectors were even in the store most of the time.

Please visit www.wecard.org to get your posters, calendars and training materials.

Can you be fined for selling tobacco to a 25 year old?

YES. Under new FDA regulations you may be fined if you neglect to card someone under 27 years old.

Milton One Stop Recognized for Compliance Checks



From left, Christine Ferraro and Nancy Bryan accept a plaque from ABCA enforcement supervisor Craig Shelton, ABCA inspector 2 Michael Bash, project director for Cabell County Substance Abuse Prevention Anne McGee, and highway safety coordinator for region 2 Larry Kendall on Wednesday, Oct. 12, 2011, at Milton One Stop in Milton. Over a four-year period, Milton One Stop demonstrated outstanding compliance during checks conducted by ABCA inspectors.

The Milton One Stop gas station and convenience store was recognized October 12th for achieving a 100 percent compliance in underage drinking checks by ABCA inspectors during the past four years.

"Retail access to alcohol is one of those local conditions that contribute to underage drinking," McGee said, reinforcing that consistent, visible enforcement helps prevent underage drinking.

She also said that the compliance check data during the past four years shows an improvement from a 42 percent buy rate to a 17 percent buy rate during the latest round of checks.

Congratulations to Kanawha County Members

The ABCA announced on October 14th, that in conjunction with the Kanawha County Sheriff's Department, they had conducted a series of underage alcohol compliance checks in Kanawha County on October 6th. The results were 100% Compliance! A total of 19 stores throughout the county were randomly selected for an undercover operation. Clerks and cashiers properly carded the underage operative by requesting legal identification, determining the age and denying the sale.

Alcohol Compliance Checks

Governor Earl Ray Tomblin announced recently that he has awarded **\$319,900 in Enforcing the Underage Drinking Laws (EUDL) Grant Programs funds**. These funds will be used to enforce the underage drinking laws through programming that includes advertising and education, compliance check operations, intervention and diversion and follow-up. The West Virginia Department of Justice and Community Service administers this program from funds provided by the U. S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention Enforcing the Underage Drinking Laws Program. **For a complete list of funds awarded, please visit the OMEGA website at www.omegawv.com.**

Reminder

Between the EUDL and DHHR grants, there most likely is a 100% possibility that your stores will be checked at sometime in the near future. Make sure your employees are trained in regards to sales of age restricted products.

Secretary of Commerce Addresses Economic Development Committee

During recent interim meetings, **Keith Burdette, Cabinet Secretary of the West Virginia Department of Commerce**, addressed the Economic Development Committee. He had many great things to say about West Virginia that we wanted to share with you. Here are some of the highlights:

- West Virginia Exports reached a record \$6.5 billion last year, and in the first 6 months of this year we are up 42 percent, the second best percentage increase in the country. Further, we are on track to outperform the US rate for the fifth straight year.
- West Virginia's Gross Domestic Product (GDP) increased four percent in 2010, the fifth most improved GDP in the nation.
- In the past 5 years, the state's per capita income improved 1.5 times that of the rest of the country growing by 22.3 percent.
- West Virginia was the third most improved median income over the past three years and one of only 5 states in the nation that saw an improvement at all. Monongalia County was the most improved in the nation.
- West Virginia was ranked 6th in the world for the most attractive places for oil and gas development...up from 49th.
- West Virginia ranked 3rd in the country for best job creation potential.
- Our bond ratings improved again...our cash reserves are the 2nd best in America totaling over 20 percent of our budget.
- Child poverty fell as did our taxes.
- The state's cost of living, cost of doing business, and cost of energy are far better than the national average.
- Average workers' compensation rates fell again this summer...corporate and consumer taxes will fall again in January...we did not borrow to shore up our unemployment compensation fund.
- New investments in the state totaled over \$1.2 billion last year, and after only 9 months of this year the total is approaching \$2 billion.

Roll Your Own Cigarettes

A Kanawha judge has ordered a Moundsville cigarette company to comply with state laws and pay at least \$82,500 in annual state taxes it was fighting.

Compton Point, a store in Moundsville, sells empty paper cigarette tubes and loose tobacco and allows consumers to place the materials in a machine that rolls them into a smokeable product. Consumers save about \$7 per carton in the process.

An attorney for the state Tax department this week said each machine, based on an output of 300 cartons per week, is subject to \$82,500 in taxes. But she pointed out that it's not known how many machines are in operation because there is no regulation to register them.

But the company contended it was exempt from paying an excise tax on the cigarettes, since it only sold raw materials and was not technically the manufacturer.

West Virginia currently taxes 55 cents on every cigarette pack sold. Loose tobacco is only subject to a 7 percent gross tax.

State Tax Commissioner Craig Griffith disagreed, and so did Judge Tod Kaufman, who filed a ruling Thursday in Kanawha Circuit Court.

In his ruling, Kaufman wrote, "this Court hereby declares that Compton Point is a manufacturer and its business scheme is an illegal manufacture of cigarettes."

Individuals found guilty of skirting the state cigarette tax could face between \$1,000 and \$25,000 dollars in fines and up to a year in jail for each offense.

Kaufman's ruling concurs with court decisions in several other states, including Alaska, Ohio and New Hampshire.

Business Court

The Supreme Court's Business Court Committee met September 30th with invited groups, including WV Business and Industry Council, to discuss the proposed written rules for a commercial litigation Court. Suggested many business groups made changes and the third draft will be presented to the Supreme Court Clerk's Office later this fall. The will also go out for public comment and then must go to the Court for approval before a Business Court can be established in West Virginia.

The draft rules envision a Commercial Litigation Court with seven judges in seven regions. The judges will be appointed by the Supreme Court Chief Justice to staggered terms of seven years, and the chief Justice will appoint a Chief Judge to oversee administrative matters.

All judges on the Court will have special training in business litigation matters. The court will abide by West Virginia Trial court Rules but will make an effort to conclude very case expeditiously.

The rules are very similar to courts operating in Maryland and North Carolina because those states have similar types of businesses as West Virginia.

Briefs

The lawsuit a Kanawha County attorney filed recently challenging this year's **redistricting plan** from the state House of Delegates, is expected to be the first of several such lawsuits. South Charleston Attorney Thornton Cooper, a guest on Friday's MetroNews Talkline, says he thinks a decision from the state Supreme Court to overturn the plan that was approved earlier this year is a real possibility. In his lawsuit filing, Cooper claims the House plan violates the state Constitution in several ways. He says counties, like Putnam County, should not have been divided up if they have enough people for several individual districts on their own. Cooper says the new districts also differ too much variance between populations, even though they're within prescribed limits.

Small business owners in West Virginia are joining together to try to keep part of the federal health reform law from taking effect, as scheduled, in 2014. The President of the Putnam County Chamber of Commerce says they're focused on stopping the **Health Insurance Tax, also called HIT**, which was designed to be a tax on insurers. It is expected to generate \$87 billion nationally over ten years. Read more about the work of the Stop The HIT Coalition at www.StoptheHIT.com.

The **WV Lottery now has control of its headquarters**. Lottery Director John Musgrave says the City Center West building in Charleston was ready in October 16th. More than 100 lottery workers made the move. The agency has rented space on MacCorkle Avenue for 25 years. Musgrave says several state agencies will also occupy the building but those moves won't take place right away.

The **three travel plazas on the West Virginia Turnpike are going to get a facelift soon**. The West Virginia Parkways Authority approved a plan Thursday to spend \$550,000. The money will be used to paint the roofs that are over the gasoline areas, renovate the restrooms and fix the concrete curbs that are around the gasoline islands. The work is being done ahead of the authority's plan to rebid the operation of the plazas. A seven-year contract will be considered. Parkways Authority General Manager Greg Barr says the more work Parkways does up front the better deal it believes it will get from those bidding on the gasoline service. Currently Parkways receives 10.5 cents for every gallon of gasoline sold at the three travel plazas. Barr says they want the new contract to be at least that good. The gasoline deal is usually for five years but the authority wants to do a seven-year contract this time. That would take the agreement to 2019, which is when the Turnpike bonds are scheduled to be paid off, and possibly when the tolls would come off the 88-mile highway.

New Associate and Supplier Board Members

At the September Board Meeting, new Associate and Supplier Board Members were elected to service two-year terms. We would like to welcome:

Brian Hicks

Pepsi Beverages Company

Denny Huff

Sammie Huff Contractors

Randy Emanuelson

Sledd Co.

Victor Flanagan

Pullin Fowler Flanagan Brown & Poe LLC

Greg Walls

Frito Lay

Allan Williams

BrickStreet Insurance

We would also like to thank **Ron Similo** of Lykins Transportation, **Jim Sheatsley** of Gorman Sheatsley & Co. LC and **Rob Sincavich** of Sledd Co. for their service on the OMEGA Board.

New Members

We would like to welcome the following new members to the Association:

Frito Lay

Rt. 1 Box 2106-A
Rock Branch Industrial Park
Poca, WV 25159
Phone: (800) 735-9566
(304) 545-0427
Fax: (304) 755-9431
Email: greg.d.walls@fritolay.com

Contact: **Greg Walls**
Senior Zone Sales Manager

Pace Analytical Services, Inc.

1638 Roseytown Road
Greensburg, PA 15601
Phone: (304) 207-3797
Fax: (724) 850-5601
Email: paul.painter@pacelabs.com
Web site: www.pacelabs.com

Contact: **Paul Painter**
Senior Account Executive

Jim Lively Insurance

112 East Main Street
Beckley, WV 25801
Phone: (304) 255-6191 Opt. 3
Fax: (304) 256-7512
Email: gdelarosa@jimlively.com

Contact: **Gil DeLaRosa**

Red Bull Energy Drink

1218 Sandy Hill Road
Greensburg, PA 15601
Phone: (724) 420-3359
Email: thomas.panigall@us.redbull.com

Contact: **Tom Panigall**
Division Sales Manager



Federal Issues

Temporary Funding Measure Approved

Congress has completed action on legislation to fund the federal government through November 18. The legislation is needed because Congress has not passed annual appropriations legislation for the fiscal year that began October 1st. The House vote on the measure was 352-66, notable because 56 conservative Republicans voted "no" because the level of funding was based on the agreed-upon level in the debt ceiling act, rather than the lower budget level approved by the House earlier in the year.

NLRB Postpones Effective Date Of Employee Rights Poster

The National Labor Relations Board (NLRB) has postponed the implementation date of its notice-posting rule by more than two months in order to allow for enhanced education and outreach to employers, particularly for those employers who run small and medium sized businesses. The new effective date of the Board's final rule is January 31, 2012. The old effective date for putting the mandated poster that is designed to advise employees of their rights under the National Labor Relations Act (NLRA) was November 14.

In addition to the delay in the effective date on putting up the posters, a number of major lawsuits have been filed seeking an injunction to bar the NLRB from implementing or enforcing the regulations. The U.S. Chamber of Commerce, the National Association of Manufacturers (NAM), the National Federation of Independent Business (NFIB) and the Coalition for a Democratic Workplace (CDW) have all filed legal challenges against the NLRB arguing, among other things, that the Board does not have the authority to impose these notification posting requirements.

Concerning when the courts might rule on the lawsuit, there is at least a 50-50 chance that one of the courts will render a decision prior to the new January 31, 2012 deadline. While the NLRB does not audit worksites or issue fines for non-compliance, employers who fail to post the mandated notice could be charged with an independent unfair labor practice if the Board's regulations are not overturned. Additionally, if an employer has not posted the required notice, the NLRB may also toll the six-month statute of limitations on separate charges filed by an employee. As such, charges of an unfair labor practice for non-compliance could begin in early February, 2012 if the courts have not reached a decision. FMI plans to keep the member companies updated on all developments on this important regulatory issue.

Lawmakers, Trade Groups Seek to Overturn Recent NLRB Actions

Rep. Ben Quayle (R-AZ) introduced legislation earlier this month to reverse the National Labor Relations Board's (NLRB) recent rulemaking, which requires most private-sector employers to post a notice that will advise employees of their rights under the National Labor Relations Act (NLRA). Quayle's bill, the Employee Workplace Freedom Act (H.R. 2833), which would remove the rule, currently has 45 cosponsors.

Deficit Reduction Panel

The deficit reduction supercommittee held one of its first formal meetings recently to begin their task of formulating a proposal to submit to Congress to help reduce the nation's deficit. Congressional Budget Office Director Douglas Elmendorf testified this morning in front of the supercommittee, giving his outlook of the economy. So far, the supercommittee has been focusing on revamping older reduction ideas and less on creating new proposals. The supercommittee held a meeting last week, but covered mostly organizational items. The 12 members of the committee will have until November 23rd to reach an agreement (only seven votes are necessary for approval) on a budget-cutting proposal that the rest of Congress will have to vote on by December 23.

Jobs Bill Details Released

While a deeply divided Congress is unlikely to pass much of President Obama's jobs legislation, more of the details were released when the measure was introduced on Monday. The following are some of the provisions that are of particular interest to petroleum marketers:

Payroll Tax Relief

Employers would get a reduction in their payroll taxes on the first five million dollars of wages paid. While everybody is using the term payroll tax, we know that there are actually two separate taxes and the President is proposing a cut in one – the “social security” tax. The Federal Insurance Contributions Act (FICA) is comprised of the Social Security (6.2 percent) tax and the Medicare (1.45 percent) tax. Employers are required to withhold 7.65 percent for FICA from gross compensation of employees and pay a comparable percentage for each employee but that would change to the employer paying only 3.1 percent of the employer’s share of the social security tax for 2012.

Employees would also get an extension and expansion of the current temporary payroll tax break. The current two percent reduction in the social security tax would increase to a 3.1 percent reduction for 2012.

New Hires and Increased Wages

The proposal would also provide a complete refund of the social security taxes paid by an employer on the wages of added workers or wage increases for current workers above the level of this year’s payroll - capped at applying to \$50 million in new wages. There would be additional targeted tax cuts for hiring the long-term unemployed as well as veterans who have been out of work six months or more.

Full Expensing

An extension of the current temporary 100 percent first year full expensing through 2012. This is not Section 179 expensing but the full expensing based on the depreciation “bonus” concept.

Prompt Pay

An acceleration of government payments to small contractors “to help put money in their hands faster.” The good news about that pronouncement is that it should facilitate the passage of the repeal of the three percent withholding on government contractors that House Majority Leader Eric Cantor (R-VA) had previously indicated was in the House’s queue. Otherwise, it would seem counterproductive to speed up payment and then take three percent off the top.

Infrastructure

Fifty billion dollars in immediate investments for highways, transit, rail and aviation.

A temporary increase in the limit on SBA-guaranteed surety bonds from two million dollars to five million dollars to increase the small business opportunities to bid on infrastructure work.

The President is calling for Congress to pass a National Infrastructure Bank (NIB) capitalized with \$10 billion. While the NIB would be a government-owned entity, it would not be controlled by any federal agency and instead would operate independently. No more than four voting members of its seven member board could be from the same political party. Board members would have to possess significant expertise either in the management of a relevant financial institution or in the financing, development, or operation of infrastructure projects.

The NIB would issue loans and loan guarantees to eligible projects. Loans issued by NIB would use approximately the same interest rate as similar-length U. S. Treasury securities and could be extended up to 35 years, giving the NIB the ability to be a “patient” partner side-by-side with State, local, and private co-investors. To maximize leverage from Federal investments, the NIB would finance no more than 50 percent of the total costs of any project.

Capito Bill Links New Energy Exploration to Transportation Funding

Rep. Shelley Moore Capito (R-W.V.) has introduced legislation that directs revenues from new energy exploration to be used for transportation funding.

The bill titled, H.R. 2983, the Rebuilding American Roads Act (REBAR), directs the Secretary of the Interior to expand offshore oil and gas leasing. Revenues generated by expanded production, including bonus bids, royalties, rentals and other sums collected, would be deposited into the Highway and Inland Waterways Trust Funds. Similar ideas have received bipartisan support in Congress.

West Virginia's Second District Congresswoman says she wants the U.S. House to move quickly on her proposed bill that, if approved, would generate more money to invest in the country's roads and bridges by expanding energy exploration.

"We would get more domestic energy production, more jobs and then fix our infrastructure," Congresswoman Shelley Moore Capito said of the Rebuilding American Roads Act, REBAR, on Friday's MetroNews Talkline. She says the United States has plenty of oil, natural gas and coal resources and needs to tap into those for its own good.

Her bill would direct the Secretary of the Interior to expand offshore oil and gas leasing and then put the money from that additional production into the Highway and Inland Waterways Trust Funds.

It's estimated the extra production could generate more than \$435 billion over the next 30 years.

"It would really help us a lot in terms of meeting the challenge," Capito said of her proposal. "The only thing anybody ever goes to is, 'Let's raise the gas tax.' I think that's an unsaleable point to West Virginians."

The Congressional Budget Office estimates the federal Highway Trust Fund will run out of money near the end of the 2012 or 2013 fiscal years. Because of that, officials have been looking for new revenue sources.

Congresswoman Capito is a Senior Member of the U.S. House Transportation and Infrastructure Committee.

GAO Report Findings Could Mean Tough Road Ahead for New Surface Transportation Bill

Over the course of the last surface transportation bill, every state received more transportation funding than it paid into the national system through gas taxes, a congressional watchdog agency reports. This conclusion, reached in a new Government Accountability Office (GAO) report obtained by Congressional Quarterly that is due to be made public later today, may throw some cold water on the coals of a recurring fight over each state's rate of return for transportation as Congress struggles to put together a new surface transportation bill.

Authorizers writing a highway bill usually spar over how much money a state's citizens are paying into the Highway Trust Fund through the gas tax, versus how much money those states are receiving back from the federal government to pump into infrastructure programs.

Conventionally, more populous states known as "donors" end up contributing more money into the trust fund to help pay for the needs of less populous "donee" states.

According to the report, over the five years of the last surface transportation bill (PL 109-59), which covered fiscal 2005 through fiscal 2009, every state received more money for highway programs than their motorists contributed in taxes to the trust fund. The reason, according to the GAO, is that "overall, more funding was authorized and apportioned than was collected from highway users, since the account was supplemented by general funds from Treasury." There is a caveat: GAO notes that whether a state is shown as a donor or a donee depends on exactly how calculations are done.

If a state's return per dollar is calculated using time-lagged data, every state is shown as a donee state. But if, for instance, a state's "relative share" is calculated — that means the amount a state receives relative to other states, using time-lagged data — then you end up with donor and donee states.

The report was requested by Nick J. Rahall II of West Virginia, the ranking Democrat on the House Transportation and Infrastructure Committee, who said it shows that Congress needs to move away from "being consumed by the parochial 'donor' and 'donee' debate."

"Using rate of return as our rationale for how we spend our limited transportation dollars simply detracts from the national focus when we ought to look at the larger picture and determine what investments best help create American jobs and grow our economy," Rahall said.

It is a theme that concurs with the conclusion of the GAO, which said "using rate of return as a major factor in determining highway funding poses challenges related to performance and accountability in the highway program; in effect, rate of return calculations override other considerations to yield a largely predetermined outcome — that of returning revenues to their state of origin."

Congress Passes Six Month Extension of Gasoline and LUST Taxes

The House passed, by voice vote, legislation (H.R. 2887) to reauthorize expiring surface transportation programs for six months through March 31, 2011 which includes an extension of motor fuels excise taxes as well as an extension of the leaking underground storage tank program (LUST) financing rate of .001 cents-per-gallon. Following the House vote, the Senate approved the legislation by a vote of 92 - 6. The President has sign the legislation into law. The most recent surface transportation authorization is set to expire on September 30, 2011 along with excise taxes on gasoline and diesel which are dedicated to the Highway Trust Fund. Meanwhile the House and Senate differ on plans for a long-term reauthorization of the Highway bill. The Senate has proposed a two-year, \$109 billion reauthorization that would maintain current spending indexed for inflation. However, it would also need an additional \$12 billion to make the bill deficit neutral. Mark-up of the Committee's two-year reauthorization may also begin sometime this month. The House Transportation Committee has proposed a six-year, \$230 billion bill that would cut highway programs by more than 30 percent. A draft House Transportation bill has yet to be introduced. At this time, there is no meaningful support in Congress for increasing gasoline and diesel taxes.

Congressmen Seek to Repeal Swipe Fee Provisions in Dodd-Frank

Representatives Jason Chaffetz (R-UT) and Bill Owens (D-NY) will introduce legislation to repeal the debit swipe provisions in the Dodd-Frank Wall Street Reform law.

The Merchants Payment Coalition, of which OMEGA is a member, sent a letter to members of the House of Representatives asking them not to sign on as co-sponsors of this legislation and to oppose H. R. 315.

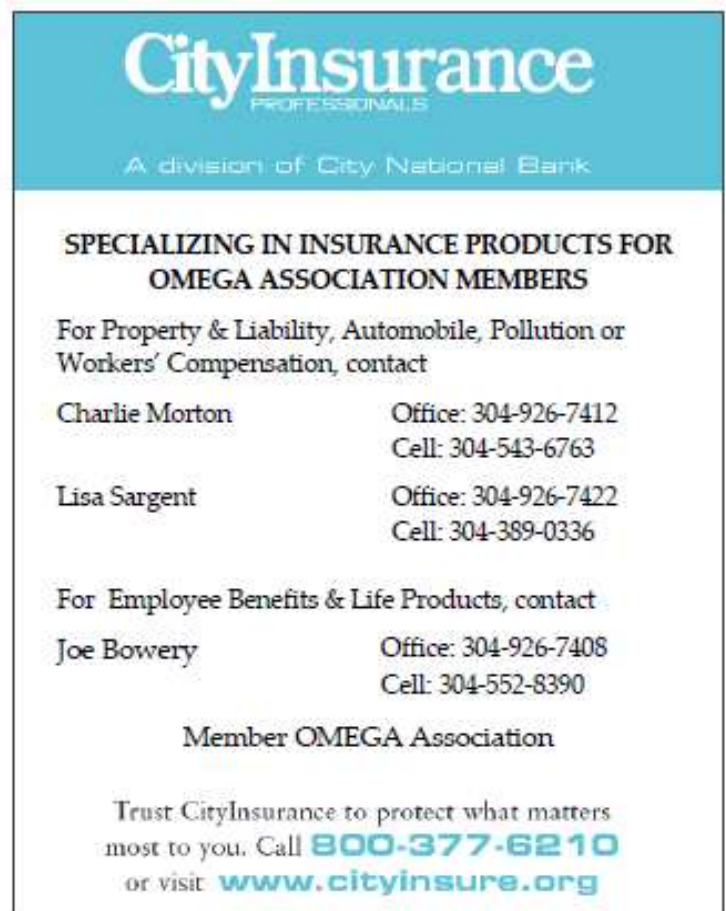
In the letter, the MPC emphasized its commitment to free and transparent markets in a letter to congressional members. The MPC urged Congress to not "fall prey to bogus arguments about the impact of the debit reforms. It's time to face the facts that debit reform is good for consumers, small business and the U.S. economy."

The letter reads in part: "The fact of the matter is that banks have hidden swipe fees from their customers for years. Swipe fees have never been set in a functioning market, with the giant card networks instead centrally fixing swipe fees for all the banks that issue their cards...The debit swipe fee reforms that went into effect October 1 are a positive start toward fostering a competitive marketplace for plastic."

"To that end, many questions have been raised over the past few days about the impact of reforms on consumers. While our intent is to inform you of the impacts on the retail community and our customers, we believe many aspects of Bank of America's announcement to initiate a \$5 monthly fee for debit card users as a result of the reforms simply don't add up.

"We would also like to set the record straight on the impact of the reforms to the merchant community and our customers. We anticipate these reforms will benefit many small businesses and online entrepreneurs who will see the biggest savings from swipe fee reductions, which should benefit the American economy as a whole, as well as American consumers."

Please take a moment to urge your Representatives to stand with you and small businesses in support of the debit swipe fee reforms and oppose the legislation. You may contact your Representatives by dialing the Capitol Switchboard at 202-224-3121.



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Convenience Store News

NACS Chairman Jeff Miller: 'We've Barely Cracked the Seal on What Is Possible'

Three point two million dollars. That's the savings thus far to the convenience and fuels retailing industry and their customers since the Durbin amendment took effect just yesterday, said NACS Chairman Jeff Miller during the NACS Show Opening General Session on Oct. 2

It is expected that more than 22,000 attendees from 50 countries will attend the 2011 NACS Show, which runs from Oct. 1 to 4 in Chicago and features more than 60 workshops and 1,300 exhibitors in a 380,000-net-square-foot expo.

Miller, who is president of Norfolk, Va.-based Miller Oil Co., said that the swipe fee reform central to the Durbin Amendment, was the "biggest legislative victory in [our industry's] history.

Not only will the industry and its customers see \$830 million in savings because of swipe fee reform, the victory "showed what happens when we come together and we speak with one voice," said Miller.

"It was something no one outside our industry thought would ever happen. But we thought that it could happen. We fought together. And we won together," said Miller.

Reading from a news report about the swipe fee fight, Miller continued: "Big banks have not lost many legislative fights in Washington...Wall Street can beat almost anyone in a legislative brawl but it cannot defeat the entire American retail industry,"

"Let me summarize that," he said. "We came together. And we kicked ass."

NACS delivers tremendous value in advocacy and in sharing new ideas that can grow your business, noted Miller, and discussed two big trends that he sees as huge opportunities for our industry: globalization and technology.

There are very few unique regional or country-specific issues, noted Miller. Instead, at any moment in time, retailers experience a different phase in the life cycle of each issue.

Rapid payments systems are already in their second decade in Asia, but are just taking hold in Latin America. In Europe, food safety is mature, while it's just emerging in South Africa. In the U.S. pay-at-the pump is a given, and that is becoming more common in other countries. And tobacco regulation has already led to drastic changes in how retailers sell or even display tobacco in Thailand, Australia and Canada.

"It's more important now than ever before that NACS is engaged globally to learn how retailers in other markets have effectively — and sometimes ineffectively — dealt with issues that are headed our way. Then we can help adapt those learnings to your local markets," said Miller.

But learning about other cultures, or other ways of doing things, isn't limited to seeing what is in other countries. It's everywhere around you," said Miller. "Look at your customers, look at your employees. It is a wonderful mosaic of people and cultures."

A bit part of the multiculturalization in this country is reflected in our industry, where ethnic operators are a big part of the 63 percent of convenience stores that are one-store operations.

"At NACS, we're building deeper relationships with many groups that support ethnic American businesses, like NATA, AARA and ASSOA. I see all of this as an opportunity, and those who best plan for it will benefit from it."

A second huge trend is the personalization of technology such as the Internet. "Who thinks that we are immune from its repercussions because no one goes online to buy a drink? Or a hot dog? Or a fill up?" asked Miller.



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(Continued from Page 15)

NACS has made major long-term commitments to help members stay ahead of the technology wave.

Miller closed by encouraging everyone to get involved with advocacy.

"It is really about defining our future and standing up for what's right for our industry. We did that with swipe fees. And we need to do it for many more issues," said Miller, citing credit card reform, PCI compliance, menu labeling, tobacco regulations "and taxes, regulations, taxes and regulations, and, yes, more taxes and more regulations."

"We had a remarkable victory over the banks and our members got one hell of a return. Ten years of hard work, perseverance, and funding is reaping an \$830-million-per-year reward. But I truly believe we have barely cracked the seal on what is possible, especially when we come together, work hard and speak with one voice loud and clear. We've built great momentum, but to move it up to the next level, we need all of you to get engaged with NACS," said Miller.

2011 Ideas 2 Go DVD Now Available

The 2011 Ideas 2 Go DVD features the 45-minute Ideas 2 Go presentation that was shown at the General Session at the NACS Show. It can be purchased at the Follett Bookstore booth in the transportation lobby of McCormick Place during the NACS Show or can be ordered after the event.

The stores featured this year all have embraced the concept of selling more fresh foods, including one, Stew Leonard's, that is featured in the Guinness Book of World Records for selling the most food per square foot in the United States.

The program also featured emerging concepts that are redefining convenience, whether beer caves or drive-thrus, as well as quick take-aways that retailers could implement in their stores tomorrow, many of which could be done at little or no cost.

Since 1994, NACS' Ideas 2 Go has provided a fast-paced video tour of some of the most interesting, creative and potentially profitable ideas in the convenience and fuels retailing industry.

- Aloha Island Mart/ Aloha Petroleum, Ltd.
- Coco Cove/The Sullivan Family of Companies
- Kwik Trip, Inc.
- Nourish Market
- Open Pantry Food Marts of Wisconsin, Inc.
- Pak-A-Sak
- Russell's Truck & Travel Center
- Stew Leonard's
- Tedeschi Food Shops

For 2011, featured stores/companies are:

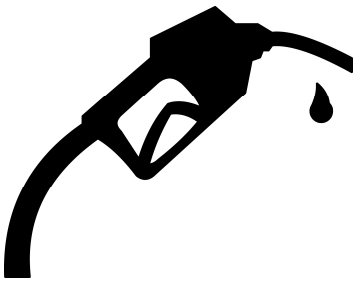
Look for more video and resources online at www.nacsonline.com/nacstv.

NACS member companies can order a copy of the 2011 NACS Ideas 2 Go DVD (item number 30088018) for \$30 (\$60 regular price). Orders can be placed online at www.nacsonline.com/shop or by calling NACS Customer Service at (800) 966-6227.

Cool New Products

Here are the top 10 scans made by NACS Show attendees on Sunday, October 2:

1. Crunch Pak, LLC (4786): On the Go Healthy Snacking....that SELLS!
2. f'real foods (4681): f'real Frozen Blended Beverage Program
3. International Light (1308): CanopyLight LED Retrofit Kit
4. The Coca-Cola Company (1706): Freestyle
5. General Mills (4419): Nature Valley Fruit Twists
6. Hot-Can, Inc. (3737): Hot Can
7. UTVG Electronic Cigarettes (1957): UTVG Disposable Electronic Cigarettes
8. San Remo Trade LLC (4995): B-Yogurt. Designed to be noticed
9. SloanLED (725): SloanLED's Progressive Series, Canopy Down Light
10. Royal Buying Group, Inc. (3620): C-Store Training



Oil Marketers Update

PMAA Board Elects 2012 Leaders

Stanley Roberts, CEO of Capital Oil Inc. in Jackson, Mississippi, was elected PMAA Chairman of the Board on October 1, 2011 at PMAA's Fall Meeting in Chicago, Illinois. Stanley has over 37 years of experience as a petroleum marketer having begun in 1974 as a Gulf consignee. Today Capital Oil owns convenience stores, operates a wholesale petroleum business and petroleum transportation business. He has served in leadership positions for both MPM/CSA and BPAMA.

In accepting the chairmanship, Stanley thanked the Board of Directors for their confidence in him and pledged his best efforts to achieve PMAA goals and objectives. He noted that a robust petroleum industry in the US is essential to our economy and our nation's ability to create jobs and that the liquid fuels we store, transport and market powers transportation and heats our homes. Because of this, PMAA must be vigilant in all efforts to promote liquid fuels as a preferred energy source.

Others elected to the Executive Committee include: 1st Vice Chairman: Benny Hodges, NM; 2nd Vice Chairman: Sam Bell, SC; NE Region Chair: Sharon Bloomer, CT; SE Region Chair: Mark McBride, TN; SC Region Association Executive: Tom Palace, KS; NC Region Chair: Larry Blodgett, MI; Western Region Association Executive: John Hill, UT.

Jan Vineyard continues to serve on the PMAA Executive Committee for 2012 as the SouthEast Executive.

House Transportation and Small Business Committees Oppose Changes in Hours of Service Rule

House Transportation Chairman John Mica (R-FL) and House Small Business Committee Chairman sent a letter to President Obama expressing opposition to changes in the Hours of Service (HOS) rule that would cut driver hours. The Federal Motor Carrier Safety Administration (FMCSA), an agency within the Department of Transportation (DOT), is considering a new rule that could cut a full hour of allowable driving time out of the legal workday for commercial drivers. FMCSA is expected to announce its changes on October 28. PMAA has actively opposed any changes to the HOS rule, first filing comments during the comment period and then testifying before the House Small Business Committee earlier this year on the rule. Paul James, a marketer from Colorado, testified that compliance with the proposed rule could be costly for marketer who would have to hire more drivers and purchase more trucks to deliver the same amount of product.

Legislation to Cap Speculation in Oil Markets Introduced

Legislation introduced recently by Senator Bill Nelson (D-FL), along with Senators Jay Rockefeller (D-WV), and Bernie Sanders (D-VT), would dramatically scale back the role of financial speculation in the oil futures markets. A companion House bill was also introduced by Reps. Peter Welch (D-VT) and Rosa DeLauro (D-CT).

The "Anti-Excessive Speculation Act of 2011" (S. 1598 and H.R. 3006) would make a number of changes to ensure that prices at the pump reflect the fundamental supply and demand for oil in both regulated and the non-regulated over-the-counter (OTC) energy derivatives market. It would do so by limiting the control of any speculator to five percent of the oil market (much more aggressive than the CFTC draft rule) and cap overall speculation to its historic 25 year average. The CFTC is tasked with regulating the commodity derivatives markets and currently has broad authority to impose speculation limits under last year's new Wall Street Reform Law. However, new rules are now eight months delayed.

The largest investment banks can place highly leveraged bets in the oil futures markets which can dramatically swing prices both in the short and long term. In April 2011, at least one investment bank warned clients to lock-in trading profits before oil and other markets reversed; suggesting speculators were boosting crude prices as much as \$27 a barrel. "Excessively volatile oil prices have delayed America's economic recovery and this legislation could help insure that physical supply and demand fundamentals are in control." said PMAA President Dan Gilligan.

NEFI and PMAA Have "Guarded Optimism" and "Concern" on CFTC Speculation Limits, Clearing Rule

The New England Fuel Institute (NEFI) and the Petroleum Marketers Association of America (PMAA) expressed "guarded optimism" over two important new commodity trading rules approved by the U.S. Commodity Futures Trading Commission (CFTC). The groups also expressed "concerns" on the specifics of the rules and certain implementation deadlines that will be tied to other, long-overdue Commission actions.

NEFI and PMAA were pleased that the rule mandates regular review of limits especially as other rules are implemented and new data becomes available. They were also pleased with the rule's narrowing of exemptions from these limits afforded bona fide hedgers, which they have long argued necessary to keep financial speculators from exploiting them.

PMAA President Dan Gilligan noted that "while petroleum marketers would like to see lower limits imposed on the market, today's vote is historic and we applaud Chairman Gensler for negotiating the agreement on position limits, although more work remains, this is a tremendous step forward. Once CFTC captures the data on the multi trillion dollar swaps market (probably late in 2012) it will apply position limits to those currently unregulated instruments."

PMAA and NEFI were also extremely pleased to hear the meeting that the CFTC staff is conducting an investigation and research into the role of index fund speculation in the commodities markets.

PMAA Files Comments Urging End to State II Gasoline Vapor Recovery Mandate

Recently PMAA submitted both individual and joint comments with other industry stakeholders in support of a proposed EPA rulemaking that would eliminate Stage II vapor control equipment requirements for gasoline dispenser hoses and nozzles. Currently, Stage II is required in "serious", "severe" and "extreme" air pollution non-attainment areas nationwide and within the Ozone Transport Region (OTR). PMAA has long sought the end to the costly and burdensome Stage II requirements since

vehicles equipped with mandated on-board refueling vapor recover (ORVR) devices became more prevalent. Elimination of Stage II was significantly delayed as the EPA attempted to first determine the date when vehicles equipped with ORVR were in "widespread use" – a precondition required by the Clean Air Act. ORVR equipped cars have been required since model year 2000 and on light trucks and SUVs since 2006. Despite the apparent widespread use of ORVR vehicles, the EPA failed to set a date for elimination of Stage II until the proposed rule was published in July. Under the proposed rule, EPA is setting June 30, 2013 as the date when ORVR will be in widespread use nationwide. After this date, states may request the removal of the Stage II mandate only by filing an amended SIP plan with the EPA. States may request elimination of Stage II at an earlier date if they can prove to the EPA, in an amended SIP, that widespread use has already occurred within the state.

The proposed rule makes it nearly impossible for removal of Stage II within the OTR based on a 1995 legal interpretation by EPA lawyers that throws up regulatory roadblocks. PMAA filed comments explaining that Stage II is too costly and burdensome for small business petroleum marketers to install and maintain particularly now that it is unnecessary due to the widespread use of ORVR equipped vehicles. In an effort to speed up elimination of Stage II, PMAA urged the EPA to permit the removal of Stage II automatically on or after June 30, 2013 without requiring states to first undergo a lengthy and costly SIP plan amendment process. In addition, PMAA argued for a provision in the final rule that would eliminate Stage II requirements for gasoline stations built or altered between the date a final rule is published and June 30, 2013.

PMAA strongly urged the EPA to change its current legal interpretation of the Clean Air Act to permit elimination of Stage II to occur in the OTR on the same schedule as other areas of the country.

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Grocery Highlights

Senate Passes Extension of TANF Program

The Senate and House passed an extension of the TANF program recently. The Short-Term TANF Extension Act (H.R. 2943) authorizes TANF state block grants, which were set to expire next week, through December 31, 2011.

OMB Ranks Menu Labeling as Third Most Burdensome Law

A report released by the White House Office of Management and Budget (OMB) estimates that the chain restaurant menu labeling law is the third largest burden increase of any new statutory provision that federal agencies began implementing in Fiscal Year 2010. OMB estimated the menu labeling law's regulations would require more than 14.5 million hours and almost \$70 million in additional regulatory burden for entities to comply with the law. According to the OMB report, "This burden is associated with a statutory requirement that chain restaurants and similar retail food establishments disclose the caloric content of their standard menu items."

It is important to note that this burden estimate is the third most costly of any law in the process of being implemented over the course of October 1, 2009 through September 30, 2010, including other sections of new health care law. A table outlining the top burdens may be found on page 6 of the report, available here. Even further, it is likely that the OMB estimate does not fully account for the additional, more complicated compliance costs for grocery stores as outlined in FMI's comments to FDA in July.

FMI, Congress Urge FDA to Narrow Menu Labeling Regs

FMI continues reaching out to FDA and Congress in an effort to stop expansion of restaurant menu labeling regulations to grocery stores. When the "Nutrition Labeling of Standard Menu Items at Chain Restaurants" requirement was passed by Congress as part of last year's health care law, grocery stores were never mentioned as a target. However, FDA has proposed expanding the restaurant menu labeling requirements to grocery stores chains with 20 or more locations. Unless FDA's proposal is changed, the burden on grocery stores will exceed \$1 billion for the first year alone.

In addition to filing comments with FDA, FMI has requested to meet with FDA to explain the differences between grocery store and restaurant operations, but the requests have not been granted by FDA. FMI has also been seeking for Congress to urge FDA to exclude grocery stores from the menu labeling regulations. The House Agriculture Appropriations bill, which funds FDA, includes a Committee Report that urges FDA to adopt the agency's own alternative that excludes grocery stores. In addition, 23 members of the U.S. House of Representatives and 13 U.S. Senators signed on to letters to FDA urging the exclusion of grocery stores from the menu labeling regulations.

Store operators should contact their Member of Congress, as well as FDA officials to stop expansion of chain restaurant menu labeling regulations to grocery stores.

FDA Food Safety Action Plans for Retailers

On September 30, the FDA unveiled its Retail Food Safety Action Plan, seeking to promote food safety in retail stores, restaurants, schools and other food service operations. The FDA has established a cooperative agreement for the action plan with the National Association of County and City Health Officials to promote the best practices used by local authorities and develop the tools to strengthen retail food safety oversight. FDA has also issued a supplement to the 2009 FDA Food Code, which includes new recommendations including that retail food establishments hire at least one certified food protection manager.



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FMI Builds Top Pending Regulatory Burdens List

Given Congressional interest in addressing unnecessary regulatory burdens, please see the attached list of top regulatory burdens that could be addressed by Congress or federal agencies. Included in the list are:

- Restaurant Menu Labeling (FDA)
- Patient Protection and Affordable Care Act (PPACA)
- National Labor Relations Board (NLRB) "Quickie Elections" Proposed Rule
- Department of Labor (DOL) Proposed Persuader Regulations
- Flexible Spending Account (FSA) Over-the-Counter (OTC) Purchases
- Country of Origin Labeling (COOL) Inspection Process (USDA)
- Hours of Service of Drivers (FMCSA)
- Refrigeration Leak Repair (EPA)

USDA Release Updated Materials for Meat Nutritional Labeling Requirements

USDA recently released updated materials, including point of sale posters for whole cuts of meat, regarding the implementation of meat nutritional labeling requirements, which go into effect January 1, 2012. N.G.A. and other members of the industry have jointly requested that USDA grant a six month enforcement waiver to allow the industry to implement these significant operational changes; however USDA has yet to respond to the request. N.G.A. strongly recommends that retailers prepare to implement the new posting requirements for whole muscle cuts of meats and labeling requirements for ground or chopped meats by the January 1, 2012 deadline.

Additional resources including nutrition facts panel examples from USDA and N.G.A.'s resource book are available http://www.nationalgrocers.org/gov_affairs/regulatory_issues/reg_ground_meat_labeling.html.

N.G.A. and FMS Solutions Release Results of the 2011 Independent Grocers Financial Survey

The 2011 edition of the Independent Grocers Financial Survey, has been released and shows a mixed bag for independent grocers. As an independent operator in today's marketplace, you have a challenging job that requires an understanding where your business is succeeding and where you need to improve. Benchmarking against other companies can be a useful tool in evaluating your company. The N.G.A./FMS 2011 Independent Grocers Financial Survey is a financial and operational review of the independent retail grocery industry. Results this year were a mixed bag for independent grocers.

Overall economic pressures have shifted gross margins downward to 25.68% from 26.28% last year.

These reduced margins resulted in average net profit before taxes of 1.08% for all respondents, down 60 points.

As the overall economic pressures on many consumers continue, shopping for price and value are a priority for lower and middle-income shoppers.

While 2010 showed some shift to 'food away from home' from 'food at home' dollars, the continuation of the weak economy may cause a reversal of the trend.

The 2011 Independent Grocers Financial Survey is available to N.G.A. members at a cost of \$75 and to non-members for \$300. You can order a hard copy or pdf copy at www.nationalgrocers.org. If you have questions or prefer to order your copy over the phone, please contact Jennifer Brant at jbrant@nationalgrocers.org or call 703-516-0700.

Overview of Association Safety Program

BrickStreet's Association Safety Program supports and rewards policyholders by providing a discount to eligible group members. Results of the partnership between the association, its members and BrickStreet include; improved risk management and loss control, safer workplace, eligibility to earn discounts and long term saving through improved performance.

- **Participation in the association requires:**
 - ⇒ Report Claims within 48 hours
 - ⇒ Achieve and maintain a loss ratio of 65% or less
 - ⇒ Implement a formal return to work program
 - ⇒ Attend at least one safety seminar per year
 - ⇒ Implement BrickStreet's 5 step Loss Control Program
- 24 BrickStreet policyholders participate in the Association Safety Program
- Current discount is 6.1%
- Currently receive \$107,766 reduction in premium
- Current year loss ratio is 35.88% - valued as of 8/31/11

Have you checked with your agent to see if you are eligible for a 6.1% discount on your workers' compensation premium through BrickStreet?



WV OMEGA Raises \$203,074 for Make-A-Wish Foundation of WV

The West Virginia Oil Marketers & Grocers Association (OMEGA) in conjunction with the Make-A-Wish Foundation, raised \$203,074 to help grant the wishes of children diagnosed with life-threatening conditions.

We would like to thank our retailers who sold stars in their stores during the month of August:

**BFS Foods
Chico Enterprises Inc.
DeFazio Oil Company
Go-Mart, Inc.
Jamieson Family Markets
Little General Stores, Inc.
Mini Giants, Inc.
One Stop
Par Mar Oil Co.
Petersburg Oil Co.**

**Pifer's Service Center
Prima / 7-Eleven
R. M. Roach & Sons
R. T. Rogers Oil Co., Inc.
Sledd Co.
Stop In Food Stores
Tri-State Petroleum Corp.
TWJ Inc.
Witschey's Market**

Through your efforts, we raised \$123,026 - one dollar at a time!

Congratulations to our top star seller, **Little General Stores, Inc.**, (pictured below) who sold \$23,232 in stars!

Also, thanks to our 2nd place star seller, **Par Mar Stores**, who sold \$22,863; and 3rd place retailer **Prima/7-Eleven** who sold \$20,177.

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R. T. Rogers Oil Company
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Woodford Oil Company**





Miscellaneous

Prima/7-Eleven Makes Donation to Mountaineer Food Bank

Earlier this year, Prima was given access to a grant through their new Fueling Communities program. This grant is given to BP distributors based on prior year gallons and Helios mystery shop scores. Our total grant of \$12,500 is being awarded to Mountaineer Food Bank in Gassaway.

Operations Director, Joe Kester, a district manager, Trudy Noechel and Sheila Marra traveled to their facility to make a formal presentation.

Prima is proud and honored to be able to help so many people through this grant program.

Mountaineer Food Bank helps sustain 557 feeding programs in 48 WV counties, providing approximately 260,000 meals per month.

Calendar of Events



**2012
Trade Expo &
Golf Outing
May 14 - 16
The Resort at
Glade Springs
Daniels, WV**



Make-A-Wish Charity Golf Outing Winners

We would like to congratulate our winning golf teams from our Make-A-Wish Charity Golf Outing, which was held on September 22nd:

1st Place

**Greg Darby, Little General Stores
Cory Beasley, Little General Stores
Charlie Houck, City National Bank
Ken Tackett, Little General Stores**

2nd Place

**Rod Moore, Enviroprobe Integrated Solutions
Ronda Moore, Enviroprobe Integrated Solutions
Rick Moore, Enviroprobe Integrated Solutions
Mike Conant, Go-Mart, Inc.**

3rd Place

**Joe Crook, One Stop
Derek Ward, Sledd Co.
Jay Boaz, Petroleum Transport Company**

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