

AT THE PUMP & DOWN THE AISLE

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

OMEGA
west virginia oil marketers & grocers assoc.

October 2014

Number 642



OMEGA Raises Over \$247,000 for West Virginia's Children in 2014

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

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Fueling the American Spirit.

From the President ...



We have just wrapped up another **Make-A-Wish Campaign** and our **Children's Charity Campaign** and to say that we are pleased with the results would be a huge understatement! We could not be more proud of our members! Once again we have proven that we truly are "Neighbors serving Neighbors."

I'm always amazed at how our members and the West Virginia public truly get behind efforts to help our children. As you know, this is our second fundraising campaign for children in West Virginia this year, our first one being our Every Child Deserves a Loving Home for the Children's Home Society.

We have raised over \$247,000 this year alone and since 2003, OMEGA members have raised over \$2.1 million for charities that improve the health, safety and wellbeing of West Virginia children.

Also, in September, we worked with Governor Tomblin and his staff to have September proclaimed **We Card Month** in the State. We coordinated a press event in Beckley with Little General Stores on September 24th. We were thrilled to have Senators Mike Green and Daniel Hall join us for this event. We also had lots of great press for this event.

We will soon be scheduling a meeting of the **Trade Expo Advisory Committee** to make plans for our 2015 Trade Expo and Golf Outing, which will be held May 5 - 7 at The Resort at Glade Springs. We are excited to be returning to Glade and are working hard to make this event a great one for retailers and vendors alike.

We hope you are enjoying a beautiful October in the Mountain State!

Jan

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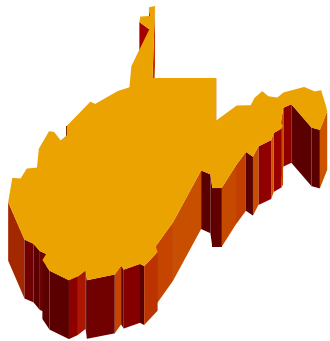


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West Virginia News

Governor Tomblin Receives High Marks for Fiscal Responsibility

Gov. Earl Ray Tomblin has received high marks for responsibly managing West Virginia's finances in the Cato Institute's "Fiscal Policy Report Card on America's Governors 2014."

The report computes a fiscal policy grade for each governor based on his or her success at restraining taxes and spending since 2012. Gov. Tomblin ranked seventh nationally.

"Throughout my career in public service I have made fiscal responsibility a top priority," Gov. Tomblin said. "From paying off our unfunded liabilities and reforming our workers' compensation system to controlling the growth of our state budget, we have taken steps to improve West Virginia today and into the future. By responsibly managing our finances, we will continue to make West Virginia an attractive place for businesses to locate and expand, creating good-paying jobs for our residents."

In the report, the Cato Institute gave Gov. Tomblin a "B," with just four governors in the country receiving an "A." The report noted that Gov. Tomblin "has overseen the elimination of sales taxes on food and has continued to phase in reductions in business taxes enacted under his predecessor."

State Still Behind in Revenue Collections

State Revenue Secretary Bob Kiss says West Virginia's economy continues to send mixed signals. Kiss and other state officials released the latest revenue collection numbers. Kiss noted in his report:

- ◆ Revenue collections missed estimates in September by \$23.8 million. This is mainly because transfer of severance tax revenues to counties took place earlier than anticipated.
- ◆ Severance tax collections \$28.5 million short of where the state thought they would be in September.
- ◆ The state did report a strong month in personal income tax collections - \$6.5 million above estimate and nearly 9 percent better than last fiscal year at this time.
- ◆ The state is still running a deficit in collections for the fiscal year so it must continue to be monitored.

OMEGA Members among 100 Largest Private Employers in West Virginia

Recently the 100 Largest Private Employers in West Virginia was released as of March 2014. Great to see the following OMEGA members listed:

- ◆ **#22 Little General Store Inc,**
- ◆ **#29 Go-Mart Inc.**
- ◆ **#70 7-Eleven Stores Inc.**
- ◆ **#77 Speedway LLC**

Economic Forecast Calls for Continued Growth in Mountain State

An economist at West Virginia University uses the phrase “going gangbusters” to describe the current rate of growth for West Virginia’s economy.

“We’ve had five months of very consistent and very healthy growth,” said John Deskins, director of the Bureau of Business and Economic Research, of the latest Mountain State Business Index for August.

“Up until May of this year, we had six months of a flat index, which wasn’t good, but since May it’s been growing very healthfully and it seems to be pointing to, at the very least, stability in our economy and probably an acceleration in growth.”

The Mountain State Business Index (MSBI), which takes into account several economic indicators like building permits, coal and gas production and the value of the U.S. dollar, is designed to be an up-to-date gauge of West Virginia’s economy.

For August, it showed statewide economic activity increased 0.5 percent compared with July.

Overall, the index is up 2.3 percent compared with the same time period last year and has risen 4.7 percent on an annualized basis in just the last six months—suggesting an acceleration of growth in the near future.

The current pace of growth, according to Deskins, could continue into early 2015.

Even with those numbers and data that showed West Virginia’s gross domestic product or GDP was one of the three fastest growing in the United States last year, Deskins said the full economic picture for West Virginia is not ideal.

That means economic improvements have been concentrated in the areas in northern West Virginia that are rich with natural gas from the Marcellus shale.

WV Public Water System Supply Study Commission Holds First Meeting

The new West Virginia Public Water System Supply Study Commission held its first-ever meeting on September 22nd at the State Capitol.

State Homeland Security Director and commission chairman Jimmy Gianato said the gathering was largely organizational. Sub-committees were formed to concentrate on areas which include:

1. The effectiveness of source water protection plans;
2. Options for alternate water sources for public water systems;
3. Improving existing infrastructure of public water systems;
4. The new law’s ability to help public water systems identify, react and respond to identified potential sources of significant contamination; and
5. Review the U.S. Chemical Safety Board’s recommendations following the 2008 deadly explosion at the Bayer CropScience plant in Institute.

The 12-member panel is required to submit a report to state lawmakers every Dec. 15. Gianato anticipates that for the next two to three years the commission will be active. The commission’s next meeting is scheduled for Oct. 27.

Tomblin Promotes Pizatella

Gov. Earl Ray Tomblin announced recently he’s appointed Fairmont native Jason Pizatella as Acting Secretary of Administration. Pizatella has been Tomblin’s deputy chief of staff. Former acting secretary Ross Taylor is returning to his role as comptroller in the State Division of Finance.

Governor Tomblin Announces Malone to Serve as Director of Policy

Gov. Earl Ray Tomblin has announced Lawrence J. Malone to serve as Director of Policy for the Governor's Office, effective Oct. 27.

"I appreciate the dedicated service of Hallie Mason, as well as the significant contributions of Chris Weikle, who has assisted with policy since Hallie's departure in May," Gov. Tomblin said. "Larry brings a great deal of experience to my administration and will help us continue to set an aggressive policy agenda that focuses on fostering economic development, continuing to improve education and workforce training, combatting substance abuse, and building on our position as a world energy leader."

Malone joins the administration after having operated his own communications and marketing consulting firm, Malone Consulting Services. He also has served as communications director for the West Virginia Chamber of Commerce, executive director of the West Virginia Oil & Natural Gas Association, and has done extensive policy development work in a number of key areas, including health care and technology innovation, energy, transportation and economic development.

Home Rule Board Makes Its Choices

The West Virginia Home Rule Board gave the nod to 16 municipalities recently for Home Rule expansion.

During a meeting at the Bridgeport Conference Center, the board named **Bluefield, Buckhannon, Charles Town, Clarksburg, Dunbar, Fairmont, Milton, Morgantown, Martinsburg, South Charleston, Parkersburg, Ranson, Vienna, Weirton, Nitro and Shinnston.**

Chairman of the Municipal Home Rule Board Patsy Trecost said while every city brought good ideas to the table, these were able to set themselves apart during their presentations.

The Municipal Home Rule Board looks over the list of the 16 cities that made it into the program. "Some cities just were very creative in the sense that they were going to make their city better and the cities around them better."

The 16 municipalities named presented a variety of plans to the Home Rule Board earlier this year including plans that would increase revenues and give cities more options when cleaning up their cities.

After many months of preparations, applications and presentations, the selected cities will only celebrate for a brief moment before getting back to work. "First and foremost, we'll sit down to see exactly out of the parts of our proposal, which ones were actually accepted into the program," Clarksburg City Manager Martin Howe said. "Then monitor which ones we want to go forward with and drafting those ordinances to enact as we move forward." The cities will have to come before the board again once the ordinances are completed for approval.

When the state legislature voted to expand the program to 20 total cities, they added the provision that the board must approve the applicant's entrance into the program, the participant's home rule plan and every ordinance or amended ordinance dealing with the plan.

Those new cities will find out later which parts of their applications were approved. The board intends to hold two meetings outside of their quarterly schedule to handle the influx of ordinances with one on November 20 and the other sometime around the first of the year.

The municipalities not chosen include Bath/Berkeley Springs, Spencer, Lewisburg, Moundsville, Oak Hill and Princeton. St. Albans was disqualified before the presentations for not fulfilling the application deadline requirements. However, the board is contemplating sending a letter to Senate President Jeff Kessler and House Speaker Tim Miley, requesting they look at legislation in the upcoming session which would include the seven excluded municipalities into the program. Trecost said though those cities were excluded, it was not because their plans lacked creativity.

The Home Rule designation is good through 2019. Four cities, Charleston, Wheeling, Bridgeport and Huntington, were part of the initial pilot project and will also continue with Home Rule through 2019.



Federal Issues

OSHA Releases Final Rule Expanding Employers' Injury and Illness Reporting Requirements

Recently, OSHA released a final rule expanding employers' injury and illness reporting requirements. Under the current regulation, employers are required to report work-related fatalities and in-patient hospitalizations of three or more employees within eight hours of an event. The final rule now requires employers to report every fatality resulting from a work-related incident, within 8 hours of the death and within 30 days of the work-related incident. Additionally, employers must report every in-patient hospitalization, amputation, and loss of eye resulting from a work-related incident within 24 hours. Under the final rule, as under the current regulation, employers are not required to report events resulting from motor vehicle accidents that occur on a public street or highway directly to OSHA. However, employers are required to report all fatalities, in-patient hospitalizations, amputations, or loss of eyes that occur within a construction work zone on a public street or highway, other roadways, or off-road. Finally, the rule allows employers to electronically submit fatality, injury, and illness reports directly on OSHA's website.

DOL Overtime Rule Delayed; Expected in Early 2015

Recently, the Department of Labor's Solicitor General Patricia Smith indicated that DOL's overtime initiative will miss its November target date and is expected to be released in early 2015. The overtime initiative will have significant implications for supermarkets, warehouses and corporate headquarters in terms of its potential impact on associates who are currently classified as exempt under the Fair Labor Standards Act (FLSA). The proposed rulemaking will likely put forth two major changes in determining if employees are eligible for overtime pay protections. Ty Kelley and George Green of FMI participated in a session outlining the enormous impact this initiative would have on our industry during an invitation-only listing session this summer. We will be soliciting more feedback from our members to prepare for the possible release of this proposal.

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2015 Trade Expo & Golf Outing

The Resort at Glade Springs - Daniels, WV



Convenience Store News

FDA Increases Maximum Retail Violation Fine

The FDA has revised its schedule of fines imposed on retailers that violate the agency's federal tobacco regulations, including the sale of cigarettes, roll-your-own tobacco, or smokeless tobacco to a minor. Under the Tobacco Control Act, there are six levels of violations and respective FDA fines. Recently, the FDA increased the fine for a sixth violation as allowed by the Federal Civil Penalties Inflation Adjustment Act, a federal law that allows a federal agency to increase fines based on the inflation rate with a maximum 10% increase in a fine.

The current fine structure used by the FDA for retail violations is as follows:

- **First Violation:** No fine, but a warning letter is issued.
- **Second Violation within a 12-month period:** \$250 fine.
- **Third Violation within a 24-month period:** \$500 fine.
- **Fourth Violation within a 24-month period:** \$2,000 fine.
- **Fifth Violation within a 36-month period:** \$5,000 fine.
- **Sixth Violation within a 48-month period:** \$11,000 fine (originally \$10,000, but raised \$1,000).

The FDA uses the schedule above to determine the amount of fine that the FDA will seek to impose on a retailer that violates the federal tobacco regulations. On a first inspection, regardless of the number of violations, the FDA issues a warning letter to the retailer detailing the violations, but does not assess a fine. There can be more than one violation per inspection. For example, if a retailer sells a tobacco product to an undercover minor and does not request and check a proper photo identification, this equals two violations.

For additional inspections, the FDA counts only one violation from the first inspection and then adds on each violation from a second or subsequent inspection to determine the level of fine to seek. For example, if a retail receives a warning letter from a first inspection during which two violations occurred (e.g., failure to check ID and a sale to a minor), and on a second inspection the same retail store is cited with two more violations (e.g., failure to check ID and a sale to a minor), the FDA's policy is to count one violation from the first inspection and two violations from the second inspection for a total of three violations.

As of the end of August, FDA has conducted more than 335,000 compliance checks, issued 18,568 warning letters and pursued 1,877 civil money penalties since the fall of 2010. The overall FFY 2014 average violation rate for both types of inspections (involving minors or adult-only inspections with no minors) is 7.42%. The We Card Coalition has put together an analysis of the available FDA enforcement data, including state compliance statistics.

In West Virginia there were 2,765 compliance checks with a total of 2,523 in compliance. There were 227 warning letters sent and 15 civil money penalties. The violation rate for West Virginia in FFY 2014 was 8.75%.

Tobacco Advertising Letter from FDA

According to the National Association of Tobacco Outlets (NATO), the FDA has issued a letter reminding tobacco retailers, wholesalers and manufacturers that they are required to file a notice with the agency if they advertise tobacco products. Specifically mentioned is advertising of cigarettes, roll-your-own tobacco, or smokeless tobacco in or on websites, television, blogs, e-mails sent to consumers, microblogs (e.g., Twitter), social media (e.g., Facebook, LinkedIn, My Space, etc.), podcasts, smart phones, video sharing (e.g., YouTube, Blip TV), Wikipedia, window gadgets, applications for smart phones and tablet computers, text messages, instant messages, pop up or roll over ads on websites, and on-line banner ads.

A notice needs to be filed with the FDA for each advertising medium listed above at least 30 days before the use of the medium. The FDA's letter goes on to state that if a retailer, wholesaler or manufacturer currently uses any of these advertising medium and have not yet filed the required notice, then the notice should be filed promptly with the FDA.

Senator Durbin Says Swipe Fees Are Too High

In the years since the Federal Reserve's cap on debit card swipe fees took effect, retailers and banks have continually argued whether the cap was set higher than Congress originally intended. This week, Senator Richard Durbin — who authored the law that led to the cap in 2011 — is telling the U.S. Supreme Court that the Federal Reserve Board got it wrong, and that retailers are right.

Durbin's comments came as part of a brief filed in a lawsuit brought by NACS and other merchant organizations that claims the 21-cent cap set by the Fed in 2011 goes beyond the "reasonable and proportional" level mandated by Congress under the Durbin Amendment provisions of the Dodd-Frank Consumer Protection and Wall Street Reform Act of 2010.

According to news reports, Durbin stated that "The amendment was carefully crafted and its purpose was clearly expressed. Unfortunately, the Board's final rulemaking failed to sufficiently follow the text and purpose of the law."

Durbin went on to say that "Because interchange fees are ultimately borne by consumers in the form of higher retail prices, consumers have suffered as a result."

Under the Durbin Amendment, the Fed was only allowed to consider the costs of authorizing, clearing and settling each transaction, a cost initially calculated at an average of 4 cents per transaction and proposed a cap of up to 12 cents. The eventual 21-cent level was set after the banking industry launched an aggressive lobbying campaign to weaken the draft rule.

In 2013, a U.S. District Court judge agreed with merchant organizations that the cap was too high, but the U.S. Circuit Court of Appeals overturned the ruling this spring, citing "ambiguity" in the 2010 law. Last month, NACS and its partner organizations asked the Supreme Court to hear the case, and is currently awaiting the court's decision whether to do so.

Debit-Card Reform Making Major Economic Impact

As part of the Dodd-Frank Wall Street Reform Act, Congress reformed the debit-card swipe fees that banks charge merchants. The regulations have now been in effect three years and in that time, the debit reform — known as the Durbin Amendment for the senator who introduced it — has created tens of thousands of jobs and saved consumers billions of dollars.

Debit reform has reduced the bloated "swipe fees" the nation's largest banks charge merchants to process the transaction every time a customer swipes a debit card.

"Debit reform has been good for consumers and good for businesses," said NACS Senior Vice President of Government Relations Lyle Beckwith. "Everyone has saved now that there are some limits on price-fixing by card networks."

In fact, Robert Shapiro, an internationally known economist, studied the impact of debit-card reform in its first full year, 2012, and found that consumers saved nearly \$6 billion and that merchants created 37,500 new jobs as a result. Extrapolating those findings, consumers have saved almost \$18 billion over the three years reform has been in effect and merchants have created more than 100,000 new jobs.

Had the Fed not buckled under to bank pressure, Shapiro's findings indicate the savings would have been almost \$27 billion over the last three years with 166,000 new jobs.

"Consumers are hurt by high swipe fees," said Ed Mierzwinski, federal consumer program director for the consumer group U.S. PIRG, according to a press release from the Merchants Payments Coalition. "Debit reform has been a real benefit."

Consumers have also saved on bank fees they pay since debit reform came into effect. In early September, the Federal Deposit Insurance Corp. found that banks now make less of their money from customer fees than at any time in the past 70 years. In fact, such bank fees had risen every year since 1942 but have fallen 21% since 2009.

Unfortunately, banks continue to reap even more money from credit-card swipe fees year after year, despite increases in volume and innovations in technology that would make the process much cheaper in a truly free market. A new report published by the Federal Reserve Board reveals further evidence that big banks continue to reap huge dividends from the fees they charge for debit card transactions, turning profits as high as 445% on transactions.

Overall, swipe fees are many merchants' second-largest operating cost and fastest-growing expense. And swipe fees in the United States are the highest in the industrialized world. Clearly, reform works for debit cards and is needed for credit cards in order to get savings to merchants and their customers and to create more jobs.

Cigarette Sales Volume Drops 3.5% in C-Stores in Q2 2014

A midyear survey of tobacco retailers and wholesales, including contacts representing more than 30,000 convenience stores, shows industry cigarette volume declines held steady during the second quarter of 2014 as the competitive environment eased. Wells Fargo Securities' Tobacco Talk survey shows "the competitive environment moderated slightly in Q2 with 53% of respondents indicating a slightly more competitive environment (down from 63% in Q1), despite dollar stores starting to become a greater threat to c-stores." Overall cigarette sales volume was reported down about 3.5% for the quarter, however. Below are the survey's volume results for each of eight major cigarette brands in convenience stores.

Pennsylvania Passes Bill Authorizing Cities to Approve a 10-Cent Per Cigarette Local Excise Tax

Recently the Pennsylvania Legislature passed and Governor Tom Corbett signed into law House Bill 1177 that authorizes cities of the first class to approve a 10-cent per cigarette local excise tax to fund school district operations. Philadelphia is the only first class city in Pennsylvania. Pursuant to this new taxing authority, the City of Philadelphia enacted a local ordinance to assess the 10-cent per cigarette tax to partially fund the Philadelphia school district operations. The Pennsylvania Department of Revenue has informed NATO that the 10-cent per cigarette or \$2.00 per pack local cigarette tax for Philadelphia will go into effect on October 1, 2014. There is a floor stocks tax being assessed on retailers and vending machine operators. The floor stocks tax needs to be paid by each retail store on or before October 1, 2014. A letter is being mailed today to all retailers by the Pennsylvania Department of Revenue explaining the new Philadelphia local cigarette tax and the floor stocks tax. Each retail store needs to conduct an inventory of cigarettes on hand on October 1, 2014 and pay the floor stocks tax with a separate check for each store. The floor stocks tax needs to be paid to the Pennsylvania Department of Revenue by October 31, 2014.

Consumer Optimism Holds Steady – But Will It Translate to Spending?

Economic optimism held steady in October, with 46% of gas consumers saying that they were optimistic about the economy, according to the latest NACS Consumer Fuels Survey. A majority of consumers ages 18-34 (53%) say that they are optimistic about the economy.

While optimism remained essentially unchanged from 47% in September, it is significantly higher than a year ago, when concerns over the government shutdown sent optimism plummeting to 35%, the lowest level recorded since January 2013 when NACS introduced its monthly survey to gauge consumer sentiment.

One of the major reasons for high optimism is falling gas prices. More than four in 10 consumers (44%) say that they have noticed that prices are lower over the past 30 days, the highest percentage this year and significantly higher than both September (25%) and August (33%), when prices also fell. An overwhelming percentage of consumers (85%) continue to say that gas prices impact their feelings about the economy, and consumers ages 18-34 are even more (87%) affected by gas prices.

Gas prices clearly affect consumer sentiment, but the findings are mixed on whether they will affect consumer spending this month. Only 15% of consumers say that they will spend more this month than last month (excluding gasoline), while 25% say that they will spend less. Even younger consumers say they may pull back on spending; only 25% of consumers ages 18-34 say that they will be spending more over the next 30 days, a decrease from the 38% who said so last month.

Meanwhile, falling gas prices may lead to younger consumers taking more trips. One in three (34%) consumers ages 18-34 say that they will drive more over the next 30 days, almost double the 19% of all consumers who say that they will drive more over the next 30 days.

Six Steps for Retailers to Improve Data Security

Retailers must be proactive in protecting themselves — and their customers.

In a recent guest column for Chain Store Age, Jon May of managed security service provider Nuspire Networks, provided six steps to help businesses boost their data security protection. With frequency jumping 62% from 2012 to 2013, there is little doubt that businesses need to stay on their toes. So what can retailers do?

1. Establish an uncompromising security approach. An aggressive, proactive security strategy is critical today.
2. Assess the threat landscape. Examine security capabilities not just at headquarters but at each store and warehouse location wherever sensitive company information is available.
3. Take an audit. Analyze your IT and POS networks across all locations. Develop policies and practices for locking down networks and master the security that's in place.
4. Protect all avenues of attack. Limit unmonitored physical access to POS terminals. Train employees on how to spot compromised PIN pads and common scams crooks use to gain access to a POS device.
5. Consider outsourcing security. Chain stores in particular have so many security issues to monitor, analyze and navigate. A managed security service provider may be the answer.
6. Test, test, test. Employ a qualified cyber security contractor with POS system experience to try to penetrate your corporate and POS networks — more often than annually.

New Survey: 1 in 9 Americans Has Worked at a Convenience Store

One in nine American adults has worked in a convenience store and they say that the experience gave them valuable experience in how to work with people, how to manage processes and how to run a business, according to a national consumer survey released by NACS. Some facts from the survey:

- ◆ Overall, 11% of adult Americans say that they have worked at a convenience store or gas station
- ◆ 3% of all Americans say that it was their first job
- ◆ 87% say that they learned a lot about how to work with people
- ◆ 85% say that the experience they gained was valuable
- ◆ 82% say that they learned a lot about the world of work
- ◆ 80% say that they learned how businesses are run
- ◆ 96% of those whose first job was at a convenience store say that the work experience was valuable and 95% say that they learned a lot about the world of work.
- ◆ 88% of those who worked in a convenience store while attending college say that they learned a lot about how businesses are run and 89% say that the job offered a flexible work schedule that allowed them to schedule work around other things in life.
- ◆ 86% of Americans who have never worked in the industry say that convenience stores offer good first jobs for those looking to enter the industry
- ◆ 86% also say that convenience stores are great summer jobs for high school and college students. Also, they see jobs as a potential path toward managing or owning a small business
- ◆ More than two-thirds of non-convenience store employees (68%) agree that it's common for workers who work hard to become managers or eventually own their own businesses.

"Convenience stores conduct more than 160 million customer transactions a day and fuel 80% of the vehicles on the roads today. None of this would be possible without the 2.2 million employees that serve half of America on a daily basis. These jobs also provide opportunities — whether learning valuable business experience as you are earning an income, or to eventually grow your own small business," said NACS President and CEO Henry Armour.

'You Will Not Have to Go It Alone,' Says NACS CEO Hank Armour

"Rest assured, you will not have to go it alone — whether fighting for a change to the broken payments system or sharing positive stories about the industry," NACS President and CEO Henry Armour told a standing room-only crowd during the General Session at the NACS Show.

The ongoing fight over swipe fee reform is not the only battle that the industry faces. Another is brewing over the reputation of the industry and the impact it is having on business, said Armour.

"We are embarking on a major initiative to address the reputational attack on our industry. It's about repositioning or refreshing the view that many people, regulators and customers alike, have about our industry."

In setting up NACS's plan to address image concerns, Armour first shared some industry messages:

- ◆ We create opportunities. The industry employs 2.2 million people, many of those youngsters working in their first jobs, learning work responsibilities and values for the first time and equipping them to pursue life-long careers whether in our industry or others.
- ◆ We are responsible retailers. Convenience stores are the experts at ID verifications, checking almost three times more IDs every day than TSA does.
- ◆ Local governments depend upon us. The industry collects and pays more than \$175 billion in taxes every year.
- ◆ Communities depend upon us. With over 150,000 stores, the industry is in virtually every community in the country and in many cases we are the only source of fuel, food and refreshment in the community.
- ◆ We sell choice. While stores sell indulgent treats, they also sell more better-for-you products within arm's reach than any other retail channel.

(Continued from Page 13)

“There is no industry more connected to — and ingrained in — the everyday lives of American consumers than we are. That’s the industry that I know, that’s the industry I owned stores in — and that’s the industry that I’m proud to represent,” said Armour.

Armour then shared the plan to “refresh” the industry’s image. “It’s a long-term, multiyear commitment. It’s multifaceted with some immediate actions and some evolving over time. It’s positive, realistic and honest,” he said.

First, NACS is telling the positive story of the industry. “We’ve begun to do that with our new “NACS In Store” program in which we invite elected officials — senators and congressmen — to work a few hours in one of our stores and learn what our industry is really all about.”

As part of telling the industry’s story, NACS is addressing the perception of jobs in the industry. Armour shared the findings of a newly released consumer survey that showed that one in 9 Americans has worked in the convenience store industry.

“That’s an astounding number, and our research shows that these former workers have many positive impressions about their time working in our industry,” said Armour.

But what about those who have never worked in a convenience store? They were equally positive about the industry’s jobs: an overwhelming majority believe that convenience stores provide good first jobs for those looking to enter the workforce and provide a potential path to longer-term business success.

“We’ve got a compelling story to tell on the jobs front and we’re going to tell it,” said Armour.

Second, NACS is also addressing the nutritional aspects of the industry’s offer by creating new opportunities for retailers to improve their ability to stock fresh products.

“The collaboration we announced earlier this year with United Fresh, the trade association representing the produce supply chain, is an early step in this initiative. We want to help you improve your access to fresh products by re-positioning your offer — and getting credit for being a place to get fresh food and healthy options — while obviously remaining the preferred place for your customer to indulge themselves,” said Armour.

As part of NACS’ nutritional efforts, it is also addressing the decline in exercise, particularly with youth, and is in contact with a number of organizations to create calories-out programs to help better local communities.

Zoning restrictions is the third issue that NACS is addressing. “While our customers clearly love us — and we hear that 160 million times a day — we still face enormous pushback at zoning hearings. We’re going to help you dispel the myths that inhibit your ability to obtain approval to build stores and get permits, building the case for why a community should want to have a convenience store in their town instead of why they wouldn’t.”

Finally, NACS is telling the story of the fantastic support that convenience stores give to the communities in which they do business.

“You don’t just do business in those communities, you live in them and you’re vitally engaged in them. We are an essential partner with first responders, providing food, fuel, and support to FEMA, EMTs, the Red Cross and police and fire departments. And we also provide enormous support to our local schools and charities. We are making this a better world, and it’s a great story to share.”

Armour concluded that retailers will be essential to help tell the industry’s story, and the connections that NACS is making and the tools NACS is developing will allow them to share positive stories.

“You are the most important part of this story — and you are the most important part of our ambitious plan to tell it. Tell your story. Walk the talk. Be proud of what our industry does!” he said.

NACS Ideas 2 Go DVD Now Available

A newly released NACS Ideas 2 Go DVD features the 50-plus minute Ideas 2 Go presentation that was shown at the standing-room-only NACS Show general session. The fast-paced Ideas 2 Go program showcases emerging concepts that redefine convenience — as well as quick takeaways that retailers could easily implement at their own stores. Since 1994, 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 fuel retailing industry. The featured stores and companies are:

El Carajo

On the outside, Miami's secret gem looks like a standard BP gas station connected to a convenience store. But step inside and you are transformed. In addition to a traditional convenience store, there are three very unique elements: the bakery café, the 2,500-plus bottle wine shop and the acclaimed international tapas restaurant. (Miami, Florida)

Tri Star Services LLC (Twice Daily)

From the pumptoppers to the LED sign over the entrance to the store greeter, the concept of Twice Daily is about creating a culture that encourages customers to come to the store more than once a day — twice daily. (Nashville, Tennessee, store)

Delek US Holdings Inc. (MAPCO Express)

As customers increasingly rely upon the phones for everything from social media to commerce, MAPCO's offer is focused on creating a unique experience customized to the customer via their phones, whether at the store, at the pump or even at home. (Clarksville, Tennessee, store)

California Marketplace

A hybrid grocery store/convenience store that is really two different experiences. If you are a gas customer, you enter via the convenience store. Otherwise, you experience the grocery store. Either way, you select how you want to shop that day. (California, Kentucky)

Pet Stop (WagsPark Shell)

The old industry adage is to "get rid of your dogs." But WagsPark Shell celebrates dogs — after all, it's contained within a state-of-the-art private dog park. The store offers growlers and "bretzels" that can be enjoyed whether by customers on the go or those who are at the park. (Newtown, Ohio)

Sterling Fresh Foods LLC (Sterling Xpress)

Sterling Xpress is part of acclaimed actor Wendell Pierce's goal to rebuild New Orleans and provide food options to under-served. Along the way, the company has also developed new ways to draw traffic and give back to the community. (New Orleans, Louisiana)

Diaz Market

The company has refocused its offer for those with active lifestyles — from the better-for-you choices in the open-air cooler to developing a video series on Facebook featuring a local fitness trainer who advocates for healthy options. (Metairie, Louisiana, store)

Brew Thru

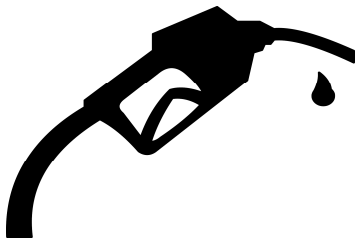
Brew Thru has evolved considerably since it began selling snacks and drinks in the 1970s. Today, the company's five stores sell convenience and an experience — it has a booming t-shirt business (approaching 5 million shirts sold) and is even sponsoring concerts. (Jockey's Ridge, North Carolina, store)

Sampson-Bladen Oil Co. (Han-Dee Hugo's)/Cravings Steaks & Seafood

The store delivers convenience shopping plus gourmet dining — literally. In addition to a sit-down restaurant and an outdoor concert area, the store has the only drive-thru in town, where customers can quickly order gourmet food, including grab-and-go seafood pots. (Duck, North Carolina, store)

RaceTrac Petroleum Inc.

The company has a strong commitment to "the RaceTrac way" — to make people's lives simpler and more enjoyable. A big part of that commitment is achieved through RaceTrac 6000 — a new concept that with has refocused the company and what it delivers. (Smyrna, Georgia, store)



Oil Marketers Update

EPA Sends Draft of New UST Rule to White House

EPA has sent a draft final rule over to the White House Office of Management and Budget for review and final approval that would impose onerous new UST requirements on petroleum marketers. The new rule would mandate:

- ◆ Comprehensive UST system walkthrough inspections;
- ◆ New interstitial monitoring of tanks;
- ◆ Pipes and sumps equipped with secondary containment;
- ◆ Installation of under dispenser containment; and
- ◆ Spill and periodic overfill and spill equipment testing.

PMAA has vigorously opposed the rule since it was proposed in 2012 because of the onerous and unnecessary compliance costs it would impose on all UST operators in the form of new inspection and monitoring requirements. The EPA estimates the costs imposed by the new rule would amount to \$300 annually while a PMAA study placed the costs to \$6,300 per year.

In response to the proposed rule PMAA formed a UST Task Force made up of petroleum marketers and professional engineers to assess the costs of the new inspection and monitoring requirements and draft a less costly alternative proposal. The PMAA Task force has met on multiple occasions with the EPA to discuss its opposition to the rule, won the support of the U.S. Small Business Administration (SBA) in the fight against the EPA's inaccurate small business impact analysis, launched a successful grass roots campaign in Congress to pressure the EPA to delay the rule to reconsider the cost burdens it would impose, and offered an alternative proposal that would achieve the same environmental protection at a fraction of the cost. These efforts by PMAA together forced the EPA to reconsider and redraft the rule. While the content of the final draft rule is not known, it is expected to reflect a number of changes recommended by the PMAA UST Task Force. The PMAA Task Force will also meet with the OMB to express its concerns with the EPA's failure to properly solicit the input of small business petroleum marketers during the initial rulemaking process as required by law as well as the costly inspection and maintenance requirements the EPA seeks to impose.

EIA: Heating Oil Seen Averaging \$3.63/Gal in Winter, Down 25cts vs. Yr Ago

Number-crunchers at the Energy Information Administration (EIA) have forecast lower U.S. heating oil prices for the upcoming winter heating season compared to last year, in line with expectations for warmer temperatures for the country as a whole.

The Winter Fuels Outlook issued by the Department of Energy's analysis arm on Tuesday made heating fuel projections for heating oil, natural gas, propane and electricity. EIA characterized its expectations for winter temperatures east of the Rockies as "much warmer" than last year.

The forecast period is Oct. 1, 2014 through March 31, 2015.

EIA's forecast for the average U.S. retail price of heating oil this winter is \$3.63/gal, down from the \$3.88 seen last year. The agency put average household expenditure for the fuel 15% lower year on year.

IRS Levies on Credit Card Settlements 1099K Task Force Recommendations

Because many petroleum wholesalers must annually issue 1099ks to their dealers, IRS agents have become more aware how credit card settlements are processed from jobbers and dealers. As a result, when dealers become delinquent on federal taxes, we are seeing unprecedented efforts by IRS agents to place levies on dealer credit card settlement monies owned by jobbers. Historically, dealer credit card settlement monies are payments to the jobber for goods sold to the dealer.

To better prepare, PMAA members to respond to these new IRS levy actions, PMAA Chairman Sam Bell appointed a task force to develop recommendations. The Task Force was chaired by Daniel Erwin, Erwin Oil Company, North Carolina. Serving on the Task Force with Daniel were: Al Alfano and Bob Bassman, PMAA Outside Counsel; Larry Boldgett, Blodgett Oil Company, Michigan; Bart Fletcher, PMCA of Alabama; and Bill Herdrich, Herdrich Oil Company, Indiana.

When the Task Force began its preliminary discussions, it was decided that credit card settlements in the case of dealer bankruptcies should also be considered. The tasks at hand became more complicated because fuel suppliers and refiners often process credit card settlements differently. We think the task force considered all the scenarios and have developed some recommendations for members to consider.

Recommendation #1:

If a marketer receives a levy notice from the IRS, there is a process available to challenge the levy action. Using this link, <http://www.irs.gov/pub/irs-pdf/p4528.pdf>, the IRS provides a one page form for marketers to submit. The Task Force recommends this "Wrongful Levy" form be filed as soon as possible once a levy notice is delivered to the jobber. If you delay filing the "Wrongful Levy" form, you increase the risk of having the IRS reject your claim.

Recommendation #2

Marketers should amend their "Method of Payment" provisions in dealer contracts to clarify the settlement monies are owned by the jobber to be credited for goods sold. This new recommend language will also clarify jobber ownership of credit card settlements in the case of dealer bankruptcy.

The following is model language developed by the task force. PLEASE NOTE, this is only model language and must only be used to assist your legal counsel review and possibly revise your contracts.

Method of Payment. Purchaser shall pay seller for all goods delivered to Purchaser by Seller hereunder on the date Purchaser is required to pay for such goods (the "Payment Date") by: (a) assigning to Seller all Purchaser's right, title and interest in the proceeds of credit card transactions made at the Premises and received by Seller as of the Payment Date (the "Credit Card Proceeds"); and (b) paying Seller by electronic funds transfer ("EFT") the difference, if any, between the amount owed to Seller on such Payment Date and the Credit Card Proceeds. The Credit Card Proceeds shall automatically be assigned, and shall be deemed assigned to Seller, on the date of their receipt by Seller or on the date such proceeds are credited to Seller's account with Seller's supplier. In the event the Credit Card Proceeds exceed the balance on Purchaser's account with Seller as of the Payment Date, Seller shall either (i) refund such excess amount to Purchaser; or (ii) apply such excess amount as a credit to Purchaser's account. For the avoidance of doubt, the assignment of the Credit Card Proceeds shall be a form of payment for the goods sold hereunder and shall be the property of Seller, provided that Seller shall be obligated to reimburse Purchaser for any amount by which the Credit Card Proceeds exceed the Purchaser's account balance on any Payment Date.

If you have any questions, comments or suggestions, please do not hesitate to contact Task Force Chairman Daniel Erwin at Daniel@erwinoil.com.

PMAA President to Retire Next Year

Dan Gilligan, the president of the Petroleum Marketers Association of America, will retire in May 2015 after serving in that position for 17 years. The Arlington, Va.-based association has officially kicked off a search for his replacement, having posted an ad online for someone new.

"I will be working especially hard to help the new PMAA president in the transition," Gilligan told Oil Express in a recent interview.

The association, founded in 1948, includes 48 state and regional trade associations that represent 8,000 independent petroleum companies. It has a \$1.8 million budget, and the president supervises a staff of six individuals, according to the ad.

Virginia Could See 5 Cent Gas Tax Hike

When Virginia state legislators passed the new motor fuel tax law in 2013, they anticipated that the U.S. Congress would soon pass an internet tax bill that could be applied to Virginia transportation funding. That federal legislation appears to have stalled, and the 2013 state tax law requires that Virginia now add a 1.6 percent additional levy to gasoline sales. At today's retail price level, the tax would add 5.5 cents to the price of gasoline. It will not apply to diesel fuel.

Transportation Subcommittee Chair Calls Again For VMT

Chairman of House Transportation and Infrastructure Committee's Highways and Transit Subcommittee spoke publicly again recently in strong support of a vehicles miles traveled tax (VMT) to fund the nearly insolvent Highway Trust Fund (HTF).

An increase to the 18.4 cents-per-gallon gasoline tax is Chairman Tom Petri's (R-WI) preference, especially since there has not been an increase since 1993. Although Petri believes linking road funding to vehicle miles traveled offers a long term funding solution, VMT is highly contentious because of the disproportionate effect a VMT would have on rural lower income drivers and on privacy issues. Chairman Petri is influential, however, he also plans to retire at the end of this Congress and highway funding will likely not surface in the lame duck session.

Vinyl Wrap Advertising on Cargo Tank Shells Could Increase Inspection Costs

Petroleum marketers who use vinyl wrap advertising on cargo tank trucks may soon find that U.S. DOT annual inspections may be much more costly for those vehicles. The U.S. DOT regulations require all non-insulated cargo tanks to undergo an external visual inspection once per year (49 CFR 180.407(d)). The more costly and time consuming internal visual inspections are only required every five years (49 CFR 280.407(e)). However, the U.S. DOT regulations also provide that, if the annual external visual inspection is precluded because any part of the cargo tank wall is externally lined, coated, or designed to prevent an external visual inspection, those areas of the cargo tank must be internally inspected each year instead.(49 CFR 280.407 (d)(1)).

As a result, any coating on the outside of the tank shell that could hide corroded or abraded areas, dents, distortions, defects in welds and any other conditions, including leakage, that might render the tank unsafe would trigger internal inspections annually instead of every five years so long as the external shell of the tank is covered.

External visual inspections typically cost \$350 and require the cargo tank to be out of service for one day. An internal visual inspection costs on average \$750 and requires the tank to be out of service for two to three days. Whether or not cargo tank vinyl advertising wrap precludes external inspection may vary depending on the certified inspector used. PMAA is in discussions with the U.S. DOT regarding at what point is vinyl wrap advertising as well as smaller decals on the tank shell sufficient to trigger the internal inspection trigger. Until this issue is clarified by the U.S. DOT, petroleum marketers should consider the potential for additional annual inspection costs and out of service time before applying vinyl advertising wrap on the external shell of a cargo tank vehicle.



Grocery Highlights

California Becomes First State to Ban Single use Plastic Bags

California Governor Jerry Brown (D) signed the nation's first statewide ban on single-use plastic bags a few minutes ago.

The bill, S.B. 270, cleared the legislature in late-August, in the final hours of the legislative session. It commanded the support of a wide range of industry, labor and environmental groups, including the California Grocers Association (CGA).

Beginning July 1, 2015, grocery stores and pharmacies are prohibited from providing customers with single-use carryout bags. Convenience stores and liquor stores will follow suit a year later.

Stores may provide an approved reusable bag to customers, for a minimum 10-cent fee. Although the entirety of the fee will be kept by the store, any revenue recouped must be used for implementation of the law. These implementation costs include: costs associated with complying with the new requirements; actual costs of providing recycled paper bags or reusable grocery bags; and costs associated with a store's educational materials or educational campaign encouraging the use of reusable grocery bags.

Ground Beef Hits Record Price

The Labor Department's Bureau of Labor Statistics reported that ground beef prices in August hit \$4.013 per pound, marking the first time the product has exceeded \$4.00. The price has increased by 16 percent in the past year and 3.3 percent between July and August. Just five years ago, ground beef prices were \$2.13 per pound.

Election Reminder

2014 General Election Early Voting October 22 - November 1

Early Voting is open during regular business hours at each county courthouse of courthouse annex. Early Voting is also available each Saturday from 9:00am to 5:00pm

**General Election Day
Tuesday, November 4, 2014**
Polls are open 6:30am through 7:30pm

WV OMEGA Raises More Than \$247,000 for West Virginia's Children in 2014

We just completed a wonderful year of giving for two great charities who take care of West Virginia's most vulnerable population - our children.

In August, our retailers sold stars in their stores to support Make-A-Wish. This turned out to be a very successful campaign! We raised \$92,365 to grant the wishes of critically ill children in West Virginia.

This fundraiser comes on the heels of our Every Child Deserves a Loving Home Campaign we held in the Spring to raise money for Children's Home Society of West Virginia. This campaign, which wrapped up appropriately on Mother's Day, resulted in \$88,827 for this wonderful charity which provides loving homes for children who have no where else to go.

This year for the first time, we used our Charity Golf Outing to benefit both of these charities and could not be more pleased with the generosity shown by our members, who gave \$65,730 to support this effort.

This brings our giving for the year to \$247,000 to two wonderful organizations that help West Virginia children, and almost \$2.1 million since 2003 for charities that improve the health, safety and wellbeing of West Virginia children.



Chairman Greg Rogers presents award to Kristin Miller with Underwriting Sponsor ExxonMobil



Chairman Greg Rogers presents award to Platinum Sponsor Little General Stores Inc.



Chairman Greg Rogers presents award to Platinum Sponsor Red Bull Energy Drink



Chairman Greg Rogers presents award to Platinum Sponsor Marathon Petroleum Company



Chairman Greg Rogers presents award to Platinum Sponsor Team Sled



Chairman Greg Rogers presents award to Platinum Sponsor Par Mar Stores



Chairman Greg Rogers presents award to Gold Sponsor Anheuser-Busch



Chairman Greg Rogers and Traci Nelson present award to Gold Sponsor One Stop



Chairman Greg Rogers presents award to Gold Sponsor Frito Lay



Chairman Greg Rogers presents award to Gold Sponsor Bruceton Petroleum/BFS



Chairman Greg Rogers presents award to Gold Sponsor Tri-State Petroleum Corp.



Chairman Greg Rogers presents award to Gold Sponsor R. T. Rogers Oil Co.

Congratulations to our Winning Golf Teams

1st Place

- Rod Moore of Enviroprobe Integrated Solutions**
- Tim Lilly of Enviroprobe Integrated Solutions**
- Chad Rosenberger of BP Oil Company**
- Tim Fabek of Modern Welding Co. of OH**

2nd Place

- Charles Stuart Houck of Little General Stores**
- Charles Morton of Morton Energy Insurance**
- J. Gamble of Little General Stores**

3rd Place

- Jimmy Matheny of Pepsi Beverages Company**
- J. D. Preast of Pepsi Beverages Company**
- Ron Gordon of Pepsi Beverages Company**
- David Sadd of Pepsi Beverages Company**



Miscellaneous

We would like to thank the generous sponsors of our Children's Charity Golf Outing:

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**Marathon Petroleum
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H. C. Lewis Oil Company

R. M. Roach & Sons

Gorman Sheatsley & Co. LC



Calendar of Events

**2015 Trade Expo &
Golf Outing
May 5 - 7, 2015
The Resort at Glade
Springs
Daniels, WV**

**At The Pump & Down
the Aisle
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