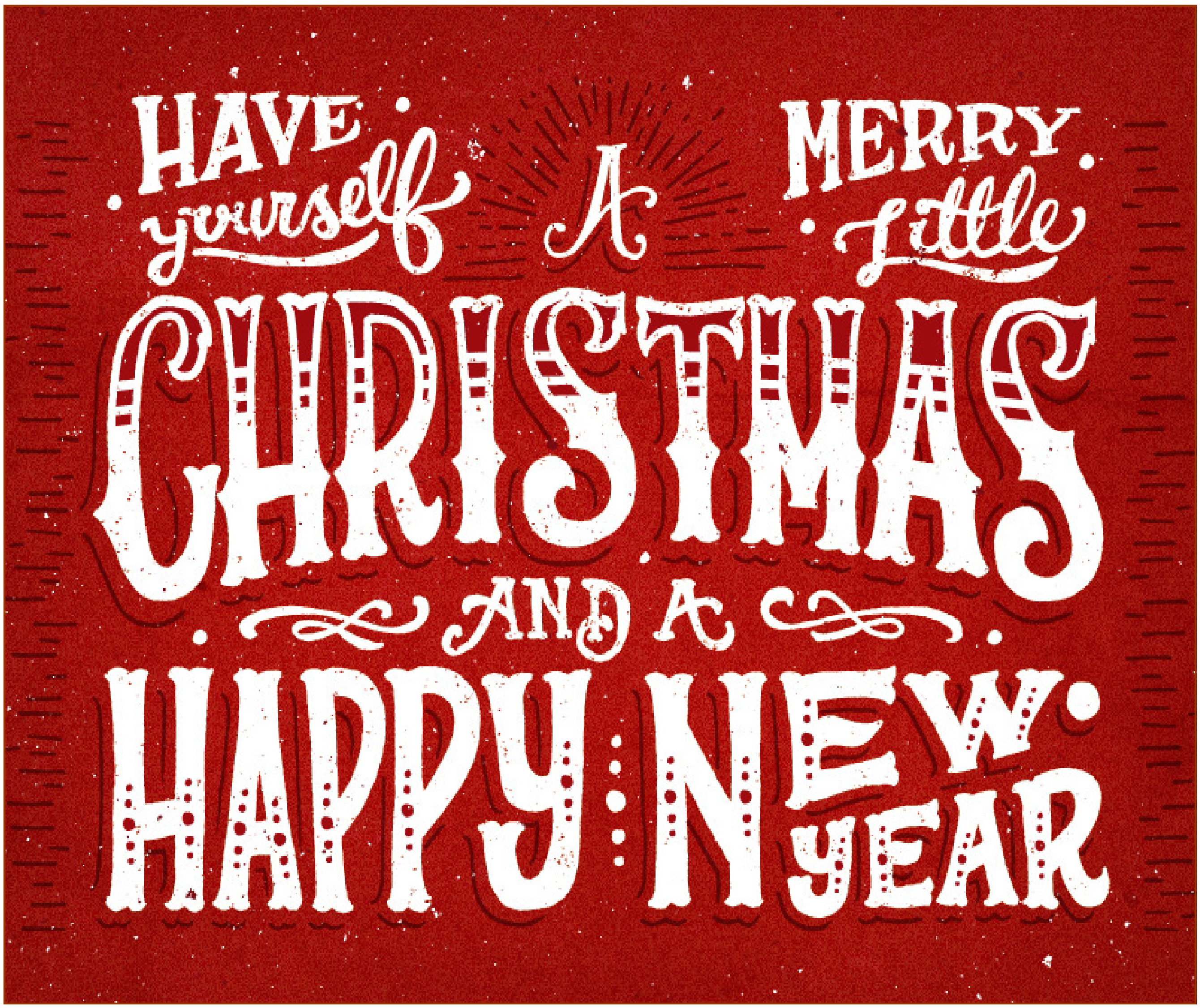
AT THE PUMP & DOWN THE AISLE

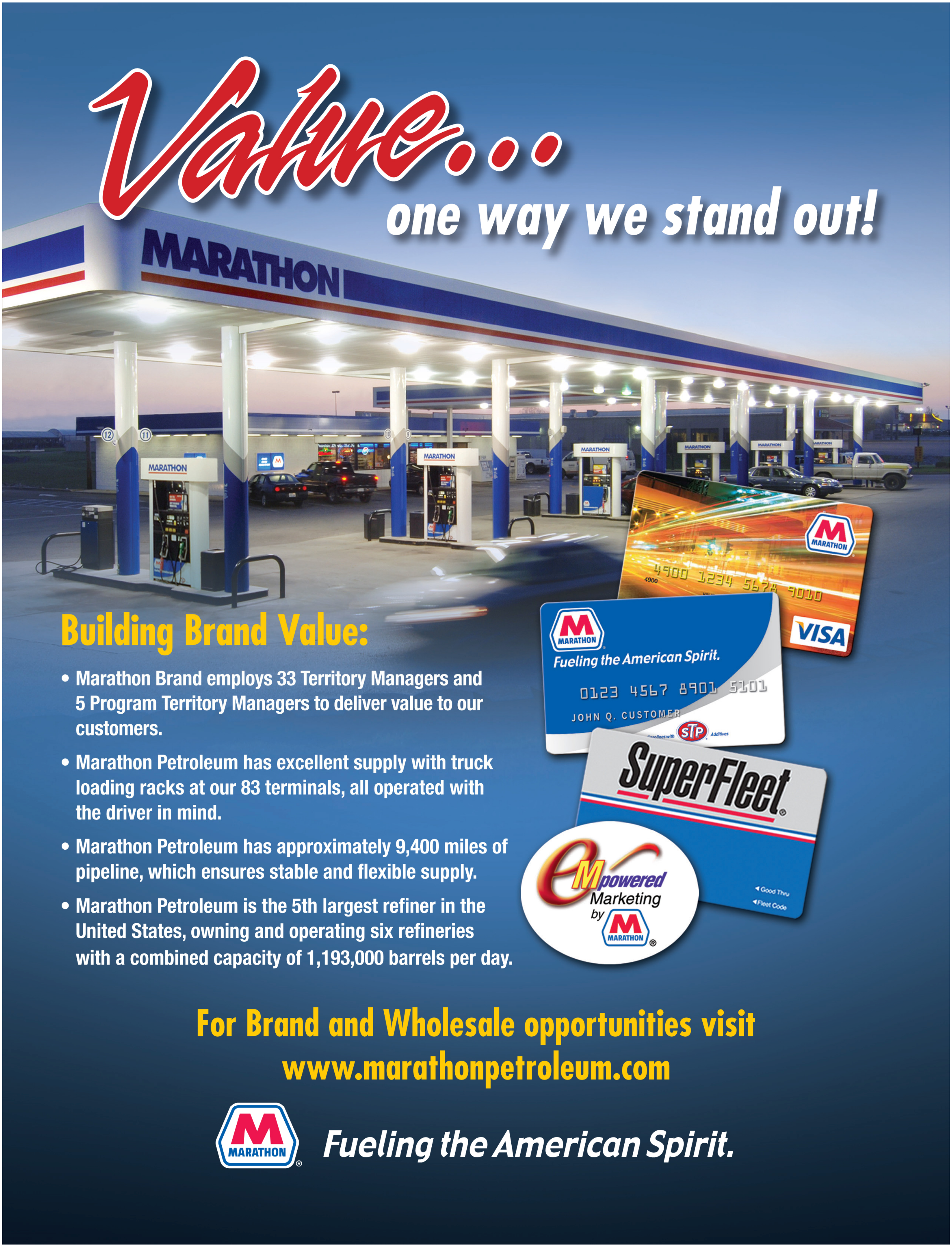
PROVIDING LIFE'S ESSENTIALS TO WEST VIRGINIA-
FUEL , FOOD & CONVENIENCE

OMEGA
west virginia oil marketers & grocers assoc.

December 2014 **Number 644**



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



Value...
one way we stand out!
MARATHON
Building Brand Value:
• Marathon Brand employs 33 Territory Managers and 5 Program Territory Managers to deliver value to our customers.
• Marathon Petroleum has excellent supply with truck loading racks at our 83 terminals, all operated with the driver in mind.
• Marathon Petroleum has approximately 9,400 miles of pipeline, which ensures stable and flexible supply.
• Marathon Petroleum is the 5th largest refiner in the United States, owning and operating six refineries with a combined capacity of 1,193,000 barrels per day.
VISA
Fueling the American Spirit.
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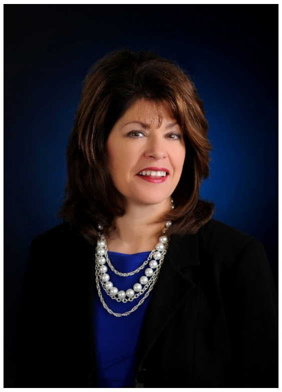
From the President ...



Recently Traci compiled our ***2014 Year in Review*** and it was presented to the Executive Committee. We are thrilled about what we have accomplished for our members this year. Together we make a difference in our industry, in West Virginia, our communities and certainly a difference to West Virginia children. We hope that you are as proud of us and we are of you - the members we serve.

The Executive Committee met recently and to discuss our **legislative priorities for 2014**. The session begins January 7th. With the many changes that have taken place in the Legislature, we are looking forward to a very interesting session! We will once again host our **Legislative Day and Legislative Reception at the Capitol** on **February 18th.** Please mark your calendar and plan to attend.

We billed **annual membership dues** this week. We would like to thank every company who is a member of OMEGA. We appreciate the trust you have placed in us and we look forward to serving you in 2015.

In January, we will mail registration information for our upcoming **2015 Circus Act Golf Outing and Trade Expo,** which will be held **May 5 - 7** at The Resort at Glade Springs in Daniels, WV. We have an exciting event planned, so make plans now to attend!

As we look forward to 2015 we ask for your input. We are your Association. We appreciate your comments, compliments and criticism.

Traci, Sarah and I wish you and yours a Very Merry Christmas and health, happiness and prosperity in 2015.

OMEGA
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R. T. Rogers Oil Co.

Vice Chairman
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DeFazio Oil Co.

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H. C. Lewis Oil Co.

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Northern Eagle, Inc.

Greg Walls
Frito Lay

Allan Williams
BrickStreet Insurance

West Virginia News

Effective January 1st WV Minimum Wage Increases to $8.00 Per Hour

The State of West Virginia has updated its Minimum Wage Requirements posting to list the 2015 rate of $8 per hour, effective January 1, 2015. The updated posting also lists the $8.75 per hour rate that will take effect January 1, 2016. You're required by law to post the revised notice.

JJ Keller is now offering these posters at a discount through the WV Trucking Association. If you would like to order, please call the OMEGA Office.

Revenue Secretary Calls November a "Very Good Month" for Tax Collections

November was a "very good month" for tax collections in West Virginia, according to state Revenue Secretary Bob Kiss. According to Kiss:

- Collections were more than $30 million ahead of estimates for November or 11 percent better than projections.
- Compared with Nov. 2013, revenue collections were up by almost 15 percent.
- Both personal income tax and sales tax collections, two of the state's major sources of revenues, were ahead of estimates for Nov. as were severance tax collections.

Mountain State Business Index – November 2014

The Mountain State Business Index (MSBI) goal is to provide an in depth look into West Virginia's economic status.

Each index is comprised of several individual indicators that are used to characterize a particular aspect of the state's economy. The variables comprising the MSBI are: building permits authorized for single-family homes; average initial unemployment insurance claims; a stock index of West Virginia's largest publicly-traded employers; the spread between long-term and short-term interest rates (also known as the yield curve); the state real trade-weighted dollar exchange rate; statewide coal production; and statewide natural gas production.

The Mountain State Business Index is calculated every month. It is produced by West Virginia University College of Business and Economics with John Deskins as Director.

Deskins: "For the first time since early 2014, a majority of components made negative contributions to the MSBI this month. Natural gas output provided the largest positive contribution to the topline index, while stock prices for the state's largest employers and building permits for new single-family homes also boosted the MSBI in November. By contrast, coal production, initial claims for unemployment insurance and the state trade-weighted dollar weighed on the index by similar magnitudes. The yield curve also made a negative contribution to the index this month."

"Although a majority of MSBI components failed to improve this month, the index has notched strong gains over much of 2014 thanks to a few key indicators," said Brian Lego, BBER research assistant professor. "The composite of stock prices for the state's largest publicly-traded employers surged 3 percent and remains 12 percent ahead of its year-ago level," Lego said.

City Sales Taxes Poised to Become More Common in W.Va.

Paying a city sales tax in West Virginia could be more commonplace next year. The number of municipalities with local sales taxes could triple as new home rule cities have their proposals heard by the state Municipal Home Rule Board.

If all proposed taxes are approved, 21 cities across the state will have municipal sales taxes, which are dedicated to fund projects like infrastructure improvements, economic development and retiree pensions.

In addition, eight of the state's 10 biggest cities would have their own sales tax, and about 17 percent of West Virginians would live in a municipality with such a tax.

Currently, Charleston, Huntington, Wheeling, Harrisville, Quinwood, Rupert and Williamstown are the only cities with sales taxes.

The larger three — Charleston, Huntington and Wheeling — derive their taxes from their existing home rule power. The other four are able to enact a sales tax under regular state law because they don't charge business and occupation taxes.

Charleston and Wheeling currently have a 0.5 percent rate. However, Charleston's is set to increase to 1 percent next summer and Wheeling has an identical increase pending before the Home Rule Board.

Even under home rule, in order to have a sales tax, **cities must reduce or eliminate some B&O taxes.** This certainly benefits our members.

In 2013, the Legislature decided to open the program up to 16 new cities, and 23 applied last summer. Most of the new cities into the home rule program proposed a one percent sales tax to be collected with the six percent sales tax imposed by the state, while lowering B&O tax to compensate. Wheeling, one of the original four cities into the program, presented an amendment on their original sales tax ordinance to increase from half a percent to a full one percent.

The December 1st approval does not finalize the ordinances, as the cities will have to present to the board again once more of the criteria is met, such as presenting a map clearly showing where the sales tax would be imposed.

2015 Legislative Session

The 2015 session will be like no other in decades. The republican majority is gearing up to be organized and effect and we have volunteered to help them in any way that we can.

Bill Cole will be the President of the Senate. In key positions will be: **Mitch Carmichael** as Majority Leader, Mike Hall as Finance Chair and **Charles Trump** as Judiciary chair.

In the House the Speaker will be **Tim Armstead**. **Eric Nelson** will be Finance Chair and **John Shott** will be Judiciary Chair.

Tim Armstead (R-Kanawha) said recently on MetroNews Talkline the their agenda starts with what he called the "cap and trade bill" passed a few years ago when U.S. Senator Joe Manchin was governor. Armstead said he believes there will be wide support to repeal the law.

"We think it not only has devastating impact on our energy sector, our coal jobs in our state, but also it will result in increased utility rates for our citizens and we need to stop that," Armstead said. "One of the first things we're going to do is repeal that bill."

The Alternative and Renewable Energy Portfolio Act requires for power generation to decrease to 75 percent from traditional sources by 2025.

(Continued on Page 6)

(Continued from Page 5)

Armstead and Cole also talked about legislation focusing on tort reform. This is in concert with President-Elect Cole who has said West Virginia must escape its Judicial Hellhole label.

“We have to make sure that businesses that are both operating here now and that would want to come and relocate in our state would have a stable judicial system,” Cole said. Del. Armstead said there would likely be push back from trial lawyers on the legislation but he said it’s about fairness.

“What we have in mind it’s more of a fairness issue. It’s not trying to push the balance in one way or another but we believe there are things within our judicial system that just aren’t fair and they aren’t very well-balanced and they are unpredictable,” Armstead said.

AST Rules

The last session was, in many ways, controlled by the chemical spill on Jan. 9. President elect Bill Cole recently said the bill passed as a result of the spill, nicknamed the water bill, could be looked into again this session.

“I think the water bill, the bill the governor put forward was a good bill and a whole other bills got amended into it, running off the tracks,” Cole said. “Our local citizens were drinking bottled water, it was a tough thing to talk about.”

Cole said he wanted to examine it further, and wants to now “fix the unintended consequences.” He said business and industry cannot be shut down.

Cole said Republican leaders would be supportive if the governor wants to fix any consequences.

“We asked to lead, and we're going to be ready to lead,” Cole added. “The legislation has never been advanced that will test their conservatism,” he said. “To me, it isn't about the left and the right – it's about moving legislation forward that's good for our state.”

OMEGA is working on draft legislation for the 2015 Session, which will correct the issues our members have with SB 373.

2015 Policy Positions

We are already preparing for the 2015 Legislative Session, which will begin on January 14th. Below are some priorities we feel should be addressed in the upcoming session:

- **Economic and Jobs Development.** We need to build and sustain a business competitive environment. We need to improve West Virginia’s public education system. We need to provide accessible education, either in a college, business or trade format, so that we may produce graduates who are prepared for today’s workforce.
- **Responsible Government.** Our State government needs to maintain prudent budgeting, integrity and transparency.
- **Legal Reform.** West Virginia has made much progress in modernizing its civil justice system. However, we must make important changes to our legal system to attract jobs. There are many topics that require attention, including limits on punitive damages, reform of joint and several liability, non-partisan election of judges and collateral source rules.
- **Fair Competition & Border Stability.** OMEGA is comprised of hometown employers and entrepreneurs contributing to our communities. We believe that advantages should not be given to large out-of-state companies or that our surrounding states should have advantages over us. We continue to seek an even playing field to conduct business. Differences in excise tax rates across jurisdictions create incentives for consumers to cross the border and purchase in lower tax jurisdictions. There are certain commodities that consumers shop price for and among these are gasoline, cigarettes, soft drinks and beer. It is estimated that fifty percent of West Virginia residents live near a border, therefore being competitive on those borders is important to West Virginia retailers. We know that when consumers go across the border for these items that they make other purchases.

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date

THE

west virginia oil marketers & grocers assoc.

05.05.15
05.07.15

2015 Trade Expo & Golf Outing

The Resort at Glade Springs - Daniels, WV

YOU

west virginia oil marketers & grocers assoc.

ARE

02.18.15

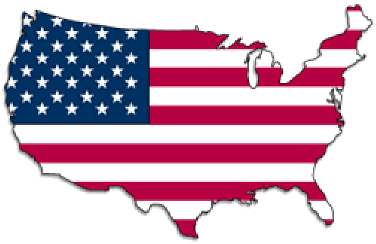
INVITED

WEST VIRGINIA TRUCKING ASSOCIATION

WVWA West Virginia wholesalers association

Legislative Reception at the Governor's Mansion

5:00 to 6:30 p.m.



Federal Issues

Congress Passes $1.1 Trillion Spending Package

On December 16th, the Senate approved a one-year tax extenders package (applies to calendar year 2014 only) that would revive over 50 expired tax incentives by a vote of 76 – 16. The House passed an identical bill earlier this month by an overwhelming vote of 378 – 46. The extender's package includes the one-dollar-per gallon biodiesel blender's tax credit, a 30 percent investment tax credit for alternative fuel pumps, 50 percent bonus depreciation, and Section 179 expensing.

The omnibus spending bill provides $8.14 billion for the EPA. The Commodity Futures Trading Commission (CFTC) received a funding boost of $35 million bringing its budget to $250 million and the Department of Energy (DOE) received $10.2 billion. The Leaking Underground Storage Tank Trust Fund received approximately $92 million, the Northeast Home Heating Oil Reserve received $7.6 million and the Low Income Home Energy Assistance Program (LIHEAP), $3.39 billion.

Several policy riders were added to the 2015 Omnibus package including an amendment by Senator Susan Collins (R-ME) to suspend for one year the hours-of-service (HOS) restart changes that became effective last year. The proposal would require the Federal Motor Carrier Safety Administration (FMCSA) to justify in a report to Congress how the changes enhance public safety. Originally, the HOS regulations allowed drivers to use the 34-hour restart without restrictions. However, the FMCSA adopted regulatory changes limiting use of the 34-hour restart to just once per week and requiring the restart to include two overnight rest periods between 1:00 AM and 5:00 AM. As a result of the FMCSA changes, depending on the time of day their final shift ends, drivers are now required to take more than 34 hours off duty before they can return to work. The change greatly reduces the flexibility petroleum marketers need to schedule drivers efficiently and PMAA fully supported the policy rider's inclusion.

Another policy rider included in the omnibus package was language preventing EPA and the U.S. Army Corps of Engineers (COE) from expanding its jurisdiction over "Waters of the United States." Many petroleum marketers with bulk storage will be adversely affected by the revised definition. At the most fundamental level, the proposal as written represents an unjustified expansion of Clean Water Act jurisdiction far beyond the limits of federal regulation explicitly established by Congress and affirmed by the courts. The proposal would, for the first time, give federal agencies direct authority over land use decisions that Congress has intentionally preserved to the States. It would intrude so far into traditional State and local land use authority that it is difficult to imagine that Congress intended this outcome. PMAA supports the language in the omnibus spending package.

Finally, one policy rider was included that would gut a critical Dodd-Frank reform provision to prevent the big Wall Street banks from being allowed to use insured deposits to gamble in the commodity futures markets. Under the Dodd-Frank reform law, the big banks must segregate their swaps desks so that taxpayers won't be left on the hook if their bets go south. PMAA opposed its inclusion; however, House and Senate negotiators cut a deal to increase funding for the CFTC in return for the policy rider's inclusion.

Senators-Elect Capito and Jenkins Receive Senate Committee Assignments

U.S. Senators-elect Shelley Moore Capito and Evan Jenkins have both been assigned to the Senate Appropriations Committee.

Capito has also been assigned to Energy and Natural Resources and Environment and Public Works Committees. In a presentation on December 15th, Senator-eEect Capito stated that on the Environment and Public Works Committee's agenda is the passage of a six-year highway bill, which will improve West Virginia's infrastructure.

Convenience Store News

NACS Vice Chairman Pens Op-Ed on Swipe Fees

Recently, the Orange County Register published a guest opinion piece authored by NACS Vice Chairman and Treasurer, Jack Kofdarali, president of J&T Management. In the op-ed, Kofdarali described how his family came to the United States from Lebanon in 1980, based on the belief that "the free-market system that built the world's largest economy would be a place the family could prosper." What began with one liquor store in the 1980s has become J&T Oil Co., which operates 25 gas and convenience stores around California.

Unfortunately, Kofdarali writes, "Visa and MasterCard have subverted our free-market system so that they gouge every single merchant in the country in the murky and uncompetitive card business. And that's not just unfair to merchants; it means higher prices for consumers."

He gives examples from his own experience as a retailer, explaining how the banks take $2.40 out of every $60 gas purchase a customer makes (a 4% fee), even though processing the transaction costs banks only a few cents. Kofdarali discussed the futility of disputing the banks' charges: "A guy came in recently and used his wife's credit card to buy $100 worth of gas. The wife disputed the charge, saying the husband didn't have permission to use the card," he explains in the column. "The card company grabbed the $100 from my pocket and gave her back the money, even though her husband drove away with a tank full of my gas."

"It's the biggest fee most people have never heard of," Kofdarali wrote. Several of his stores pay $250,000 to $300,000 in credit card fees annually, while only netting $150,000 to $200,000 in profits. These fees add 7 to 8 cents to the price of a gallon of gas at these locations, whether consumers pay with a credit card or not.

American merchants pay the highest swipe fees in the world for this kind of treatment — seven times what they pay in the European Union. It's a burden on retailers — who comprise a big chunk of our economy — and it costs consumers more. "It's gotten to the point that the banks have everything go their way, and we merchants have to swallow it; we can't drop credit cards if customers demand them," he writes.

Update on Visa/MC Interchange Litigation Settlement

Many retailer members opted out of the Visa/MC Interchange litigation settlement earlier this year. Because all retailer trade associations were opposed to the settlement, retailers were encouraged to opt out of the settlement to demonstrate to the judge retailer opposition. Even with thousands of retailers opting out, the judge approved the settlement which is now being appealed. The judge also made provisions for retailers who opted out to "opt back in". The every retailer who opted out is receiving the attached notice which gives them until December 19, 2014 to opt back in.

Because the documents and facts submitted to the appeals court are mostly complete, it probably will not impact the appellate decision if retailers opt back in and accept the settlement monies and terms. Also, it is a certainty that some retailers will not opt back in therefore, new challenges to Visa and MC interchange are going to be pursued by those retailers In other words, even if this settlement it approved, the legal battles against excessive swipe fees will continue.

FDA Finalizes Menu Labeling Rules Affecting Convenience Stores

The National Association of Convenience Stores (NACS) expressed disapproval of the sweeping new menu labeling regulations imposed on convenience stores and other food establishments including grocery stores, movie theaters, and vending machines by the Food and Drug Administration earlier today.

"The FDA has clearly gone beyond congressional intent by expanding the types of businesses that fall under this law to include convenience stores," said Lyle Beckwith, senior vice president for government relations for NACS. "The one-size-fits-all approach that FDA announced today would treat convenience stores as though they are restaurants, when in fact they operate very differently. It is now up to the bipartisan, bicameral opponents of this regulatory overreach to enact legislation introduced in both houses of Congress that reasonably defines a restaurant as a business that derives at least 50% of revenue from prepared food."

The Affordable Care Act, enacted in 2010, requires a national, uniform nutrition-disclosure standard for foodservice establishments. The broad rules announced today seek to establish this standard.

NACS has long advocated to the FDA that any menu labeling regulations must account for differences between the convenience store business model and a chain restaurant business model. The new rules announced today don't recognize how convenience stores, grocery stores, delivery operations and other approaches to foodservice are different than restaurants. Further, the intent of law was designed for big chain restaurants with simple, standardized menus at all locations and Congress's intent was to ensure those menus provide clear, understandable nutrition information.

NACS currently supports H.R. 1249, the Common Sense Nutrition Disclosure Act, that was introduced by Representative Cathy McMorris Rodgers (R-WA) and Loretta Sanchez (D-CA), and S. 1756 that was introduced by Roy Blunt (R-MO) and Angus King (I-ME), both of which are currently pending in Congress. The legislation would codify a less burdensome approach to menu labeling by limiting the provision in the health care law to establishments that derive 50 percent or more of their revenue from food that is intended for immediate consumption or prepared and processed on-site.

Virginia Seeks Tobacco Retailer Licenses

The Virginia state legislature is considering a request by the Virginia State Crime Commission to require tobacco retailers to obtain a license to sell cigarettes. The initiative is an effort to reduce illegal cigarette trafficking in the state. Virginia has the second-lowest tobacco tax rate in the country, which facilitates some from buying cigarettes in bulk and transporting them to other states with considerably higher tax rates. The Virginia Petroleum, Convenience and Grocery Association (VPCGA) is against imposing this burden on retailers since 99% of them follow the rules.

The We Card Program Partners with OMEGA to Offer FREE Training for Two Employees

The We Card Program is partnering with the West Virginia Oil Marketers & Grocers Association (OMEGA) to offer FREE training courses for two employees when you purchase your We Card 2015 materials. *It's limited to the first 2,000 customers between now and December 31st. Just order materials online at wecard.org and you'll receive access to the offer. And if you've already ordered, you can still get the free training by emailing comments@wecard.org.

PMAA Meets with Administration over UST Rule

Recently, PMAA met with the Office of Management and Budget (OMB) to express marketers' concerns over a pending EPA rule that would add costly new inspection and testing requirements for underground storage tanks (USTs). The OMB is part of the Executive Office of the President and reviews all proposed federal rules before they are made final. PMAA met with the OMB in a final effort to voice concerns over the UST rule that is both procedurally flawed and imposes unacceptable compliance costs. The PMAA UST Task Force has had significant concerns about the UST rule since it was first proposed in 2012.

Bruce Garrett of Volta Oil in Massachusetts and Matt Bjornson of Bjornson Oil in North Dakota attended the meeting along with PMAA Regulatory Counsel Mark Morgan and Director of Government Relations Rob Underwood. PMAA asked the OMB to withdraw the rule due to the EPA's failure to accurately calculate the economic burden it would place on small business marketers as required by law. The EPA calculated the rule would impose $900 in compliance costs annually. PMAA's own estimate showed those costs to be $6,960 per year. In addition to the cost burden, PMAA voiced concern that the rule imposes new inspection and testing burdens that are not only unnecessary and duplicative but could also damage piping systems and sumps already in the ground. PMAA presented both cost and technical data to support its concerns.

OMB is not allowed to comment on rules under review but they asked a number of questions regarding compliance costs. PMAA does not know which provisions made it to the final rule currently under review at the OMB, but it likely contains some of the cost saving alternative measures PMAA recommended. PMAA thanks both Bruce Garrett and Matt Bjornson for the time and effort made to voice marketers' concerns at the OMB meeting.

EPA Again Delays 2014 RFS Decisions

On November 21st, the Environmental Protection Agency (EPA) announced today that it will not be finalizing the 2014 blending volume percentages required under the Renewable Fuel Standard (RFS) before the end of 2014. Refiners rely on EPA's annual RFS blending percentages in order to determine the volume of renewable fuel they must blend in order to comply with the RFS. Without volume percentages refiners must estimate blending volumes and purchase any deficit on the RINS market to make up the difference. EPA said due to the delay in issuing the 2014 volume percentages, the compliance demonstration deadline for 2013 RFS compliance will not take place until 2015.

The EPA said it will make adjustments to the RINS EMTS tracking system so that RINS generated in 2012 will not expire and remain valid through 2015. EPA said the delay is due to differences among stakeholders over how volumes should be set in light of lower gasoline consumption and whether and on what basis the RFS volumes should be waived. The uncertainty over the 2014 volume percentages could create volatility in the RINs market as refiners are forced to guess how many RINS they will need to purchase in order to be in compliance when the 2014 standards are finally determined. PMAA will report on further developments on the RFS issue as they occur.

This decision by EPA will likely intensify efforts in the next Congress to pass RFS reform legislation. The American Fuel and Petrochemical Manufacturers (AFPM) wasted no time in announcing their intent to challenge EPA. They issued a statement claiming, "For three years in a row, the Administration has thumbed its nose at Congress and ignored a crystal clear statutory deadline to issue RVOs by November 30 of the preceding year. For this reason, AFPM today filed a notice of intent to sue EPA over its failure to issue the 2014 RFS regulations, which has languished at the White House Office of Management and Budget since August 22, 2014."

President Signs HR 38 - Hours of Service Relief

On December 13, 2014, Congress passed the FY 2015 Omnibus Appropriations bill providing funding for the vast majority of the federal government, including the Department of Transportation, for the current fiscal year. The President has now signed this bill into law and Senator Collins HOS Restart Suspension and study language take effect immediately. Officially titled the Consolidated and Further Continuing Appropriations Act, 2015, the bill is over 1,700 pages long and, as you can imagine, has a host of detailed spending and policy-related provisions affecting many industries.

The most important trucking-related provision is language that provides relief from the two new restrictions of the hours of service restart rule. Specifically, the legislation suspends the requirement that all qualifying restarts contain two consecutive periods of time between 1am and 5am, and that it can only be used once every 168 hours (or seven days). In other words, the restart rule reverts back to the simple 34 hour restart in effect from 2003 to June 2013.

Below are some frequently asked questions to help membership understand the impact of this action.

1. **What does the Congressional language actually say, and what does it mean?**

   The legislation language is remarkably simple. It says:

   "Section 133 temporarily suspends enforcement of the hours of service regulation related to the restart provisions that went into effect on July I, 2013 and directs the Secretary to conduct a study of the operational, safety, health and fatigue aspects of the restart provisions in effect before and after July 1, 2013. The Inspector General is directed to review the study plan and report to the House and Senate Committees on Appropriations whether it meets the requirements under this provision.

   Essentially, this law eliminates, temporarily, the two new restrictions on the use of the 34-hour restart, namely the 1-5 am provision and the 168 hour rule. Drivers will be permitted to restart their weekly hours by taking at least 34 consecutive hours off-duty, regardless of whether or not it includes two periods of time between 1am and 5am. A driver can also utilize the restart more than one time per week if necessary.

2. **When is the new, simple 34 hour restart effective?**

   The 34 hour restart rule will revert to its pre-July 1, 2013 version as soon as the President signs the bill into law. This is expected no later than midnight on Saturday, December 13, the current deadline for government funding to expire.

3. **How long will this change last?**

   Because the language resides in an annual spending bill, its terms expire at the end of FY2015, which is September 30, 2015. It's important to note that the legislation also directs the Department of Transportation to conduct a study comparing the effectiveness of the 34 hour restart rules in place before July 1, 2013 with those that took effect after. During 2015, ATA will continue to pursue strategies in an effort to keep the simple 34 hour restart rule in place for a longer period of time.

4. **Does the legislation include any other changes to the hours of service rules?**

   No, all other hours of service rules, including the 30-minute rest break provision, remain unchanged and must be complied with.

5. **If our trucks have ELDs, will we be able to use the simple 34 hour restart immediately?**

   Carriers are encouraged to work with their ELD suppliers to determine what software updates are necessary to comply with this legislatively directed rule change. A short transition period may be necessary, and ATA encourages fleets to be patient as ELD suppliers will need some time to write and deploy the software updates.

6. **Will enforcement officials know about this change?**

   Soon after the law is signed, ATA fully expects the Commercial Vehicle Safety Alliance and the Federal Motor Carrier Safety Administration to issue enforcement memos describing the changes and their impact to law enforcement personnel. The enforcement memos/guidance will be distributed by ATA to its members as they become available. Motor carriers may experience minor disruptions at roadside as law enforcement adapt to the changes. If a driver experiences a problem at roadside, you should contact head of the commercial vehicle safety program in that State's lead MCSAP agency.

Keystone XL Pipeline Falls One Vote Short in Senate

Following the House passage of H.R. 5682 which would approve the Keystone XL pipeline, the Senate considered an identical bill (S. 2280) recently. Unfortunately, the Senate fell one vote short of the necessary 60 votes to approve the pipeline. Every Senate Republican voted in favor of S. 2280 along with 14 Democrats. Click here to see how your Senator voted. Meanwhile, the failed vote in the Senate did not help Sen. Mary Landrieu (D-LA), a Keystone supporter and cosponsor of S. 2280, who is in a runoff against Rep. Bill Cassidy (R-LA) who sponsored H.R. 5682.

PMAA fully supports the immediate approval of the Keystone XL pipeline. The Keystone XL pipeline enjoys overwhelming support from Americans, with 60 percent saying it should be approved and 25 percent opposed, according to a USA Today poll released Monday. Some political insiders believe that because the Obama Administration did not issue an official veto threat to either bill has fueled speculation that Obama may want to use the pipeline in negotiations with the incoming Republican Congress next year. Keystone XL pipeline supporters will be close to the necessary 67 votes to override a Presidential veto when the GOP takes control next year, plus nine pro-Keystone XL Democrats.

EIA Forecasting Drastically Lower 2015 Retail Gasoline Price

In its recently released short-term energy outlook for December, the Energy Information Administration posted a sharp decline for 2015 retail gasoline prices compared to what it had been forecasting just one month ago.

Last month, the EIA opened some eyes when it had forecast that in 2015, retail gasoline prices would average $2.94/gal. In the December short-term energy outlook, those eyes that were opened last month may pop out with a retail price forecast of $2.60/gal next year.

The aggressive downward revision for the 2015 average is driven largely by falling crude oil prices according to the EIA. This year, retail prices are expected to average $3.37/gal when compared to last year's average of $3.51/gal.

U.S. retail gasoline prices are expected to average $2.61/gal.

Should the U.S. average in 2015 come in at $2.60 as forecast, the nation's collective fuel bill would drop by about $100 billion, compared to a $3.37 annual average based on a demand figure of 8.8 million b/d.

EIA pointed out that Brent prices fell more than 15% in November, and OPEC deciding to keep quotas in place put more downward pressure on price expectations, it said. Meanwhile, EIA forecasts a $75 fourth-quarter average price for WTI and $63/bbl in 2015. The 2015 forecast is a $15/bbl drop from last month. EIA believes that the WTI-Brent spread will average $5/bbl next year.

Although the non-action by OPEC is believed to be targeted at U.S. shale procures, along with other higher-cost production, the EIA expects U.S. crude oil output to grow to 9.3 million b/d next year, a marginal 0.1 million-b/d decrease from a month ago.

The agency also believes that at some point, Saudi Arabia will cut production in 2015, but by a smaller amount than expected, with its current output of 9.6 million b/d trimmed back toward 9 million b/d through 2015. The Iraqi government deal on oil exports with the Kurdistan Regional Government earlier this month could help with exports from the north, but Iraq is described as a "major wildcard" in EIA's world production forecast.

Global consumption, according to the EIA, is expected to grow 1 million b/d this year, and 0.9 million b/d in 2015. The 2015 demand forecast is a downward revision of 0.2 million b/d from last month.

Effective January 1st - WV Motor Fuel Tax Changes

Effective January 1, 2015, the total tax on motor fuel in West Virginia will be $0.346. This is a decrease from the $0.357 in 2014. This includes the new variable rate of $0.141 per gallon and the fixed rate of $0.205 per gallon. This change applies to both gasoline and diesel.

In an effort to educate motorists, we are once again offering decals showing the tax per gallon, which may be placed on your gasoline and diesel pumps. These decals are in production at this time, but will be available in early January. If you wish to order the decals, please call the Association Office.

Kentucky Fuel Tax to Drop in January

As a result of falling wholesale prices, the tax rate on Kentucky motor fuels will drop by 4.3 cents per gallon on Jan. 1, 2015. The state's fuel tax rate is adjusted each year based on average wholesale prices for the year. Kentucky's motor fuel rate has several components, including a variable tax of 21.2 cents per gallon, a fixed fee of 5 cents on gasoline and 2 cents on diesel and a 1.4 cent UST tax. All are paid at the pump.

Virginia Fuel Taxes for 2015

Virginia's statewide gasoline tax will increase from 11.1 cents per gallon to 16.2 cents per gallon effective January 1, 2015. This change was mandated under last year's comprehensive transportation funding bill. Under the legislation, taxes are calculated on a cents per gallon basis based upon a percentage of the wholesale price of gasoline on 2/20/13. Because Congress failed to pass legislation granting Virginia the authority to force internet sellers to collect state and local taxes, the percentage of the wholesale price of gasoline increases from 3.5 to 5.1 percent which produces the new cents per gallon rate of 16.2 cents per gallon. The new rate will be in effect until June 30, 2015.

The law makes no provision for product held in inventory on December 31. Sellers need to ensure that the tax is collected at 11.1 cpg on sales up until 11:59 pm on December 31 and at the16.2 rate for sales after midnight on January 1.

Remaining unchanged is the statewide diesel tax at 20.2 cents per gallon and the local taxes in Northern Virginia and Hampton Roads of 2.1 percent of the retail price.

FMCSA to Seek Input on Increasing Minimum Insurance Levels

The Federal Motor Carrier Safety Administration on Nov. 28 published an advance notice of proposed rulemaking (ANPRM) on increasing the minimum insurance levels, which have been in place since 1985, for carriers and brokers.

Instead of specifying a proposed minimum insurance level, the notice instead asks carriers and brokers to answer dozens of detailed questions — such as what they currently pay in premiums; whether rates are determined by driver, credit or safety history; and whether carriers get discounts for a certain number of vehicles in a fleet.

The ANPRM also asks: "What percentage of fleets, based on size and the type of operation of the carrier [passenger, property, and hazmat] already have liability coverage that exceed the minimum financial responsibility requirement and by how much."

Currently, for most carriers the minimum coverage requirement is $750,000. Those specializing in hazardous materials must have either $1 million or $5 million depending on what they haul.

In the ANPRM the agency cited studies; among them one from Volpe Transportation Systems Center in 2013 that said severe crashes today typically result in more than $1 million in damages. The agency will take comments on the ANPRM for 90 days after the publication date.

Report Injuries In 24 hrs.

Benefits Of Early Reporting

- Establishes the claim
- Allows claims adjuster to begin management of the claim sooner
- Speeds delivery of necessary benefits
- Increases early return-to-work opportunities
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Grocery Highlights

FDA Releases Final Menu Labeling Regulations

On November 25, the Food and Drug Administration (FDA) released the final rule implementing "Nutrition Labeling of Standard Menu Items at Chain Restaurants," included as Sec. 4205 of the Affordable Care Act. FMI's statement may be found here. The rule will be published on December 1, 2014 in the Federal Register and will be effective one-year from that date. The rule does effectively regulate supermarkets as well as supercenters, general merchandise, convenience stores and other non-restaurant establishments under the menu labeling regulations and provides additional guidance on the scope of foods covered, what is considered a "standard menu item" and how calorie information may be displayed for foods that are covered under the rule.

Scope of Covered Establishments: Covered establishment is defined as a restaurant or similar retail food establishment that is a part of a chain with 20 or more locations, doing business under the same name (cooperatives and marketing alliances are not covered) and offering for sale substantially the same menu item. The new labeling requirements only apply to restaurants and similar retail food establishments that offer for sale restaurant-type food. However, there is no percentage threshold, so any establishment with 20 or more locations that sells "restaurant-type" food is regulated under the FDA menu labeling rule. FDA has defined "restaurant type-food" as food that is:

A. Usually eaten on the premises, while walking away, or soon after arriving at another location; and
B. Either:
    a. Served in restaurants or other establishments in which food is served for immediate human consumption or which is sold for sale or use in such establishments; or
    b. Processed and prepared primarily in a retail establishment, ready for human consumption, and offered for sale to consumers but not for immediate human consumption in such establishment and which is not offered for sale outside such establishment.

FDA has indicated that cut fruit and vegetables as well as items in the deli case would not be considered "restaurant-type food" because they are generally eaten over a period of time and often require further preparation. Foods that could be eaten over several eating occasions or stored for later use (e.g., loaves of bread, bags or boxes of dinner rolls, whole cakes, and bags or boxes of candy or cookies); foods sold by weight that are not self-serve and are not intended solely for individual consumption (e.g., deli salads sold by unit of weight such as potato salad, chicken salad), either pre-packed or packed upon consumer request; and foods that are usually further prepared before consuming (e.g., deli meats and cheeses) would similarly not be considered "restaurant-type food" and would not be covered under the rule.

Criteria for "Standard Menu Item": Whether a food item is regulated under the menu labeling law also depends on whether FDA considers it a "standard menu item." Standard menu item means a restaurant-type food that is routinely included on a menu or menu board or routinely offered as a self-service food or food on display. Seasonal menu items offered for sale as temporary menu items (appears on a menu or menu board for less than a total of 60 days per calendar year), daily specials and condiments for general use typically available on a counter or table are exempt from the labeling requirements.

Summary
Establishments selling standard menu items for restaurant-type food or foods on display intended for immediate consumption will be required: (1) to disclose calorie information on menus and menu boards for standard menu items; (2) post a succinct statement concerning suggested daily caloric intake on menus and menu boards; and (3) post on menus and menu boards a statement that written nutrition information is available upon request. Calorie information must be declared on signs adjacent to foods on display and self-serve foods that are standard menu items. There are also very prescriptive requirements related to the posting of calorie information and how information should be displayed depending on the serving size, etc.

FMI will continue reviewing the rule for more details and guidance for FMI members. We will be requesting a meeting with FDA and other Obama Administration officials regarding several aspects and outstanding concerns of the final menu labeling regulations.

As background, FDA released its Proposed Menu Labeling Regulations in April 2011 and sought to have the rule finalized and effective by July 2012. Since that time FMI submitted several detailed sets of comments to FDA and the Obama Administration regarding the extraordinary financial impact and associated operational complexities of menu labeling on the supermarket industry. Members of Congress, led by Rep. Jack Kingston (R-GA), Rep. Cathy McMorris-Rodgers (R-WA), Senator Roy Blunt (R-MO), Senator Angus King (I-ME), and Rep. Loretta Sanchez (D-CA) repeatedly urged FDA to not expand menu labeling to mainstream grocery stores.

We will continue to work with the bipartisan, bicameral co-sponsors of the Common Sense Nutrition Disclosure Act (H.R. 1249/S. 1756). We encourage you—and your store managers—to contact your Members of Congress to voice your concerns with FDA's menu labeling rule.

For more information please contact FMI's Regulatory Counsel, Stephanie Barnes at sbarnes@fmi.org or 202-220-0614.

Study Reveals Top Consumer Wants for Grocery Store Mobile Apps

Food retailers have been developing applications that strive to be essential to shoppers, but no one has yet found the format that makes a grocery app an absolute necessity for customers. The Food Marketing Institute and Saint Joseph's University have teamed up to dive deeper into grocery apps and help food retailers better understand what makes them successful.

HR QUESTION of the month

FEDERATED Employment Practices Network℠ powered by Enquiron™

Are there specific requirements for management of military leave requests?

Question: We have an employee called to complete military training in Israel. At this point, he only has 15 hours to finish, but I'm not sure what would happen should he be required to stay longer. Are there any rules that require specific management of this request? He will be leaving tomorrow, so hoping to get this squared away in time.

Answer: The federal Uniformed Services Employment and Reemployment Rights Act (USERRA) does not apply to service for another country's military. USERRA defines the uniformed services as the Army, Navy, Marine Corps, Air Force, Coast Guard, and the commissioned corps of the Public Health Service. The Army National Guard and Air National Guard qualify when performing active duty for training, inactive duty training, or full-time National Guard duty. See 38 U.S.C. 4303(16) at dol.gov. Thus, the employer does not have to grant time off to this employee to complete military training in Israel above and beyond usual PTO/vacation/personal leave time, unless the employer has a policy and practice of doing so. If the employee does not have accrued but unused paid time off, the employer may allow him unpaid time, but will be setting a precedent for other employees who need time off beyond their usual benefits entitlement (whether for another country's military or for any other reason).

To learn more about the Federated Employment Practices Network℠, contact your local Federated Marketing Representative, or visit www.federatedinsurance.com.

Miscellaneous

New Member

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

Similo Solutions, LLC
2165 Huntington Court
Wexford, PA 15090
Phone: 513.476.7448
Email: ron@similosolutions.com
Web site: www.similosolutions.com
Contact: Ron Similo, President

Pat Graney Inducted to the WV Business Hall of Fame

Recently Pat Graney, the CEO of One Stop Stores, joined the prestigious list of state business leaders in the West Virginia Business Hall of Fame. The WVU College of Business and Economics created the West Virginia Business Hall of Fame in 2001 to honor people who have made significant impacts on the state's business landscape.

Pat has grown his Petroleum Products company from 11 employees to a multi-state enterprise serving the coal, construction and oil and gas drilling businesses. Pat is past chairman and currently is a senior director on the OMEGA Board. Pat recently completed a term as director of the Federal Reserve Bank of Richmond.

Congratulations Pat!

Amanda Runyon Joins IIAWV Staff

Amanda Runyon has joined the staff of the Independent Insurance Agents of West Virginia (IIAWV) as program coordinator, according to Jan Vineyard, Chief Executive Officer of the statewide insurance trade group.

Runyon, a graduate of Marshall University, most recently was employed by West Virginia Junior College where she was an admissions representative and recruiter. She has also worked in the insurance industry as a sales associate and has her Property and Casualty License.

OMEGA Hires New Accounting Personnel

In September, we engaged Stephen & Angela Panaro CPAs to provide accounting and financial services for our organization. Together they have over 40 years experience in controller/CFO positions throughout the Kanawha Valley. They have served several industries including industrial distribution, food services, health & wellness, and oil & gas for various privately held and non-profit companies.

Calendar of Events

Legislative Day & Reception
February 18, 2015
State Capitol & Governor's Mansion

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

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