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FUEL , FOOD & CONVENIENCE

OMEGA
west virginia oil marketers & grocers assoc.

August 2015 **Number 652**

INSIDE
THIS ISSUE

September is We Card Awareness Month

Are Your Employees Trained?

Value...

one way we stand out!

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.
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MARATHON *Fueling the American Spirit.*

From the President ...

It's mid-August and we have a lot going on in the Association Office! Here are a few reminders:

- **We Card** - September is We Card Awareness Month. Are your employees trained? It is important to make sure that they are. We have to do a better job of not selling to minors! Order your training and POS items from We Card at www.wecard.org.
- **Children's Charity Golf Outing to benefit the Children's Home Society** - Our Children's Charity Golf Outing will be held **September 22nd** at Stonewall Resort. Registration materials are available online at www.omegawv.com or you may contact the Association Office at 304.343.5500. We are currently working on sponsorships for this event. If you are interested in being a sponsor, please let us know. To date we have donated over $2.1 to West Virginia children. We have truly made a difference! The Children's Home Society held a dedication ceremony for the new Greenbrier Valley Children's Home in Rupert on July 31st. It is a beautiful new facility. OMEGA and our members were recognized with plaques at this location. **OMEGA Secretary/Treasurer Brian Waugh** was on hand for this event.
- **Facebook** - We continue to receive a great deal of interest on our Facebook page (www.facebook.com/omegawv). We regularly post industry and member related information on our page. We have nearly 400 individuals that "Like" our Facebook page! If you have not "liked" us yet, please do so!
- **Membership Directory** - We will be publishing a new membership directory this year. By now you should have received a request from the Association to verify/update your information. Please return this form to the Association Office so that your company's listing will be accurate. There is also ad space available for this publication. Contact Traci Nelson at traci@omegawv.com for more information.

Jan

West Virginia News

Governor Tomblin Announces 11th Consecutive Reduction in Workers' Comp Rates

On July 21st, Gov. Earl Ray Tomblin announced West Virginia employers will see a projected $43 million reduction in workers' compensation premiums in the coming year, and have seen a savings of more than $323 million since the program was privatized in 2006.

The National Council on Compensation Insurance (NCCI) recently filed a proposed reduction in workers' compensation loss cost rates with the Offices of the West Virginia Insurance Commissioner - the 11th reduction in 11 years.

"For years, we have worked hard to create a business climate in West Virginia that encourages companies to innovate and expand," Gov. Tomblin said. "This rate reduction shows our prudent and fiscally responsible policies are helping businesses operating here, and they are benefiting from both lower taxes and lower workers' compensation insurance premiums. This rate reduction reaffirms the steps we are taking to move in the right direction for continued job growth."

NCCI, the state's rating and statistical agent, has proposed an overall decrease of 12.1 percent with the Offices of the West Virginia Insurance Commissioner. The loss cost rate is effective November 1, 2015.

This is the 11th consecutive reduction since privatization and accounts for a cumulative decrease of 63.7 percent from pre-reform levels. Additionally, a proposed 15.3 percent rate decrease for the assigned risk market has also been filed by NCCI.

WV Tax Collections down $5M in July

State tax collections in July came up $4.8 million short, hurt by a continuing downturn in energy prices, as well as policy changes that allowed more than $30 million in taxes normally due in July to be paid in June, West Virginia Department of Revenue officials have reported. Overall in the first month of the 2015-16 budget year, the state collected a total of $251.78 million, 2 percent below expectations, and 8 percent below July 2014. Revenue Secretary Bob Kiss said he is concerned that, for the first time, declines in severance tax collections are being driven not just by low prices for coal and natural gas, but also by a decline in coal production in the state.

Deputy Revenue Secretary Mark Muchow noted that in the past year, coal prices have dropped 23 percent, while natural gas prices have plunged 57 percent. While coal sales fell a negligible 1 percent in the last budget year, sales dropped 4.3 percent in the past three months, Muchow said.

Severance tax collection of just over $11 million were down about $10 million from July 2014, and because state law requires that the first $22.5 million in severance tax collection goes into the Infrastructure Bond Fund, severance taxes showed up as a deficit in the July revenue report. July was brighter for the two major sources of state tax revenue, with sales tax collection of $84 million topping estimates by $4.1 million. July would have been even stronger, except that a new accelerated payment schedule meant that about $20 million in sales taxes were collected in June that otherwise would have shown up as July revenue. Personal income tax collection of $117.9 million was $5.1 million below projections, but Muchow said accelerated payments of payroll withholding taxes caused more than $11 million of July taxes to go on the books for June. Another positive for the state, Muchow said, was that income tax refunds dropped to $5.6 million from an "abnormally high" $13.1

million in 2014, as claims for alternative-fuel tax credits for purchases of flex-fuel vehicles waned. Enacted in 2011, the credit has cost the state more than $100 million in income taxes. It was repealed in 2013. Because of the accelerated payments, overall July 2015 tax collection was down about $22.3 million compared to July 2014, but otherwise would have outpaced last July by more than $9 million. Meanwhile, tobacco tax collections for the month of $10.1 million were down nearly $1 million from July 2014, which Muchow said is consistent with an expected continuing decline in consumption.

WV Lottery Marketing Sales Report

Overall

Through June 30, 2015, fiscal year to date sales totaled $1,164,003,996. This was down 4 percent from fiscal year 2014, a decrease of $50 million. The weekly per capita fiscal average was $12.01, down 60¢ from the same period last fiscal year.

June's overall sales were $93,152,684, a decrease of 9 percent from May's sales. Compared to the same month last year, sales were down 2 percent.

Traditional Lottery

Through June 30, 2015, fiscal year to date sales for traditional lottery (Instants and Online) totaled $179,999,550. This amount was down 5 percent from fiscal year 2014, a decrease of $8.6 million.

Traditional lottery sales for June 2015 of $13,459,685 were down 9 percent from May and down 10 percent from June 2014.

WV Lottery Sees Success in 2015 Fiscal Year

WV Lottery Director John Musgrave recently announced that 2015 sales in the West Virginia Lottery finished above $1.0 billion for the 13th consecutive year.

The year's sales resulted in a transfer of more than $508 million to the state which was nearly 49 million above projections.

Since the lottery's inception in 1986, the lottery has generated more than $8.5 billion to go toward legislative appropriation.

Morgantown Opts to Use 'Sin Tax' for Road Repairs

A proposal to fix Monongalia County's roads by establishing a surcharge on alcohol and tobacco products was discussed during the Monongalia County Commission's meeting on Wednesday, July 22.

Tom Bloom, the president of the Monongalia County Commission, constructed a plan involving hiring private companies to fix the county's potholes, clean culverts and ditches, clear vegetation overgrowth and maintain the rights-of-way of local roads. The plan would be achieved with the funding of an additional sales tax, often called a "sin tax," on alcohol and tobacco products.

The sin tax would range from 10 to 25 cents per item, whether it's a six pack of beer, a glass of wine at a restaurant, a pack of cigarettes or a pint of liquor.

According to Bloom, the proposed additional sin tax is a measure the legislature could consider as either a pilot project for Monongalia County or a statewide project, with counties choosing to be a part of the program.

Bloom said he wanted to focus on two main "innovative" ideas stated in the Blue Ribbon Committee Report. These ideas involve private partnerships and the Community Empowerment Transportation Act, which Bloom said would place the focus for renovation on local financing.

According to Bloom, the focus on these two ideas would solve the three areas of road improvement needed in West Virginia. These areas include the need for federal dollars to help build the roads and infrastructure, the state funds to be used to pave existing roads and the improvement of potholes as well as the cleaning of ditches, culverts and brush alongside the existing roads.

Federal Issues

****Congress is currently in recess until September 8th.****

Court Rejects Challenge to "Ambush Elections" Rule

The U.S. District Court for the District of Columbia rejected a challenge filed by the Coalition for a Democratic Workplace (CDW) and several other business and trade groups against the National Labor Relations Board's (NRLB) "ambush elections" rule.

The court rejected arguments that the rule violates the National Labor Relations Act, the Administrative Procedure Act, and the U.S. Constitution, instead finding the plaintiffs' arguments to be a "policy disagreement with the outcome of a lengthy rule-making process." The NLRB has wide discretion to formulate what it believes are appropriate union election procedures, the court said.

CDW, of which NATSO is a member, and the other trade groups filed a lawsuit in January seeking to prevent the NLRB from proceeding with its final union elections rule. The rule dictates procedures for workplace elections that determine whether employees want to be represented by a union. The rule would dramatically shorten the time frame for businesses to hold union elections to as little as 14 days. Business groups have argued that this rule hurts workers since it deprives them adequate time and information needed to make an adequate decision as to whether to join a union.

The rule took effect April 14 after President Obama signed a memorandum of disapproval that effectively vetoed a Congressional Review Act resolution (S.J. Res. 8) that would have blocked the rule. The ruling is expected to be appealed.

Call to Action - Oppose Language that Weakens Debit Reforms

The passage of the Durbin Amendment to the Dodd-Frank Act, which reformed debit card swipe fees, provided much needed relief for retailers and their customers. Unfortunately, Senator Richard Shelby (R-AL) is trying to roll back those reforms.

On July 23, 2015, the Senate Appropriations Committee passed the FY 2016 Financial Services and General Government Appropriations bill with controversial language to amend the Durbin Amendment. Take action now- Oppose Language that Weakens Debit Reforms.

Currently, debit reforms only apply to banks that have more than $10 billion in assets – approximately 1.5% of all banks. The appropriations bill contains language that would index the $10 billion asset threshold to the national Gross Domestic Product (GDP), ultimately reducing the number of banks subject to debit reform. NACS strongly opposes this language because it will have a negative impact on consumers, convenience store owners, and other retailers by exempting more banks from the reforms.

The FY2016 Financial Services and Government Appropriations bill containing this language passed out of committee by a 16 to 14 party line vote, with Republicans voting in favor and Democrats in opposition.

Importantly, the Committee-approved appropriations bill has not yet passed the Senate nor has it been signed into law. Please contact your Senators to voice your opposition to this language.

In just two minutes, **you can send a letter NACS has drafted on your behalf to your Senators urging them to remove this harmful language.** Their grassroots system will identify your legislators based on your business and home address. Please feel free to personalize your message to include the economic impact your company has on your local community. The letter is available at https://www.votervoice.net/NACS/Campaigns/42004/Respond?unregistered=e5HyK4q0W1Q7M4R71Mi-pA.

Judge's Ruling in Amex Case Validates Our Point

The reasoning a federal judge used in his decision to throw out a preliminary settlement in the American Express swipe-fee, class-action case aligns with an argument NACS is making to throw out the 2013, $7 billion settlement reached in a swipe-fee case involving Visa and MasterCard.

In the American Express case, Judge Nicholas Garaufis rejected the preliminary settlement on the grounds that confidential case information was shared between one of the lawyers who had represented merchants in the American Express case with one of the lawyers who represented MasterCard in the Visa and MasterCard case.

The lawyer in question in the American Express case was Gary B. Friedman, who was co-lead class counsel. The lawyer in question who represented MasterCard was Keila Ravelo.

Doug Kantor, counsel for NACS, said Judge Garaufis's ruling in the American Express case "validates what we've said from the start: That these settlements are not good for merchants and that merchants were undercut and betrayed by their own lawyers, and now the judge in the American Express case has agreed with that emphatically." Kantor said NACS filed documents in the Visa and MasterCard case last week, placed under seal, making the same general points made by Judge Garaufis.

Minimum Wage's Impact on Limited-Service Restaurants

Boosting employee wages to $15 an hour at limited-service restaurants would lead to an estimated 4.3% increase in prices at those restaurants, according to a recent Purdue University School of Hospitality and Tourism Management study.

Researchers also examined the impact of limited-service restaurants offering health-care benefits and found that, due to current tax credits in the Affordable Care Act, there would be a minimal effect on prices at limited-service restaurants with fewer than 25 full-time employees. The study says increasing wages to $22 an hour, the average American private industry employee rate, according to the Bureau of Labor Statistics, would result in a 25% increase in menu prices.

"We wanted to find out what happens if foodservice employees' wages go up to $15 an hour and what happens if you take it to $22 an hour," said Richard Ghiselli, professor and head of the School of Hospitality and Tourism Management, in a press release. "Healthcare benefits are a little more complex. We did an analysis based on information at the time we started the study (2013). There were tax credits available then. With those tax credits available, giving full-time employees health insurance shouldn't affect businesses that much. When those tax credits expire, then it changes."

Employee turnover in the foodservice industry led to the study, Ghiselli explained. "Turnover has been one of the more troublesome problems to manage in the foodservice industry. In 2013, franchised establishments experienced a turnover rate of 93%," he said. "People often hypothesize that if you raise pay and offer benefits, turnover will go down. I don't think we answered the question of whether that reduces turnover, but the study showed that if you raise pay and offer health insurance, prices will go up."

Ghiselli said the study's results were close to what he expected and that there could potentially be other effects of raising wages and offering health benefits. "There were no surprises. We thought prices would go up. We just wanted to know how much they would go up if you raise pay and offer health insurance," he said. "The other way to look at this if you don't want to raise the prices is to examine the impact on product size. As expected, a hamburger would be much smaller."

The current federal minimum wage is $7.25 an hour. Some states and cities across the United States, including Illinois, Michigan and Ohio, have raised their respective minimum wage rates to more than $8 an hour. In the past two years, fast-food workers across the nation have gone on strike or had demonstrations calling for a living wage, including increases to $15 per hour.

Department of Labor Takes on Employment Practices

The Department of Labor (DOL) has been busy of late — and convenience store owners should pay attention. Convenience store owners may soon face significant new employment costs relating to overtime, and they now may be liable for substantial penalties related to their employment of independent contractors.

Earlier this month, DOL proposed a rule that would extend overtime protections under the Fair Labor Standards Act (FLSA) to nearly 5 million white-collar workers within the first year of its implementation. Specifically, the proposed rule would raise the salary threshold – that triggers when an employee becomes ineligible for overtime – from the current $23,660 per year level to the 40th percentile of weekly earnings for full-time salaried workers: approximately $970 per week, $50,440 annually.

But DOL did not just stop at overtime.

Shortly after proposing the overtime rule, they issued a guidance aimed at curbing the misclassification of employees as independent contractors. Significantly, DOL states that most workers are employees – not independent contractors – under the FLSA. To address this problem, the guidance lays out a six-factor test that should be used to evaluate the worker-employer relationship to assess whether a worker is an independent contractor.

This is a big deal because the possible penalties for misclassification under the FLSA, the tax code and the Affordable Care Act (ACA) could be astronomical.

For example, if misclassified independent contractors (who did not receive offers of health-care coverage under the ACA), are reclassified as employees, then the result is that less than the required minimum number of full-time employees received offers of coverage. This misclassification will trigger a penalty of $2000 times the overall number of the entity's full-time employees on an annualized basis. That's right — the potential fines are staggering.

Separately, both of these DOL actions are cause for concern. The overtime proposal could significantly impact the c-store business model and a retailer's ability to hire full-time employees. Similarly, the guidance may force companies to alter their hiring structure. Taken together, the DOL's actions raise a red flag that the administration is planning to be more active in employment matters. The guidance, in particular, is putting employers on notice that DOL plans to intensify enforcement in this area.

Convenience store owners need to begin preparing for heightened enforcement now by reviewing worker classifications to make sure they are appropriate. Because if they are not, c-store owners may find themselves flooded with penalties so enormous that they threaten store viability.

New EPA Policy Expanding Protected Waters Could Affect Retailers

The Environmental Protection Agency (EPA) and Army Corps of Engineers (Corps) have finalized a rule redefining which bodies of water are protected under the federal Clean Water Act (CWA). Under the CWA, so-called "Waters of the United States" receive heightened protection, and activities that could affect such waters may be subject to heightened permitting and environmental requirements.

Specifically, by changing the definition of "Waters of the United States" (WOTUS), this final rule is likely to impact Spill Prevention, Control and Countermeasure (SPCC) requirements, spill reporting obligations, construction permitting requirements, and effluent discharge monitoring and reporting requirements, among others.

Practically speaking, if you had to comply with CWA permits before now, nothing has changed. However, if you have a store where you previously did not need to comply with CWA requirements, that may have now changed. Even if no obligation is triggered for a particular convenience store you own, you should perform an analysis of your site, especially before building a new site or renovating an old site, to ensure that such activities will not trigger regulatory obligations.

You must be in compliance with the expanded WOTUS rule beginning August 28, 2015.

To ensure compliance with the new rule, ask yourself:

a. Are you already compliant with federal CWA permits because your store impacts what was previously considered a WOTUS?
    b. If yes, then you are required to continue complying with the regulations.
    c. If no, go to 2.

2. If you have an existing store that was not previously affecting a WOTUS or are planning to build a new store, you need to figure out whether your store is impacting a WOTUS under the revised definition:
    a. You can enter your address into U.S. Department of the Interior's Geological Survey online database to see if you are near any streams or bodies of water.
    b. You can enter your address into the U.S. Fish & Wildlife's National Wetlands inventory to see nearby wetlands.
    c. You can request a "Formal Jurisdictional Determination" from your local Corps Office: See here.

3. If your convenience store is located near a WOTUS, you may need to start addressing EPA CWA permitting requirements.

NACS Rolls Out New Online e-Learning Platform

The National Association of Convenience Stores (NACS) has announced that extensive training programs for convenience-store employees are now available through a new online platform, NACS e-Learning, powered by Ready Training Online (RTO).

"The goal in offering this training platform to our members is to help convenience-store companies streamline the way they deliver and manage training. NACS e-Learning can help build value in their associates, reduce turnover and keep their teams engaged in their organizations. In turn, employees at various stages of their career gain the skills and knowledge they need to succeed in this industry," said Doug Spencer, NACS director of products and services.

The new learning management system enhances the association's education and training programs by offering consistent, industry-specific, web-based training to convenience and fuel retailing companies. The cloud-based platform is mobile-friendly and includes centralized dashboards for managers and learners, with real-time performance, utilization and results reporting. Curriculum can be tailored to fit the specific needs of a business and managers can assign, track and report training from any web-enabled device. Built-in contact points provide a way for management to engage with and effectively coach employees on the job.

"The collective knowledge of a company's workforce is critical, especially when faced with intense competition and the increasing demands of customers," said Jeff Kahler, president of RTO. "As the convenience and fuel retailing industry continues to become more technology-driven, companies that can integrate their teams, processes, and tools are much more efficient and see better results. Our comprehensive Learning Management Solution is essential in providing retailers a cost-effective way to accomplish that."

NACS e-Learning offers more than 40 modules developed by industry experts on a wide-range of fundamental components within the convenience-store industry, including:

- Responsible Alcohol Sales
- Customer Service
- Robbery Deterrence
- Sexual Harassment
- Food Safety & Sanitation
- Supplemental Nutrition Assistance Program (SNAP)
- Loss Prevention
- Social Media

Ready Training Online (RTO) provides a full-service, online Learning Management Solution targeted specifically at the service and retail industries. The RTO platform is a comprehensive training and reporting tool designed to simplify employee training. The platform boasts an extensive library full of industry-rich content and real-time tracking and reporting. RTO is led by a team of production and learning design professionals, with expertise in the convenience, restaurant and retail industries. RTO was founded in 2004 and is based in Elizabethtown, Pa.

FDA Compliance Checks Update

As of June 30, the Food and Drug Administration had conducted nearly **90,000 compliance checks** nationwide, up from just 11,000 in 2011 and an increase of some 20,000 over the past year alone. In addition, **10,712 warning letters** have been sent and **civil money penalties have been assessed in 2,311 cases,** double the 2014 level for the same period.

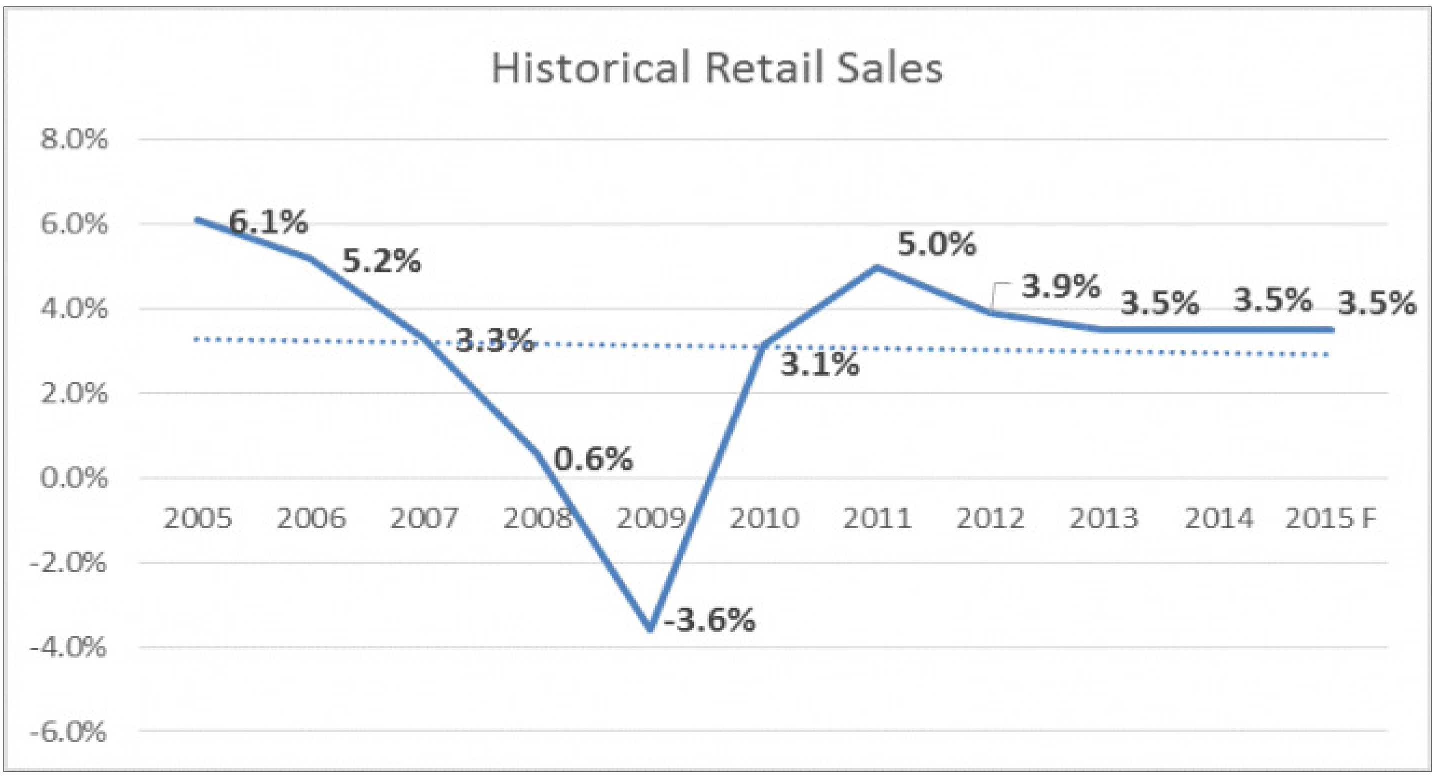
Have you trained your employees not to sell to minors? Visit We Card at www.wecard.org today to order your training and POS tools.

Expectations of Stronger Job Growth Should Light a Fire under Retail Sales for the Rest of the Year

Many say the only constant in life is change, and nothing could be truer for the retail industry. When it comes to retail sales, which depend on a multitude of factors but mostly the confidence and ability of consumers to spend — both on necessities and discretionary purchases — retailers know change is guaranteed.

Given that we are now at the mid-point of the year, it's important to reassess where the industry stands as it relates to overall expected sales growth. There are plenty of factors to consider, and given the fluctuations in economic activity through the first half of the year, we believe it is necessary to adjust for the significant variances seen thus far in sales and consumer spending.

NRF in February forecast that retail sales would increase 4.1 percent through the year, including online and other non-store sales. Unfortunately, that outlook has not played out precisely as anticipated. A confluence of events — including treacherous weather through most of the winter, West Coast port disruptions, a stronger U.S. dollar, weak foreign growth and declines in energy sector investments — all significantly impacted retail sales so far this year, and have changed how future sales will shape up for the rest of the year. Additionally, household spending patterns have also recently shifted purchases toward services more than purchases of goods — another contributing factor to lackluster sales results.
As such, NRF is now forecasting that retail sales — excluding automobiles, gasoline stations and restaurants — will increase only 3.5 percent for the year. Online/non-store sales, which are included in the overall figure, are expected to grow between 6 and 8 percent the remainder of the year rather than the 7-10 percent initially forecast for the full year. And we expect gross domestic product to increase between 2.7 and 3 percent during the second half.



While many of the aforementioned factors will not likely be repeated in the coming months, there are some that could linger and somewhat cloud the economic outlook. The impact of the strong U.S. dollar on trade and lower oil prices on energy investments remain as headwinds and could further temper the pace of economic growth.

However, recent economic indicators do suggest that the economy is turning a corner, fortunately putting to rest any concerns that the expansion has stalled. My second-quarter estimates for economic growth are now above 2 percent, which suggests that first-quarter weakness was more of an aberration than a continuing trend. And the job market continues to make strides with nearly 3 million more jobs than a year ago.

(Continued on Page 12)

(Continued from Page 11)

We think we'll see a better second half of 2015. Real consumer demand has actually been stronger than what nominal retail sales have indicated, and deflationary pricing is helping keep receipts low for U.S. households. Going forward, retail sales should register further strength, and resilient consumers should never be counted out.

As for the economy, we believe we'll see continued growth but recognize that there are critical potential "tipping points," including foreign markets and wage growth.

NACS Finds Consumer Optimism on the Rise as Gas Prices Fall

Consumers are more optimistic about the immediate economic future, and say they will increase their driving this month. But by and large, drivers are not expecting gas prices to drop below $2 gallon, according to the Consumer Fuels Survey results just released by NACS.

Some 39% of Americans acknowledge that gas prices are lower than they were at this time one month ago, but the variation is huge across different regions.

About 2 in 5 Northeastern and Midwestern drivers cite lower costs, but only 21% of Western consumers recognize lower prices. The survey took place against a median gas price of $2.64 gal, reflecting a 15cts gal drop from the July number.

About 34% of consumers say they will drive more in the coming 30 days, and only 8% said they would drive less.

One in 4 consumers believes that gasoline prices will fall, but there is clear skepticism as to whether prices will eventually drop below $2 gallon. Only 1 in5 survey respondents thought $2 gal or less gasoline was a possibility in the next few months. A majority of U.S. fuel consumers (51%) say sub-$2 gal gas is "very unlikely." Drivers in Western states are particularly skeptical of such a fall with 72% believing that price point is not in the cards.

However, there does appear to be some magic attached to the $2 gal number. If prices were to fall below that level, most consumers say it would impact their driving and spending behavior. One in 3 drivers (32%) says that $2 gal gas would have a "great impact" on their personal financial situation, and the skew increases to 43% among consumers with household incomes of less than $35,000 per year. Some 41% of respondents say they would drive more frequently if gas prices fell below $2 gal.

OPIS notes that at the time of the survey, there were about 40 to 50 stations in the U.S. with $1.99 gal or cheaper gasoline. That is a very small portion of the 130,000 stations surveyed, however.

But forward prices surveyed by OPIS in the spot markets imply that retail gasoline in the $2 gal range could be quite common in November and December, particularly east of the Rockies. Spot gasoline prices at the Gulf Coast and in some Midwestern markets find CBOB and even RBOB fetching values of below $1.30 gal toward the latter part of the fourth quarter.

The NACS study is conducted online by Penn Schoen Berland. The survey was conducted Aug. 4-6, 2015, and included responses from 1100 consumers. Results can be obtained at www.nacsonline.com/gasprices.

Congress Passes Another Temporary Highway Patch

Congress has passed another temporary highway policy extension through October 29th (Current highway programs expire tonight) while also including the necessary $11 billion needed to keep the Highway Trust Fund (HTF) solvent through mid-December. The House passed its highway bill version extension, 385 – 34, on Wednesday, and then immediately left town leaving the Senate no other option other than to pass the House version. Included in the highway extension bill is language which would reset the federal excise tax rates on volume-based LNG to the energy-equivalent tax rate of diesel and CNG and propane to the energy-equivalent tax rate of gasoline starting January 1, 2016. The three-month extension is just the latest in a long line of highway policy extensions. Since 2009, Congress has pumped $73 billion into the HTF from the General Treasury fund and other budgetary maneuvers given that the motor fuels excise tax is inadequate to maintain the HTF's solvency. President Obama has indicated that he will sign the legislation.

Meanwhile, the Senate also passed its own multiyear highway bill which includes three years of funding, six years of policy authorization along with a reauthorization of the Export-Import Bank through September 2019 by a vote of 65 - 34. This will serve as the Senate's starting point for fall negotiations on the Highway bill. Unfortunately, the Senate's highway reauthorization bill includes language that would raid $100 million each year from the Leaking Underground Storage Tank (LUST) fund between 2015 and 2017. PMAA remains strongly opposed to any efforts to raid the remaining $485 million from the Federal LUST Fund to keep the HTF solvent, therefore, PMAA plans to work with the House to ensure that the LUST funds stays intact or at least future funds will be used for its intended purpose. PMAA sent a letter earlier this week to oppose the Senate language. The Senate highway bill also contains language notable to marketers that studies the efficacy of the Federal Motor Carrier Safety Administration's (FMCSA) system of analyzing safety based violations from inspections and crash data to determinate a commercial motor carrier's on-road performance, known as the Safety Measurement System (SMS).

Lawmakers only have 12 legislative days in September to come up with the necessary funding to move forward on a long term highway bill reauthorization. Finding the necessary funding to pay for a long term highway bill is still in doubt.

Bipartisan Energy Policy Modernization Act Passes Senate Committee

Recently, Senate Energy and Natural Resources Committee Chairwoman Lisa Murkowski (R-AK) and Ranking Member Maria Cantwell (D-WA) completed a three day markup of 15 bills, primarily their bipartisan Energy Policy Modernization Act. The Murkowski-Cantwell bill was approved by a vote of 18-4, with 10 Republicans and eight Democrats in support of reporting it for consideration by the full Senate. The bill contains provisions that would improve electric reliability and energy efficiency; promote the development of hydropower, geothermal, and methane hydrates; enhance cyber security efforts; bolster mineral security; reform the federal permitting process; and repeals a range of obsolete authorities currently within the U.S. Code. The measure also reauthorizes the Land and Water Conservation Fund, while ensuring balance in the use of our nation's federal lands.

An amendment to study the local, state and federal implications of exporting LNG was also included in the final bill. Additionally, an amendment offered by Rep. Shelly Moore Capito (R-WV), was passed via a large package of amendments, which would streamline the coordination between federal agencies when reviewing a natural gas pipeline application. Specifically, the amendment improves accountability, transparency and efficiency by requiring the Federal Energy Regulatory Commission (FERC) to publish an online "regulatory dashboard" to track information related to the permit review. Because this language does not include language to streamline oil pipeline reviews, PMAA cannot support the Capito amendment.

Bipartisan House Letter Urges EPA to Maintain Current Ozone Standard

A bipartisan group of 136 House lawmakers led by House Energy and Commerce Committee members Bob Latta (R-OH) and Gene Green (D-TX) sent a bipartisan letter to the EPA regarding its proposed ozone standards. The letter urged the EPA to allow the standards currently in place to do its job before moving forward with a lower standard. The letter stated: “We believe the full implementation of a standard of 75 ppb is in line with EPA goals and the ideals set forth under the Clean Air Act and, could possibly, by the next five year review, achieve lower emissions standards than originally sought. It is clear from the past that ozone standards can only achieve the desired results if they are allowed time to be fully implemented.”

Meanwhile, House Energy and Commerce Committee Chairman Fred Upton (R-MI), Energy and Power Subcommittee Chairman Ed Whitfield (R-KY) and Vice Chairman of the Energy and Power Subcommittee Pete Olson (R-TX) sent a similar letter to President Obama’s Chief of Staff Denis McDonough. The letter said that EPA's proposal would cost industry billions in compliance costs and place hundreds of counties into nonattainment, if enacted.

EPA plans to issue a final rule on a new national ozone standard by the court-ordered deadline of October 1, 2015. Last year, EPA issued a proposed rule on ozone to tighten the standard to 65 to 70 parts per billion (ppb), down from the 75 ppb set by a George W. Bush-era rule. EPA is also seeking comment on possibly setting it as low as 60 parts per billion or maintaining it at its current standard.

If EPA succeeds in adopting this new standard, it will have a significant negative consequence for gasoline refiners and retailers. The United States could see over 200 new counties impose RFG and/or lower RVP requirements for gasoline which would increase the cost of gasoline and stifle economic growth.

OMEGA and WV Trucking Association Sign onto Letter to Letter to White House in regards to this issue:

The letter said in part, *"We are deeply concerned about the harmful impact that the Environmental Protection Agency’s (EPA) recently proposed rule to make ozone standards more stringent could have on the still struggling economy. The EPA’s current regulations are working, air quality continues to improve, and the United States is leading the world in reducing emissions. New ozone standards could significantly damage the economy by imposing unachievable emissions limits and reduction targets on almost every part of our country, including rural and undeveloped areas. Therefore, we strongly urge you to retain the current ozone standard when finalizing this proposal.*

The air is getting cleaner and the current ozone standards need an opportunity to work. Therefore, in light of the potential economic hardship, and uncertain benefits related to the stringent ozone standards that EPA is now considering, we call on EPA to retain the existing ozone standards in the final rule."

Ohio Refinery Approved

A new refinery planned for Ashtabula, Ohio, has received final approval from the state's Environmental Protection Agency. The Ashtabula Energy company has plans to build a new refinery plant that will convert Marcellus and Utica shale gas into diesel fuel and other lubricant products. Ashtabula Energy, a division of Velocys, states that the plant should take two years to complete.

Bradley Norman Joins PMAA

Recently, Bradley Norman joined PMAA as its new Manager of Government Relations. Prior to joining PMAA, Bradley served as a Legislative Correspondent for Senator Saxby Chambliss (R-GA) handling trade, tax, small business, budget and banking issues. He graduated from Auburn University with a degree in Public Administration and is a native of Macon, Georgia.

Bradley will report to Rob Underwood and Sherri Stone and he has already become actively engaged in PMAA government affairs activities.

Results from NCWM Annual Meeting

Recently, the National Conference on Weights and Measures (NCWM) held its annual meeting in Philadelphia, Pennsylvania. Items on the agenda important to petroleum marketers included a 10 micron diesel filter mandate and a repeal of 85 octane. Currently, the market uses a 30 micron filter for diesel fuel. Another proposal would create an official diesel gallon equivalent (DGE) method of sale for CNG and LNG.

Once again, PMAA defeated the 10 micron filter mandate. If the item were to have been approved, it would have cost marketers approximately $230 additional per month due to having to change diesel filters more often. This estimate didn't take into account for loss of sales due to changing filters more often. PMAA argued that diesel fuel can be contaminated from many parts of the supply chain starting with the refinery, through a pipeline, in terminal storage tanks, in barges and ships in a retail storage tank. Solving this problem requires a comprehensive examination of the entire supply chain and it was unfortunate that much of the blame has fallen on petroleum marketers -- the final step in the supply chain -- without recognizing that upstream measures beyond retailers' control contribute to diesel cleanliness issues. PMAA argued that this should be a total industry effort and should not just fall on the petroleum marketer. PMAA would support the 10 micron filter mandate so long as our upstream partners filtered (at the terminal, refining, for example) and ensured that the fuel marketers receive it clean and free of particulate. Essentially, the product needs to be treated or refined in a manner that it will not re-particulate. PMAA also provided NCWM officials studies that show moving to a 10 micron filter will not solve the problem due to carboxylic salts getting through filters as low as 2 microns which are causing internal injection clogging issues in high-pressure common rail diesel engines.

PMAA also opposed an item to repeal 85 octane. Several states allow the use of 85 octane and repealing it would ultimately harm petroleum marketers and consumers by restricting supply which would lead to higher prices at the pump. There has been limited evidence presented regarding harm to engines or complaints from consumers regarding engine damage—or any other problems—due to 85 octane gasoline. Furthermore, there is simply not enough information to determine whether the overall environmental impact of an 87 octane standard will be positive or negative.

Finally, the NCWM voted down the proposal to create an official diesel gallon equivalent (DGE) method of sale for CNG and LNG. What does this mean? CNG will continue to be sold in gasoline gallon equivalents. Regarding LNG, since there are no standards in place, it may be sold in diesel gallon equivalents. However, since the LNG-DGE is not in the NCWM handbook, this method of sale lacks a uniform standard across states. The DGE unit is necessary to help facilitate the introduction of natural gas for trucking companies and other operators of heavy-duty vehicles to better understand the value proposition provided by natural gas. In addition, it would have allowed the taxation of CNG and LNG on a per-gallon basis instead of a mass basis.

Proper Placarding for Split Loads of Gasoline and Diesel Fuel or Heating Oil

There have been numerous inquiries about a recent letter from the U.S. DOT's Pipeline and Hazardous Material Safety Administration (PHMSA) explaining the marking exemption under 49 CFR 172.336(c) that allows operators of cargo tank shipments of gasoline and diesel fuel to placard the lowest flashpoint. The letter is not a new interpretation of the exemption but simply a written response to an inquiry from a local enforcement official. The letter explains that the only time an operator can placard a cargo tank vehicle to the lowest flash point is when both gasoline and petroleum distillates such as diesel fuel and heating oil are shipped simultaneously in a split load in separate compartments of the same cargo tank vehicle. The exemption does not apply to alternating straight loads of gasoline or diesel fuel shipped in separate delivery runs but in the same cargo tank vehicle. The letter reflects the plain language of PHMSA regulations as adopted in 2008 and is not subject to interpretation. PMAA sent out a notice of the change at the time it was announced back in 2008.

(Continued on Page 16)

(Continued from Page 15)

Confusion has arisen because PHMSA regulations at one time allowed operators to placard to the lowest flashpoint of gasoline (UN 1203) for straight loads of either gasoline or diesel fuel or heating oil (NA 1993). Thus, drivers were not required to change the UN 1203 placard at the terminal when switching loads from gasoline to diesel fuel or heating oil. The reason PHMSA allowed this exemption is because gasoline and diesel fuel emergency response procedures at the time were identical for both. However, with the advent of ethanol and biodiesel blends in motor fuels, emergency response procedures sometimes differ based on the content of the renewable fuel in the blend. As a result, in a 2008 rulemaking, PHMSA adopted the following placarding exemption and proper shipping names to address this difference:

Placards

- Placarding to the Lowest Flashpoint: Split loads of gasoline AND diesel fuel or heating oil in separate compartments of the SAME cargo tank shipment may be placarded to the lowest flash point (UN 1203).
- Straight loads of gasoline and diesel fuel shipped in alternating delivery runs must be placarded with the identification number associated with the fuel being shipped: either UN 1203 for gasoline of NA 1993 or UN 1202 for diesel fuel.
- Proper Hazardous Material Shipping Names

- **Diesel Fuel**
  NA1993, Diesel Fuel
  UN1202, Diesel Fuel

- **Fuel Oil**
  NA 1993, Fuel Oil
  UN 1202, Diesel Fuel

- **Biodiesel blends up to B-5**
  NA 1993, Diesel Fuel
  UN 1202, Diesel Fuel
  UN 1202, Gas Oil

- **Biodiesel Blends over B-5**
  NA 1993, Diesel Fuel Solution
  UN 1202, Diesel Fuel Solution
  UN 1202, Gas Oil Solution

- **Ethanol Blends up to E-10**
  UN 1203, Gasoline

- **Ethanol Blends over E-10 and up to E-20**
  UN 3475, Ethanol and Gasoline Mixture

- **E-85 Ethanol Blends**
  UN 3475, Ethanol and Gasoline Mixture

- **Alcohol with up to 5% Gasoline Content**
  UN 1987, Alcohols
  NA 1987, Denatured Alcohol
  UN 3475, Ethanol and Gasoline Mixture, 3, PG II

PMAA's Social Media Campaign

Recently, the #FuelMatters campaign officially began and PMAA would like to ask you for a little help in jump starting the conversation about motor and heating fuels.

#FuelMatters is a social media conversation resource provided to PMAA members. This campaign was created to highlight national fuel and heating oil topics and to place them in the social media arena. Our goal is to assist you with participation in social media by providing content each week that can be posted on association, corporate and/or personal social media pages.

Step #1- Find Us:
The first thing we would like you to do is visit the #FuelMatters Facebook, Twitter and Google+ pages and like, follow and add us to your social media circles.

Welcome New Member!

Premier Manufacturing, Inc.
117 Crown Vic Court
Duncansville, PA 16635
Phone: 814.207.2979
Email: eheiberg@gopremier.com
Contact: Eric Heiberg
Region Sales Director

Grocery Highlights

H.R. 1599, the Safe and Accurate Food Labeling Act, Passes House 275-150

H.R. 1599, the Safe and Accurate Food Labeling Act, Passed the House 275-150. On July 22, 2015, FMI and N.G.A. had sent a joint letter to the U.S. House of Representatives stating:

"On behalf of the nation’s retailers and wholesalers of food and other grocery products and the companies that supply them, Food Marketing Institute (FMI)1 and the National Grocers Association2 (NGA) offer strong support for the Safe and Accurate Food Labeling Act (H.R. 1599), sponsored by Reps. Pompeo and Butterfield and co-sponsored by more than 100 other members of Congress, when it is considered by the House of Representatives later this week.

FMI and NGA member companies and the consumers they serve need one national standard for items produced without genetic engineering, i.e., non-GMO food products, and it is essential that this national standard includes clear criteria and definitions.

It is also critical that the Food and Drug Administration and the U.S. Department of Agriculture continue to serve as the nation's authorities for determining the regulations associated with consistent, accurate and appropriate labeling on food packaging and that this responsibility is not abdicated to any other governmental or non-governmental entities.

H.R. 1599 requires FDA to complete its work on developing a federal standard for the labeling of non-genetically engineered products. This federal standard would supersede actions by any and all other jurisdictions thereby avoiding the potential for a 50-state system of differing and conflicting GMO labeling laws that would confuse consumers and would be incredibly difficult for the industry to implement.

FMI Seeks Extension on Comment Period for DOL Overtime Proposal

FMI filed a request with the Department of Labor’s (DOL) Wage and Hour Division, seeking an extension to the comment period for the agency’s proposed overtime rulemaking. Due to the complexities of the proposal and the potential impact that the rulemaking will have on the supermarket and wholesaler industry, FMI is asking DOL to extend the comment period by least 60 days to November 3, 2015. DOL’s current filing deadline for comments is September 4.

FMI stated in its request that additional time for comments is warranted so that the industry can analyze and respond to the proposed overtime rulemaking in terms of its impact on associates who are currently exempt. In particular, FMI is extremely concerned over the agency’s proposed increase in the salary test threshold to $50,440, which would affect a significant number of employees who are exempt from overtime pay. Currently, the salary test threshold is set at $23,660. Under the DOL proposal, workers making less than $50,440 annually would be eligible for overtime pay.

Feedback on Impact of Overtime Proposal
FMI is seeking comments from member companies to help us compile written comments on the proposed rule, which are due September 4 unless an extension is granted. Specifically, we are looking for feedback on how potential changes to the duties test could affect your company and the impact of the updated salary threshold. The linked questions are not meant to be exhaustive but a starting off point as we develop our comments. Specific examples of the burdens, costs and impact of the proposed rule are also incredibly helpful. As always, all responses will be kept confidential.

Produce Personnel Training Takes a New Twist with New Produce Corner Website

The Produce Corner with Bob Corey, which spanned 23 years as a local news insert on TV stations throughout the country and for 3 years on FOOD NETWORK, is now available for you to enjoy on YOUTUBE at http://www.producecornerwithbobcorey.com/.

Having aired over 3000 segments in his TV career, Bob Corey has selected the best and most informative of these pieces (260 segments to date) to air on the site which takes the viewer throughout the entire produce year and season's change – capturing the mood and atmosphere of each season for the viewer. The site also captures the rich history of the produce industry's drive to encourage more people to eat at least 5 servings of produce a day, "5 A Day", as well as incorporate today's "Fruits & Veggies - More Matters" logo on and throughout the full length of every segment. The site is linked to The Produce for Better Health Foundation and "Fruits & Veggies – More Matters" websites as well, and includes hundreds of delicious recipes that are related and illustrated in the various segments and which are easy to print and forward. "The Produce Corner with Bob Corey website, its episodes and recipes are also available, as is, to incorporate into produce personnel training" said Bob Corey, CEO, Corey Brothers Inc, Charleston, WV.

"My vision is for the site to be an interesting and entertaining training and education tool to complement existing produce training programs to further educate produce managers, staff and trainees as well as chefs, apprentices, and culinary students who may not have the "user knowledge" to convey to their customers, information about an item or how to prep, fix and prepare an item for their enjoyment. For consumers, the site presents a rich reservoir of information that can positively motivate viewers to enjoy more fresh fruits and vegetables in their lives and live more healthfully via the helpful hints, tips, ideas and recipes throughout the season's change that are illustrated on this site."

Miscellaneous

Heiner's Bakery Marks 110th Anniversary

Heiner's celebrated its 110th birthday today with a "Heiner's Way" street naming at the bakery's plant, located at 1300 Adams Ave.

One of Huntington's oldest businesses, Heiner's got its start in 1905 when the company's founder, Charles W. Heiner, and his wife Kate began baking bread, first in their rented Central City hotel room, then in a small frame house on Washington Avenue where they worked downstairs and lived upstairs.

At first, Heiner simply walked around Central City, selling bread from a basket he carried over his arm. Later, a horse-drawn delivery wagon was put in service. Today, the tiny bakery has evolved into a big business with a sprawling block-long plant, more than 400 employees and dozens of trucks that deliver bakery products to supermarkets in four states. According to the company's website, the plant's three automated production lines "run continuously, turning out nearly 10,000 loaves and countless buns per hour."

Heiner's was West Virginia's last family-owned wholesale bakery when it was acquired in 1996 by St. Louis-based Earthgrains Co. In 2001, the Sara Lee Corp. purchased Earthgrains. In 2011, Grupo Bimbo, S.A.B. de C.V., purchased Sara Lee's North American bakery business, thus acquiring Heiner's. Headquartered in Mexico City, Grupo Bimbo is a multinational bakery product manufacturing company.

OMEGA Scholarship Presentation

Jan Vineyard recently presented a scholarship check to Taylor Darlene Rhodes of Sissonville, West Virginia. Taylor's father is employed by One Stop

Calendar of Events

2015 Children's Charity Golf Outing & Awards Banquet
September 21 & 22
Stonewall Resort
Roanoke, WV

2016 The Locker Room Trade Expo & Golf Outing
May 17 - 19
The Resort at Glade Springs
Daniels, WV

At The Pump & Down the Aisle is a Monthly Publication of

OMEGA
west virginia oil marketers & grocers assoc.

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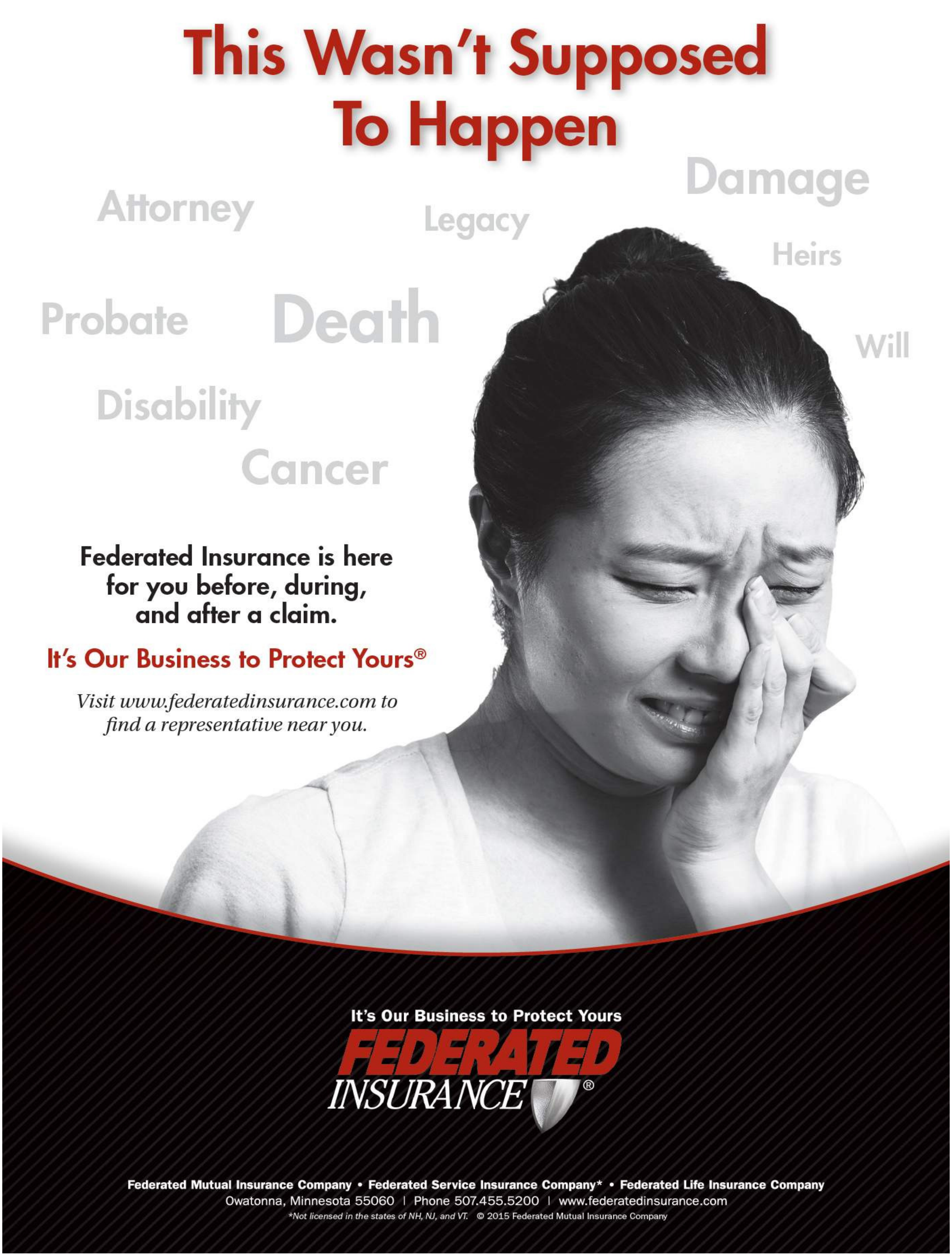
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