NOZZLE & WRENCH

AN OFFICIAL PUBLICATION OF THE WASHINGTON DC, MARYLAND & DELAWARE SERVICE STATION & AUTOMOTIVE REPAIR ASSOCIATION

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INSIDE THIS ISSUE:

Electronic control blending is allowed in Maryland same as blending regular and premium to make mid-grade motor fuel.

KIRK'S CORNER

Pain at the Pump? Below cost Selling?

By Kirk Mccauley, Director Of Member Relations & Government Affairs

Tuesday June 28th, I started getting phone calls from members about a press release from Sheetz that they were lowering the price of unleaded 88 and E85.

News article: Sheetz convenience stores has lowered its price for unleaded 88 gasoline to **$3.99** a gallon through the Fourth of July holiday. Sheetz announced in a release Monday June 27th that it is lowering its prices to "reduce pain at the pump for consumers" effective immediately. Sheetz added that it's selling E85 gasoline for **$3.49** a gallon.

Unleaded 88, I assumed was regular unleaded and had to be below cost at $3.99 gallon. For E85, I had no idea of cost, as we do not receive ethanol prices from OPIS. I called comptrollers Field Enforcement Bureau. Normally I would check rack, add taxes, if price looked below cost. Then I would have the dealer file the complaint by filling in a below cost form online.

https://marylandtaxes.gov/forms/motorfuel/Forms/Motor_Fuel_Below_Cost.pdf

After talking with Field enforcement, I was informed that unleaded 88 was E15. E15 is up to 15% ethanol and regular unleaded 87octane. This presents problems when trying to figure cost. The company involved blends this mixture at the pump. Electronic control blending is allowed in Maryland same as blending regular and premium to make mid-grade motor fuel. Regular 87 octane has up to 10% ethanol. To make E15 you add 5% ethanol per gallon. To figure cost of product you must know 5% of cost of ethanol per gallon, 95% of cost of regular 87 per gallon and add the two together for final cost. Ethanol will add one octane rating to the blend.

E85 gas (also known as flex fuel) is a high-level combination of ethanol and gasoline that consists of 51 percent to 83 percent ethanol blended with gasoline. The percentage of ethanol depends on the geographical location and time of the year. In winter straight E85 would have

Continues on page 4

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WMDA CONNECT

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Delaware legislators had their finale session of 2022 on June 30th, WMDA was part of a coalition that killed or heavily amended bills that were not good for small business and in particular our businesses.

Continued from page 1

starting and run ability problems in freezing weather.

Back to below cost, to calculate cost E85 you must know percentage of ethanol to regular gas and cost per gallon of both. I wonder how they get E85 out of E51. There must not be truth in advertising in gas combinations with ethanol.

I know field Enforcement was in contact with the company involved and ask them to produce bill of laden invoices for fuels involved and I will update you on results. Field enforcement will not give me cost but will let me know if it was below cost and they will take appropriate action. Ethanol is cheap ($2.40- $2.70 gallon range) but percentage in E15 is low so we will see how that affects final cost. Even if it turns out its not below cost, it lets our members, our competitors, and field enforcement know we are keeping the playing field level within the law.

Calling E15, Unleaded 88 could be looked at in a negative way. E15 is not a popular gas in our in our area and that will change as new tanks are installed that insurance companies recognize as safe for E15 storage. Most recommend separate, standalone pumps for this blend, so misfuelling is not a problem (not good for older cars).

I will bring you up to date as soon as I learn if this was below cost after looking at different pricing for ethanol and regular. Will have to look at cost before and after tax increase on July 1? (Writing this on June 30th).

Delaware General Assembly

Delaware legislators had their finale session of 2022 on June 30th, WMDA was part of a coalition that killed or heavily amended bills that were not good for small business and in particular our businesses.

SB305 **Delaware Climate Changed Solutions Act:** Legislation would have given state agencies broad and unfettered authority to meet greenhouse gas reductions goals when promulgating regulations and designing programs. This would have cut the legislators out of decision making process. **Bill failed in the house.**

HB299 **Forbidding Discrimination Against Cash Payment:** Original bill would have required a retailer to have same amount of cash checkout locations as electronic, those paying with debit, credit, or other electronic means. We were able to have bill amended to eliminate this requirement as long as retailer accepted cash for in person transactions. **Bill passed after amended.**

HB409 **Paid sick and safe leave:** Legislation would have created an earned sick time and safety leave program funded by employers. An employer with 10 or more employees would have to provide 1 hour of paid leave for every 30 hours worked. **Bill failed in committee.**

SB134 **Single-Use Plastic and Polystyrene Ban:** Prohibits a food establishment from providing consumers with a single-service plastic coffee stirrer, cocktail pick, or sandwich pick or with ready-to-eat food or a beverage in polystyrene containers. SB 134 also prohibits food establishments from providing single-service plastic straws, unless requested by a consumer. **Failed in House after passing in senate.**

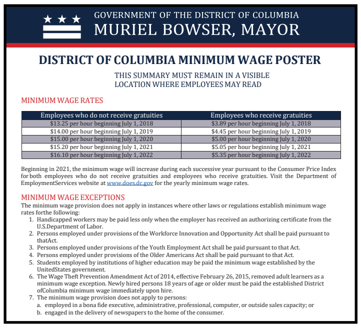
SB1 **Paid Family and sick leave bill:** Bill creates a paid family and medical leave insurance program funded by employer and employee contributions. This program will be funded by a payroll tax. This bill **passed early in session** and was signed by governor. The bill was heavily amended from original form and here is a synopsis from previous writings.

- Workers would have to work 12 months and at least 1,250 hours.
- Employers with ten or more employees will be eligible for 12 weeks of paid parental leave in first year of childbirth, adoption, or foster care placement
- Medical and family leave for employers that have twenty-five or more employees would be eligible for 6 weeks of paid leave in a 24 month period for a serious health condition or a health condition of a family member and spouses, and military active duty.
- Beginning January 1, 2025, employers and each employee will pay to fund a contribution determined by of Delaware Department of Labor within certain guidelines in a bill. Rates vary depending on the benefit claimed, family leave, medical leave, or parental leave.
- Employee can access leave benefits starting January 1, 2026.

MDE - The new UST regulations become effective on June 13, 2022.

The following documents regarding the new regulations are available on the Maryland Department of Environment's (MDE) Oil Control Program homepage. The Notice of Final Action published in the June 3, 2022 issue of the *Maryland Register* announcing the Secretary's decision to adopt the revised regulations and the new regulations' effective date (a copy is also available at Maryland Register Online).

- A compliance guide on how affected small businesses can comply with the new regulations.


GOVERNMENT OF THE DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

DISTRICT OF COLUMBIA MINIMUM WAGE POSTER

THIS SUMMARY MUST REMAIN IN A VISIBLE LOCATION WHERE EMPLOYEES MAY READ

MINIMUM WAGE RATES

Employees who do not receive gratuities	Employees who receive gratuities
$13.25 per hour beginning July 1, 2018	$3.89 per hour beginning July 1, 2018
$14.00 per hour beginning July 1, 2019	$4.45 per hour beginning July 1, 2019
$15.00 per hour beginning July 1, 2020	$5.00 per hour beginning July 1, 2020
$15.20 per hour beginning July 1, 2021	$5.05 per hour beginning July 1, 2021
$16.10 per hour beginning July 1, 2022	$5.35 per hour beginning July 1, 2022

Beginning in 2021, the minimum wage will increase during each successive year pursuant to the Consumer Price Index for both employees who do not receive gratuities and employees who receive gratuities. Visit the Department of EmploymentServices website at www.does.dc.gov for the yearly minimum wage rates.

MINIMUM WAGE EXCEPTIONS

The minimum wage provision does not apply in instances where other laws or regulations establish minimum wage rates forthe following:

1. Handicapped workers may be paid less only when the employer has received an authorizing certificate from the U.S.Department of Labor.
2. Persons employed under provisions of the Workforce Innovation and Opportunity Act shall be paid pursuant to thatAct.
3. Persons employed under provisions of the Youth Employment Act shall be paid pursuant to that Act.
4. Persons employed under provisions of the Older Americans Act shall be paid pursuant to that Act.
5. Students employed by institutions of higher education may be paid the minimum wage established by the UnitedStates government.
6. The Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015, removed adult learners as a minimum wage exception. Newly hired persons 18 years of age or older must be paid the established District ofColumbia minimum wage immediately upon hire.
7. The minimum wage provision does not apply to persons:
   a. employed in a bona fide executive, administrative, professional, computer, or outside sales capacity; or
   b. engaged in the delivery of newspapers to the home of the consumer.

- MDE's response to public comments received on the proposed regulations that were published on January 28, 2022.
- A description of revisions made to the regulations proposed on January 28, 2022, in response to public comments received on the October 18, 2021 draft proposal.

Below I have I have listed links to information at MDE. The facts sheet and publications are a great site. I have listed 3 links from site that you might need. MDE is working on a updated class C training inspection sheet that will be out shortly.

Fact sheet links: Fact Sheets and Publications (maryland.gov) UST Compliance Testing Schedule Fact Sheet 4.27.16 3 pgs.pdf (maryland.gov)

Monthly walkthrough: Maryland_Monthly_UST_System_Walkthrough_Inspection_6.10.22_3pgs.pdf

Annual Walkthrough: Maryland_Annual_UST_System_Walkthrough_Inspection_6.10.22_2pgs.pdf

Juul ban by FDA:

FDA decision to ban Juul products is under a stay order issued by a federal judge who accepted Juul appeal. No telling how long this will take.

District of Columbia

D.C. council funded their no flavor ban on tobacco and ESD products that will take effect October 1st, 2022. We are evaluating all options that might be available.

July 1, 2022, Change Wrap Up

Maryland gas tax - DC minimum wage - Montgomery County minimum wage - Delaware bag ban. All minimum wage charts are required to be posted:

Maryland Gas price Chart: https://www.marylandtaxes.gov/forms/compliance_forms/MFT_RatesPerGallon.pdf
DC minimum Wage: https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/Minimum%20Wage%20Poster_2022_0.pdf
Montgomery County minimum Wage: minimumwagelawmont.pdf (state.md.us)
Delaware Plastic Bag Ban: https://dnrec.alpha.delaware.gov/waste-hazardous/recycling/plastic-bags/

Below did not change, charts to post:
Hoard county Minimum Wage: minimumwagelawhoco.pdf (state.md.us)
Maryland counties Minimum Wage Except Howard and MOCO: minimumwagelaw.pdf (state.md.us)

Reminder that in Maryland you will owe a floor tax on Gas and Diesel in your storage tanks at end of day on June 30th. Number of gallons X 6.6 cents, send check to comptroller's office by July 31, 2022 to avoid a fine. Comptrollers' office sent pre-printed forms – if you have any question give me a call. ■

CAR TALK

Mental Health

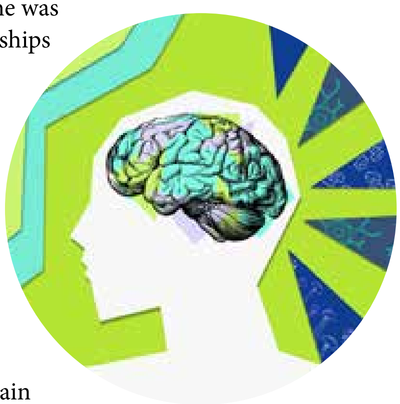
By Sandi Weaver
BA Auto Care, Inc.

I talk frequently about employees and resolving issues when it comes to behavior and such and mental health has a lot to do with it. A few months ago we hired a new technician. He started work and two weeks later we could all tell something wasn't right. He looked sick and wasn't productive. When I brought him in to talk about what's was going on, he explained he hadn't been sleeping and just couldn't concentrate. This in turn had made him physically ill. He went to urgent care that weekend because he was throwing up continuously. He was diagnosed with anxiety and given medication to help with sleep and anxiety. He took a week off to get used to the new meds and to get some much needed sleep.

What worried me the most was that he wasn't planning to tell me he wasn't doing well. He planned to just keep moving forward and try to figure it out on his own.

What worried me the most was that he wasn't planning to tell me he wasn't doing well. He planned to just keep moving forward and try to figure it out on his own. When I asked him to my office to talk, I explained that communication is a high priority here and if he ever had anything he wanted to talk about whether it be professional or personally, I saw him visibly relax. He was so worried he'd lose his job because he had just started and that he didn't know what was truly going on with him. As far as he knew, it was the added stress of starting at a new shop but turned out to be so much more. I'm happy to say he is happier than ever and both his home life and work life have improved tremendously.

Another employee we hired about a year ago was a service advisor at various dealerships for the past 20+ years. He was recommended to us by another service advisor who had worked with him year ago which made it an easy decision to hire him. He's a quiet person who keeps to himself and observes everything going on around him but said very little. Since we have a communication coach, I asked her to speak with him and get to know him and help us learn about his communication style and him learn all of ours. We learned he was literally bullied by his coworkers and his bosses at the dealerships he worked for. Afraid to ask critical questions needed to do his job affectively. And he never would give his opinion on discussions relevant to his position for fear of being criticized. While he's still not an outspoken person, by working with our coach, he's realized he is safe here and his opinion matters, he matters. The tools he's learned from coaching have not only improved his work life; it's also improved his home life.



After more than two years living during a pandemic, we have all suffered mental health problems to some degree. If we work to correct the mental health of our employees, we gain much more productive employees who enjoy coming to work each day. Take care of your employees so they take care of your business. ■

WMDA/GAR

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Drive More Summer Traffic with Successful SEO Strategies

Brought to you by Netdriven

Having an SEO strategy is crucial because it helps your business stay on track with consumer trends. Instead of targeting what you *think* your shoppers are looking for, you can ensure your strategy focuses on what they're *actually* searching for.

With summer upon us, many people are planning annual vacations and road trips, and that means an influx in vehicle maintenance and repairs. Proper SEO strategies will help you get in front of consumers who are searching for the automotive services you offer.

Instead of targeting what you think *your shoppers are looking for, you can ensure your strategy focuses on what they're* actually *searching for.*

Reconsider How You Use Keywords

While keywords are foundational to SEO, they are not the first step to driving organic website traffic. Ultimately, your goal is to create copy that's valuable to your shoppers and fulfills their search queries. General keywords such as "automotive shop" and "auto services" may not be sufficient to help your website rank well in local searches, especially if you're in a highly competitive area. Instead, use these generic terms as a base to search for more targeted short-tail keywords – or the words and short phrases that shoppers type into the search bar. These could include "transmission repair," "windshield replacement" or "brake service."

Short-tail keywords are the pillars that support long-tail keywords – the specific phrases that help search engines associate your content with online search queries. For each short-tail "pillar," create a list of relevant long-tail keywords. These are the keywords that will help you create value-driven, search engine-optimized copy.

For example, if your business offers towing services, you may not be able to compete in generic searches for "towing services," but you can get in front of shoppers looking for "towing to auto shop" or "towing without AAA."

Create Specific Content

Content isn't just about keywords; it is also about connecting with your audience by addressing their interests. Does your shop provide a niche service that's unique to your area? Base your content on this unique value proposition by creating webpages and blogs that detail the service you provide and how it benefits a vehicle's integrity.

If you don't have time to regularly create brand-new content, you can repurpose older posts and webpages by updating the information with new data, images and videos. You can also add more content for added depth.

Make sure each piece of content includes a clear call to action (CTA) to encourage readers to act. This may be an invitation to request a quote, schedule an appointment or call your shop.

Build Pages for Each of Your Services

Search engines are looking for websites that are educational and informative. How do they make that distinction? They crawl the copy, images and videos on your webpages to determine if your site offers value to users' search queries. This doesn't always bode well for auto shops whose services are summed up in bullet points on a single webpage.

Creating webpages for each of your services gives you the ability to create copy with the list of specific long-tail keywords you created. Remember those niche services? They deserve to be more than a bullet point on a singular page. Help search engines (and shoppers!) see the value in what your business offers.

Keep Your Site Mobile-Optimized

Search engines practice mobile-first indexing, which means the algorithm looks at your mobile site versus the desktop version. With smartphones reigning supreme in 2022, **63%** of searches are performed on a mobile device, as reported by software company Oberlo. Mobile SEO is a similar process, with a particular focus on page load time, responsive design, local SEO tactics and content that's easy to read on any device.

Use Ethical Link-Building

Link-building has been around for at least a decade, and it's still a useful SEO strategy when done right. Be selective about the links you use, as Google penalizes websites that feature poor-quality or spammy links. Here's how you can gather reputable links:

- **Choose authoritative sources:** Do you subscribe to any automotive industry newsletters or online publications?
- **Promote your articles on social media:** Practice off-page SEO (links directed to your website from elsewhere) by sharing your blogs and specialty webpages to your social media. Drive traffic from your social posts back to your website.
- **Regularly audit your site for broken links:** At least once a quarter, review the links on your website to ensure they're still active and good-quality, and remove any outdated or broken links.

Off-page link building is the process of attracting inbound links to your website from other internet sources. This can be done by guest posting on other publications or having copy on other sites use your website as a resource. If you have industry connections that give you the opportunity to create guest posts, we highly encourage doing so to increase your brand exposure and improve your SEO. Even if you don't have opportunities to post on other sites, you can encourage others to seek out your website as a resource by creating informative, valuable content that people will want to share on their own platforms.

Achieving a good ranking on search pages can be difficult, but it's worth the effort to pull in more summer traffic. While it may seem logical to create content that focuses on high-performing keywords, a better strategy to meet your business goals is to create an SEO strategy that answers your customers' search queries so you can grow your lead acquisition. ■

Responsibility For Underground Storage Tanks After Lease Termination

By James L. Parsons, Jr., Lynott, Lynott & Parsons, P.A.

What are the obligations of the dealer regarding tanks after the expiration or termination of a lease?

Gas station leases often require gas station dealer/operator tenants to take ownership of or install underground storage tanks at the beginning of the lease term. What are the obligations of the dealer regarding those tanks after the expiration or termination of a lease? As illustrated in the case of *Carroll Independent Fuel Company v. Washington Real Estate Investment Trust*, 202 Md.App. 206 (2011), the obligations of the tenant and landlord will depend upon the language used in the lease.

In 1988 and 1989, Carroll Independent Fuel Company ("CIF") entered into two ten year lease agreements with Washington Real Estate Investment Trust ("WRIT") for the lease of two gas station properties in the Westminster Shopping Center in Westminster, Maryland. An addendum to the leases required that CIF install new gasoline tanks at its expense at each of the leased properties. Importantly, the addendum provided that the gasoline tanks would belong to WRIT at the end of the term of the lease. The leases permitted CIF to sublet to a retail gasoline dealer. Upon the termination of the leases, CIF was required to provide an environmental inspection certificate declaring that the premises were free of hazardous substances. The leases also provided that, upon surrendering the premises at the termination of the lease, CIF was to remove all of CIF's "personal property and unattached movable trade fixtures."

The parties agreed to two extensions of the leases, and in the second amendment, the leases were extended indefinitely on a month-to-month basis, with each party having the right to terminate by providing thirty days' notice. On July 15, 2005, CIF provided notice to WRIT that it was terminating the leases effective August 15, 2005. Despite the language in the amendment stating that the tanks would become the property of WRIT upon the termination of the lease, CIF stated that it would be in contact with WRIT regarding the removal of the tanks. On August 15, 2005, CIF closed its operations at the leased premises and vacated both sites.

Shortly thereafter, WRIT notified CIF that a mechanic shop was still occupying one of the sites, and demanded that the mechanic shop vacate the property. WRIT followed up with a second notice repeating that the mechanic shop was still occupying one of the sites, and added that CIF had not yet removed its underground storage tanks nor provided the environmental inspection certificate required by the lease. WRIT added that it would not consider CIF to have vacated the property until CIF had removed the subtenant and the

The removal of the tanks at the expiration of the lease can be a very expensive proposition for a dealer operator/ tenant, especially if contamination is found.

underground storage tanks, and provided the environmental certificate.

In early 2006, CIF removed the gasoline storage tanks, and contamination was discovered. CIF continued to work on remediation until March of 2007, at which time CIF stopped working on remediation at the site. Thereafter, WRIT took over the remediation work, and in May of 2007, WRIT combined the two sites and leased the property to a bank. The service station buildings were subsequently demolished to allow for the construction of a building for the bank.

WRIT then filed suit against CIF in October of 2007, seeking to hold CIF liable for the continuing remediation of the contamination of the soil and groundwater. WRIT also claimed that CIF was liable for holdover rent, even though CIF had vacated the property, based upon the facts that (i) CIF did not remove the gasoline storage tanks when it vacated the property; (ii) CIF did not deliver the environmental certificate required by the lease upon vacating the property; and (iii) one of the stations was still occupied by a subtenant mechanic shop until March of 2006.

After a bench trial without a jury, the trial judge found that CIF was not liable for the environmental contamination because it predated CIF's tenancy, and WRIT had not proven that CIF caused the contamination. The trial court ruled in favor of WRIT on the holdover rent claim, and awarded a total amount of $624,621.09 in holdover rent. WRIT also sought attorney's fees in the amount of $708,411.10, but the trial judge found that WRIT was only entitled to fees for the holdover rent claim, and only awarded $25,000.00 in fees.

Both sides appealed the trial court's decision to the Court of Special Appeals of Maryland. On appeal, the appellate court reversed the trial court's decision and monetary award as to the holdover rent. As to the removal of the underground storage tanks, the court found that the tanks belonged to WRIT based upon the language in the lease amendment stating that the tanks became the property of WRIT at the end of the term of the lease. The court said that the failure of the tenant to remove the property owned by the landlord was not holding over. As for CIF's failure to produce the environmental inspection certificate, the court found that this was a breach of the lease, but there was no evidence that the failure to produce the certificate interfered with WRIT's possession of the property. Accordingly, the failure to produce the certificate did not place CIF in the position of a holdover tenant. Finally, as to the failure to remove the subtenant mechanic shop from the premises, the court affirmed the trial court's finding that, even though the mechanic shop was a subtenant of the dealer operator and not a subtenant of CIF, CIF had notice that the mechanic shop was operating there. However, the court found that since CIF had no sublease with the mechanic shop, it had no authority to remove the mechanic shop after its lease with WRIT was terminated. The fact that the mechanic shop remained on the property as a trespasser was not attributable to CIF, and did not constitute holding over by CIF. Based upon all of the foregoing findings, the appellate court reversed the trial court's judgment awarding $624,621.09 in favor of WRIT on the holdover tenant claim, but the court did not disturb the trial court's award of $25,000 in attorney's fees in favor of WRIT.

The *Carroll* case illustrates the importance of having clearly worded language in a lease addressing the responsibility of the parties for the removal of underground storage tanks at the expiration or termination of a lease. Some landlords prefer to convey the ownership of the storage tanks to the tenant consistent with the concept of a "triple net" lease, so as to put all financial responsibilities regarding the tanks (maintenance, replacement, environmental contamination) on the tenant. Some leases provide that, upon the lease expiration, the landlord has the option of leaving the tanks in place or requiring the tenant to remove them. The removal of the tanks at the expiration of the lease can be a very expensive proposition for a dealer operator/tenant, especially if contamination is found. A dealer operator/tenant should therefore avoid taking on this responsibility if possible. If the landlord insists upon including such language in the lease, then those costs must be taken into consideration before the lease is signed to determine whether the lease is economically feasible. Any tenant that is taking on the responsibility for environmental contamination in a lease would be well advised to have environmental testing performed before the lease is signed to establish a "baseline." Some motor fuel suppliers/distributors who lease property from a third party landlord and sublease the property to a dealer/operator may prefer to remove the tanks themselves at the expiration of the lease so as to avoid exposure for future contamination liability. In any event, it is critical for both landlords and tenants to clearly spell out the responsibilities of the parties upon the expiration/termination of the lease so as to avoid any unexpected and/or undesirable outcomes. ■

WMDA/CAR ANNUAL

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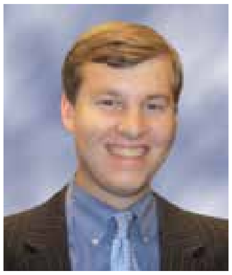
LEGISLATIVE UPDATE

Outlook For WOTC/ ERTC With Onset of Inflation



By Roy Littlefield IV

A major shift is underway in the economy and Congress with the advent of stubborn inflation. The Federal Reserve's stringent tightening of money supply last week, coupled with a plan to continue tightening through 2023 and 2024 to bring down inflation, is causing the tax-writing committees to re-think not only appropriations for Fiscal Year 2023, but also Democrats' replacement for the Build Back Better Act being negotiated by Senate Majority Leader Chuck Schumer and Senator Joe Manchin.

House Appropriations Committee is well underway approving the dozen appropriations bills for FY 2023, but Senate appropriators are far behind and a continuing resolution can be expected.

We are also a long way from Finance and Ways and Means agreeing to a tax title covering WOTC, ERTC, and the major programs we are seeking for disabled persons, military spouses, disadvantaged youth, and other productive changes to WOTC. Both tax-writing committees kicked off discussion of budget and inflation issues with Treasury Secretary Janet Yellen last week.

...we are already beginning to see the outlines of new proposals in the Senate designed to shape fiscal policy to bring down inflation costs to the American people...

But we are already beginning to see the outlines of new proposals in the Senate designed to shape fiscal policy to bring down inflation costs to the American people, and we believe this will be a major thrust of new legislation attached to the must-do bill to fund the government for FY 2023.

The Federal Reserve has thrown its strongest monetary resources against inflation, leaving it clear for Congress to move now to harness fiscal policy to the same end. By "fiscal policy" we mean the tax and expenditure programs of the Federal government.

Recently, some members of the tax-writing committees began discussions of ideas pertaining to anti-inflation fiscal policy. Several senators have made good ideas public, but are too incomplete at this point.

Anti-inflation fiscal policy, increased WOTC credits, and retroactive ERTC credits for this year, go together. Not that members of Congress would follow this concept, we must help them. For example, some senators who would support increased tax credits during inflation believe they must pay for the those credits because of the deficit. This is unnecessary because, in a business cycle with inflation rising, reducing taxes or increasing tax credits while the Fed is tightening can help prevent a recession. Pay-fors would have the effect of slowing business and consumer spending while the Fed is tightening,

possibly bringing on a recession.

If we do our job, it's likely we'll see anti-inflation fiscal policy emerge not only for FY 2023, but also for FY 2024 and FY 2025, the years the Fed believes it will need to bring inflation under control. This works well because our campaign to make WOTC permanent begins in 2024 or earlier. Currently, WOTC expires on December 31st, 2025.

But we aren't waiting till 2024 or 2025. We believe it would help workers and businesspeople if Congress took steps NOW to prevent a recession in 2024 or 2025 by passing a bill this year granting enhanced WOTC benefits for 2023, 2024, and 2025.

As we look ahead to 2025, many of our members may be interested in when various tax credits expire.

OSHA's Updated Heat Illness Prevention Webpage

OSHA asked us to share with you its new, updated Heat Illness Prevention Webpage (see, https://www.osha.gov/heat).

The webpage contains a lot of important information about heat stress, employer responsibilities, and valuable information all employees should know about heat illness.

It also includes a printable fact sheet and heat stress poster for distribution and a link to important NIOSHA guidance on heat injury prevention.

As we are now in the hot summer months, please take time to review this important – and potentially life-saving – information and share the link with your colleagues.

All Employers Are Required to Display Federal and State Postings

All employers are required to post certain federal and state postings.

On a federal level, if an employer has less than 50 employees, they are required to post 5 notices: Fair Labor Standards Act; Employee Polygraph Protection Act; Equal Employment Opportunity; Uniformed Services Employment and Reemployment Rights Act; and Occupational Safety and Health Administration.

If an employer has 50 or more employees, federal law requires that they also post a notice related to the Family and Medical Leave Act.

Each state has varying requirements on what notices must be posted.

Contact us with any questions.

DOL Targets Proposed Rule on OT Exemptions for October

The Federal Government recently released the biannual regulatory agenda, in which DOL targets October 2022 for release of a proposed rule on overtime pay exemptions.

WMDA/CAR is disappointed that DOL plans to move forward with the proposed rule despite the current economic conditions.

WMDA/CAR will be exploring avenues for advocacy, including legislation or appropriations riders that delay the rule.

Please keep us posted on your own efforts and conversations you have with lawmakers about this issue.

Ensuring Your Employment Application Is Lawful

The days of the "one size fits all" employment application have come to an end. As federal, state, and local governments increasingly heighten employer hiring process requirements, national employers must be diligent to avoid getting tripped up by the varying rules across different locations.

Specifically, two areas, based on state law, may expose employers to liability if asked about on employment applications: "ban the box" laws and salary/compensation history bans.

IRS Increases Mileage Rate for Final 6 Months of 2022

The Internal Revenue Service (IRS) has announced an increase in the optional standard mileage rate for the final six months of 2022 due to soaring gas price increases.

Effective July 1 through December 31, 2022, the standard mileage rate for business travel will be 62.5 cents per mile, up 4 cents from the 58.5 cents per mile rate effective at the start of the year.

Employers are not required to pay employees mileage.

If employers have any questions or concerns, we recommend they contact us to ensure compliance. ■

EDITORIAL

What WMDA/CAR is Watching in Washington

By Roy Littlefield III

From the privately owned and small business perspective, we continue to monitor two big pieces of legislation that could see movement this summer.

There are now less than six work weeks before Congress leaves town for its month-long August recess. By the time the members return in September, the fervor of the midterms will be in full tilt and most legislative priorities will be sidelined.

Much to the chagrin of the Democratic leadership, crises and unexpected issues have dominated this year's legislative calendar and are expected to do so for much of the summer. While Congress did take something off its to-do list by successfully passing a Ukraine aid bill, the $10 billion COVID funding bill that was negotiated back in April is still stalled over disputes surrounding the Title 42 border issue. There is also a renewed push in the Senate to pursue bi-partisan gun control legislation – an objective that has eluded the chamber for decades – in response to the tragic mass shootings in Uvalde and Buffalo. Further, the Senate still has a large backlog of nominees to confirm, which will be a priority for Senate Majority Leader Charles Schumer (D-NY) given the razor thin majority that his party will be defending in November. Add to all this, the fact that Congress will need to pass a FY2023 budget or an extension by October 1 to avoid a government shutdown – and it becomes very clear that there simply aren't enough days, let alone legislative work days, for everything to get done.

From the privately owned and small business perspective, we continue to monitor two big pieces of legislation that could see movement this summer.

The first of these items is a yet to be negotiated new iteration of the "Build Back Better" legislation. It is clear that the version of Build Back Better (BBB) that was passed by the House late last year is dead and buried – primarily due to the opposition of Senators Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ). However, if common sense still holds sway with the Democrats, then there is still a chance that we will see a much smaller and cleaner reconciliation bill (probably not called anything like Build Back Better!) which will include only those provisions that Senators Manchin and Sinema support. [As you probably recall, when a bill is passed using the reconciliation process, only a majority vote is required because such budget bills cannot be filibustered.] If these two Senators are willing to back any new reconciliation legislation, then look for a few items such as the extension of the child tax credit and possibly universal pre-k, to be included. Once the process starts in earnest it should go quickly since basically there will be only two Senators writing it and that assumes that Senator Manchin doesn't pull back on the bill again.

Again, if common sense prevails, this bill will be short and sweet – with a relatively few items which can be easily explained to the public. Senator Manchin is facing pressure in his home state of West Virginia to renew funding for the Black Lung Disability Fund. This renewal was included in the House passed Build Back Better legislation and may be a bargaining chip that brings Senator Manchin back to the table to negotiate a new narrower version of the bill. He is on record saying that he wants to support some of the climate and energy tax credits, but also wants to include significant revenue raisers so that the bill will reduce the deficit. He also supports allowing Medicare to negotiate directly with the pharmaceutical companies to lower prescription drug prices. He said he'll support a corporate tax increase from 21% to 25%. Of course, Senator Sinema is on record against raising taxes. It will be interesting to see if the progressive arm of the Democrat party is willing to scuttle a more modest version of BBB because it will not include many of the items they want or whether they understand that half a loaf, even a quarter of a loaf is better than nothing.

There is a lot of pressure on the Democrats to pass something before the mid-terms – but whether they will be able to thread the needle amidst the various segments of their party to reach a compromise bill remains to be seen.

Also on the watch list for small business this summer is the SECURE Act 2.0, which passed the House by an overwhelming majority (414 to 5) at the end of March. The margin by which the bill passed the House certainly gives it momentum as it moves to the Senate – however, it is likely that, rather than passing the bill in its current form, the Senate will make changes or pass its own retirement plan bill and send the matter back to the House.

It seems strange that any retirement plan bill could pass so overwhelmingly in the House, particularly since from the small business perspective, it has a number of problems. Chalk this aberration up to claims that the bill will allow more people to invest for their retirement at larger contribution levels (larger contributions is hardly accurate) while the real cost to key employees of small businesses has been ignored.

Even though most of the major retirement plan groups in town are in favor of the House passed Secure Act 2.0, there are a number of proposals that are apt to cause privately owned and small businesses real problems. The bill would mandate new 401(k) plans to include auto-enrollment starting at 3% of pay and increasing each year up to at least 10%. This means that a participant would be automatically enrolled in the 401(k) plan and have 3% of his pay contributed to the plan in the first year, 4% in the second, until reaching 10% in the eighth year. Participants are allowed to opt out. The mandate will not apply to businesses with 10 or fewer employees or new businesses who have been in business for less than 3 years.

While auto-enrollment definitely increases participation in retirement plans, it also is difficult for small businesses to administer. Also of major concern is that the bill would force catch-up 401(k) contributions which are allowed for participants who are 50 or older to be after-tax, i.e., Roth contributions. It is likely that this change would cause many older participants to choose not to make catch-up contributions. A positive change in the House passed Secure Act 2.0 is that the age at which a participant must start taking distributions from a retirement plan (the so-called Required Beginning Date) would move to age 73 starting this year, to age 74 starting in 2029 and to 75 as of 2032. It would also allow a plan to match a plan participant's payments towards a student loan, instead of only matching 401(k) contributions made by a participant.

Although the House was the first to pass its bill, the Senate has already been working on retirement plan legislation for some time. Last May, Senators Ben Cardin (D-Md.) and Rob Portman (R-Ohio) introduced the Retirement Security and Savings Act of 2021 (S.1770) which covers some of the same ground as Secure 2.0.

Additionally, the Chair and Ranking Member of the Senate HELP Committee, Senators Patty Murray (D-WA) and Richard Burr (R-NC), released a discussion draft of what they've dubbed the "RISE & SHINE Act". The RISE & SHINE Act pulls together a number of stand-alone retirement plan bills into one package and is focused on those retirement plan proposals that are under the jurisdiction of the HELP Committee.

Senators Murray and Burr are currently soliciting feedback on their draft before it is formally introduced. The expectation is that ultimately the RISE & SHINE Act will be merged with the Retirement Security and Savings Act of 2021 and potentially some parts of Secure 2.0 to create a new Senate retirement plan bill. Again even though the time and bandwidth for Congress to act is short, given the strong bi-partisan push behind this issue, the odds of a bill being passed this year are still strong.

WMDA/CAR will be closely monitoring the progress of this legislation and working to educate members about the retirement plan elements that are critical to small businesses and their owners and employees.

As we embark on yet another busy and contentious legislative season, we encourage our members to keep us apprised of the issues that they are tracking or concerned about. ■

WMDA/CAR's *4th Annual*

GOLF

OUTING

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Simply participate in all of the programs for which you are eligible and you will save or make enough to pay for your membership in WMDA/CAR!

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ELECTION 2022:
WMDA/CAR PAC needs funds to Participate

Governor, Attorney General and Comptroller, along with delegates and senators are up for election in Maryland.

- **Ban on menthol cigarettes** in District of Columbia means there will be copycat bills in Maryland and Delaware this year.
- California **bans gas powered cars** by 2035, will MD, DE, or DC be next?
- Baltimore council members want to **ban new service stations** in the city, ban plastics, Styrofoam & sugary drinks. They have shut down many retailers with pad locks on doors, blaming business for crime. Police are telling our retailers you are on your own, hire security guards. They need to focus on crime, not plastic bags. The absurdity of actions like this underscores the need for new legislators.
- Labor and employee bills in all three jurisdictions would add thousands of dollars in **payroll cost** per year. While we have been successful in stopping or amending most bills, they will all be back this year.
- **Right to Repair** – New cars manufactured are installing devices in vehicles that send information over wireless networks to dealerships automatically.

As absurd as some of these bills are, they are real and affect all our members. These issues will be or already are in the legislative process. We need legislators who support retail business, do not be on the side lines.

Support your PAC and PROTECT your business.

We suggest $150 per location however, any amount is welcome.
Please send contributions to: WMDAPAC 1532 Pointer Ridge Place, Suite F Bowie, MD 20716

Your fellow business owners and PAC officers,

Rick Agoris, *PAC Chairman*
Riaz Ahmad, *PAC Treasurer*

WMDA PAC Political Action Committee