



May-June, 1987

NEWS

OFFICIAL PUBLICATION OF SERVICE STATION DEALERS ASSOCIATION OF MICHIGAN

Dan Loepp Named New SSDA-Michigan Executive Director



Dan Loepp (second from right) is welcomed as SSDA-Michigan's new executive director by (left to right) Phil Bucalo, SSDA-Michigan first vice president; George Schuhmacher, president, and Dennis Pellicci, past executive director and present member of the Board of Directors.

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Message From The President

by
**George
Schuhmacher**
*President
Service Station
Dealers Association
of Michigan*



Welcome Dan Loepp SSDA-Michigan's New Executive Director

I want to welcome Dan Loepp our new SSDA-Michigan executive director. Dan takes over from Dennis Pellicci who resigned for personal reasons and who did a great job during a difficult transition period following Chuck Shipley's retirement.

Dan was selected from 275 applicants and three finalists. He has a high energy level, has great ideas and very importantly brings a varied background to SSDA-Michigan.

As Phil Bucalo, our first vice president, writes in a special column in this issue of **SSDA News**, Dan's arrival is a "new beginning" for our association. The challenge to make our organization stronger is Dan's No. 1 job. We need to get members more involved, offer more services to members and enroll new members.

Right now the SSDA-Michigan is a respected voice for service station dealers in Michigan because we have fought for the best interests of dealers at all levels of government.

But we are not going to rest on our laurels. We're going to keep working hard for dealers and Dan's leadership qualities are going to make us even stronger.

Dan's success depends on how well we as dealers work together on issues that affect us. So let's help Dan as he works to make SSDA-Michigan an even stronger voice for all of us.

Dan Loepp Appointed Service Station Dealers Association - Michigan Executive Director

The Board of Directors of the Service Station Dealers Association of Michigan announced the appointment of Dan J. Loepp as the Association's Executive Director.

Loepp, who served three and one-half years as Administrative Assistant for Public Affairs for Attorney General Frank J. Kelley, assumed the Executive Directorship of the SSDA-Michigan May 4.

"I have had the opportunity to work with quality people in my ten years of public service," Loepp said. "I am pleased that my new position as Executive Director of the Service Station Dealers Association of Michigan will enable me to work with an Association whose number one commitment to the public is quality."

Loepp, who holds both a B.A. and M.A. from Wayne State University, also worked as an Administrative Assistant to U.S. Congressman Dennis M. Hertel and as an Aide to the Michigan State Senate Committee on Consumer Protection and Agriculture. Loepp is married, and he and his wife Ellen and their two children reside in Okemos, Michigan.



Dan Loepp - SSDA-Michigan's New Executive Director

QUESTION: What are the biggest challenges facing the SSDA-Michigan?

ANSWER: There are many challenges facing SSDA-Michigan. What I find most important is communicating the story of the service station dealers to those who make the decisions both in Lansing and in Washington, D.C.

My experience in Washington, D.C. and Lansing has shown me that the vast majority of legislators on both sides of the aisle have as their main goal what's best for their constituents. They are interested in doing what is fair and reasonable. The association must however communicate the story of the community-involved businessperson, whose goal beyond making a good living and providing for his or her family is to be treated fairly and reasonably by all those with whom he or she deals. In turn the dealers treat their customers in that same fair manner.

Articulate to those who are not members of SSDA-Michigan how important it is to join our association.

We must effectively explain why dealers should join SSDA-Michigan.

In the coming months I will be talking with Board of Director members and other members alike just how to effectively do these and other important things.

QUESTION: How will your experience in government help you in your new position?

ANSWER: I believe my experience in Lansing and Washington, D.C. gives me a good perspective on just how government works. Beyond that I believe my experience shows me that working with government instead of constantly criticizing is the best policy.

From Drummond Island to Detroit people across this state have elected men and women to represent them. My experience with the legislative and executive branches of government will help the SSDA-Michigan communicate

SSDA-Michigan is Responsible, Fair *An Interview With Dan Loepp*

QUESTION: Why did you join SSDA-Michigan?

ANSWER: The opportunity to work as the chief executive officer of an association whose reputation has been top-notch and has been committed for generations to quality service for their customers is a great opportunity and I jumped at the chance.

My experience in government with the association shows me the SSDA-Michigan was always interested in doing things in a fair way which provided themselves and their families a good living but at the same time realizing their responsibility to their customers.

Instead of complaining, when things got difficult, SSDA-Michigan worked with government to weed out those unscrupulous businesspeople whose only interest was to put money in their pockets.

After working for and with highly ethical people in my public career, it seemed natural for me to go to work for an association that aspires to those same highly ethical standards.

their views and do what's best for the members and for consumers throughout our state.

QUESTION: Why should a service station dealer join the SSDA-Michigan?

ANSWER: I believe those who are not SSDA-Michigan members are missing out on a good thing. Not only does SSDA-Michigan serve as the dealers voice in Lansing and in Washington, D.C. but SSDA-Michigan also serves as a trouble-shooter when a member has a problem with the state or federal government.

Beyond that, the SSDA-Michigan benefit package is a good one and it is about to become an even better package that dealers simply can't pass up.

Our Blue Cross Blue Shield coverage, Dodson Workers' Compensation Insurance Program, which I might point out returned over \$115,000 in dividends last year to dealers, Liability Accidental Death and Dismemberment insurance, and Michigan Bankard program is second to none and we plan to make it better. In the next few months we will be announcing major new benefits available to members of SSDA-Michigan.

QUESTION: What does "A New Beginning for SSDA-Michigan" mean to the association?

ANSWER: A new beginning for SSDA-Michigan more than anything means a fresh look at the association and what it means to its members from top to bottom.

This organization has been around for a long time and has enjoyed a good reputation throughout this state. A new beginning simply put will include putting some fresh new ideas into our organization to make it a better one.

QUESTION: Have you established specific goals for 1987 for the SSDA-Michigan?

ANSWER: The goals I have set are simple ones that will have a profound effect on the future. First of all administratively I will be working very hard to make the running of the office state of the art. We are in the age of high tech and there is no reason that the office shouldn't reflect that.

From there I believe it is important to improve and enhance the membership of this organization. That can be done by effectively communicating what we can do for dealers in the area of problem solving, legislation and benefits.

Last, but not least, I will continue to work with George Schuhmacher, Phil Bucalo and Dennis Pellicci to learn more and more about the complexities of the service station dealers.

"It is important to improve and enhance the membership of this organization"

Dan Loepp

QUESTION: What can SSDA-Michigan members do to help the association grow?

ANSWER: Member dealers must get involved. As we proceed with transfer and survivorship legislation in Lansing, our lobbyist and Board can't do it alone. We must have member dealers contact their legislators and tell them that SSDA-Michigan only wants a level playing field. They want what is fair and reasonable.

Involvement is the key whether it be pending legislation or developing new members we must have a commitment of the entire association, and if we get that—the sky's the limit.



Dennis Pellicci, immediate past executive director of the SSDA-Michigan, is not enjoying a life of leisure. Dennis is hard at work (and dressed to impress!) at his Shell station at Big Beaver and Crooks Road.

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A New Beginning



by Phil Bucalo
SSDA-Michigan
First Vice President
Shell Dealer Livonia

Our new Executive Director, Dan Loepp, brings to our association his education and experience in management, public relations and legislative matters, all so vital to the association's efforts to obtain "fairness in marketing" for the service station dealers of Michigan. Dan was chosen by the SSDA-Michigan Board of Directors from three finalists after the search committee reviewed over 275 applicant resumes for the position.

Dan's acceptance of the job was only the beginning. He has limited knowledge of the petroleum industry and his "education" has been assigned to Dennis Pellicci, George Schuhmacher and me.

During March and April I assumed the responsibilities of the executive director when Dennis left, directed the search committee, developed Dan's education program and defined the following five primary areas of responsibility that Dan would have along with the Board of Directors.

"Seeking the members input on services they would like the association to offer is very important."

Phil Bucalo

COMMUNICATIONS. Keep the membership informed of industry news through the magazine, bulletins and statewide meetings. Relate to the news media and legislators our efforts to seek "fairness in marketing." Direct the efforts of field representatives to locally provide an Association contract.

SERVICES. Maintain, improve and add to member programs such as Dodson Group Insurance, Blue Cross Blue Shield of Michigan, Michigan Bankard discounts and free legal counsel for one hour.

LEGISLATIVE. Work closely with Karoub Associates, our lobbyist in Lansing to watch for and deter adverse legislation and to seek the passage of laws and regulations we need to preserve our existence in the marketplace.

MEMBERSHIP. To increase the membership of the association as strength in numbers is necessary to have a "voice" in government, receive discounts from services providers and to acquire the necessary funds to support the Association.

OFFICE AND STAFF. Direct the efforts of Marilyn Cunningham and Debbie Betts to improve computeriza-

tion of the office functions and the handling of hundreds of day-to-day duties they both do so very well.

This is a very brief description of Dan's job. As I think about the many daily thoughts I had in the office during my time there, I hope by reading between the lines you realize just how complex a job he has. I know I do.

At the present time we are working on several projects. Sponsoring two legislative bills that would provide survivorship rights to your family members and the transfer bill to allow selling your business to a qualified buyer. We are also working with legal advisors on how to combat the insistence of 24 hour operations by some suppliers. A survey will be sent to all members to determine what the SSDA-Michigan should be doing for its members.

Improving the Blue Cross and Blue Shield program to provide additional options to our current program and Michigan Bankard has agreed to reduced rates and improved your ability to accept Visa and Mastercard. Information will be coming very soon on both programs.

Improving communications, such as **SSDA News**, with guest writers is another accomplishment. Seeking the members input on services they would like the association to offer is very important.

Some other thoughts that crossed my mind during these two months. Namely, what the association has done in the recent past?

We worked closely with the Bureau of Automotive Regulations to rewrite the Mechanics and Facility Licensing Bill making it more acceptable.

We convinced the State Legislature to allow dealers to do the emission testing and not use a state-operated system.

We worked with the Treasury and Agriculture Departments in exposing dealers cheating the state, consumers *and you* because they used that money or product withheld to cut retail prices.

We enabled dealers throughout Michigan to receive thousands of dollars in the Bogozian Case rebate. The Stripper Well rebate is just about final — another windfall for dealers.

Sure we failed on the Divorcement Bill — you can't win them all — but we tried very hard, and we have not abandoned this cause.

One purpose in writing this article is to get your attention without using the proverbial 2 by 4. I would like you to answer this question — to yourself?

If you are a member — did you get your money's worth as a member? Were all the services, benefits and efforts of the association worth \$200 a year? How about the rebates?

If you are not a member — why should I get most of the services, benefits and efforts of the association for *nothing*? For only \$200 a year, I can get them all!

If you have any comments regarding this article, let me know by calling (313) 464-3323.

These Two Make Things Happen in SSDA-Michigan Office



Debbie Betts, Member Services Manager

When SSDA-Michigan members have problems with the special programs sponsored and offered by the Association, Debbie Betts is the first step in the resolution process.

Debbie Betts is the SSDA-Michigan Member Services Manager, the direct liaison between members and the Executive Director. Aside from her trouble-shooting duties, Debbie is responsible for enrolling members in special programs such as VISA/Master Card programs, Blue Cross/Blue Shield health insurance and business insurance coverages offered by the Association.

A graduate of Ross Medical Center, Debbie left the medical profession to come to the SSDA-Michigan one year ago. And while this is a job which at times brings complaints and problems, Debbie takes it all in stride while working to bring outstanding service in the SSDA-Michigan tradition to its members. The reason: "I like my work," says Debbie, "because I like the people in the SSDA-Michigan."



Marilyn Cunningham, Office Manager

Marilyn Cunningham has for 10 years been very efficiently doing the job many take for granted. She is the office manager of the SSDA-Michigan.

Charged with the tasks ranging from correspondence to payroll, Marilyn also is known to member dealers as the person handling their many inquiries. When not assisting with dealer problems, she maintains the workflow of the office. More than just a clerical position, office management, as Marilyn knows, is a "jack-of-all trades" position and a valuable tool in any organization like the SSDA-Michigan.

Married, mother of five and grandmother, Marilyn Cunningham is a sterling example of working excellence in today's office. And the SSDA-Michigan recognizes her efforts.

"This is a nice place to work," says Marilyn. "The people are great." That says it all.

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Used Solvents Require Management As Hazardous Wastes

by
Lillian F. Dean
Waste Systems Institute of Michigan, Inc.
313-546-9590

Introduction

Waste Systems Institute of Michigan, Inc. is a nonprofit, non-governmental organization providing waste information to business, education, and government organizations. For the past four years, WSI has prepared publications and workshops to assist businesses comply with "small quantity hazardous waste" requirements.

On May 9, owners and managers of 65 vehicle maintenance shops gathered at the Livonia Holiday Inn for a special workshop and presentation on proper hazardous waste management. The information in this article summarizes some of the main points discussed in the vehicle maintenance workshop.

Environmental Contamination and Legal Liability

Environmental contamination is a serious problem in Michigan, affecting water quality, public health, and sometimes the future viability of the businesses linked with the contamination. Oils and solvents — materials frequently used at vehicle maintenance shops — appear as the major source of contamination in 95% of the cases.

An increasing number of small businesses, including vehicle maintenance shops and service stations, are appearing on the state's contamination site list. Causes of the problems include the following:

- Leaking underground storage tanks;
- Old, leaky drums stored out-of-doors;
- Deliberate (illegal) pouring of oils and solvents on the ground;
- Improper floor drain connections, which allow hazardous materials to run out to nearby streams or soils;
- Improper storage and handling practices;
- Illegal transport and disposal by contracted service vendors.

These types of problems can be reduced through careful management of hazardous materials and hazardous wastes.

Legal responsibility for proper hazardous waste disposal rests with the **generator** (or producer) of the waste. This basic legal concept is long-standing, and has been upheld in major court decisions. **To reduce the potential for your own legal liability, always know the destination of your hazardous waste.** Thoroughly evaluate and check references on the services which transport, dispose, and/or recycle your oils or solvents.

Inspections of vehicle maintenance shops are now being targeted in some Michigan counties. Now is the time to become familiar with the legal requirements and to take steps to bring your shop into compliance.

Are you a small quantity generator of hazardous waste?

The first step in managing your solvents and other hazardous wastes is to determine your "generator status." If you generate between 100 and 1000 kilograms of hazardous waste in a single month (i.e., from 220 pounds to less than 2000 pounds), and if you never accumulate 1000 kilograms (2200 pounds), you are a "small quantity generator" and must meet certain management requirements. The quantity of 100 to 1000 kilograms is about 1/2 to five drums of waste.

If you are a small quantity generator, you may either recycle your solvents on-site, or make arrangements for off-site recycling or other disposal. All hazardous wastes shipped offsite must be accompanied with a manifest, or shipping paper. Manifests are valuable records for the business generating the hazardous waste, since they provide assurance that the hazardous waste actually reached the desired destination point.

Typical Types of Vehicle Maintenance Hazardous Wastes

Vehicle maintenance shops have been found to generate the following types of hazardous waste:

Parts washing solvents: Mineral spirits and other solvents used for parts washing are usually hazardous because they are ignitable. You should count the quantity of solvents which you purchase as well as solvents leased as part of a service agreement.

Paint thinner wastes: Paint preparation materials and thinners are often a blend of toluene, xylene, acetone and other hazardous liquids. Paint thinner wastes may be hazardous because they are ignitable, or they may be specifically listed.

Paint spray gun cleanup wastes: These wastes are usually hazardous because the solvents used are ignitable.

Paint wastes: Some paint wastes may be hazardous because they contain heavy metals and are therefore toxic.

Still bottoms from onsite solvent recovery: Still bottoms are usually hazardous when the original solvent is hazardous.

Floor cleaners, degreasers, rust removers, and other products: These types of products may contain corrosive acids or caustic substances which are hazardous.

Lead acid batteries taken from vehicles are not regulated as hazardous waste if they are sent out for reclamation. However, any leakage of sulfuric acid (as well as cracked batteries) requires management as hazardous waste.

Used oil mixed with solvents: Used crankcase oil is not subject to hazardous waste regulation if it is recycled. Brake fluid and transmission fluid can usually be added to waste crankcase oil, provided that the mixture does not become ignitable. However, **if used oil is not recycled, and if it is mixed with a solvent or other hazardous waste**, it will usually need to be managed as a hazardous waste. Used oil mixed with solvents may be hazardous as a result of its toxicity or its ignitability.

In determining whether you are a small quantity generator, you must count all of your hazardous wastes generated at your facility.

Recycling and Disposal Options for Solvents

Arranging for recycling and or disposal of your hazardous substances is the responsibility of each business. Always explore options before making a final selection: price alone shouldn't be the sole reason for a selection.

Solvent recycling is always the preferred option for minimizing costs and protecting the environment. Several approaches are as follows:

On-site recycling machine: You own the machine and may recycle your own solvents. The "recycled" solvent can often be used for parts washing, although rarely reused in painting processes. The still bottoms require disposal as hazardous waste.

Leased parts washer: On a monthly fee basis, you may rent both solvents and a holding drum part washing system.

Off-site reclamation: Solvents and some paint sludges from your facility may be picked up and transported to a reclaim facility.

Disposal of solvents into the sewer (municipal wastewater treatment plant) is not an environmentally safe practice. If you do need to dispose of solvents in the sewer, you should contact the municipal wastewater treatment plant to obtain permission.

Pouring solvents or other hazardous wastes onto the ground or into dry wells is always illegal.

Costs and Benefits for Vehicle Maintenance Shops

Shop managers will probably consider hazardous waste management a costly (but necessary) burden. It takes time and a committed individual to search out regulatory requirements and disposal options. The personnel costs involved in arranging for hazardous waste recycling disposal, and the costs for recycling disposal services may not initially be budgeted.

A booklet titled "*Michigan Guide to Small Quantity Hazardous Waste Management*" is available at no cost to any business upon request. Telephone the Michigan Department of Natural Resources office nearest to you:

Detroit District	(313) 344-4670
Grand Rapids District	(616) 456-5071
Jackson District:	(517) 788-9596
Lansing District:	(517) 322-1300
Painwell District:	(616) 685-9886
Roscommon District:	(517) 275-5151
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For further information about small quantity workshops and information materials, contact Waste Systems Institute of Michigan, Inc., 470 Market, S.W., Grand Rapids, MI 49503.

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Tank Leakage: What To Do

by Mark S. Henne, FTC&H
Consulting Engineers

Mark Henne is a consulting hydrogeologist with FTC&H Consulting Engineers. He works out of offices in Lansing and Ada, Michigan on groundwater contamination problems throughout Michigan and the Midwest. For more information contact him at (517) 627-1141 or (616) 676-2666.

He thinks it's going to be a routine day until he gets his mail. On the top of the pile is a letter from the Michigan Department of Natural Resources. The first line reads, "Groundwater samples collected from residential wells in the area of your service station indicate the presence of gasoline..." His first reaction is "How much is this going to cost me?" Perhaps he only bought the station a couple of years ago and begins wondering, "Should the previous owner share in the costs?" The answers to these questions and the many others which will soon arise are best provided by experienced professionals. Solutions will depend on how much gasoline has leaked, how long the tanks have been leaking, what kinds of soils lie beneath the station, and numerous legal and economic factors.

Leaking petroleum storage tanks and pipes have been identified as a major source of groundwater contamination. The problem is now haunting dealers, suppliers and refiners throughout the U.S. New tank and pipeline designs and methods of installation are helping to reduce the threat; however, older tanks and piping installed without cathodic protection and pit liners continue to be of concern. As these tanks age, the threat increases.

Usually an underground storage tank leak is not discovered until large volumes of product have leaked into the soil and groundwater. Sometimes the problem is first detected only after contaminants have migrated to a neighboring water well and the product is either smelled, tasted, or seen in water flowing from the tap. Complaints may also arise when neighboring property owners smell gasoline in their basements, or gasoline is detected in other underground structures such as sanitary or storm sewers, or telephone terminal pits. Routine excavation while installing underground utilities may also unearth a leak. Sometimes a tank or piping leak may show up as significant inventory losses, or as water in the fuel.

Most service station dealers have little or no idea of how to handle the problem when they first are alerted or become suspicious of a tank leak. Although much can be done by the dealer on his own, he may become frustrated in trying to satisfy the seemingly never-ending demands of local public health officials and the Michigan Department of



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Tank Leakage, *continued*

Natural Resources (DNR). Lack of knowledge and experience with these problems may cause the dealer to incur unnecessary costs, increase the contamination problem or even endanger the possibility of recovery from other responsible parties or insurance companies.

The first thing that a concerned dealer should do is to have his underground storage tanks pressure-tested for leaks. For testing, tanks are sealed and then pressurized for several hours. Pressure decreases in the tank are generally associated with tank leaks. There is a danger when testing the tanks, however, that existing tank holes can be enlarged and the volume of product seeping from the tank increased. Testing errors often make it difficult, if not impossible, to detect small tank leaks. To locate a testing company, the dealer might check with suppliers, look in the phone book under "Service Station Equipment Maintenance," or contact a consulting engineering firm for a referral.

Soon after discovering and confirming the tank leak, the dealer should probably contact his attorney. The attorney can play an important role in determining the liability of the dealer towards others, advising ways to minimize liability and assessing possible responsibility of previous station owners. The attorney should also be asked to review any liability insurance policies to determine whether the dealer may recover investigation, repair and cleanup costs under current or previous policies. If the local health department and DNR haven't already been contacted, the attorney should also assist in notifying them.

If the tanks are found to be leaking, the service station dealer should have the tanks removed and replaced with new tanks and fittings. Contaminated soil removed during tank excavation must be disposed of in a sanitary landfill after testing to insure the soils are not "hazardous" and after receiving approval from the DNR. New tanks should of course be installed in compliance with current regulations.

Although local public health officials will usually decide to test nearby water supplies for contamination, the dealer may also be required to determine what impact the leak has had on the environment. Generally the DNR will require the dealer to define the extent to which contamination has moved from the site, the direction the contaminants are continuing to migrate and the danger this contamination may be posing to other groundwater users. They will want to know whether any additional wells may become contaminated, how this can be prevented, how the gasoline will be removed from any contaminated soil left behind when the tanks were replaced, and how any contaminated water will be extracted and treated. The DNR rarely will be satisfied with merely removing the fuel storage tanks.

Few dealers have the experience or knowledge necessary to conduct the required investigations. The study of groundwater and environmental contamination problems is a specialty within the areas of geology and engineering. Before hiring a geologist or engineer to examine the problem, the dealer should carefully inspect the consultant's qualifications and experience in conducting similar studies. Although local public health officials or state regulatory agents cannot provide information on the qualifications of specific individuals or firms, they may have suggestions on how to hire a suitable consultant. The best source of information is probably other dealers who have experienced similar tank leak problems. The dealer's attorney may also be able to help in the selection.

The consultant the dealer hires will normally recommend that test wells be installed in the vicinity of the tanks and areas surrounding the station. He will use these wells to collect water samples and measure groundwater levels to determine the direction of groundwater movement. Information from the soil borings will help show how the gasoline is moving through the soil. The consultant will also look at the surrounding areas to identify homes and businesses using groundwater, and how the use of these wells will affect the movement of contaminants.

The investigation of the contamination will usually proceed in phases. Information gained from earlier phases will be used to guide the collection of data in subsequent phases. This phased approach to a groundwater investigation, although more time consuming, allows the consultant to gain the greatest amount of information about the site for the least cost. The ultimate goal of the investigation is to provide the dealer and regulatory agencies with the information necessary to arrive at the most efficient and effective method of correcting the contamination problem.

The technology of cleaning up petroleum spills is rapidly expanding. Cleanup may involve removal of contaminated soil, and pumping and treating contaminated groundwater. Using recently developed technology, gasoline above the watertable might also be effectively removed by pumping air through the soils or treating with bacteria. To accurately determine the most effective way of cleaning up an area, the consultant must have complete understanding of the geology and distribution of contaminants. If the dealer or his consultant fails to do this, the cleanup may be incomplete and additional time and cash-consuming work will have to be done.

The discovery of a petroleum spill can be a major problem for a service station dealer. With proper help from a lawyer, assistance from an experienced consultant, and cooperation with the local health department and DNR, the contamination problem can be properly dealt with and remedied at the least cost to everyone involved.

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Fringe Administration

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The service station dealer provides fringe benefits to his(her) employees for the following reasons:

- Keep good employees
- Attract employee applicants
- Provide for employees who are relatives
- Concerned over employee welfare

Benefit costs, as an overhead, are generally administered in such a way that they are counter-productive to profit. You can improve on that outlook through a better understanding of **Fringe Administration**:

Certain fringes are legally mandatory by government required programs.

Retirement benefits	Social Security
Medical coverage	Workmans' Compensation
Disability income	Workmans' Compensation
Income protection	Employment Security Commission
Minimum income protection	Department of Labor
	Wage & Hour

Ideally, you should strive to *supplement* these coverages for which you are already spending 9% to 15% of your payroll under a category called "payroll taxes". Since you've already covered on-the-job employee welfare through government programs you should be addressing the employee benefits against personal and family needs. With this in mind you have to ask the following questions:

"What coverages should I buy?"

"Who should I cover?"

"How much will it cost me?"

"Where do I get what I want?"

While these questions are all primary they are not in the right order nor are they properly phrased. The question of "How much will it cost me?" should be put to the top of the list and restated as "What can I afford to spend?" This is your first step toward an effective **Fringe Administration** setting a budget. I suggest you set your budget based at 7% to 10% of your gross payroll. This will fix your cost to your payroll administration which most dealers already control quite well. You will have forced a limitation on your fringe expenditures which will make it easier to shop since you have limited your budget.

The second question you must answer is "Who will (not should) I cover?" since you must now deal with NON-DISCRIMINATION RULES and the possible necessity to develop a company policy. Discuss this with your business advisor before finalizing your plan. Here are three categories under which you can exclude certain employees:

- Works less than 17½ hours per week
- Has been with you for under one year
- Is under 21 years of age

You may not exclude an employee by Class-of-Trade, which means the law will not let you deduct expenses for fringing the mechanics and not the gas pumper if the gas pumper qualifies in all other areas. Most dealers are now walking a thin line in this area at present. Call us for a copy of the **Fringe Benefit NONDISCRIMINATION RULES** if you cannot get it from your business advisor or accountant.

Selecting the benefits you will offer is your third step. Some of your choices are:

Hospitalization	most expensive
Life insurance	very inexpensive
Disability coverage	cost controllable
Education funding	controllable
Legal assistance	reasonable
Retirement income	expensive

In light of the fact that hospitalization coverage has such a big appetite it could limit your ability to provide other coverages. You should consider limiting your contribution toward this cost so that you can include at least some life and disability coverage. Most of your employees will never have adequate coverage in these areas unless you bring it to them.

- I) Buy through your Association since they provide group programs that give you the greatest coverage for the lowest dollar.
- II) Use term life insurance products (most of your employees could have \$50,000 in life insurance for under \$140.00 per year) (\$11.50/month).
- III) With disability you can lengthen the waiting periods and shorten the benefit period and still cover their most critical needs for loss of income. You should be able to do an adequate job for an employee for \$300 to \$400 per year (\$30.00 per month).
- IV) Legal insurance is about \$12.00 per month and provides for basic legal needs.
- V) Education funding should be confined to:
 - a) Tuition for job related courses, upon successful completion.
 - b) Books and school supplies.
 - c) Encourage the use of this benefit since its direct benefit to your business is good.
- VI) Retirement funding will be costly Controls are mandatory here. Seek qualified consultation before making a commitment in this area.

Discuss with your business advisor ways in which you can administer some of your fringe benefit costs as an incentive for productivity. This is especially helpful when you can establish greater benefits with off-setting profits.

So that you do not get "locked-in" on some benefit costs you could always provide "spot" fringes with limited amounts for a limited time period. ie: Announce to your employees that you will cover the cost of eye exams and new glasses up to \$100.00 over the next 60 days at XYZ Optical Center (where you have already negotiated a 25% discount). On this basis you have a very direct control over your fringe cost and can provide the benefit during more profitable periods.

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PMPA AT NINE

The Soft Spots

by Mark Cousens

SSDA-Michigan Legal Counsel
Miller, Cohens, Martens and Ice
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If PMPA has been a great success at controlling terminations and nonrenewals, it has been a failure at solving certain other dealer problems. In 1978, the problem of dealer terminations and nonrenewals was the first priority. The Act was therefore not designed to deal with every problem dealers face. Some of the language in the Act was a compromise, accepted to insure that PMPA was passed.

Section 102 (b) (3) (A) of the Act is an example of language which was a compromise. The section states that non-renewal of a dealer franchise is permitted if the parties have been unable to agree on changes or additions to the franchise if (1) the changes are adopted in good faith and the normal course of business and (2) the changes are not proposed for the purpose of preventing renewal of the franchise. This language *sounds* reasonable. After all, a dealer should not be able to hold hostage his relationship with his franchisor because he refuses to agree to some change in the franchise.

An example might include a dealer whose business included parking many wrecked and abandoned vehicles on his property. Most franchisors (and many dealers) find the long term storage of such vehicles objectionable. Such a provision would be acceptable to most dealers. Some dealers will not agree to this provision, however. Without this section of the Act, a franchisor could never make this change in its franchise. It is unreasonable to prevent a franchisor from insisting on a change to the franchise, if the change is a reasonable one.

This section of the Act, however, has been used to impose some outrageous requirements on dealers. Franchisors have unilaterally imposed on dealers language which no responsible businessperson would agree to. Dealers have been threatened with non-renewal unless they sign the franchise, because their refusal to agree constitutes a basis for non-renewal of the franchise.

There is no better example of this problem than rent. Dealers in business before 1973 remember rents which were, essentially, nominal. In some cases, the rent was less than the real estate taxes on the property. With the first shortages of the early 1970's, however, franchisors discovered the "economic" rent: a rent structure which produced income for the franchisor.

Economic rents began as a minor nuisance, but have escalated into a major problem. Some rentals are now so

high as to be virtually confiscatory. The oil company is not just a dealer's landlord; it has become his partner. One company calculates rent at roughly 20% of the dealer's net. The formula for some other companies is not much better. Dealers expect to pay rent, but these rents are a shock and an outrage.

Shortly after the Act was passed, dealers took into the courts several cases challenging economic rents. They argued that these rents were so excessive as to not have been adopted in good faith, and certainly were not in the "ordinary course of business" and were guaranteed to prevent renewal of the franchise. The cases were well argued by capable lawyers. The arguments were intelligent.

Every dealer lost.

The courts held that "good faith" meant that the dealer had to show that the rent was discriminatory and that the franchisor was deliberately discriminating against a particular dealer. "Ordinary course of business" meant that a rental structure was not illegal if it was not discriminatory. In short, if the franchisor could show that a rental structure was based on some formula which was applied uniformly and did not discriminate against a particular dealer, the rental was not unlawful.

These cases taught that the Act was not the panacea that dealers hoped it would be. It did not solve every problem. It could not be used to challenge a particular rent.

The cases do not mean that a franchisor can charge any rent it chooses. A rent structure that discriminates against a dealer or that is certain to prevent renewal of a franchise can be challenged. Moreover, I believe the time is ripe to bring into court some of the more outrageous rent proposals, to argue that the formula is unactionable. A formula that is based on a percentage of net profit is shocking. Franchisors are not partners in the enterprise; they are landlords and suppliers. Such a rent structure should be challenged.

The best way to deal with this problem, however, is to amend the Act. Several amendments to the Act have been submitted to the Congress. Among them is a change to section 102 (b) (3) (A) to require changes to the franchise to be *reasonable*. Franchisors would be required to prove to the courts that the change they wish to make is reasonable. This would permit the courts to review—and reject—unreasonable rents, and unreasonable terms in the franchise (including under some circumstances, 24 hour, 7 day operation). The addition of this one word will go a long way toward solving many of the problems dealers have with their franchisors. Passage of the amendments to PMPA must be considered a priority for every dealer.

PMPA resolved many of the problems dealers had with arbitrary terminations and non-renewals. But it did not solve every dealer problem. After nine years of experience with the Act, we know its soft spots. We have to be realistic about them; but it is our job to fix them by amendments to the Act.



APPLICATION FOR MEMBERSHIP SERVICE STATION DEALERS ASSOCIATION OF MICHIGAN, INC.

24333 Southfield Road • Suite 111 • Southfield, Michigan 48075
Telephone: 313 557-3940



I (We), by submitting this application and the payment of scheduled dues, hereby apply for membership in the Service Station Dealers Association of Michigan, Inc.

BUSINESS NAME: _____

BUSINESS ADDRESS: _____

CITY: _____ MI ZIP: _____ PHONE: () _____

BRAND OF GASOLINE SOLD: _____

TYPE OF OWNERSHIP (Check appropriate box)

☐ SOLE PROPRIETORSHIP ☐ PARTNERSHIP ☐ CORPORATION

LIST OWNERS/PARTNERS/CORPORATION PRESIDENT AND TREASURER:

NAME: _____ TITLE: _____

RESIDENCE ADDRESS: _____

CITY: _____ ZIP: _____ PHONE: () _____

NAME: _____ TITLE: _____

RESIDENCE ADDRESS: _____

CITY: _____ ZIP: _____ PHONE: () _____

LIST ADDITIONAL STATIONS OWNED

1. STATION NAME: _____ BRAND: _____

ADDRESS: _____

CITY: _____ ZIP: _____ PHONE: () _____

2. STATION NAME: _____ BRAND: _____

ADDRESS: _____

CITY: _____ ZIP: _____ PHONE: () _____

Signature _____

Date _____

DUES SCHEDULE

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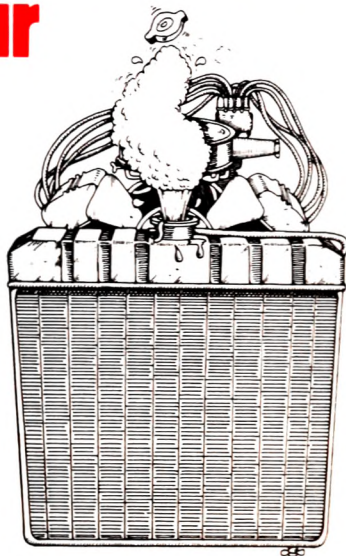
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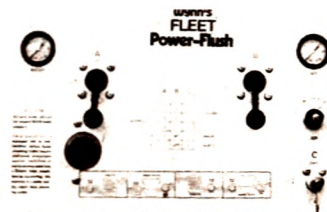
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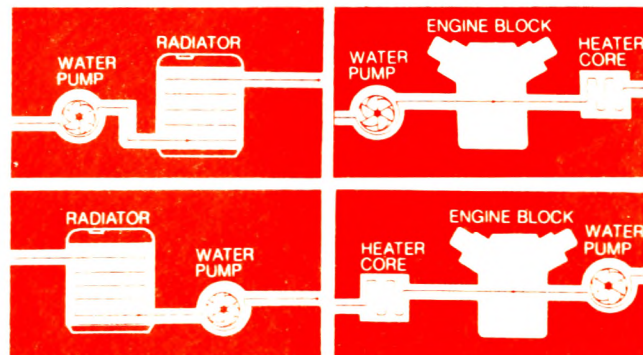
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