



SERVICE QUARTERLY

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EXECUTIVE DIRECTOR LEAVES SSDA-MI FOR STATE CAPITOL



SSDA-MI's
former
Executive
Director
Dan Loepp

Daniel J. Loepp resigned as the Executive Director of the Service Station Dealers Association of Michigan as of January 1, 1993.

The former Executive Director is now working as Chief of Staff for **Speaker Curtis Hertel** and the Democratic Caucus of the Michigan House of Representatives.

The dealers and the Board of Directors are sad to see him go, but they see

the benefit of having someone who understands the plight of the small business person in such an important position.

For the past five and a half years, Dan has worked to improve the situation for the dealers of this state. The Board and staff of the SSDA-MI support Dan's decision and wish him the best of luck in all his future endeavors!

See page 3 for an in-depth interview ♦

THE SIGNING OF P.A. 1 ALLOWS M.U.S.T.F.A. TO CONTINUE

Senate Bill 45 was signed into Law on Monday February 8, 1993 by acting Governor, Lt. Governor Binsfeld, making it the first public act of 1993, P. A. 1.

This bill has been long awaited. In November, all Owner/Operators received a certified notice that M.U.S.T.F.A. would stop taking claims on February 8, 1993. When this information was received, all parties affected began to work together in the legislative process, to solve the problem by the February 8th deadline. Realizing that M.U.S.T.F.A. was in need of

great repair, the legislature devised a two step process to remedy it.

The first step was to meet the February deadline requirements. Through a great show of bi-partisan work in both houses of the legislature, that deadline was met and included the following changes.

1. Extended the sunset to 2000 which makes M.U.S.T.F.A. solvent again.
2. Added criminal penalties for fraud and abuse to the fund.
3. Addressed the substantial compliance issue at the Policy Board level.

4. Required rules to be written for M.U.S.T.F.A. within one year.

5. Allowed banking industry to use M.U.S.T.F.A. for the pollution liability in case of a default or foreclosure, rather than the liability falling on the bank directly.

These corrections in P.A. 1 allow M.U.S.T.F.A. to continue in a proper fashion and allow clean ups to continue.

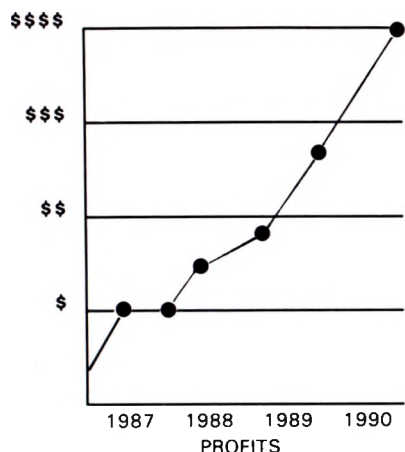
The second step is the continuance of work groups, including the Senate, House, and Governor's office to finalize the requirements and to have a fair and expedited

process for M.U.S.T.F.A..

These groups are addressing clean up procedures, the contractor issue, method and timeliness of payment, and the requirement of Owner/Operators in the clean ups. Led by Senator Vern Ehlers and Representatives Tom Alley and Mick Middaugh, these working groups have been very productive and involve industry, state, banking and environmental sectors. The request has been made to have this second set of amendments out by early summer. We will notify you as things progress. ♦

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CHANGE MUST COME

When Dan Loepp started at the SSDA-MI in 1987, *SQ* interviewed him and asked what he had in store for the SSDA-MI. He told us his main concern was making the "story of the dealers" known to our legislators.

Five and a half years later, Dan has moved on to become the Chief of Staff of the Democratic Caucus of the House of Representatives. *SQ* was able to interview Dan again. This time we asked him what he thought the future had in store for the dealers of Michigan and for himself.

SQ: How do you think the "story of the dealers" was told during your five and a half years at the SSDA-MI?

DL: I think we personified the story of the dealers. What we did, not only myself but my co-workers, was to actually get the story out and have an impact on changing the lives of the dealers. The professionalism of the staff increased significantly and with that professionalism, we were able to do some things that weren't done before.

If you play the stereo without the speakers you won't hear the music. Like speakers, we played the role of amplifying the story. And while we didn't succeed at everything we did, we probably had more public policy impact in the last five years than we've had in the last fifteen.

SQ: Do you think the dealers of Michigan are heard clearly now?

DL: There is no question that the dealers of Michigan have a louder voice and are heard clearly by legislators. The simple fact that they're players in the political arena, supporting and defending candidates, implies that. For example, when it costs a candidate approximately \$100,000 - 150,000 to get elected in a contested

state representative seat, unless they're independently wealthy, candidates need help from someone. And because of their particular interest, the dealers have stepped in and helped a lot of Representatives and Senators, who share some of the same views on things, to get elected or re-elected. The dealers have made an

enormous impact by taking an active role as opposed to a passive one.

developed so many personal relationships, they don't just disappear. But, obviously this is a new spin to my working life. I would hope that I would take the same fervent attitude to my job here, as I did at the association. As for the first five weeks, that seems to be the case.

I am still interested in what happens to the service

is going to forge ahead with the below cost selling bill, I don't think the association will walk away from important legislation simply due to a change in leadership. I think legislation will continue to be an important part of the SSDA-MI.

Benefits and services are a vital part of the association as well. That focus has to develop and continue to be strong.

SQ: Is there anything a dealer can do to be more involved with a particular environmental issue they're concerned about?

DL: The way to get involved is back home with your legislature. In my new job I have talked to many doctors, hospital workers and insurance professionals who are concerned with the auto insurance reform package and the medical malpractice liability package. These people are personally involved. The issue may be different, but the way to get your point across is the same. Dealers should continue to share their concerns with their legislators back home.

SQ: What do you think will be the main concern of dealers in 1993?

DL: I think survival will be a large concern for many single station owners. The association plays the role of looking at the big picture, legislatively. With the support of dealers they are able to combat issues. When the association needs help with donations, public hearings, or contacting your legislature, dealers should be involved and supportive. If we work together we can make things better. Also, as a business person in the 1990's you have to pay attention to your business and the bottom line. It is getting tougher and tougher to make the kind of money that was made in the '80's.

CONTINUED ON PAGE 20



IN 1987, DAN (SECOND FROM RIGHT) IS WELCOMED AS SSDA-MI'S NEW EXECUTIVE DIRECTOR BY (LEFT TO RIGHT) PHIL BUCALO, EXECUTIVE BOARD MEMBER; GEORGE SCHUHMACHER, SECOND VICE-PRESIDENT, AND DENNIS PELLICCI, PAST EXECUTIVE DIRECTOR.



DAN, IN HIS NEW OFFICE AT THE HOUSE OF REPRESENTATIVES IN THE STATE CAPITOL.

enormous impact by taking an active role as opposed to a passive one.

SQ: While you were at the SSDA-MI, you were entirely committed to the dealers. How do you think your commitment has changed now?

DL: I don't think you can spend five and a half years of your life committed to something, walk away, and just forget it. When you have

station industry and what happens to the people in the industry. I still talk to members of the board about issues and about their families.

SQ: What do you think the association should focus on now?

DL: With everything that is coming down the pike, like the AET program, Stage II, and all the other environmental legislation, or whether or not the industry

ENVIRONMENTAL UPDATE

By Terry Burns, SSDA-MI Acting Executive Director

CLEAN AIR AMENDMENTS

In 1990, Congress passed the Clean Air Amendments to regulate compounds that could effect the ozone. This bill brought us the requirements we now have on air conditioning service and CFC's. Some of the operations this bill regulates are the Inspection and Maintenance, Stage II, and the Reformulated Gas programs. States may implement these options within their non-attainment areas to meet the 15 percent VOC reduction that is required by the amendments. The non-attainment areas of Michigan are the Grand Rapids/Muskegon area to the west, and the Detroit Metropolitan statistical

area (at a minimum Wayne, Oakland, Macomb and Washtenaw counties) in the Southeast.

These three controls have been hot topics in the last four months and are going to be discussed daily for the next 6 months. The following will break down these controls independently, as they stand as of late February.

1. Inspection/Maintenance. The AET program, as we know it today, must be upgraded. It only meets the absolute minimum that was required 8 years ago. This program has been discussed tirelessly and the conclusion is that the program

is doing what it was intended to do. The problem is that the program was not intended to do very much. Those who

are reviewing the program see it as weak and inefficient, therefore, advocate drastic changes. This idea is fueled by the E.P.A. requiring I/M 240 in a test-only (centralized) situation to receive full credit from an I/M program. In return for that requirement, the Service Station Dealers Association of America, the National Automobile Dealers Association and individual



state associations, including, the Service Station Dealers Association of Michigan have filed suit against E.P.A.. The suit states:

- E.P.A. doesn't have authority to make the rules. Clean Air Act calls for the agency to produce smog-check guidelines, but leaves decisions up to the states.
- E.P.A.'s demand for centralized, test-only system

CONTINUED ON PAGE 20



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NEWS UPDATE

SSDA EMPLOYEE AND SQ EDITOR MOVES ON

On January 15, 1993, **Tish Skeen**, Director of Communications, Meetings and Conventions, notified President **Mick Kildea** that she had accepted the position of Majority Deputy Director of Communications with the House Democrats. Her new job will be overseeing House publications, fund-raising assignments and event planning. She will be reporting to Director of Democratic Central Staff and former State Representative, **Jim Kosteva**.

M.U.S.T.F.A. UPDATE

Legislature voted to extend the MUST Fund to the year 2000. There is still a lot of work to be done, but at least the fund is still alive. Without this legislation it would have died on February 8, 1993. See front page for details.

FAMILY AND MEDICAL LEAVE

The family and medical leave bill passed Congress in February. This bill allows for up to 12 weeks unpaid leave for employees when a child is

born or adopted, or in case of family illness. **This bill only affects companies with 50 or more employees.** The majority of our members will not be affected by this bill.

MINIMUM WAGE INCREASE

Congressmen who are opposed to a wage hike will need to show that a wage increase would stunt job growth in order to convince **President Clinton** that his support of a re-evaluation of the federal minimum wage would be detrimental to his economic recovery plan.

NATIONAL WEIGHTS & MEASURES WEEK

March 1 through 7 is National Weights & Measures Week, honoring the weights and measures inspectors who protect the public - consumer and merchant alike. Thousands of weighing, measuring, and timing devices — all devices used in trade — are inspected for accuracy. This year marks the 155th anniversary of state programs, which have assured uniformity across the United States. Beginning in

1836, Congress directed a set of standards, and then in 1838, a set of balances to be delivered to each governor.

FLAMMABLE & COMBUSTIBLE LIQUIDS RULES

The Flammable and Combustible Liquids Rules of Michigan State Police Fire Marshall Division became effective on July 15, 1992. These rules provide technical standards for handling and storage of flammable and combustible liquids.

Also, these rules effect the automotive and marine service station codes. These updated rules effect new locations or stations that are upgraded. Also under these rules, there are 3 changes required by service stations to have in place by July 1st. They are as follows:

1. Each hose nozzle valve shall be equipped with a device to prevent splashing of liquid during the dispensing operation into a fuel tank of a motor vehicle (splash guards).
2. A new sign shall be conspicuously posted in the dispensing area with the

following or equivalent wording. "A person shall remain in attendance outside of the vehicle and in view of the nozzle"

3. Each existing location shall have a minimum of 2 listed fire extinguishers, one of which shall have a minimum classification of 4A:20BC or a minimum of one listed fire extinguisher which shall have a minimum classification of 4A:40BC.

Remember, July 1, 1993 is the deadline for all existing gasoline outlets to comply with these rules. If you have any questions please call the Service Station Dealers Association of Michigan office.

NATIONAL LEGISLATION

S. 338 is a new bill number for the Senate version of the amendments to the P.M.P.A.. **Senator Ford** and **Senator Kruegar** of Texas introduced the bill and displayed support of having this bill passed as quickly as possible.

Mark up of this bill is dependent on the committee's schedule. ♦

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That's why the Michigan Environmental Consultants And Contractors Association was created just one year ago. Through MECCA, we can set professional standards and guidelines, report on the safety and quality of our member services, represent our industry before state and local governments, and much more. But the success of our organization, and our industry, depends on our ability to work together.

To find out more about MECCA, please call or fax our office today. Together, we can make certain our young, growing industry develops the influence and respect it deserves.



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By Mark Cousens, SSDA-MI Legal Counsel

TIME TO SELL



The sale of a going business is always a complex affair. The sale of a service station franchise is more than that. But more and more dealers are beginning to recognize that a going business has a value. Dealers can realize a high sale price for a lifetime of work, but selling a business is not the same as selling a used car. And the sale is made more difficult because a third party (the franchisor) must consent to the sale. Let's discuss just what is involved in a sale, and what the law requires.

Terms

The sale begins with a logical question: what is being sold? The sale will include, at a minimum, the dealer's goodwill. But it may also include equipment, inventory and customer lists. Each of these items is an important part of the transaction.

First, every sale includes the "the blue sky." This is the value to be assigned to an intangible. It is the value of the location, the value of the reputation of the business, the value of the group of core customers who regularly do business at the facility. Assigning a value here is perhaps the most significant part of the bargain.

Second, most sales include existing equipment. The dealer-owned equipment is often underpriced. It is used, and many purchasers do not need it. Still, tire changers and emission testers are not cheap. And a selling dealer should not hesitate to seek, and a purchasing dealer be prepared to pay, a fair price for them. Telephone systems, cash registers, safes, computers, and the like should not be overlooked. They, too, have value.

Finally, a sale will usually require a dealer to promise not to engage in a

similar business. These "covenants not to compete" are legal if they are reasonable. The test is how long (for how many years is the promise binding) and how wide (for how far from the station is the promise effective). In this industry, it is reasonable to expect a seller to require such a promise to last 3 years, and be extended to a 1 mile radius from the station. These promises are accompanied by the sale of existing customer contracts (fleet charges and towing contracts).

Payment

Some sales are cash deals with all of the sale price paid in cash at closing. But most sales provide for payment over time. There is nothing inherently wrong with time payment. However, a such payment presents a problem for a selling dealer. Ordinarily, when a property is sold, a seller can hold a security interest in the property; The property can be retaken (foreclosed) if the purchaser defaults on payment obligations. But that is not possible in the sale of a service station.

The sale of a facility includes the transfer of a franchise to the purchaser. Assuming the supplier agrees, the purchaser will become the franchisee. A selling dealer may not foreclose on the purchaser because he may not demand that the supplier return the franchise to the seller. Thus a seller cannot hold a security interest in the property sold. But there must be some method to insure payment of the sale price.

The best method of security is to take a mortgage on the seller's home. But this assumes that the seller owns a home, that the home is worth both the amount of the first mortgage, and the

portion of the sale price being secured. The selling dealer must make sure that, if necessary, he can foreclose on the home, pay off the first mortgage, and still receive enough to pay the amount due on the sale.

This observation is equally relevant to dealers who own their property. While it is possible for such dealers to sell the land, and hold a mortgage on the land, dealers should not do so. A dealer will not want to hold a mortgage on land that may become contaminated. It is all too possible for a purchaser to fail to maintain the U.S.T. system, contaminate the property, and then default on the payment obligations. A mortgagee will not want to foreclose on contaminated property, as he will become responsible for the environmental remedy.

The best solution here is to receive a very high down payment. Dealers with a lot invested in a property will be less inclined to default on payment obligations.

The Agreement

Once we know what is being sold, and what the price is, and how payment is secured it is imperative that the terms be written down. Too many sales are based on hand shakes. Sale agreements should be complete, and not drafted by amateurs. The sale agreement should: describe the property being sold; the sale price; the payment terms; security arrangements; the status of any claims against the seller; the status of environmental conditions at the facility.

The agreement should also note that the sale is subject to the approval of the franchisor. Down payment is received subject to approval of the sale.

The Franchisor

A sale is always conditional. A dealer has the right to sell a franchise, but a franchisor has the right to refuse to accept the new franchisor. However, a franchisor may not "unreasonably" refuse a transfer.

To receive approval for a sale, the selling dealer should first notify the franchisor promptly provide a copy of pertinent financial records, and other data relevant to the sale. And this should be accomplished quickly. A franchisor has 60 days to consider a proposed purchase. However, that time does not begin to run until the supplier has all of the information relevant to the sale. A selling dealer should not prolong the process by delaying the production of necessary information.

Rejection

The transaction must be approved by the supplier. But the supplier may not be arbitrary or unreasonable in its consideration of the matter. The supplier must state its reasons for any rejection, and the reasons must be rational and valid. A rejection by a seller may be challenged. A dealer may begin suit to attack a supplier's rejection of a sale.

The right to sell a dealer's business has insured that Michigan dealers are building equity in their businesses every day they operate. Numerous dealers have taken advantage of this opportunity in recent years. And many more will do so in the future. The trick is not in the sale. The trick is to do it right. ♦

FEATURE ARTICLE

By Stephen B. Shaer

SURVIVAL ISSUES FACING INDEPENDENT STATION OPERATORS

While many independent service station operators have "hung it up" these past several years and others are wondering how to "hang on," others are enthusiastic about the possibilities for the decade ahead and beyond.

Without question, the speed of change in the gasoline station business is fast-paced, and the speed seems to be increasing each year.

Even though there are those seriously questioning whether this is a business with a future, there are others who are taking the hurdles, facing the industry in stride. "It's a business with all the same problems of any other business today," comments Kevin Rooney of Weymouth, Mass., the operator of a chain of seven independent gasoline stations.

Survival today means dealing with a series of basic issues that were virtually nonexistent a decade ago.

1. The emphasis will be on business skills. The gasoline station may well have been one of the last of the outpost for the nation's "cowboys." Owning a station gave thousand of "little

guys" the opportunity to run their own lives, a chance to "call the shots," to run their own show and not have to answer to anyone. It was their road to independence. Even with all the hard work, this independence is what brought them into the business and kept them there.

Today's service station owner must be a business person first; A buyer, a merchandiser, a strategist, a planner, a manager, a PR specialist. These business skills are essential to survival in the highly competitive and changing consumer environment.

"Flying by the seat of your pants" won't do it. "Gut instinct" may be helpful but, today, a PC spreadsheet is as necessary as an electronic dispenser.

2. The cost of doing business is zooming higher. Getting into the business for "short money" is long gone. It takes substantial resources to be in the service station business today, and even more will be required in the years ahead.

Whether it's taxes, fees, equipment, building and remodeling expenses, or

environmental remediation work, the price tag is soaring sky high for the independent service station owner.

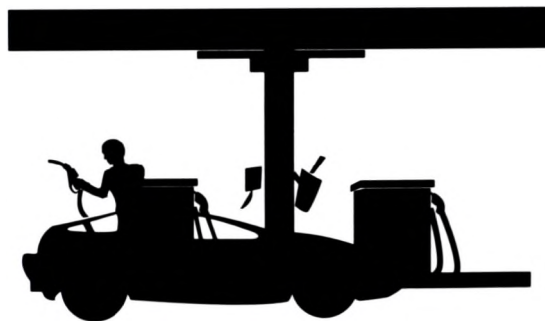
At the very top of everyone's list are environmental issues. At every industry meeting, it's the number one topic of discussion. The fear can strike deep, since the cost of site cleanup can run up to \$500,000 or more. And with government trust funds to assist with the work running out, the prospects are frightening.

At the same time, competition on one side and regulators on the other are

forcing owners to spend enormous dollars on new equipment and modernization programs.

New tanks can now run from \$150,000 to \$200,000. Four electronic dispensers, a canopy and an upgraded building might add another \$150,000 to \$200,000 to the bill! There are also the complex issues related to gaining approvals and licenses. These can be some of the most costly process in terms of both time and money, requiring a level of expertise (and patience) that is nothing less than astounding.

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FEATURE ARTICLE

3. There's going to be increased competition.

Posted price signage is common today. In fact, the customers are wary of the station that does not announce its prices to the world.

the service station repair business. At the same time, the auto service specialty shops are taking more of the tune-up, brake, oil change and lube business away from the gasoline station.

Looking ahead, it's evident in both the short- and long-term, that alternate fuels to gasoline are on the way. Whether it's natural gas — or something else — new fuels will be energy sources for vehicles.

This is just one indicator of growing competition. More is on the way. When it comes to repairs, for example, the auto manufacturers have decided that they want their dealers to get a much bigger piece of the pie. Extended warranties drive consumers back to the dealerships for service!

Besides, cars today require far fewer light bulbs, spark plugs, belts, tire repairs, carburetor adjustments — the things that were the bread and butter of

This calls for additional profit centers, new ways to attract the customer's dollar. This is where the combination gasoline station, convenience store, car wash, dry cleaner, garden center configuration comes in. And this includes a marriage between chains such as Dunkin' Donuts, Burger King and McDonald's.

The ability to understand and anticipate trends and to manage a complex enterprise is demanding and it will be even more so in the future.

4. Dealers must develop solid supplier relationships. The direction in every area of business is the same — fewer and fewer suppliers. With refining cost climbing, the pool of companies capable of providing the necessary capital is getting smaller. And this will continue.

The message is clear. It won't be possible to bounce from one supplier to another in the years ahead. In the past, it's been possible to make changes easily and quickly, but this day is drawing to a close.

The emerging theme in the gasoline business is the same one that's spreading across other sectors of the business community: we are all in this together, suppliers and station owners. In effect, individual success is dependent upon developing relationships. This involves taking time to understand each other's problems and to get over adversarial attitudes.

5. Stations must prepare for the advent of alternate fuels. We have all

watched most of the small, local and independent appliance stores disappear, along with many of the small, locally owned banks, clothing shops and grocery stores.

Looking ahead, it's evident in both the short- and long-term, that alternate fuels to gasoline are on the way. Whether it's natural gas — or something else — new fuels will be energy sources for vehicles.

What effect will these fuels have on the independent service station operation — and operators? To say that the day of reckoning is a long way off or will never happen reveals total ignorance. To ignore the direction that fuels are taking is to court disaster. What should the independent station owner be planning for when it comes to the new fuels? Right now, find out everything you can about the fuels.

These five issues are some of the key survival factors influencing the destiny of the independent gasoline station operators. ♦



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EDITORIAL

By Mick Kildea, SSDA-MI President

TERRY BURNS IS SSDA-MI'S NEW ACTING EXECUTIVE DIRECTOR



Upon notice of the recent resignation of **Executive Director Dan Loepp**, the SSDA-MI Board of Directors established the Assessment Committee, chaired by **Past-President Phil Bucalo**, to review the status and direction of the association. The committee focused on preserving continuity and moving forward on issues that

are important to the success of our members, and after much consideration, the committee unanimously decided to designate **Terry Burns** as Acting Executive Director, effective January 20, 1993.

Terry has been with the association since May of 1990. His working knowledge of our membership services as well as his outstanding

history with regulatory affairs makes Terry the most qualified for the position. His ability to handle the administrative and legislative business for the Board and our members has been proven through his dedication in the past.

The Assessment Committee has great confidence in Terry's abilities, and the decision to place him in this

position has been well received. The dedication and professionalism, that has been shown by the entire staff during this transitional period, proves that the proper decision was made. As the Assessment Committee continues its review, you can be assured that the proper steps will be taken to guide the Service Station Dealers Association to a successful future. ♦

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SOCIAL SECURITY TALK

By William M. Acosta, Copley News Service

RECEIVING MILITARY BENEFITS AND SOCIAL SECURITY

Q. I receive military retirement pay from the Navy. I also am eligible for retirement benefits from Social Security. Will I be offset because I receive military retirement pay?

A. You can get both Social Security benefits and military retirement. Generally, there is no offset of Social Security benefits because of your military retirement. You'll get your full Social Security benefits based on your earnings.

However, your Social Security benefit may be reduced if you also receive a government pension based on a job in which you didn't pay Social Security taxes.

Q. I am 75 years old and recently broke my hip. I am receiving skilled home health care. Will this be covered under Medicare?

A. Yes. If you need skilled health care in your home for the treatment of an illness or injury, Medicare pays for covered home health services furnished by a participating home health agency.

To qualify, you must be homebound, need part-time or intermittent skilled nursing care, physical therapy or speech therapy. You also must be under the care of a physician who determines that you need home health care and sets up a home health-care plan for you.

Q. Both my husband and I work and pay Social Security taxes. On which record will my benefits be based.

A. You will receive benefits based on your work record if you work long enough under Social Security - usually 10 years - to be entitled to benefits. If your husband's benefit is more than

your own Social Security, you will receive an additional amount on your husband's record.

Q. Do I need a lawyer to appeal a decision made by Social Security?

A. No, but if you do hire one to represent you, you should be aware that Social Security decides in advance how much money the lawyer can charge you.

Q. I plan on retiring in August 1992. I will make \$42,300, which includes my overtime, sick and annual leave. Will I be able to receive any checks this year?

A. Yes. A special rule applies to your earnings for one year, usually your first year of retirement. Under this rule, you can receive a full Social Security check for any month you are "retired," regardless of your yearly earnings.

Your earnings must be under a monthly limit. The monthly limits in 1992 are:
*Age 65 through 69, \$850.
*Under age 65, \$620.

We count your wages in the month you earn the money, not the month you are paid.

If you want more information on how earnings affect your retirement benefit, call us to ask for a copy of the fact sheet "How Work Affects Your Social Security Benefits." The toll free number is (800) 772-1213.

Q. My husband is 67 years old and I'm 47 years old. We have been married for 21 years and he is currently receiving Social Security benefits. If my husband dies before I do, will I be eligible to receive his benefits?

A. You can only be eligible as a widow if: *You are 60 or older. *You are 50 or older and disabled. *At any

age if you are caring for a child under 16 or a disabled child.

Q. I currently live alone, but I am having a hard time living on the Supplemental Security Income that I receive. What would happen if I move in with my friend who is on SSI?

A. It is very important that you notify Social Security any time there is a change in your address or living arrangements.

Since you are both receiving SSI, it is assumed that sharing is involved. We will need your friend's Social Security number when you move, and we may ask you more questions regarding your living arrangement.

The amount that you receive wouldn't go down if you are both receiving SSI.

Q. In the Medicare literature they keep mentioning a benefit period. What is a benefit period?

A. A benefit period is a way of measuring your use of Medicare Part A services.

A benefit period, which applies to hospital and skilled-nursing facility care, begins the day you are hospitalized and ends after you have been out of the hospital or skilled-nursing facility for 60 days in a row.

It also ends if you remain in a skilled-nursing facility but do not receive any skilled care there for 60 days in a row. There is no limit to the number of benefit periods you can have.

Q. My net earnings from self-employment will be less than \$400 in 1992. Is there any way of still counting this for Social Security purposes?

A. The optional method can be used if your gross earnings are \$600 or more,

or when your profit is less than \$1,600. You can use the optional method no more than five times. Your actual net must have been \$400 or more in at least two of the last three years, and your net earnings must be less than two-thirds of your gross income.

Q. I have both parts of Medicare. Will I be eligible for hospice care if I need this coverage?

A. Hospice Care is available only if:

*The patient is eligible for Medicare Hospital Insurance (Part A).

*The patients' doctor and the hospice medical director certify that the patient is terminally ill.

*A written plan of care is established for the patient and regularly reviewed.

*The patient receives care from a Medicare-approved hospice program.

Q. Who is not covered under Social Security coverage?

A. The following workers are not covered by Social Security:

*Most federal employees hired before 1984 (but beginning January 1, 1984, they are subject to the Medicare hospital insurance part of the Social Security tax).

Q. My 49-year-old sister recently lost her husband. She tells me that she isn't eligible for widow's benefits. Why?

A. Social Security pays widow's benefits to surviving spouses who are age 60 or older, 50 if disabled, or at any age who have a child of the worker under age 16 or disabled, in her care. Unless your sister had, in her care, a child under 16 or disabled, who is entitled to child's benefits, she would not be eligible for widow's benefits. ♦

By Larry Wright, L. A. Wright, Inc.

YOU AND THE PAYROLL LAW



Perhaps the most misunderstood part of running a business is complying with payroll laws. To understand payroll administration you first need to understand the mechanics of the law. This article is simply meant to introduce you to some of those guidelines and encourage you to look closer for rules that apply to your personal situation.

The Fair Labor Standards Act (FLSA) was enacted in 1938 as a partial remedy to the Depression. It specifies a minimum wage, requires overtime pay and restricts child labor. The purpose was to spread employment by placing financial pressure on employers via overtime pay and to compensate employees for working lengthy hours.

Several later Acts and Amendments altered the scope and requirements of the FLSA. The Portal-to-Portal Act of 1947 made time spent by employees on certain tasks before and after the workday non-compensatable under FLSA. The Equal Pay Act of 1963 prohibited wage differentials based on sex for workers covered by the FLSA. Further several Acts officially amended the FLSA by overhauling its coverage provisions, increasing the minimum wage, clarifying overtime requirements and enhancing enforcement powers. (All this because the government wanted to influence employers to give less time to some employees and spread employment opportunities over a larger base.)

Despite this long history of clarification, confusion about the FLSA and resulting noncompliance still exists. A recent Department of Labor report indicated that in one year over 73,000 compliance investigations were conducted. These investigations disclosed more than 130,000,000 in unpaid

wages. Employers agreed to pay almost \$33 million in minimum wages due to more than 250,000 employees and more than \$54 million in overtime owed to just fewer than 250,000 employees.

This commentary is to encourage employers to meet the basic minimum wage and overtime requirements of the FLSA. Overtime pay is probably the most complicated aspect of the FLSA. Some of the calculations and guidelines are outlined below. The FLSA covers employees engaged in interstate commerce, those working for enterprises that do over \$500,000 per year in gross sales, residential employees and employees of organizations involved in the educational and hospital system regardless of the amount of volume of business that they do, and employees of public agencies.

However, some employees are exempt from the FLSA and it is important to you to know who they are and how to determine those exempt individuals. Exempt employees generally fall into four categories:

1. Executive
2. Administrative
3. Professional
4. Outside Salesperson

There are partially exempt employees allowed for the following groups:

1. Commissioned employees of retail or service establishments. (This is extremely important to the service station dealer.) Commissions qualify as overtime pay if: a) the employees regular rate exceeds 1 1/2 of the minimum wage AND b) more than one half of the employees compensation is from commissions.
2. Private hospital and nursing home employees.
3. Employees of wholesale petroleum distributors meeting certain requirements.
4. Employees working under

union contracts meeting certain requirements.

5. Law enforcement and fire fighting personnel.

Employers subject to the FLSA must keep records concerning wages, hours and other employment practices, and specified personal employment data. Records must be kept for exempt employees also in order to monitor whether qualifications for an exemption exist.

Specifically, an employer must maintain and preserve records showing the following information:

1. Employees full name and social security number.

2. Home address
3. Date of birth
4. Sex and occupation in which the employee is employed.
5. Time and day on which work week begins.
6. Regular hourly rate of pay, the basis on which wages are paid and regular rate exclusions.
7. Hours worked each work day and total hours worked for the week.

CONTINUED ON PAGE 21

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By R.J. Ignelzi, Copley News Service

SMALL CLAIMS ARE BIG

What do a man who ate a bug infested chocolate bar, a woman who fell in a hotel bathtub, and a guy who wants his old prosthesis back have in common? They're all mad as hell, and they're not going to take it anymore. They're taking it to small claims court instead.

Contending a candy bar made him so ill that he lost his job and then his apartment, a man is suing the candy's manufacturer and the drugstore where he bought it for the maximum \$5,000. The woman who slipped and fell in a hotel bathtub says the hotel is at fault for failing to provide protective bath mats. She wants the hotel to pay for her medical treatment and the work she missed.

And, the debilitated fellow says his orthopedic surgeon did not return the faulty prosthesis after it was surgically removed from his knee. He got a new one but wanted the old one back. He's asking for its return or \$5,000.

These three disgruntled folks are among the growing number of people who are settling their disputes in the real-life "People's Court." Experts chalk up the increase to the growing popularity of this "bargain basement" court system.

First of all, small claims court is cheap. A plaintiff (the one suing) pays \$15 to file a claim and another \$5 to have the court send the claim by certified mail to the defendant (the one being sued). That's roughly one-fourth the cost in higher courts. Since lawyers are not allowed in the small claims courtroom there are no expensive legal fees as in higher courts.

Small claims court is quick, efficient and simple. By law, your court date must be within 40 days of the time you filed your claim - a fraction of the time it takes to get your case heard in

Municipal or Superior Court. A postponement cost \$10.

Since it does not decide criminal matters, small claims court is essentially a court for fights about money, where neither party has done anything illegal they just disagree. The proceedings are basic: You tell your side, the other person tells his or hers. If you win you're awarded the amount of money it would take to set you right (up to \$5000). You don't get extra money for being sad, angry or having your emotions disrupted, otherwise know as "pain and suffering." The entire hearing can be over in a matter of minutes.

Small claims stakes are no longer small. The limit on small claims cases were raised from \$2,000 to \$5,000 in January 1991. There are other limits, however. While there is no limit on the number of small claims suits you may file in a year, only two can be for more than \$2,500 each. Also, if you file more than 12 claims per year, the filing fee doubles to \$30.

In this tough economy more people are willing to go to court to get what's owed them.

"Before the recession, if it was a matter of a couple hundred dollars, a lot of people would let it go. Now they go to court for the money, because they need the money," said Judith Crowley, a legal adviser to a small claims court. Of course, that doesn't always mean they're going to get their money - or get it easily, anyway. "Getting a judgement is the easy part. Collecting it is more difficult," Crowley said.

Now, for the downside. Although this court system is less expensive and time-consuming than the other court, it may not be right for you.

Before taking your beef to small claims court, it's important to consider the following drawbacks.

The court does not enforce a small-claims judgement, which means if you win your case, it's up to you to recover the money owed you.

"By not hiring an attorney for small claims court, you put that burden on yourself," Crowley said. "Small claims court is not the place to go if you need your money right now. It doesn't work that way, and you should know that going in."

In fact, attorney Ralph Warner, author of "Everybody's Guide to Small Claims Court" (Nolo Press) says that before you consider suing in small claims court, determine if you'll be able to collect. If it looks doubtful, skip the suit.

"It's easy to get your money if you're suing somebody and you know where they work. You can have their wages garnished or tap the till (hire a marshal to stand in the place of business and physically confiscate enough customer receipts to recover the judgement.) Those are no problem", Warner said.

It's the other guys that cause problems. What do you do about the unlicensed contractors operating out of their back pocket or the repairman who does business out of a beat-up pickup truck. They don't have an obvious cash source, and their income is otherwise so low it's exempt. So if you know you're not going to be able to get your money, what's the point?

In small claims court, the plaintiff does not have the right to appeal a judgement - but the defendant does. This means if you're suing the dry cleaners for ruining your new suit and the judge says the cleaners weren't to blame - it's over. You go home grumbling and empty handed. However, if the judge says the dry cleaner was at fault the cleaner can appeal the ruling.

"The plaintiff should understand the limitations of small claims court from the beginning," Crowley said. "If you're not happy with the judgement, the most you can ask for is to get it reconsidered by the court. And that's extremely rare."

Small claims court can get violent. "The small claims court environment is one of the more potentially volatile anywhere in the judicial system," said a small claims court commissioner. "There's no attorney acting as a buffer between the court and the individual in small claims. People are dealing with each other, one on one, with all their frustrations, anger, fear and lack of knowledge of the law and often the procedure."

"It's not uncommon," he says, "for people to burn other people with cigarettes in the hallway, slash tires in the parking lot or threaten bodily injury or death in the courtroom."

Marshal Darryl Leapart, bailiff for San Diego small claims court, says he is called on to act as a referee and protector every day.

"There are scuffles all the time," Leapart said, pointing to a patched wall outside the courtroom, where an angry litigant had put his fist. "At least once a day, I have to walk someone to their car after they leave the courtroom because they've been threatened or there is a risk of violence."

Finally, your case may be assigned to a temporary judge (pro tem) instead of the commissioner who usually officiates over the court.

The pro tems are lawyers who volunteer to act as judges for small claims court. Although many people don't mind having a pro tem preside over their hearing, others do.

"I've served as a pro tem, and I still wouldn't take one

CONTINUED ON PAGE 17

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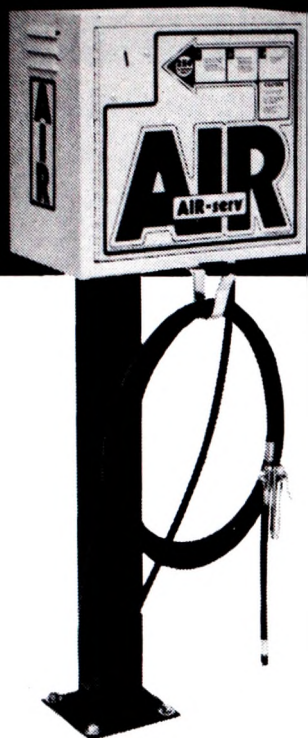


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MONEY TALK CONTINUED FROM PAGE 14

if I was going to small claims court," said Warner. "These lawyers just don't know the laws as well and are not as prepared to make a decision as a judge who hears these kinds of cases day to day."

If, when you get to your courtroom, you are told a pro tem will hear your case, you have the option of refusing the pro tem in favor of a commissioner. This will, however, delay your hearing - which may be good or bad, depending on how prepared or desperate for a settlement you are. All parties in your case who appear for the hearing must consent to a trial by the temporary judge.

Courtroom Procedure

If, after weighing the pros and cons of small claims court, you still decide this is where you want your dispute settled, here is how you do it:

Try to collect on your own first. Before you file a lawsuit in small claims

court, you must formally ask the other party (the defendant) for payment of money or the return of specific property. Your demand can be oral or written. Often a letter, followed up with a phone call, is a good idea. Give the other party a reasonable period - 14 days is often recommended - to respond to your demand. Keep copies of any written communications.

Pick up and complete a plaintiff's claim form at the court where you expect to file your suit. The claim must be filed in the court either where the other party lives or where the claim happened - not necessarily the one that's the most convenient for you. You will receive a hearing date when you file. That's when you pay your \$15.

If your being sued and have been named as a defendant in a small claims case and you have related claim against the plaintiff who sued you, you may file a defendant's claim. For example: A house painter sues you

because you failed to pay him an agreed sum. You could file a related claim against him for not completing the work. Both claims would be heard at the same time. A defendant's claim must be served at least five days prior to the hearing date.

Do your homework. You must give the complete and accurate names and addresses of any person or business you want to sue. If you are not sure who is responsible for your problem, name all who could be responsible for your problem, and let the court decide whether they are proper defendants.

Finding the name and address of the defendant can sometimes be a tricky task. Try checking telephone directories, the post office, county tax assessor's office, voter registration records, the Department of Motor Vehicles and licensing boards.

Once your claim is filed, you must have a copy served on (delivered to) the other party. You aren't allowed to do this yourself. You can have the clerk of the small claims court mail the claim by certified mail for you. The fee is \$5. Another option is to have the marshal personally serve a copy on the other party. That costs \$21. Or, you may have anyone else who is over 18 and not part of the lawsuit serve the claim. It must be delivered to a person, not slid under the door or left in the mailbox - at the defendant's business or residence. A copy must also be mailed to the defendant.

Defendants must be served with the claim 10 days

before the hearing if they live within the county, and 15 days before the hearing if they live outside the county. After the other party has been served the claim, you must file a completed Proof of Service with the clerk of small claims court before your hearing date. This is proof that you have properly notified the defendant within the specified time of the hearing time and place.

Be prepared. Once you have completed all the legal paperwork, start preparing your case. Make copies of all evidence - receipts, communications, bills, photos - that will help prove your case.

If the person you are suing does not show up for the hearing, the judge is likely to order a default judgment against him or her. This means the court after hearing evidence from you has decided against the defendant. To get another chance to tell his or her story, the absentee defendant must have an awfully good reason for not showing up. If that's the case, he or she can file a motion to vacate the judgment awarded to you, which reopens the hearing. This must be filed within 30 days of the date the clerk mailed the notice of the court's decision.

Closing the case. When your judgment is paid in full, you must file an Acknowledgement of Satisfaction of Judgment with the court where your case was heard. This form must be filed within 14 days of the full payment. You can be fined for not complying with this rule. ♦

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

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- ☐ Comerica Visa/Master Charge
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- ☐ Blue Cross/Blue Shield of Michigan
- ☐ Surety Bond for M.U.S.T.E.A
- ☐ Telephone Services
(public pay phone)

	
_____	_____
_____	_____
Acct #	Exp Date

Signature

Date

SQ: Do you think that more dealers will branch out into other businesses and expand their single station status?

DL: I think the single station owner is having a hard time. If dealers are able to expand into multiple stations while maintaining their initial station, they will gain more strength. It is entirely up to the individual dealer.

SQ: How will the new state government effect dealers in Michigan?

DL: I have found, through changes in the legislature, that we have always had a working relationship with them. I think there are fair people on both sides right now. I believe if you are allowed to plead your case, you can have an impact.

SQ: How do you think President Clinton's plans will effect the small business owner?

DL: My sense is that President Clinton will be good for the small business owner. A lot of people are concerned about family leave. But the bill exempts any business that has less than fifty employees in a seventy-five mile radius. Those that are trying to take a shot at the president because he has signed the family leave bill, are making a phony argument.

Also, during his campaign, Clinton went on record of supporting below cost selling legislation. I think we'll see the majors becoming more cooperative in working out some sort of marketing legislation on the national level.

When I was in Washington for the inauguration, one thing that hit me during all of it was that there was not only a change in parties, there was a generational change. This change will have a positive long term effect on all of us. We need change. Business as usual is not working anymore. While change is sometimes difficult for people, it has got to come. Dealers will not survive if they remain the status quo in 1993. Margins are down and profits are down. We need new ideas and new economic plans. We can't stay the same simply because we are afraid of change.

SQ: Speaking of change, how do you think the association will be effected with your leaving, and Terry Burns taking over as acting Executive Director?

DL: The association is fortunate because they have some continuity in this turnover of Executive Directors. Acting Executive Director Terry Burns has been with the association for three years. He has done an excellent job at learning the business from the ground up. He knew the business from when he was a dealer in Texas. The regulatory work he has done for the association is invaluable. I think Terry will do an excellent job shepherding the association into the future.

The work Dan did for the Service Station Dealers Association of Michigan will live on. He developed a crystal clear voice for the dealers of Michigan. He made possible things other people didn't think could be done. His dedication, knowledge, and friendship will be missed by the staff, the board, and the dealers of Michigan. ♦



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ENVIRONMENTAL UPDATE CONTINUED FROM PAGE 4

violates the Clean Air Act.

-E.P.A.'s actions are "arbitrary and capricious" by insisting on a costly, unproven, consumer-unfriendly approach.

The outcome of that court case will be crucial for most states, determining their implementation of an I/M program. As we wait for this case to unfold, work is still being done to list options and educate the legislature on this issue.

2. Stage II. This requirement also ended up in court due to the possible on-board canister option. The courts have ruled that the E.P.A. must issue a rule to require on board canisters to be installed on new vehicles. At this time, there is no word if E.P.A. is planning an appeal.

This situation puts states in control of their options between Stage II or wait for the OBC to take affect.

3. Reformulated Gas. Unlike I/M and Stage II, which require legislation, optioning in for reformulated gas only requires the Governors signature. The concerns with reform are: possible cheating, cost of the product, availability of the fuels and the boundaries of the program.

The Service Station Dealers Association of Michigan is working on these issues daily with work groups, committees and the legislature.

As a member of the dealers association, we would value your input on any of these issues.

Please call the Service Station Dealers Association of Michigan with any questions or concerns at (517) 484-4096. ♦

BUSINESS TALK
CONTINUED FROM PAGE 13

8. Total daily or weekly straight time earnings or wages.
9. Total overtime excess compensation for the work week.
10. Total addition to or deductions from the wages paid in each pay period.
11. Total wages paid each pay period.
12. Date of payment and the pay period covered by the payment.
13. Retroactive wage payment under government supervision.
14. Factors which are the basis for payment of any wage differential to employee of differing sex which may be pertinent to determining whether the differential is based on a factor other than sex.

Records are also required for employees who are not covered by the FLSA minimum wage and overtime provision. (Such as

exempt executives, administrative, professional, or outside salesperson.) These records need not be as detailed or extensive as for covered employees. But they should be sufficient to carry the burden of proof in the event an enforcement question arises whether a worker actually qualifies for an exemption. Because the subject of payroll administration and your relationship with the Fair Labor Standard Act is so voluminous, we have published condensed version of 17 pages available upon your request. That published document contains information under the following heading:

- * What happens if accurate records are not kept?
- * How long should the records be retained?
- * Who can look at the records?
- * Can an employer be sued in court for FLSA violations? What damages can be imposed for FLSA violations? How soon must

a suit be started? Are out of court settlements possible? Basis for no retaliation against an employee who complains or files a complaint.

- * When must overtime be paid? Must unauthorized overtime be paid? Can overtime pay be offset by time off? Is the work week a calendar week. What is the overtime rate? What payments are included and excluded from the regular rate? List of items includable at regular rates.
- * List of excludable items from regular rates.
- * How to calculate overtime properly. (With examples of eight variations of varying circumstances of actual calculations.)
- * Are independent contractors covered by the FLSA?
- * What are the safe haven rules of Revenue Act of 1978 in definition and treatment of independent contractors?
- * What to do of an individual you believe should be

an employee continues to assist on being treated as an independent contractor.

This information has been compiled from the Maxwell McMillian, Payroll Guide, Volumes 1-5, Warren, Gorman, Lamont (1-1991). If you will send \$5 for postage and handling with a request for "information on the payroll law" we will return this 17 page booklet to assist you in updating some of your payroll administrative practices. Send your check to L.A. Wright, Inc. 28277 Dequindre, Madison Heights, MI 48071.

I strongly suggest that you review this material and meet with your accountant or qualified individual to analyze your present payroll practices so that you may become comfortable that you are operating within the law. Bear in mind that having an outside payroll check preparer does not necessarily mean that you are administering the rules to your most favorable position. ♦

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NEW PRODUCTS

INGERSOLL -RAND INTRODUCES NEW 1/2 INCH IMPACT WRENCH

The Power Tool Division of Ingersoll-Rand Company has introduced a new 1/2-inch drive air impact wrench that redefines current automotive service industry standards for power, control, durability, and operator comfort.

The new IR2131 impact wrench features:

- *A multi-stage power management system that offers four torque output settings in the forward direction — from 50 ft.-lbs. for the most sensitive applications to a maximum of 450 ft.-lbs., rated at 90 psi (patent applied for);

- *A biased motor that generates up to 600 ft.-lbs. of torque in the reverse direction at 90 psi;

- *A professional touch trigger that allows smooth, gradual control of speed and power delivery (patent applied for);

- *Thumb-operated, push-button forward/reverse controls that activate an exclusive forward/reverse valve (patent applied for) for quick, convenient directional settings and one-hand tool operation;

- *An integral 360-degree swivel inlet sleeve for air hose connections (patent applied for) that provides excellent maneuverability around wheel wells and other confined or hard-to-reach areas by eliminating the need for add-on accessories that reduce air hose obstructions;

- *A new self-aligning air motor design;

- *A refined high-output twin-hammer power impact mechanism design (patent applied for) that significantly improves its durability and reliability, and doubles its cycle life;

- *Exhaust routing that directs air through and out the bottom of the handle at a 45-

- degree angle, eliminating the possibility of dust, grease or dirt blowing back at mechanics during operation;

- *Ergonomically designed and engineered tool size and shape that contribute to user comfort;

- *An advanced composite housing and steel hammer case that weighs just 4.5 pounds and offers the most compact 1/2-inch impact wrench profile in the marketplace today;

- *Entirely American manufacture, and the best warranty in its class, with two years of protection against defects in material or workmanship; and,

- *A new standard for external appearance as well as function, with an inviting, differentiated look;

Ingersoll-Rand also manufactures the IR2131-2 model featuring a two-inch extended anvil designed for use with flip sockets in tire changing. Offering identical performance features as the standard IR2131 tool, this model provides convenient and easy access to deep and narrow wheel wells. In addition to five specific operational features, patents have been applied for on overall comfort factors, and on overall serviceability factors of the product's design.

For a more detailed discussion on the IR2131 impact wrench and its features, please refer to the news release entitled, "New Ingersoll-Rand 1/2-inch Impact Wrench Redefines Standards For Power and Control"



TRICO PRODUCTS CORP. INTRODUCES REVOLUTIONARY BREAK TO FIT WINDSPOILER REFILL

TRICO Products Corporation has introduced the innovative 36-500

Windspoiler Refill, the industry's only break to fit metal refill, according to James R. Croston, Aftermarket Marketing Manager.

The new 22" Refill fits all 15" to 22" 36 Series windspoiler blades. These pair-packed metal refills break off to fit each specific blade length, providing extensive market coverage with only one s.k.u.

"Our revolutionary 36-500 Refill is the first replacement refill of its kind, designed to accommodate all windspoiler blades by snapping the refill vertebra to fit," Mr. Croston explained.

"The 36-500 Series Refill effectively reduces customer confusion and slow-moving inventory while providing incomparable performance," he pointed out.

"Consumers will appreciate the new Wind spoiler Refill for the no-hassle installation it affords, and our retail customers will benefit from the fact that it greatly reduces wiper refill inventory," Mr. Croston noted.

As with all TRICO wiper products the Windspoiler Refills are displayed in TRICO's distinctive high visibility resealable and recyclable packaging.

For further information on the 36-500 Refill, contact TRICO Products Corporation, 817 Washington Street, Buffalo, NY, 14203 (716) 857-3184



NO TOUCH NORTH AMERICAN TO INTRODUCE SOMETHING BETTER!

New spray foam protectant promises "something better" for consumers and retailers.

A new entry from NO TOUCH North America is the first new product innovation in the protectant category in over 20 years. It's bound to shake things up in the \$200 million retail market for products that clean, shine and protect surfaces made of vinyl, rubber and plastic...which is exactly the company's strategy.

The category and the products in it are tired and aging, according to company president Jeff Sherman, who managed Armor All Products through its highest growth years and spearheaded the phenomenal rise of NO TOUCH Tire Care over the past two years. "We're bringing innovation to a category riddled with imitation," he added.

The company listened to its consumers and retailers in developing state-of-the-art technology to address their concerns. Once achieved, the product was appropriately named **SOMETHING BETTER!** Foam Protectant. The product stays where it's sprayed, is totally odorless, and is considerably less greasy than ordinary protectant products. **SOMETHING BETTER!** also cleans deeper, shines better and lasts longer.

Retailers are also looking forward to participation in the product's growth. "Our customers are sick and tired of trading dollars with manufacturers whose pricing policies effectively cut them out of the profit chain," Sherman said. "They're eager to support new products that have respectable retail margins."

Despite all the positives, Sherman is experienced and realistic enough to expect that his market share is going to be hard earned, which is why he has surrounded the company with proven sales management and "the best advertising agency on the West Coast" in recently-appointed Dailey & Associates.

"Nobody's going to stand aside and give it to us," Sherman pointed out. "We're going to be very aggressive in achieving our share of sales, and then even more aggressive to build from there. We're prepared for the battle."

The company and Dailey are preparing a comprehensive multi-media advertising campaign to introduce **SOMETHING BETTER!** to consumers next April. The product will be available in 5- and 15-ounce aerosol containers in automotive supply stores, mass merchandise outlets and hardware/home improvement centers across North America.



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