

BottomLine



THE VOICE OF INDEPENDENT RETAILERS // VOL. 27, NO. 10 // OCTOBER 2016

Setting the National Standard for GMO Labeling

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LIBERTYUSA

a division of **Eby-Brown**

Eby-Brown Announces Expansion through Acquisition of Liberty, USA

Naperville, Illinois – Eby-Brown Company, LLC announced today they have reached a definitive agreement to purchase the assets of Liberty, USA located in West Mifflin, Pennsylvania. Eby-Brown is the largest privately held convenience store distributor in the United States with annual revenues in excess of \$5 billion and services retail accounts throughout the Midwest and Southeast. Liberty, USA is the largest independently owned convenience store supplier in Pennsylvania servicing 2,000 retail customers in the Midwest, Northeast and East Coast. The purchase strengthens Eby-Brown's presence within the state of Pennsylvania and extends its distribution network into the Northeast. "We are thrilled to welcome the wonderful people of Liberty, USA to the Eby-Brown family. Both Eby-Brown and Liberty, USA are multigenerational family businesses that have grown through a focus on delivering excellent service and innovation to customers. We look forward to combining two talented teams and are excited to work together on developing new solutions and services that benefit our customers." said Thomas Wake, Co-President of Eby-Brown. We will maintain both companies' commitment to service excellence while delivering increased value with best-in-class category management programs, promotional offerings, and sophisticated technology." Upon closing the transaction, the Pittsburgh facility will operate as Liberty, USA a Division of Eby-Brown.

Eby-Brown

Delivering Solutions Daily



THE VOICE OF INDEPENDENT RETAILERS

Take Advantage of **AFPD's** GROUP PURCHASING POWER!

NEW EBY-BROWN CUSTOMERS:

- Receive a 2% rebate on all purchases (excluding tobacco). Rebate checks are sent quarterly by AFPD.
- AFPD membership fees paid by Eby-Brown.
- Access to AFPD/Eby-Brown Chain Buying Book.
- Access to AFPD approved national and local programs (where applicable).

CURRENT EBY-BROWN CUSTOMERS:

- Must qualify for the 2% rebate (excluding tobacco) and paid membership fees at the discretion of the Eby-Brown sales management team. Rebate checks are sent quarterly by AFPD.
- Access to AFPD/Eby-Brown Chain Buying Book.
- Access to AFPD approved national and local programs (where applicable).

GENERAL REQUIREMENTS:

- \$3,500 minimum delivery required (including tobacco).
- Must purchase from Eby-Brown weekly to qualify.

**This program provides a
customized marketing plan and
competitive retail pricing that is
sure to help you increase sales
and build a better bottom line.**

Subject to pre-qualification by a Eby-Brown sales representative, quarterly sales to be evaluated.

TOTAL VALUE TO YOU:

\$2,080 **2% Rebate***
(annual total paid quarterly)

\$500 **AFPD Membership
Dues** (paid by Eby-Brown)

\$1,500 **Chain Buying Book
Average Savings**

\$2,500 **Est. AFPD Member
Program Savings**

\$6,580 **Total Member Benefits
PER LOCATION**

* Based on \$2,000 non-tobacco purchases weekly

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features

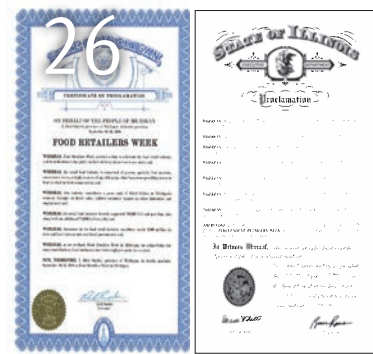


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SPOTLIGHT PROFILE //

AFPD'S OHIO LOBBYIST: EXPERIENCE, KNOWLEDGE AND KNOW-HOW

In Upper Arlington, a suburb of Columbus, Ohio, lives Terry Fleming who, according to colleague Ed Weglarz is, "a long time professional who is respected in the halls of the Ohio capitol, and beyond." Fleming has lived in Ohio for more than 60 years. "Ohio is unique – we are not an eastern state or a midwestern state – we sit in the middle of the country all by ourselves," said Fleming. -



RESOURCES //

AFPD MEMBERS HELP FEED THE MID-WEST ECONOMY

Governors for the State of Michigan, Ohio and Illinois have issued proclamations declaring the impact that retailers have on their state's economy and the local community.



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COVER STORY //

SETTING THE NATIONAL STANDARD FOR GMO LABELING

Congress, before adjourning for their summer recess, passed a bill in an attempt to set a national standard for labeling foods that contain ingredients that are genetically engineered. On July 29th, President Obama signed bill S. 764 into law, which was the last hurdle for one national standard for genetically modified organism (GMO) labeling.



chairman's message

JOHN DENHA // AFPD CHAIRMAN

Always Consider the Source

Happy Halloween! Seems like we have a holiday we are merchandising for every month. A lot of people don't know that Halloween is a spinoff of All Saints Day in the Catholic faith. Just like the Easter bunny is a spinoff of Easter Sunday and Christmas is more about presents than the birth of Jesus Christ. We keep ourselves so busy, moving from one thing to another, we really don't sit back and ask why or how these things happen. Society seems to commercialize everything and the media has a lot to do with it.

I don't care who you are voting for this upcoming election, actually I do care, I am voting for Donald Trump, but I can't believe how one-sided the media has been in this election. Neither candidate is perfect by any means, but what happened to the free press and covering all sides versus supporting one candidate in every way possible? It is the same media who does not appreciate independent retailers and overlooks them in so many ways. Maybe it is because we do not advertise as much as the chains do. Or maybe like many have told me, the media does not like to report on good stories like the local neighborhood grocery that celebrates 40 years in business or supports the local community. One prominent Detroit Pastor told me "if it bleeds, its leads," which is such a sad state of affairs when it comes to the media.

Instead of covering the AFPD's 36th Annual Turkey drive which helps feed between 50,000 and 60,000 people, we always have to wait to see what else is happening on the turkey drive day. If it sounds like I am frustrated, I am to a degree because AFPD does such a great job in so many ways, yet some people just do not pay attention or only want to listen to the rumor mill or do not even bother to read what we publish. This is why the media gets away with murder, because people do not seem to care and call them out on it. Just like many in the industry do not seem to care until they are directly affected and need the AFPD staff to help them.

Please let me make one thing clear, YOU NEED TO CARE about our industry because it is your livelihood and it is what you do every day. Otherwise, you need to get out of the business! So many people tell me things are not like they used to be in the 1980s or 1990s and we used to make money, blah blah blah. Let me ask you a question? What hasn't changed in the last thirty years or so? Everything changes, life, just like our businesses and our industry, is dynamic and if you do not change with the times, you will be a part of history.

One retailer, a non-member, once told me business is down and getting worse. I asked him, have you even spent a dollar reinvesting in your business in the last twenty years? There was silence like we were at a funeral. Yet, this guy wants to blame AFPD for his loss of business? Sometimes you just want to shake people and wake them up! AFPD is a support mechanism for our members and the industry. AFPD is not the silver bullet that will turn a bad operator into a good one, but we can help if the operator is willing to listen and learn. Bottom line is that you should not believe everything you hear via the retailer rumor mill or the media. Always consider the source and if you have a question for AFPD our doors are always open, just like they have been since 1910. We do not run away from the truth! God Bless. ■

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Clifton Denha	Convenience/Liquor Store Vice Chair, Wine Palace
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Frank Ayar	Walter's Shopping Place
Al Jonna	Picnic Basket/Wine Merchants
Brian Yaldoo	Hills Fine Wine & Spirits

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Larry Redli	Benchmark Beverage Company
David Karana	Benchmark Beverage Company
Andrew Wheaton	Benchmark Beverage Company
Amy Kotrych	Benchmark Beverage Company
Bill Brooks	Benchmark Beverage Company

government relations update

DAN PAPINEAU // AFPD DIRECTOR, GOVERNMENT RELATIONS



Election Day: November 8th

Next month voters will go to the polls to choose who they think should lead our country as President. Additionally, they will make many choices about who will represent them in Congress and their State Assemblies and Legislatures. There will undoubtedly be decisions to make at the local level as well. Be an informed voter and research the candidates and issues ahead of time.

To get a sneak peek of your ballot prior to election day use the following website: www.ballotpedia.org/Sample_Ballot_Lookup

In addition to telling you what elected offices you will be voting for and the candidates running for those offices the above mention website will also tell you the times the polls will be open and your polling location.

We may know a lot about Hillary Clinton and

Donald Trump, but we may not know much about the candidate running for Circuit Court Judge. Do some research on everyone on the ballot. Typing the candidates name into an internet search engine, like Google, will bring up any recent newspaper articles and, more than likely, the candidates website or Facebook page. One option a lot of people do not think about is reaching out to the candidate directly. You might not get a response from The Donald himself, but a candidate running for State Representative or local judgeship should be more than willing to talk to a potential voter in person or by phone.

Working with the State legislatures and assemblies regularly, AFPD government relations professionals (like myself) are also resources on candidates running for State office. Feel free to call the office to ask for some insight.

Whether you end up voting for Clinton or Trump it is absolutely true that this election will shape what direction our country heads in for the next 4 and more likely 8 years. Do not take your decisions lightly. ■

GOOD SAMARITAN LAWS: 20 YEARS PROTECTING YOU FOR DOING WHAT'S RIGHT

This year marks the 20th anniversary of the Federal Good Samaritan Law. Passed in 1996 and officially titled "The Federal Bill Emerson Good Samaritan Food Donation Act" this legislation was signed into law by former President Bill Clinton to encourage donation of food and grocery products to non-profit organizations for distribution to individuals in need. This law:

- Protects you from liability when you donate to a non-profit organization;
- Protects you from civil and criminal liability should the product donated in good faith later cause harm to the recipient;
- Standardizes donor liability exposure. You or your legal counsel do not need to investigate liability laws in 50 states; and
- Sets a floor of "gross negligence" or intentional misconduct for persons who donate grocery products. According to the new law, gross negligence is defined as "voluntary and conscious conduct by a person with knowledge

(at the time of conduct) that the conduct is likely to be harmful to the health or well-being of another person."

It is because of this law that retailers are able to donate product without worrying about being liable for unsuspected flaws in the products they donate. This is an important protection that many business owners are not aware of.

Food Retailers understand that customers demand quality. If a canned good has a slight dent or produce starts to look anything less than absolutely perfect customers will not buy it. When a product reaches its expiration date it is highly unlikely the product will leave the shelf and a retailer could suffer the consequences of appearing to sell expired food. Many know however, that product that has reached its printed expiration date has not met its absolute demise. The product could be wholesome for several more weeks.

Food retailers may want to consider donating this product to a food pantry or other

charitable organization that feeds the hungry. Organizations like Feeding America make this option incredibly easy. A business owner could see savings in storage and inventory, transportation, and dumping costs. Additionally, there could be an opportunity to lower your tax bill by counting this charitable donation against your tax liability. One intangible benefit that is important to remember is that donating product will enhance your public image and increases employee and customer satisfaction.

So when considering what to do with products customers start skipping over, remember that they can be donated and rest easy, since you are immune from liability your act of kindness will not come to haunt you later.

For more information on food donations or help in creating a food donation plan feel free to call the AFPD office at (800) 666-6233. I will be happy to discuss the many options that are available to you. ■



michigan lobbyist report

DAN PAPINEAU // AFPD DIRECTOR, GOVERNMENT RELATIONS

The Truth about SB 929, Legislation Capping Beer and Wine Licenses

Over time, the state of Michigan has seen massive proliferation in the number of SDM (beer and wine) licenses being granted to businesses by the Michigan Liquor Control Commission (MLCC). This explosion in the number of licenses has directly impacted the sales of current licensees. According to MLCC data, license growth is about 20% over a two-year period. This amounts to thousands of new licenses on a bi-annual basis. Part of the reason for the high growth rate is increasing numbers of gas stations who are utilizing carve outs in the current law to become eligible for an SDM license. The number of carve outs are increasing and there is wide interest in the legislature to continue creating these carve outs.

In an effort to curtail this massive license growth AFPD has advocated for a cap on the number of SDM licenses. Additionally, AFPD has seen the continual degradation of the across the board ban on motor fuel stations from selling beer and wine through the constant creation of new carve outs allowing certain motor fuel stations the ability to sell beer and wine while others cannot. In an effort to solve both of these problems a comprehensive compromise was crafted to eliminate unfair carve outs for gas stations and at the same time put a cap on the number of SDM licenses.

Unfortunately, wide ranging misinformation is being spread about this proposal and SB 929. Outlined below are several topics that we feel the need to set the record straight on.

TRUE OR FALSE? THIS PROPOSAL IMPACTS THE ABILITY TO SELL LIQUOR

FALSE: This bill only deals with SDM licenses and the sale of beer and wine at gas stations.

TRUE OR FALSE? THIS BILL WILL DILUTE MY SALES DUE TO INCREASED COMPETITION FROM GAS STATIONS

FALSE: If a gas station really wants a license now they would have already gotten one. This bill protects current licensees from diluted sales by putting in place a cap on the number of licenses where there is currently not one now. Under the status quo there is no end in sight to the massive increases in beer and wine licenses.

TRUE OR FALSE? THERE WILL BE 6000 NEW LICENSES CREATED WITH THE PASSAGE OF THIS PROPOSAL

FALSE: There are only about 4800 gas stations in the State of Michigan. About 1/3 already have a license and about 1/3 will not ever want one for various business reasons. All other businesses (those besides gas stations) can already get an SDM license and there is not cap on the number of licenses that can be issued.

TRUE OR FALSE? EVERY BUSINESS IN THE STATE WILL START SELLING BEER AND WINE

FALSE: Thankfully, SB 929 requires a business who wishes to sell beer and wine also have a retail food license or an on premise license thereby disallowing book stores, bike shops, and several other types of businesses from receiving an SDM license unlike the current law.

TRUE OR FALSE? FOR THE FIRST 60 DAYS THE BILL IS ENACTED EVERY BUSINESS HAS AN OPPORTUNITY TO RECEIVE AN SDM LICENSE

FALSE: First, the 60-day period only applies to gas stations who currently do not have a license. Second, the 60-day period only applies to gas stations in about 10% of the state where the quota has already been met. Third, the licenses acquired by gas stations located in the rare location in which the quota has been met does count against the quota.

SB 929 protects current licensees from unprecedented growth in the number of SDM licenses going on right now. A side benefit to this legislation is that because of the quota a current licensees license becomes much more valuable as their will only be a select number of licenses in existence similar to SDD (spirits) licenses. ■



Legislation Introduced in Lansing Effecting Fuel Retailers

Recently a pair of State Representatives introduced two separate, but significantly similar pieces of legislation to combat the installation of skimmers in fuel dispensers. While this may seem like well-intentioned legislation, AFPD has major concerns.

“Skimmers” are devices placed by criminals inside a fuel dispenser’s credit card reader that can steal credit card information. The device copies card information for a criminal to retrieve later and use that data for purchases of their own. Dozens of skimmers have been removed from stations statewide.

With new regulation requiring fuel retailers to convert to EMV chip card technology by October of 2017, AFPD feels these pieces of legislation are premature. EMV chip card technology should eliminate the use of skimmers once installed. As every retailer knows, unless you want to be liable for false charges taking place at your store, you need to install EMV. Planning for EMV upgrades is going to be difficult enough on fuel retailers. Why muddy this transition with additional regulations?

Both pieces of legislation require fuel retailers to do one of the following to help prevent skimmers from being installed on a dispenser:

- Use security tape to restrict unauthorized access to a fuel pump
- Install a device or system that renders the pump or scanning device inoperable if the panel is opened without proper authorization
- Utilize a means for encrypting the customer payment card information in the scanning device.
- Any other measure approved by the Department of Agriculture.

If a fuel retailer does not comply with this mandate they will receive written notification of noncompliance and have 5 days to come into compliance. If the violation is not corrected after 5 days the pumps will be turned off until they come into compliance.

AFPD is working against this legislation. We have come to the position that this discussion should take

place after the EMV activation deadline of October 2017 if credit card skimmers are still a problem (which they should not be). Additionally, our arguments against the bill are as follows:

- It adds another unfunded mandate on fuel retailers
- It treats the retailer like the criminal and does nothing to go after the real bad guys installing these skimming devices
- While the bill states the Department could add additional ways to comply at their discretion it does not specifically mention simply replacing the locks which is an inexpensive and reasonable option
- Security stickers, while they might seem minor to install, are much harder to keep up when you end up having to replace them every three days to replace your receipt role. Not to mention it will eventually take a messy toll on the dispenser.

AFPD will monitor this legislation closely and welcomes feedback from members on its content. If you have question, concerns, or comments please feel free to reach out to me. ■

LEGISLATION IN LANSING INTRODUCED TO STREAMLINE LICENSES FOR GAS STATIONS

State Senator Mike Green introduced legislation in early September that eliminates two annual fees paid by the fuel retailer and raises the 7/8 of 1 cent refined petroleum fee to 1 full cent.

What originally started as the Michigan Department of Agriculture aiming to increase the refined petroleum fee to one cent to increase inspection funding has turned into a more palatable compromise that includes the elimination of 2 license fees paid by fuel retailers.

If a four bill package of bills get signed into law before the end of the year fuel retailers will no longer be required to pay the annual \$100 per tank registration and/or renewal fee. Additionally, fuel retailers will no longer have to pay the annual \$100 Fuel Retailer license fee to operate fuel pumps. It is important to note that fuel retailers will still have to attain both the registration and license and are subject to the current penalties for being caught without one or an expired one. Under the proposed bills the licenses would essentially be free.

The 7/8 cent refined petroleum fee paid on all refined petroleum products sold for resale in Michigan or consumed in Michigan will be increased by 1/8 of a cent to be one full penny. Money collected from the fee goes toward covering leaky underground storage tank clean up and inspection activities.

AFPD will monitor this legislation and provides updates as the bills move through the process. ■



petroleum news & views

EDWARD WEGLARZ // AFPD DIRECTOR, PETROLEUM

Thinking Ahead, to Winter and 2017

After experiencing the heat waves, humidity, power outages, and gully-washers of summer, how can I be thinking about winter? Easy, this is the time to prepare.

First of all, be sure you accomplish all those projects that were put on hold until the weather got warmer. Well its warmer, and its time to get those temperature sensitive projects completed. Any landscaping, driveway, caulking, painting, canopy, and seal-coating jobs must be completed before frost appears. There is still time to schedule the work and get it completed without paying premium prices for overtime or weekend work.

Fuel dispenser filters are much easier to service in nice weather, rather than when your fingers are freezing. Decal and sign upgrades, removal, and cleaning should be addressed while the weather is still warm.

Have you been putting off any required work on your automatic tank sticking devices or leak detectors on your UST's? The service contractor can work quicker when it's mild outside, resulting in a lower invoice. The same goes for dispenser calibration. Quicker and less expensive in the mild weather.

Completing that last power washing of the canopy, building, and price sign/reader board, before the first snow flies, should be high on your priority list.

Now that the exterior challenges have been addressed, its time to consider what we need to do to get ready for winter in the interior of our business.

Right now is the time to negotiate a price and put in your order for anti-freeze, salt and windshield washer fluid. Wholesale prices will be more reasonable now than right after the first snowfall. Do you have a contractor plow and scrape your driveway and parking lot? Now is the time to



negotiate a pre-paid deal. Check the equipment you use in the winter. Is it all up-to-date and maintained for use this coming winter? Have your furnace and furnace filters checked.

Customer wants, needs, and desires change with the seasons. In addition to products for their vehicles, consider products for the motorist. This is the time to upgrade your coffee/cappuccino offering. While quality products are important, don't forget to promote the coffee availability with attractive interior and exterior signage.

Those are short-term issues that need to be addressed. Now, let's talk about some long-term issues that you must address!

In Michigan, on July 1, 2017, regulations go into effect that require "standardization" of roadside fuel price signs! Descriptions and Qualifiers like: "Unleaded", "Mid-Grade", "Premium", "Cash", "Credit", "With A Car Wash", "With Kroger Points", Etc. must be at least one-half (1/2) the height of the numerical digits on the price sign. As you upgrade your price signs keep this new regulation in mind.

Nationwide, October 1, 2017 is the deadline to have fuel dispensers EMV compliant, or the retailer is responsible for charge-backs from sales made at non-compliant pumps. See if your old pumps are upgradeable, or does it make better economic sense to buy new?

Get ready for another Winter! ■



GOLDEN TICKET

AFPD'S 101st ANNUAL TRADE DINNER & BALL

DATE
JANUARY 7, 2017

TIME
6:30pm COCKTAILS / 8:30pm DINNER

PLACE
PENNA'S OF STERLING

FEATURING SLIGHT RETURN WITH SPECIAL GUESTS ANDY VARGAS (LEAD SINGER FOR SANTANA)
AND LEGENDARY DRUMMER DENNIS CHAMBERS (PARLIAMENT FUNKADELIC & SANTANA)!

GREETINGS TO YOU, THE LUCKY FINDER OF THIS GOLDEN TICKET,
FROM AFPD! WE INVITE YOU TO BE OUR GUEST AT OUR 101st ANNUAL TRADE DINNER &
BALL. ENJOY FINE CUISINE, DANCING AND ENTERTAINMENT WITH LEADERS FROM THE FOOD,
BEVERAGE & PETROLEUM INDUSTRIES. HERE ARE YOUR INSTRUCTIONS: ON THE SEVENTH
DAY OF JANUARY, TWO THOUSAND SEVENTEEN, YOU MUST COME TO PENNA'S OF STERLING AT
6:30pm FOR A SPECTACULAR COCKTAIL RECEPTION. DINNER WILL BE SERVED AT 8:30pm SHARP.
DANCING • PHOTO BOOTHS • CASINO GAMES • WINE & CHAMPAGNE • TOP-SHELF SPIRITS • CIGARS AND MORE...



**WE ARE THE MUSIC MAKERS, AND WE
ARE THE DREAMERS OF DREAMS...**

TO PURCHASE TICKETS, CALL MAEGAN HESANO AT (800) 666-6233
OR EMAIL MHESANO@AFPDONLINE.ORG



michigan food safety report

KEVIN BESEY // MICHIGAN DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT DIRECTOR

Licensing Fee Step Increases, Vending Machine Inspection Changes Take Effect This Fall

As a reminder, food business license fee increases take effect on October 1, 2016. This is phase two of the three-phase fee increases approved by the Michigan Legislature in 2015. These are the first fee increases in more than 15 years, and provide resources to the Michigan Department of Agriculture and Rural Development to respond to significant increases in the number of retail food establishments and food processors in our state, increase the number of inspections, help more businesses expand and comply with state and federal rules, and strengthen customer service through improved technologies and enhanced mobile work stations.

The chart below shows years two and three of the fee increases for specific food business license types. All 2017 fees are effective October 1, 2016. All fees shown include a \$3 Food Safety Education Fund fee for industry and consumer training and education. About 90% of Michigan food businesses require licenses from the categories in the shaded area.

In addition to the scheduled fee increases, with the passage of Senate Bill 774 of 2016, Michigan's vending machine food safety program is changing on September 18, 2016. The responsibility for licensing and inspecting most food vending companies will be transferred from local health departments to MDARD. MDARD will begin evaluating vending company base locations (e.g., food warehouses) and a portion of each company's regulated machine locations during normally scheduled routine evaluations. Evaluations for food warehouses are typically scheduled every 18 months.

Effective immediately, individual vending machine location

licenses will not be required. Vending companies should contact MDARD instead of their local health department to license any vending base locations. In April, 2017 when MDARD licenses are renewed, vending companies will pay an additional fee based on the number of regulated vending locations the company operates.

Vending fees are:

- 1 to 20 locations, \$500
- 21 to 50 locations, \$750
- 51 to 75 locations, \$2,000
- More than 75 locations, \$3,000

MDARD is in the process of hiring a dedicated vending program inspector to provide one consistent point of contact for the vending industry. MDARD's Accela on-line licensing system should be ready to handle vending license renewals by spring of 2017.

These program changes should mean several advantages for vending companies and their customers. Each vending firm will work with and pay just one regulatory agency (MDARD). Food safety should improve through one systematic, comprehensive review. With a systematic approach, MDARD will evaluate the whole system (base warehouses, food preparation areas, technology oversight systems, transport system, and machine locations). One evaluation report will be issued per base establishment, covering all parts of the system. The program changes should also reduce industry and regulator costs through the elimination of machine location inventory maintenance and licensing at 3,000 locations across the state. The changes also mean consistent fees statewide.

MDARD's inspector will review each vending company's current list of regulated vending locations during each visit and select a portion of those machine locations for evaluation. Regulated vending machines include those serving food that is temperature controlled for safety (e.g., sandwiches) and those that dispense a food or beverage into a container (e.g., coffee). Pre-packaged foods such as pop, gum, candy, etc. are not regulated.

In some cases, vending machines will continue to be inspected by local health departments. For example, a vending machine location located on the premises of a food service establishment (restaurant, hospital, school, etc.) will continue to be inspected by local health as part of that licensed establishment, if the machines are operated by the food service establishment.

MDARD will send information to all vending companies currently licensed by local health departments to explain the licensing changes. As we work through this transition period, anyone seeking a new vending license or current vending licensees with questions should contact MDARD at (800) 292-3939. ■

Food License Fees	
<input type="checkbox"/> \$58.00 (2017) \$73.00 (2018) <input type="checkbox"/> FTM - Temporary Food Establishment Operates 14 consecutive days or less excluding fairs. AOBJ: 0435 <input type="checkbox"/> FSF - State or County fair only AOBJ: 0435	<input type="checkbox"/> \$148.00 (2017) \$186.00 (2018) <input type="checkbox"/> FRF - Retail Food Establishment AOBJ: 0430 <input type="checkbox"/> FLP - Limited Wholesale Food Processor with \$25,000.00 or less in annual gross sales. AOBJ: 0433 <input type="checkbox"/> FFH - Food Warehouse AOBJ: 0438 <input type="checkbox"/> FVB - Food Vending Base AOBJ: 0438
<input type="checkbox"/> \$156.00 (2017) \$159.00 (2018) <input type="checkbox"/> FST - Special Transitory Food Unit (STFU) AOBJ: 0436	<input type="checkbox"/> \$373.00 (2017) \$471.00 (2018) <input type="checkbox"/> FRE - Extended Retail Food Establishment (grocery with both food service and seating available) AOBJ: 0431 <input type="checkbox"/> FFP - Wholesale Food Processor AOBJ: 0432
<input type="checkbox"/> \$189.00 (2017) \$192.00 (2018) <input type="checkbox"/> FMC - Mobile Food Commissary (Serving mobile grocery) AOBJ: 0437 <input type="checkbox"/> FMF - Mobile Food Establishment - License Plate No. _____ AOBJ: 0434	
Other Food Fees	
Certificate of Free Sale	\$60.00
Annual License Late Fee	\$150.00



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michigan lottery report

M. SCOTT BOWEN // MICHIGAN LOTTERY COMMISSIONER

New Slate of Instant Games Expected to Excite Players and Boost Sales

The Michigan Lottery's instant games are a perennial favorite with players. Their popularity hit a high point in 2015 when players bought a record \$1 billion worth of instant games from retailers across the state.

We project continued strong player interest will push sales to another record for the 2016 fiscal year.

With a wide range of price points, the Lottery's instant games are designed to appeal to a broad spectrum of players. Games such as Cashword and Bingo have built strong brand awareness and loyalty among regular Lottery players. Games such as Hot Riches appeal to casual and regular Lottery players. Creating innovative games with broad player appeal, large cash prizes, and a variety of price points helps create excitement among players and drive repeat business for retailers.

Throughout 2016, the Lottery has introduced instant games that appeal to a wide range of players. That trend will continue in October when four new instant games hit the shelves.

- **The Walking Dead** – Themed after the popular AMC TV show, each \$2 The Walking Dead instant game ticket will offer players the chance to win prizes ranging from \$2 up to \$30,000. The game features more than \$5 million in total prizes.
- **Bingo Plus** – Bingo games are some of the most popular instant games offered by the Lottery. Players enjoy the long game play that Bingo offers and the game's online interactive second chance game. Each new \$5 Bingo Plus instant game ticket will offer players prizes ranging from \$5 up to \$300,000. All told, Bingo Plus offers more than \$20 million in prizes.
- **Double Bonus Cashword** – Cashword games rank toward the top of the list of best-selling instant games offered by the Lottery. Like Bingo themed games, Cashword offers players longer game play and an online interactive second chance game. Each \$5 Double Bonus Cashword game will offer players the chance to win prizes ranging from \$5 up to \$300,000. More than \$20 million in total prizes are available for players to win.
- **Hot Fortune** – Instant game families are very popular with players. Offering a similarly themed game at multiple price points helps build brand awareness among a wide range of players. Historically, instant game families have sold very well. In January, the Lottery launched the "Hot" family of games with tickets available at the \$1, \$2, \$5, and \$10 price points. To build on the "Hot" games success, the Lottery will offer players a new \$20 Hot Fortune instant game. Each ticket will offer players a chance to win prizes ranging from \$20 up to \$2 million. The game features more than \$85 million in prizes.

The Lottery expects these exciting new instant games to boost sales and store traffic for retailers and provide a strong start to the 2017 fiscal year, which begins on October 1st.

DIGITAL DRIVES TRAFFIC TO RETAIL

The Lottery's growing digital presence has helped drive a record number of players to retailers across the state.

- In 2016, approximately 188,000 players went to retailers to redeem more than \$2.2 million in free play coupons from web-based promotions.
- Those visits resulted in \$445,000 in commissions for retailers! ■

INSTANT TICKETS / PULL TAB TICKETS

NEW INSTANT TICKETS:

On sale October 4th:

- IG # 788 – The Walking Dead \$2
- IG # 797 – Double Bonus Cashword \$5
- IG # 796 – Bingo Plus \$5
- IG # 779 – Hot Fortune \$20
- IG # 707 – Surprise Package \$5
- IG # 708 – Winner Green \$10

NEW PULL TABS TICKETS:

On sale October 4th:

- MI # 584 – Top \$pin\$ \$1

PULL TABS GAMES SET TO EXPIRE:

Expiring November 14th:

- MI # 553 – Mega 7's Multiplier \$1
- MI # 543 – Green Machine \$1

Expiring November 21st:

- MI # 545 – Blazin' Cash 50¢

INSTANT GAMES SET TO EXPIRE:

Expiring October 3rd:

- IG # 697 – Wild Time Gold \$2
- IG # 704 – Magic Number Bingo \$5

Expiring October 10th:

- IG # 702 – \$500,000 Doubler \$10

Expiring November 7th:

- IG # 705 – Holiday Cash \$1
- IG # 702 – Holiday Luck \$2

TICKET ACTIVATION: Retailers are reminded to activate all game tickets before putting them on sale to ensure winning tickets may be redeemed by players.



TOGETHER, WE'RE BUILDING A BETTER MICHIGAN

Last year was record breaking for the Michigan Lottery, thanks to all your hard working selling Lottery tickets. Because of that hard work, we're building a better Michigan and lots of good things are happening as a result. It starts with hundreds of millions of dollars contributed annually to the state School Aid Fund, which is good for Michigan students. It's good for players, who won over a billion in prize money. It also helps boost your business and 10,000 others across the state, with commissions earned. So thank you for making it a banner year, for helping build a better Michigan, and making good things happen for all of us.





ohio liquor report

BRUCE D. STEVENSON // OHIO DIVISION OF LIQUOR CONTROL

Preventing Underage Alcohol Sales

The changing of the season from summer to fall is in full swing. Kids are back in school, leaves are beginning to turn color and the weather will soon begin to turn cold. One thing that never changes is the Division's strong commitment to promoting safe, legal and responsible alcohol sales and consumption throughout Ohio. Social responsibility is an essential part of working in the alcohol beverage industry. Retail permit holders, such as bars, restaurants, carryouts, grocery stores and Contract Liquor Agencies, must understand their responsibilities and take steps to help keep alcohol out of the hands of underage individuals.

This time of year, young people will be attending football games, homecoming dances and other social events. It also means that Ohio retail permit holders are on the front lines and must be extra vigilant to prevent underage sales. As a permit holder, it is your responsibility to educate your employees and make sure they receive the proper training. Selling alcohol to anyone under the age of 21 is not only a violation of Ohio law, but the consequences can be tragic for a young person and devastating to your community and business. It can result in citations against your permits that will jeopardize your ability to sell alcohol in the future, may subject you to the termination provisions of your agency contract and can result in criminal charges and penalties.

It is imperative to always thoroughly check the identification of all young people attempting to purchase alcohol. Checking IDs can help prevent an illegal sale and also protect your business. Ohio law provides an affirmative defense that protects permit



holders who make a bona fide attempt to verify that a customer is at least 21 years old by checking a valid Ohio driver's license, an official state of Ohio identification card, a military identification card issued by the U.S. Department of Defense or a passport. There is also an affirmative defense when using an automatic identification reader/scanner. Such devices are great tools to help verify the age of a customer and the authenticity of the identification.

It is also important to pay attention to the products that you are selling. There are items such as some energy drinks that contain alcohol, and other alcohol products with non-traditional packaging that may look similar to non-alcoholic products. Make sure that products which contain any alcohol are sold only to those customers who are over the age of 21.

Retail permit holders are not the only businesses that can help in the fight against underage drinking. Hotel, motel, inn, cabin or campground operators are prohibited by Ohio law from allowing accommodations for an underage person if it is known or suspected that they are intoxicated or possess alcohol.

Selling alcohol is a privilege that comes with great responsibility. Help protect your community and your business by making sure your employees know the law and understand the seriousness of practicing safe, legal and responsible alcohol sales. We can help by providing educational materials and other resources to help train employees. Information and resources are available on our website at www.com.ohio.gov/liqr. ■



Make Sure you Vote

The Ohio General Assembly continues to take a long summer's break and it looks like they won't return until after the November elections. AFPD has been busy even with the absence of legislators. Meetings continue with the Ohio Lottery Commission to benefit both the state and lottery agents, i.e. AFPD members. We have ongoing conversations with the Department of Liquor over Ohio adopting some of the more beneficial language that Michigan has in place. AFPD met with the Governor's Office and had a good one hour conversation on taxes, regulations and what the future may hold. The Governor did agree at AFPD's urging to declare the month of September "We Card" month, to help discourage under age buying of tobacco and alcohol products.

We haven't totally forgotten legislators as we've attended a number of fundraisers and other events where members were present. With the General Assembly out till mid to late November, which will be a lame duck session, all eyes are on the elections, not much has changed since the last report, but here is where we stand presently.

In the Presidential election Trump and Clinton are in a virtual dead heat in Ohio, and nationally Trump has narrowed the gap considerably, but he still trails in key states of Pennsylvania, Virginia and North Carolina.

In the U.S. Senate race in Ohio, Republican incumbent Rob Portman is so far ahead that National Democrats have pulled all funding for former Democrat Governor Ted Strickland, his challenger.

The three seats on the Ohio Supreme Court will most likely stay Republican, but this is always a hard one to call because they don't have much money and people pay little attention. Ohio's 16 Congressional seats will almost certainly stay 16-4 Republican. The Ohio Senate will likely stay at 23-10, Democrats do have an outside chance to pick up one seat, but it would still be 22-11, a huge republican majority. The Ohio House is currently at 65-34 Republican but that will probably go to 62 or 63 Republican.

In all of these races there seems to be no coattails at the top as both Donald Trump and Hillary Clinton are the two most disliked Presidential candidates in American History. We close with the same message as always, please urge grocers, service station owners, fast food owners and other small businesses to join AFPD and please be generous with PAC donations. AFPD has made strides, but to continue to have a voice in government we need you, the member, to stay involved. ■



Setting the National Standard for GMO Labeling



■ BY KRIS HARRIS

Congress, before adjourning for their summer recess, passed a bill in an attempt to set a national standard for labeling foods that contain ingredients that are genetically engineered. On July 29th, President Obama signed bill S. 764 into law, which was the last hurdle for one national standard for genetically modified organism (GMO) labeling.

One of the lead sponsors of the bill was Senator Debbie Stabenow (D- Michigan), who along with Senator Pat Roberts (R- Kansas), felt it was important to preempt state labeling laws and establish a mandatory disclosure requirement. "We worked with her staff through the process," said Jennifer Hatcher, Senior Vice President, Government and Public Affairs at the Food Marketing Institute (FMI). "She and Pat Roberts from Kansas were the two chief negotiators of this. If she had not been a willing player in trying to achieve a compromise, it wouldn't have happened. We knew the only way to achieve this in an election year was that it had to be bi-partisan and the only way to get something through the Senate, it needed 60 votes so that included a considerable number of democratic supporters. It was important to have her role and willingness, given the importance of agriculture and retail in Michigan, in coming up with something that could pass through the Senate."

The law amends the Agricultural Marketing Act of 1946 by adding at the end the following:

- The term “bioengineering”, with respect to a food, refers to a food that contains genetic material that has been modified through DNA techniques and for which the modification could not otherwise be obtained through conventional breeding or found in nature.
- The National Bioengineered Food Disclosure Standard shall apply to any claim in a disclosure that a food bears, that indicates that the food is a bioengineered food.
- The establishment of mandatory standard shall be no later than two years.
- The establishment of requirements and procedures necessary to carry out the standard.

According to GMOanswers.com, there are currently nine GMO crops in the United States. The list includes corn (both field corn and sweet corn), soybeans, cotton, canola, alfalfa, sugar beets, papaya, summer squash and potatoes. Aside from those nine, apples have been approved and are expected to come to market in the near future. The low total amount of GMO crops debunks the misconception that the produce aisle is riddled with products that contain GMOs.

The reason behind establishing a national standard resulted from a Vermont law (Act 120) that took effect on July 1, 2016. The law required that labeling was necessary for any food products that were made with GMOs and also prohibited using the word “natural” on labeling for any food that contained GMOs.

Since Vermont receives products from warehouses located outside the state, there was strong push to set a national standard. “What became very clear to us was after Vermont passed their law, and our members that supply Vermont, that we needed a national solution,” said Hatcher. “To have a patchwork system with different laws requiring different labels across the country was absolutely unworkable. The folks on the warehouse distribution side were really at wits end for how they were going to segregate product given the situation in Vermont with very serious fines attached to non-compliance.”

The fines in Vermont, for not adhering to the new law, were set at \$1000 per-day. “That was a per product

violation,” explained Hatcher. “It became clear that we were going to have to look for something that was a national solution that preempted all other state laws regardless of what it was. We needed a national solution that was consistent and that preempted anything else that could vary among the states, so that was the overarching goal.”

The results of the new national bill will not mean that shoppers will immediately begin to see GMO labels on products. The bill merely allows the U.S. Department of Agriculture (USDA) to start looking at which food manufacturers will be required to label as containing GMOs. The USDA will have to first determine which ingredients are to be considered genetically modified ingredients under the law. This process is expected to take some time, so the determination may take years to complete.

Members should be aware that there is some misinformation floating around that states the labeling will start popping-up on each and every product that contains a GMO. That is not the case as some products are excluded in the bill. For example, the law prohibits food derived from an animal to be considered a bioengineered food solely because the animal consumed feed produced from, containing, or consisting of a bioengineered substance. “That was one of the debates in this law, that we couldn’t chase cows around to see what grass they’re eating,” said Hatcher. “We needed to deal with things we could handle and that we would know the answers. It’s going to be packaged products and on the produce side, one of the products would be corn, where they’ve had a lot of advances with genetic modification.”

Retailers need not worry about customers who are concerned with the safety of GMO products and loss of sales due to competition with non-GMO products. The bill states that a bioengineered food that has successfully completed the pre-market Federal regulatory review process will not be treated as safer than, or not as safe as, a non-bioengineered counterpart of the food solely because the food is bioengineered or produced or developed with the use of bioengineering. In other words, foods containing GMOs that have passed regulatory review should not be considered any different than its non-GMO counterpart in terms of safety.



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The bill also includes a deadline of one year for a study to determine new ways to disclose the information through digital means. Specifically, the Secretary of Agriculture will conduct a study to identify potential technological challenges that may impact whether consumers would have access to the bioengineering disclosure through electronic methods.

Moreover, the study will take into consideration whether consumer access to that information would be affected by the following:

- The availability of wireless Internet or cellular networks.
- The availability of landline telephones in stores.
- Challenges facing small retailers and rural retailers.
- The efforts that retailers and other entities have taken to address potential and infrastructure challenges.
- The costs and benefits of installing in retail stores electronic or digital link scanners or other evolving technology that provide bioengineering disclosure information.

If the Secretary of Agriculture determines in the study that consumers, while shopping, would not have sufficient access to the bioengineering information, the Secretary of Agriculture will provide additional and comparable options to access the information.

For tech savvy shoppers, the Secretary of Agriculture will ensure that on-package language accompanies an electronic, or digital link, indicating that the link will provide access to an internet website or a landing page, with a “Scan here for more food information” stamp.

Retailers can ensure their customers that “live on the grid” that using the digital link will keep them safe from tracking and solicitation. The bill says the digital link that appears for the product on a mobile device, Internet website, or other landing page, will exclude marketing and promotional information, may not collect, analyze, or sell any personally identifiable information about consumers or the devices of consumers. However, if information must be collected in order to carry out the purposes of this new standard, that information will be deleted immediately and not used for any other purpose.

For non-tech savvy shoppers, the on-package language will disclose the telephone number that will provide

access to additional information by stating “Call for more food information.”

In regards to current State food labeling standards, the bill prohibits States from establishing any requirement relating to GMO labeling or disclosure that is not identical to the mandatory disclosure requirement under the new standard.

The bill also includes language on enforcement which prohibits someone from knowingly failing to make a GMO disclosure, mandatory record keeping, and audits. However, the bill states that the Secretary of Agriculture will have no authority to recall any food subject to this subtitle on the basis of whether the food bears a disclosure that the food is bioengineered.

One thing retailer should keep in mind is that the a food may not be considered to be a “non-GMO” food solely because the food is not required to bear a disclosure that the food is bioengineered under this the new standard. This information will help educate your customers who ask about new products that may be trying to take advantage of the new ruling, through creative “non-GMO” labeling.

Finally, the bill states that in the case of a food certified under the national organic program, established under the Organic Foods Production Act of 1990, the certification will be considered sufficient to make a claim regarding the absence of bioengineering in the food, such as “non-GMO”, or another similar claim.

As the law begins to take form, one outcome is certain; product labeling will go through an evolution. Just as labels evolved decades ago, with the addition of nutrition information, customers will be given even more information on the products they purchase. In step with advancements in technology, the labeling will also look to new ways in providing that information. “You’ll soon see a greater usage of QR codes for supplying lots of consumer information, including biotech codes, ingredient information, sourcing information, beginning immediately,” said Hatcher. “That’s what we’re seeing on the consumer trend side. Customers are more interested in knowing more information about their products that their using and we want to make sure we have a way to provide the information for those that want to see it.” ■

Kris Harris is a writer for Denha Media & Communications.



A&L Market has Celebrity Appeal

■ BY KRIS HARRIS

Frank Ayar and his five brothers (Ronnie, Neil, Sal, Omar and Robert) purchased A&L Market, located off of Joy Road in Detroit, on August 27, 1997.

From that first store, business has not only grown in terms of the store itself, but the Ayar brothers have extended the family business to stores throughout the Detroit area. “It was us six brothers, who took it over and we all worked here - we had no employees,” said Frank Ayar, the youngest of the brothers. “We got our second location, Grand Price, and then we got three other locations and each of us has branched out from there.

Ayar had a little luck on his side when he ended up taking over A&L Market, where it all started. “Fortunately, my brothers gave me this store and I love it,” Ayar said. “I love this store and I love this neighborhood.”

To keep up with the change in customer shopping habits, Ayar realized that expanding the store’s products and outreach in the community was necessary. “Over the years we’ve expanded the hot food and are always involved in the community, especially with sports,” explained Ayar. “We have good customer service, but the main thing is being clean. It’s very important to be clean and you have to have fresh food, quality food. It helps the business a lot, with every department, and it draws a lot of customers in.”

Ayar knows the importance of helping others who can, in turn, help your business; which is why he goes out of his way to work with sales reps on the products



they sell. This model has allowed A&L Market to bring in top-shelf artists when they travel on promotional tours. “We’re in the top five in Liquor sales in Michigan, so whenever I get a call about a promotion, I go for it and I help out the sales rep reach their goal and they connect me with them,” Ayar said. “About seven years ago, P. Diddy came here and last year, in August, we had 50 Cent come here and now we have Lil’ Boosie here.”

Bringing in a celebrity is a great way to promote a product, but for the business, it’s also great way to increase sales in a short period of time. “With Effen Vodka, in three hours, I sold 96 cases,” said Ayar. “That was a big event for us. When Ciroq came out and P. Diddy came to A&L, I sold a good amount that day too.”

Ayar sees the results when an artist gets behind a product. “It’s really changing the game because they are promoting it really good,” Ayar explained.

A&L’s big promotion this year, in August, included bringing Lil’ Boosie to the store to promote his new spirit, Boosie Juice. Boosie Juice is one of the many Benchmark Beverage spirits available in Michigan, exclusively through AFPD. “Benchmark is growing and it’s a good company that’s got good liquor,” Ayar said. “A lot of customers like their liquor section. It’s new, but it’s good.

Being a member of AFPD, provides Ayar and his brothers additional support through the many programs and services that they rely on to save on costs. “I’m a long standing member of AFPD and all of our stores are AFPD members,” said Ayar. “It’s the best thing I ever did. There are promotions with all different types of vendors, such as Lipari, Sherwood, Coke and U.S. Ice. Membership pays for itself.” ■

Kris Harris is a writer for Denha Media & Communications.

RETAILER: A&L MARKET

Location: 4 locations in Detroit, Michigan

Founded: 1997

Employees: 15

AFPD member since: 1998

Quotable: “Your one-stop shop food center for groceries, check-cashing and liquor”





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AFPD's Ohio Lobbyist: Experience, Knowledge and Know-how

■ BY MONIQUE MANSOUR

In Upper Arlington, a suburb of Columbus, Ohio, lives Terry Fleming who, according to colleague Ed Weglarz is, “a long time professional who is respected in the halls of the Ohio capitol, and beyond.” Fleming has lived in Ohio for more than 60 years. “Ohio is unique – we are not an eastern state or a midwestern state – we sit in the middle of the country all by ourselves,” said Fleming. “We’re a very diverse state with a diverse population and with diverse industries from manufacturing, to farming, to tourism. I love Ohio!”

Fleming currently serves as the Ohio lobbyist for the AFPD, serving Michigan, Ohio, Illinois and other surrounding states. AFPD represents independent retailers – convenience stores, service stations, grocery stores, vendors – “a large segment of the industry – not just gasoline,” Fleming said.

Prior to joining AFPD, Fleming was with API, the American Petroleum Institute, based in Washington, D.C. for more than twenty-nine years. Three years ago, Fleming felt the need for something new. “There was a change in the administration in DC and I wanted out of there. Within a month of being out, I got a call from AFPD.” Fleming grabbed the opportunity. “I wanted to keep busy in retirement, and there is a huge difference between representing people who own their businesses as opposed to representing large corporations,” said Fleming. Fleming notes that his work with AFPD is “more personal,” as “you’re working with owners who work ten or more hours a day at their business. You feel a lot better when you’re helping small business owners.”

Fleming’s accomplishments at AFPD are numerous, but perhaps the most pivotal in recent times are the changes he helped to spearhead regarding the Ohio Commercial Activity Tax, or the CATax. Before changes in legislation were made, “most independent gasoline retailers had to pay a CATax that was sometimes three or four times higher than some chains,” said AFPD colleague Ed Weglarz. With the



help of Fleming, AFPD was “successful in garnering support of the Ohio Legislature to change the method of calculation of a tax on fuel, later named the PATax, that would maintain the same revenue stream for the state of Ohio while leveling the tax burden on gasoline retailers,” says Weglarz.

Looking to the future, Fleming hopes to continue work on making changes to Ohio liquor laws that could help the state become more lucrative, and to increase sales and commissions for agents in regards to lottery tickets. AFPD also continually works with the EPA, the Environmental Protection Agency, on oil and gas issues. “We’ve had great meetings with all three,” said Fleming. “It’s all about establishing and keeping good relationships.” Weglarz said it has been a “thrill,” working alongside Fleming because he can “weave past history into tomorrow’s legislative proposal and bring a fresh viewpoint into the conversation.”

Fleming is happily married to Judith Will Fleming. Together, they have a son named Cory who is also a lobbyist, working for the Credit Union League of Ohio. Fleming says his “best friend in the world,” is his dog, Summer, a ten-year-old seven-pound Yorkie-Poodle. “I want to encourage people to join AFPD,” said Fleming, so that the good work may continue. ■

Monique Mansour is a writer for Denha Media & Communications.

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AFPD and Eby-Brown Positioned to Empower the C-Store

It's a relationship that will certainly expand AFPD's reach across the country. Eby-Brown, the largest privately held convenience store distributor in the United States has partnered with AFPD to provide various programs including a rebate program and a chain-book program.

"Through Liberty USA and now Eby-Brown, AFPD is able to offer discounted rates for products to its members that chain stores get from various companies. This enables our members to be competitive," said Auday Arabo, president and CEO of AFPD. "Also, if you sign up with Eby-Brown, and qualify as a member, they will pay the AFPD membership fees for as long as the store continues to do business with Eby-Brown."

"Eby-Brown is proud to be the exclusive partner of AFPD because we share a mutual history of organizations that have been dedicated to the c-store industry for more than 100 years," said Thomas Wake, Co-President of Eby-Brown "AFPD is dedicated to the independent retailers that represent a significant portion of our current and prospective market. Our goal is to grow this partnership and our market share in the independent space while working toward assisting AFPD in achieving their goals of education, training and advocacy for the independent retailers."

This past March, Eby-Brown Company, LLC announced an agreement to purchase the assets of Liberty USA located in West Mifflin, Pennsylvania. Eby-Brown reports annual revenues in excess of \$5 billion and services retail accounts throughout the Midwest and Southeast.

Liberty USA was known as the largest independently owned convenience store supplier in Pennsylvania servicing 2,000 retail customers in the Midwest, Northeast and East Coast. The purchase strengthens Eby-Brown's presence within the state of Pennsylvania and extends its distribution network into the Northeast.

Both Eby-Brown and Liberty USA are

multigenerational family businesses that have grown through a focus on delivering excellent service and innovation to customers.

Eby-Brown has been the largest independent wholesale distributor in the convenience store market for more than 125 years. Throughout the history of the company, Eby-Brown has remained family-owned and operated and for the last 55 years, the Wake family has owned the company. Dick and Tom Wake have based the values of the company on quality service to its customers and creating a family environment for all employees. Throughout the history of the company, the single most important driver which has contributed to their growth is servicing its customers and staying focused on the importance the independent retailers.

"Because of our size, we are able to deliver value through buying power to this market that other distributors cannot," said Wake. "Additionally, we provide many of the same sophisticated solutions through our technology, foodservices and product mix that the independents might not otherwise have access to. We do this, because we care about providing them solutions to grow their business."

Eby-Brown and AFPD share the same tenants in their mission and vision. AFPD is dedicated to remaining and continuing to gain position in the convenience store industry and Eby-Brown is focused on being the preeminent provider of convenience service and solutions in the industry. "We share a common interest and commitment to the independent market and have remained true to that commitment," said Wake.

Auday Arabo and AFPD executive board member, Paul Elhindi, had been working on this partnership with Eby-Brown for several months.

"They see the value of the association and we definitely see the value of the partnership," said Elhindi. "If they succeed, we succeed, and vice versa. That is what you call a great partnership; when both sides are successful."

With Eby-Brown being AFPD's exclusive supplier for C-Stores, Elhindi is confident in the association's growth. Eby-Brown is training its sales staff to educate all of their members on the benefits of AFPD and the programs Eby-Brown and the association offer. "Mr. Wake is 100% behind us and committed," Elhindi noted. "It's all about the relationship. It takes a commitment from both sides to create a long-term relationship. We have made that commitment and so has Eby-Brown." ■



MATTHEW STAFFORD
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MICHIGAN //

Ending the 'You Buy We Fry' practice for EBT Card Holders

■ BY KRIS HARRIS

AFPD's fight for retailers is an on-going process that never slows down. It means constantly monitoring every aspect of the industry and looking for ways to level the playing field. Most recently, AFD actions focused on making a change to prevent stores, who were exploiting a loop-hole in store licensing, from accepting EBT Cards in Michigan.

"This goes back quite some time when there were certain people who were on SNAP, that could use their SNAP benefits at McDonalds," said Dan Papineau, AFD Director of Government Relations. "We thought, well, why can't they use their benefits at a retailer that sells rotisserie chicken? If you're going to allow EBT to purchase prepared foods, then you have to do it for everybody, whether you're a grocery store or a fast-food restaurant".

The issue reached Michigan Governor Rick Snyder's desk, who decided that no one would be allowed to accept EBT for prepared foods, which leveled the playing field.

However, this resulted in consumers using their EBT card at stores that would sell them the raw poultry, or meat product, and then fry it for a small fee. The prepared food would then be served in a basket just like a fast-food restaurant. "I called Captain J's in Southfield and asked if they were still accepting EBT," explained Papineau. "She said, 'yeah, you want a three piece meal and two-sides? You can pre-order it and just come pick it up.' It's a fast-food restaurant, no doubt about it, that's exploiting a loop-hole. The program is not meant to provide a meal at a restaurant."

To protect retailers, AFD stepped in to make sure EBT purchases could only be made at a grocery store. In Michigan, the Department of Agriculture licenses grocery stores, but the Department of Health and Human Services is the administrator for EBT. Local

Health Departments regulate restaurants which, under the law, do not have the ability to use EBT.

AFPD worked with the Department of Agriculture to stop licensing stores like Captain J's, as a grocery store. "Aday has regular meetings with the Department of Agriculture and the Department of Health and Human Services," said Papineau. "Those two entities are both involved in the EBT realm, but since they are two totally different departments I think Aday noticed that there was a lack of communication going on between them."

Arabo brought the two departments together to discuss some of the problems that retailers were having with EBT and started to move the process forward. "It was Sandra Walker (Food Program Manager at MDARD) who agreed to stop it," explained Papineau. "She sent the investigators out and they noticed that these stores were really not grocery stores. So, a letter was sent to them saying that when you go to renew your license, go talk to your local Health Department, don't talk to us."

Since local Health Departments only regulate restaurants, the problem was solved. In MDARD's Food Digest Winter 2016 newsletter, it states that:

"Markets with food service are sometimes referred to as a 'you buy, we fry' business. Under this business model, a consumer purchases from one part of the retail business, takes it to a separate preparation area of the store, and pays a service fee to fry or prepare it into a meal. These markets also sell packaged groceries in a retail area...To be licensed under MDARD, a market would have to sell more retail groceries than take-out food for immediate consumption. Any product purchased in a fresh state but then prepared at the market would be considered food service, not retail grocery..."

For establishments who walk a fine line between a restaurant and a grocery store, there is an appeals process they can go through if they feel they've unfairly lost their license as a grocery store. "They need to come in with the Department of Agriculture, the Department of Health Services, the Enforcement Division, and plead their case," said Papineau. "But that can be intimidating, because if you were accepting EBT wrongfully, there's going to be penalties for that. So, do you really want to push the envelope and risk financial harm or just convert your license and continue to do business?" ■

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Independent Food Retailers Association (Member of AFPD)

Frankenmuth ~ Michigan



	Network	Non-Network
Deductible	\$250 single \$500 family	\$ 500 single \$1,000 family
Coinurance	80%	60%
Office Visit Copay -	\$20	
Out-of-pocket Maximum =	\$5,000 family	

REBT 3 (silver) RATES:

\$477.17 (s) \$967.57 (c) \$1,099.56 (f)

	Network	Non-Network
Deductible	\$1,500 single \$3,000 family	\$2,000 single \$4,000 family
Coinurance	90%	60%
Office Visit Copay -	\$15	
Out-of-pocket Maximum =	\$5,000 family	

PLAN HD (silver) RATE

\$377.54 (s) \$765.56 (c) \$870.08 (f)



AFPD Members help feed the Mid-West Economy



Governors for the State of Michigan, Ohio and Illinois have issued proclamations declaring the impact that retailers have on their state's economy and the local community.

In the State of Michigan, the food industry directly supports 198,000 full and part-time jobs along with an additional 75,000 indirect jobs. The food industry also contributes a gross total of \$24.8 billion to Michigan's economy through its direct sales, indirect economic impact on other industries and employment. These are among the many reasons Governor Rick Snyder declared the last week of September "Food Retailers Week."

In the proclamation Governor Snyder stated "...the food retailer industry is comprised of grocers, specialty food markets, convenience stores and pharmacies along with many other business providing access to food at retail in their communities; and, ... business in the food retail industry contribute nearly \$900 million in state and local taxes and local governments..."

"Food retailers of all shapes and sizes contribute significantly to Michigan's economic well-being and we are excited that Governor Snyder is recognizing that by declaring the last week of September Food Retailers Week", said Auday Arabo, President and CEO of AFPD. "Not only do our food retailers play a substantial economic role they also provide convenient access to an essential necessity: quality food and I think that is a pretty important point that gets easily taken for granted."

Similar to Governor Snyder's proclamation, Illinois Governor Bruce Rauner declared the last week of September "Independent Retailers Week." According to the Andersonville, Illinois Study of Retail Economics, for every \$100 in consumer spending with a local firm, \$68 remains in the local Illinois economy. That same \$100 spent with a chain firm results in only \$43 remaining in the local community; a difference of \$25 per \$100.

Moreover, for every square foot occupied

by a local Illinois firm, the impact on the local economy is \$179. Yet that same square foot occupied by a chain firm results in a local impact of only \$105; a difference of \$74 per square foot. These are among the many reasons Governor Bruce Rauner made this declaration.

In the proclamation, Governor Rauner stated "...our state's local independent retailers help preserve the uniqueness of the community and give a sense of place... independent-owned retailers give back to the community in goods, service, time and talent...(and) the health of our state's economy depends on our support of businesses owned by our friends and neighbors."

Ohio Governor John Kasich also signed a proclamation stating the last week of September to be "Independent Retailers Week" in the State of Ohio. According to the 2016 NACS/Nielsen Convenience Industry Store Count, the U.S. convenience store count increased to 154,195 stores in 2015, an increase of 1,401 stores from the year prior. Overall, 80.7% of convenience stores sell motor fuels and the convenience retailing industry continues to be dominated by single-store operators. The study also concluded that at the end of 2015, the State of Ohio had 5,605 C-Stores, immediately followed by Michigan with 4,880 stores and Illinois with 4,732.

Governor Kasich's proclamation states, "Independent Retailers Week provides a time to celebrate the entrepreneurial spirit represented by our core of local independent retailers...the individual decisions every community member makes affect the future of our state...independent retailer owners and employees enrich community members' shopping experiences with their knowledge and passion."

"Whether they are your grocery store, food specialty shop, local convenience store or gas station this proclamation is a sign of our State's thanks for being a critical role in our communities and our economy," said Arabo. ■



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Preserving Inheritances Inside a Trust



■ BY RANDALL A. DENHA, ESQ.*

“While we trust our kids, we may not trust their environment”, is a commonly used phrase that I have in my practice. Put another way, it’s probably best that children not receive too much too fast by way of an inheritance for fear of it being foolishly spent, taken by a creditor or invested improperly. As a result of these real fears, I have seen a dramatic increase in the number of clients interested in holding assets in trust for their children. Regardless of someone’s level of wealth, this trend is on the rise. This is not due to younger generations’ lack of financial savvy or level of sophistication, but more related to the housing market bubble’s bursting, uncertainty in the stock market and the fifty% plus divorce rate. Parents have shown an increased concern in insulating their children’s inheritance from these more prevalent pitfalls. Particularly when the trust is self-trusted by the child, the disadvantages of retaining assets in trust for the lifetime of the

child are limited. However, there are three significant benefits to holding assets in trust for your children for their lifetime:

CREDITOR PROTECTION

A trust created for children becomes irrevocable at the Settlor’s death and the assets in trust for the child should generally not be available to the children’s individual creditors. To the extent that distributions from the trust are discretionary (not required), the assets will continue to benefit from creditor protection. Each state has its own separate laws on how they treat this and the law is slowly evolving.

DIVORCE

While couples do not usually go into marriage anticipating a divorce, it is still a possibility. In most states an inheritance is treated as a person’s separate property (and non-marital). However, in many states a person can unintentionally co-mingle or transmute the character of non-marital inheritance into a marital asset. These transmuted assets would then be the subject matter of a divorce proceeding and create the potential that the asset (or a portion of it) may be awarded to an ex-spouse. A trust helps ensure that this property is segregated and not comingled or transmuted. Similarly, as with creditor’s claims, discretionary distributions from a trust, will not be considered a ‘marital’ asset, and should not be considered income for purposes of spousal support or alimony.

ESTATE TAX SAVINGS

A trust can be drafted to keep assets from being included in their children’s estates for estate tax purposes. Estate tax exemption amounts have increased over the past few years (currently the estate tax exemption is \$5,450,000.00 per individual). In spite of the increased exemption, there continues to be uncertainty in the area. With an upcoming presidential election, this is an area that remains subject to further change.

There are good reasons for holding assets in trust for your children for their lifetime. Like Warren Buffet has once said when asked how about much he was going to give his children upon his death, “so much so they can do anything, but not so much that they do nothing.” ■

**RANDALL A. DENHA, J.D., LL.M., principal and founder of the law firm of Denha & Associates, PLLC with offices in Birmingham, MI and West Bloomfield, MI. Mr. Denha continues to be recognized as a “Super Lawyer” by Michigan Super Lawyers in the areas of Trusts and Estates Law; a “Top Lawyer” by D Business Magazine in the areas of Estate Planning and Tax Law; a Five Star Wealth Planning Professional; Michigan Top Lawyer; New York Times Top Attorney in Michigan and a Lawyer of Distinction in the areas of Estate and Tax Planning. Mr. Denha can be reached at 248-265-4100 or by email at rad@denhalaw.com.*



A Blue Plan for Business

Since most small businesses renew or change their health care coverage in October, now is the time to consider Blue Cross Blue Shield of Michigan's (BCBSM) Personal Choice PPO. "It is currently available and provides most groups with an opportunity to lower their monthly premium," said Cathy V. Brock., Sr. Account Manager, Special Markets - Association and Chamber Relations. "The Personal Choice PPO makes sense for employers."

This innovative plan is about two things: Savings and choice. This plan offers members more choices for care with options to keep their out-of-pocket costs lower. It also helps employers offer a flexible PPO plan with potential premium savings.

With a growing number of employers looking for ways to keep employees happy and healthy on the job, the health plans chosen could make all the difference. The Personal Choice plan is being touted by BCBSM as not the traditional PPO. Typically, companies offer traditional HMOs or PPOs, but Personal Choice PPO provides another option, giving people the flexibility of a typical PPO with choices to keep their costs low. That's done through Organized Systems of Care, which are communities of doctors and hospitals working together to provide high-quality, coordinated care. Your employees get money-saving benefits through lower out-of-pocket costs for certain choices, but still have the option

to see any doctor in or out of the PPO network.

It is being marketed as affordable. Personal Choice PPO provides members with the opportunity to pay the lowest out-of-pocket costs when they choose to coordinate their care by selecting a primary care doctor in a Level 1 OSC. You also can save on premiums by offering this plan.

Offering employees organized systems of care enables them to connect to a community of physicians and referred specialists who work together to keep them healthy and productive. OSCs that have attained Level 1 status have met criteria for providing that high-quality care at the lowest cost. They are aware of their Level 1 status and are ready to serve patients.

Choosing the right health plans for your employees can seem overwhelming.

BCBSM is walking employers through the plan and once enrolled, employees will get quickly educated on the benefits of the plan. Once a member, you are in the PPO network with benefits of an Organized System Care (OSC), which is a community of doctors who work together to keep you healthy.

You pick your primary care doctor. Keep costs low by choosing a primary care doctor who is in a

Level 1 OSC. BCBSM will provide the list of doctors. You will also understand how the cost levels work. With Personal Choice PPO, your cost varies depending on the level of OSC doctors and hospitals you choose. Your employees will create an account with bcbsm.com. Among other things, having an account lets them find primary care doctors and hospitals see a snapshot of your current plan (including where you stand with your deductible and claims) and pull up a virtual ID card. They will also be able to find a hospital in his or her OSC and decide ahead of time which one you'll visit if something happens.

Finally, your employees will learn about member-only benefits. There are resources available to you as a Blue Cross member. A few include the 24-Hour Nurse Line, where you can ask any health-related question at any time of the day or night, the Blue Cross Health & Wellness site powered by WebMD Health Services, and exclusive discounts only available to members.

You can learn more about the plans here www.mibluesperspectives.com/2016/08/09/every-business-deserves-blue-why-blue-cross-personal-choice-ppo-makes-sense-for-employers. ■



**Blue Cross
Blue Shield
Blue Care Network
of Michigan**



One Year Later: Chip Without PIN

Since the October 2015 liability shift, EMV remains frustrating for retailers and confusing for consumers—not a good proposition leading up to the next liability shift in October 2017

■ BY NACS ONLINE

One year after the October 2015 liability shift took effect for retailers to accept Europay MasterCard Visa (EMV) chip cards inside the store, thousands of chip readers have yet to be activated. To make matters more frustrating, the next liability shift—for fuels dispensers—is one year away.

Convenience retailer investments in EMV are not preventing fraud because chip cards in the U.S. are not enabled for PIN authentication, which is the most effective way to combat fraud, ensuring the customer using the card is the owner of that card. In the United States, the convenience store industry processes 160 million transactions each day and invests billions to reduce fraud at the point of sale. For example, many retailers pay to use customers' ZIP codes to verify a transaction to protect their customers and their business. Retailers have real incentives to eliminate payment card fraud because they, according to the Kansas City Federal Reserve, absorb 80% to 90% of all fraud losses on credit and debit card transactions.

Convenience retailers will spend more than \$7 billion on EMV—or just under 70% of industry pre-tax income for 2015—to upgrade and replace software and equipment to accept chip cards, but the card companies prevent retailers from requiring the use of PINs to verify the cardholder and protect against fraud. Without the protection of a PIN number on transactions,

consumers and retailers are vulnerable to fraud.

Leading up to the October 2015 deadline, the card networks were late providing the necessary software specifications to accept EMV transactions. Retailers then needed certification from each card network before they could activate EMV. There were bottlenecks for both, compounded by the fact that the card networks set a liability shift timeframe without regard to the ability of equipment manufacturers and software providers to actually meet the deadline—a problem that will undoubtedly turn out to be even worse at fuel dispensers.

Nearly a year ago, NACS Board member Jared Scheeler, managing director of The Hub Convenience Stores Inc., testified before Congress that his chain of four North Dakota convenience stores had spent roughly \$134,500 to install POS and pump card readers that accept EMV chip transactions. At that time, NACS estimated that the average transition cost would be more than \$26,000 per store, compared with an average profit of \$47,000 per year.

Since the October 2015 EMV liability shift, many retailers have also been experiencing an outrageous increase in chargebacks, mostly erroneous. Counterfeit chargeback liability is unknown, and has not been divulged by Visa and MasterCard, despite industry efforts for clarification.

Recently, the Merchant Advisory Group (MAG) sent a letter to Visa and MasterCard regarding ongoing challenges with the EMV transition for in-store

deployments, and highlighted concerns regarding the feasibility of the payments industry being ready for the October 1, 2017, liability shift for fuel dispensers.

“Compounding the financial burden for small merchants is the liability shift already in place for in-store EMV transactions under which chargebacks have far exceeded expectations. And for larger retailers with many stores and multiple pumps at each location, the expense is staggering,” MAG wrote in the letter.

On Capitol Hill, most of the efforts have so far focused on the aftermath of a data breach and notification requirements. NACS is urging policymakers to consider not only what happens after a data breach occurs, but also how to prevent breaches and fraud from happening in the first place. Protecting against fraud should be a top priority for all forms of payment, including mobile payments, and the best way to authenticate transactions is through a PIN or more advanced means.

NACS is advocating that retailers should have the option to require PIN on credit and debit card transactions and those that occur on a mobile device—the same protection banks require at ATMs.

PIN is the most secure authentication technology currently available and can be implemented now. All EMV chip-card readers are PIN-enabled with encryption security. When PIN is required, whether a card number or the card itself is stolen, a PIN protects consumers against fraud. ■



Michigan Senate Approves New Licensing Regulations for Medical Marijuana

Votes come nearly a year after bills cleared House

■ BY LINDSAY VANHULLE //
CRAIN'S DETROIT BUSINESS

Medical marijuana growers and dispensaries in Michigan would be required to be licensed under new regulations approved recently in the state Senate.

In a series of votes, the Senate passed five bills that would set up licensing and tax requirements for medical marijuana facilities, require tracking of medical marijuana products and transactions and include edible products as allowable forms of medical marijuana under the law.

Senate approval came close to a year after three of the bills cleared the House. They stalled in the Senate's judiciary committee; three of its five members ultimately voted no on the package in September.

Supporters say the legislation will bring needed clarity to the state's 2008 voter-approved medical marijuana law, as well as stop what some see as a proliferation of dispensaries — called "provisioning centers" in the new legislation — in some cities.

More than 211,000 qualifying patients grow their own marijuana plants or obtain the drug from nearly 37,000 registered caregivers.

"I'm happy that local government will have more control," state Sen. Rick Jones, R-Grand Ledge and chairman of the Senate's judiciary committee said in a text message to Crain's. "I'm happy that the police will have (a) law that has been clarified. I'm happy that people with a compromised immune system will have a safer product."

Opponents say the bills

ultimately will lead to Michigan allowing recreational use of the drug. Sen. Patrick Colbeck, R-Canton Township, said in a speech on the Senate floor explaining his "no" vote that the Senate's votes circumvented the committee's wishes and asked senators to "please keep in mind what the end game is."

The bills made it to the Senate floor after Senate Majority Leader Arlan Meekhof discharged the bills from committee.

The legislation passed would:

- Require medical marijuana growers, processors, provisioning centers (also called dispensaries), transporters and testing facilities to obtain state licenses in order to operate. Municipalities could adopt local ordinances to authorize or limit the number of such marijuana businesses within their boundaries and charge local fees.
- Charge a 3% tax on the gross retail income of medical marijuana provisioning centers.
- Include edible marijuana products and forms that aren't smoked, such as oils, as allowable forms of medical marijuana.
- Create a "seed-to-sale" medical marijuana tracking system that follows plants, products, sales and returns and other transactions, along with product batch and lot numbers and safety test results.
- Make it a felony to sell medical marijuana in violation of state registry identification card rules.

The bills return to the House for final approval. If that happens, they will be sent to Gov. Rick Snyder for his signature. ■

ABOUT THE BILLS

HOUSE BILL 4209

Sponsored by Rep. Mike Callton, R-Nashville, the bill would require medical marijuana growers, processors, provisioning centers (sometimes called dispensaries), transporters and safety testing sites to have state licenses to operate. That licensing process would require written approval from the municipality in which it wants to operate. Municipalities also would be allowed to adopt local ordinances to authorize or limit the number of marijuana businesses in their jurisdictions and charge local licensing fees. The bill also would charge a 3% excise fee on medical marijuana facilities. Passed in the Senate 25-12; passed in the House in October 2015.

HOUSE BILL 4210

Sponsored by Rep. Lisa Posthumus Lyons, R-Alto, the bill would include marijuana products, known as "edibles," as an allowed form of medical marijuana. Passed in the Senate 28-9; passed in the House in October 2015.

HOUSE BILL 4827

Sponsored by Rep. Clint Kesto, R-Commerce Township, the bill would establish a "seed-to-sale" medical marijuana tracking system. If adopted, medical marijuana plants, products, sales, returns and other transactions all would be tracked. Also tracked would be lot and batch numbers, transportation and destruction of marijuana and marijuana products and lab test results to ensure product safety. Passed in the Senate 27-10; passed in the House in October 2015.

SENATE BILL 141

Sponsored by Sen. Coleman Young II, D-Detroit, the bill would make it a felony to sell medical marijuana in violation of state registry identification card rules. Passed in the Senate 26-11; has not yet gone up for a vote in the House.

SENATE BILL 1014

Sponsored by Sen. Rick Jones, R-Grand Ledge, the bill would exclude rules made under the state's medical marijuana statute from Michigan's Administrative Procedures Act. Passed in the Senate 26-11; has not yet gone up for a vote in the House.



Ohio Minimum Wage Increasing 5 cents, to \$8.15, in 2017



■ BY JACKIE BORCHARDT // CLEVELAND.COM

Ohio's minimum hourly wage will increase 5¢ next year because of inflation.

Non-tipped workers must be paid at least \$8.15 an hour and tipped workers \$4.08 an hour starting January 1, 2017. The wage increase reflects an increase in the Consumer Price Index, which rose 0.7% in the past year.

The wage applies to companies with annual gross receipts of more than \$297,000 a year. The state minimum wage for employees at smaller companies and 14- and 15-year-old workers is tied to the federal minimum wage. That wage is currently \$7.25 per hour and can only be changed by Congress.

Ohio voters approved annual increases tied to inflation through a 2006 amendment to the state Constitution. In 2016, Ohio's minimum wage increased by 15¢ to \$8.10 an hour and the minimum wage for tipped workers increased 7¢ to \$4.05 an hour. ■

Ohio Pays Off Debt, Saves Businesses From Tax Penalties

■ BY THE ASSOCIATED PRESS

Ohio paid off the remaining \$271 million on its recession-era debt to the federal government last week, a move officials say will save employers hundreds of millions of dollars in tax penalties.

The debt came from a loan needed to cover benefits to jobless workers and was paid off prior to last week's deadline to avoid additional interest payments from the state, The Columbus Dispatch reported. It also means the state dodged another tax hike on the state's businesses ahead of a November deadline.

The payoff will help employers, who have been paying higher federal unemployment taxes under a mandatory repayment system.

Employers will save about \$351 million next year, said Bruce Madson, assistant director of the state Department of Job and Family Services.

Under the repayment system, businesses in the state have paid higher unemployment taxes since 2012 to pay down the loan's principal, and the state has paid interest on it. The debt reached \$3.4 billion at one point.

Ohio and other states were forced to borrow from a federal loan to continue paying unemployment compensation after the recession hit because they didn't have sufficient reserves. Lawmakers have appointed a panel to address structural issues to prevent future borrowing.

"We're really happy, but we still

need (lawmakers) to focus on the trust fund," Madson said.

State law calls for the minimum adequate reserve for its unemployment compensation fund to be at \$2.8 billion, but the current balance is \$620 million and could drop to \$180 million in 2017, Madson said.

Ohio Governor John Kasich said the payoff is "good news for Ohio businesses and workers" and said lawmakers "are right to be looking at long-term solutions to Ohio's broken unemployment compensation system that are fair to both employers and workers."

A solution would likely require adjusting taxes paid by employers to fund the system and benefits paid to jobless workers. ■



Interpreting FDA's New Tobacco Deeming Rules

NACS has created an updated memo for members to provide additional clarification on the final rule, which went into effect last month

■ BY NACS ONLINE

On August 8, the FDA's final rule extending the agency's regulatory authority to products such as e-cigarettes, cigars, hookah (waterpipe) and pipe tobacco, certain dissolvables, and nicotine gels, went into effect. Now that the dust has settled a bit, NACS has drafted an updated memo for members on the tobacco deeming rule.

Here are the highlights. The deeming regulations do NOT:

- Ban flavors
- Prohibit self-serve on cigars, OTP and vape products
- Immediately ban 8-8-16 products

However, what is new or changed in the deeming regulations includes:

- All cigars (premium and domestic), pipe tobacco, e-cigarettes, e-hookah, e-cigars, vape pens, advanced refillable personal vaporizers, electronic pipes, hookah tobacco, dissolvable tobacco products, and nicotine gels are deemed "tobacco products" and now subject to regulation by the FDA.
- Accessories that do not contain tobacco are not included, such as ashtrays, cigar cutters, humidors or conventional matches and lighters.
- The minimum purchase age is 18. However, if the

state or locality has a higher minimum age, such as 19 or 21 years old, then retailers must also follow the more restrictive state or local law.

- Free samples of all deemed products are banned and includes manufacturers and wholesalers, but "buy two, get one free" promotions are still legal. Coupons for free products are prohibited, but cents- or dollar-off coupons are acceptable. Adult product loyalty awards are permissible.
- The FDA is requiring a new health warning on the packaging and on advertisements for cigarette tobacco, roll your own tobacco and all of the newly deemed tobacco products such as cigars, pipe tobacco, e-cigarettes, vapor products, dissolvables and nicotine gels. The new caution reads as follows: "WARNING: This product contains nicotine. Nicotine is an addictive chemical." It goes into effect on products manufactured after May 10, 2018.

For more information on FDA regulation of tobacco, visit www.nacsonline.com/advocacy/Issues/Tobacco/Pages/default.aspx.

The NACS Show is October 18-21, 2016 in Atlanta. For more information on the Show, go to www.nacsshow.com. ■

MUSTA Revises Submittal Dates for Deductible Buy-Downs

The Michigan Underground Storage Tank Authority has revised the submittal dates for refined petroleum underground storage tank owners or operators to submit requests to buy-down their claim deductible amounts. The submittal dates have been changed from November 1, 2016 through December 31, 2016 to January 1, 2017 through March 31, 2017. Requests should not be submitted prior to January 1, 2017. Approved requests will cover claims filed for releases discovered and reported between January 1, 2017 and December 31, 2017.

If you have questions or require further information contact Bob Reisner via Email at reisnerr@michigan.gov or call (517) 284-5141. ■





Fair Food Pledge – SpartanNash



SpartanNash is proud to be the first food distributor in Michigan to sign Migrant Legal Aid's Fair Food Pledge, affirming our commitment to fair labor practices for the state's more than 94,000 migrant and seasonal farmworkers and their families.

The Fair Food Pledge exemplifies SpartanNash's commitment to corporate responsibility and upholding best-in-class standards for the treatment of farmworkers.

SpartanNash distributes fresh produce from 250 Michigan farms to its 160 corporate-owned stores and 2,100 independent customers, and we strive to run our business with integrity and accountability. Our customers purchase fresh fruits and vegetables at our stores and independent retailers every day, and we want them to know that as a company, we are committed to providing them with produce that has been harvested under safe and equitable working conditions.

By signing the Michigan

Fair Food Pledge, SpartanNash pledges to work in partnership with Migrant Legal Aid when Michigan produce suppliers appear to be in violation of regulations requiring fair treatment and safe working conditions. This includes respecting the dignity of workers, treating them with fairness and equity and providing fair wages, access to bathrooms and drinking water and safe, clean housing.

Michigan is the second-most agriculturally diverse state after California. Forty-five Michigan crops are hand harvested by migrant and seasonal farmworkers each year, including blueberries, tart cherries, apples and cucumbers. ■

SpartanNash Promotes Staples to President

■ BY KRISTEN CLOUD // THE SHELBY REPORT

Dave Staples, COO of SpartanNash, has added the role of president to his duties. Dennis Eidson, who held the president's title, will continue to serve as the company's chairman and CEO; the move enables Eidson to continue to focus on long-term strategic growth opportunities, according to the company.

As president and COO, Staples will lead the Michigan-based company's overall strategy implementation and execution and direct all operating aspects of the retail, wholesale and military

distribution business segments.

"Dave has been an instrumental member of our team for the past 16 years and a key leader in our transformational merger in 2013," said Eidson, who was elected chairman of the board at the company's annual shareholders meeting in June. "Dave has been serving as SpartanNash's chief operating officer since March 1, 2015, and his leadership in integrating and optimizing the wholesale and military supply chains has been tremendous."



DAVE STAPLES

Staples previously held the position of EVP and CFO since 2000. He served as CFO until Chris Meyers joined the company in April. ■



Value-added, Organic Produce Remains Hot

United Fresh Q2 FreshFacts reveals latest trends

■ BY PROGRESSIVE GROCER

Value-added and organic produce continue to be hot tickets in supermarket produce departments, according to the latest insights revealed in United Fresh Produce Association's 2016 Q2 edition of the Fresh Facts on Retail report.

The Washington, D.C.-based association's quarterly publication examines retail trends in produce for the past quarter, including a spotlight on fresh produce annual spending by region.

"The regionality of fresh produce

section will help our members adjust their strategy for planning sales and promotions in different markets," said Jeff Oberman, VP, trade relations at United Fresh and the association's retail-foodservice board staff liaison.

The current Q2 report also features category deep dives on berries, packaged salad and potatoes, all of which are purchased by more than 75% of households annually.

Produced in partnership with the Nielsen Perishables Group and sponsored by Del Monte Fresh



Produce, the FreshFacts at Retail report measures retail price and sales trends for the top 10 fruit and vegetable commodities as well as other value-added produce categories.

It can be downloaded free for all United Fresh members or \$50 for non-members at www.unitedfresh.org. ■

CMP Amounts for Tobacco Retailers Increased for Inflation

The HHS has adjusted the civil money penalties for violations by tobacco retailers

■ BY NACS ONLINE

The cost of violations for tobacco retailers just jumped 10%. As a result of enactment of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74), the U.S. Department of Health and Human Services (HHS) recently issued a new regulation that adjusts, for inflation, the civil money penalty (CMP) amounts assessed against tobacco retailers who have violated the law.

The adjusted amounts apply to CMPs assessed after August 1, 2016, even if the associated violations occurred as far back

as November 2, 2015. The single violation stays the same (\$0 with a warning letter), but all other monetary penalties for violations rose significantly.

For two violations within a 12-month period, the amount went from \$250 to \$275. For three violations within a 24-month period, the amount rose from \$500 to \$550. For four violations within a 24-month period, the penalty jumped from \$2,000 to \$2,200. For five violations within a 36-month period, the penalty soared from \$5,000 to \$5,501.

While all the other fines got a healthy inflation bump, for six

violations within a 48-month period, the CMP advanced only \$2 from \$11,000 to \$11,002. While HHS is indicating that the previous maximum civil money penalty was \$10,000, it was in fact \$11,000; although it was previously adjusted for inflation up from \$10,000 two years ago. The FDA has been using this \$11,000 amount in their pursuit of Civil Money Penalty (CMP) over this time period.

Read more about how you can ensure compliance with tobacco rules, NACS members can visit the Compliance Resource Center on NACS Online. ■

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