

BottomLine



THE VOICE OF INDEPENDENT RETAILERS // VOL. 27, NO. 3 // MARCH 2016



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Investment

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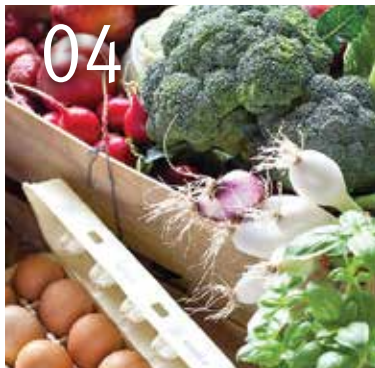
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BottomLine



THE VOICE OF INDEPENDENT RETAILERS
VOL. 27, NO. 3 // MARCH 2016

features



THUMBS UP ON DOUBLE UP FOOD BUCKS

It started out as a pilot program in 2013 with three AFPD member stores. Double Up Food Bucks in Detroit ran from July 1st to October 31st at three independent stores—Honey Bee Market, Metro Food Land, and Mike's Fresh Market—increasing healthy food access for more than 3,500 low-income Detroiters.



COVER STORY //

OPPORTUNITIES FOR INVESTMENT

Decades ago, meeting with a bank manager and ending with a hand shake is what many independent retailers depended on for a loan. The bank process has since evolved and the funding options have expanded beyond traditional banking.



LIFESTYLE ADVICE //

CRUISIN' TO A WARM VACATION DESTINATION

Wanting to escape the cold weather and winter blues is an easy choice, but how to do it isn't as easy a choice to make. Getting in your car or on a plane and traveling to a warm destination spot is one way to get away, but another option is taking a cruise. Cruise line vacations can offer a distinctive experience by providing multiple vacation stops through a single booking. Whether or not you're a novice sea cruiser or an experienced sea traveler, there is an option for you.



president's message

AUDAY P. ARABO, ESQ. // AFPD PRESIDENT & CEO

Keep Investing in Your Business

What a winter it has been. Being from Southern California, winter for me is new in general, but we have gone from spring like conditions to snow; from one week to the next. This definitely effects business and keeps us on our toes. Our business cycle operates similar to Mother Nature during this time of the year. As the snow melts and the birds start to chirp, people begin to travel and look forward to using the grill and enjoying the sunshine and the great outdoors. In correlation with Mother Nature, at AFPD we start to promote our own events including our new Innovations Buying Show along with other tradeshow put on by our vendor partners, like Sherwood, Lipari, Great North Foods and others. I cannot overstate how important it is for retailers to take some time and attend as many tradeshow as they can. Every year you see new products, new merchandising ideas, and new trends and discover new profit centers for your business. I know many of you are working at your business during show hours, but if you do not take these opportunities to see what is out there in our industry, others are sure to pass you by. Plus, when you are so focused on your tree (your retail establishment) you will miss out on what the entire forest (the overall retail industry) looks like.

Many people complain about working long hours in our industry; some have even compared their work environment to being stuck inside a prison with little or no flexibility. I can see how people would feel that way if they are working behind bullet proof glass all day, but I have heard this from retailers who do not work behind bullet proof glass as well, and they feel the same way. Whether you were born into this industry, like me, or you have chosen this industry for you and your family, you need to make the most of it if you plan to stay successful. If you enjoy what you are doing and learn to better compete, then you will not only enjoy our industry, but you will excel in our industry; but you have to be open to learning new things, open to being dynamic by attending tradeshow and keep up to date to all the happenings in our ever-changing industry. You need think outside the box and not be afraid to try something new.

For instance, so many of the most successful chains in our industry invest so much money in research, development and technology every year. You need to always set money on the side in order to reinvest in your business. Once you stop reinvesting in your business, you will start seeing the writing on wall that you may need to sell or potentially lose your market share. At AFPD, we take this advice to heart. We are always reinvesting in better ways to serve you, our members. From a new AFPD website that should be released in April to more effective ways of getting the word out on our programs and events.

AFPD continues to work outside the box and pushing to grow our geography all over the Midwest. In addition, AFPD has created a spirits brokerage (Benchmark Beverage Company) for the State of Michigan which will focus on Michigan-made spirits, craft spirits and others who need representation. We hope this new venture will be profitable and allow us to keep our annual membership dues low, forgoing an increase to our fees in the near future. Keep in mind, our events, publications and other activities all work together to subsidize your dues. Our professional staff does so much for so little, but we want to make sure every retailer is able to afford our membership dues. We hope to see you at one of the upcoming tradeshow! God Bless! ■

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Thumbs Up on Double Up Food Bucks

It started out as a pilot program in 2013 with three AFPD member stores. Double Up Food Bucks in Detroit ran from July 1st to October 31st at three independent stores—Honey Bee Market, Metro Food Land, and Mike's Fresh Market—increasing healthy food access for more than 3,500 low-income Detroiters.

Shoppers who rely on Supplemental Nutritional Assistance Program (SNAP) benefits can get twice the bang for their bucks through the Double Up Food Bucks Program.

AFPD is hosting a meeting about Double Up Food Bucks sometime in April (date to be announced) at the headquarters in West Bloomfield. All members are invited.

It is a national program that started in Michigan that gives families who are on SNAP, or food stamps, a dollar-for-dollar match to spend on healthy, locally grown fruits and vegetables.

Last year — in 2015 — 22 AFPD members participated in Double Up Food Bucks which included 12 stores in Detroit and 10 outside of the city. “We are looking not only statewide but going into northern Ohio and Chicago,” said Auday Arabo, president and CEO of AFPD.

Since 2009, Double Up has grown from five farmers markets in Detroit to more than 150 sites across Michigan and northern Ohio—and has become a model for communities nationwide. Fair Food Network's innovations and experience at farmers

markets were brought to grocery stores in 2013 through the Double Up Grocery Project in Detroit. This project was one of the first in the nation to receive permission from the USDA to provide incentives in this setting.

“AFPD brings both sector leadership and a strong member network,” said Fair Food Network president and CEO Oran B. Hesterman. “AFPD, with Auday Arabo at the helm, remains a key innovation partner as we expand Double Up Food Bucks in the grocery arena.”

If a family spends \$10 of SNAP benefits on fresh produce, they get \$10 of Double Up Food Bucks to spend on Michigan grown fruits and vegetables.

“We have learned that this is the right way to incentivize consumers,” said Arabo. “It is a better investment to reward for eating healthy than punish for not. Other states wanted to ban SNAP consumers from purchasing sugary drinks with their SNAP card. It didn't work and it was thrown out by the courts. This program which promotes healthy eating *does* work.”

Right now, it is a seasonal program that runs for about four to five months, but Arabo and others hope to expand it to a year-round incentive. “By the time a consumer gets used to the program, it ends,” said Arabo. “If we include fruits and vegetables beyond Michigan produce, we can offer the Double Up Food Bucks all year. As much as we want to support Michigan products, it is important that people eat healthy all year long.”

The AFPD foundation has helped fund the program as well. “We believe this is the way of the future,” said Arabo. “As independents we take pride in our produce and our meat departments; that is why we need to be out in front of these types of initiatives. We are honored that AFPD stores were the first three stores in the country to receive the USDA waiver for this project and we continue to have our stores involved in a big way.” ■



Detroit to Flint: Water Campaign Connection a Success

The Detroit to Flint: Water Campaign was launched to raise funds to help bring clean water to the residents of Flint. The initiative was led by Detroit City Council President Brenda Jones, Councilman Andre L. Spivey, D&B Distributors, Faygo, Absopure and AFPD. The objective was to raise money through a fund drive and then purchase cases of bottled water below wholesale cost.

“Keith Jones, who works for Councilman Spivey, spearheaded this whole thing,” said Orlando Woods from Faygo Beverage Company. “He called me initially and asked if we could bottle some water at Faygo with Detroit’s name on it.”

It wasn’t something Faygo could produce but Orlando connected Jones with AFPD and D&B Distributors to sell Absopure.

As part of the initiative, Faygo sent a truck of water up to the Flint area to help local area schools on Tuesday, February 2nd, prior to the large delivery that was scheduled two weeks later on Wednesday, February 17th.

The amount of water distributed and recipient schools, for the Faygo delivery, included, one pallet of water to Northwestern High School, eight pallets of water to Doyle Ryder Elementary School, four pallets of water to New Standard Charter School, and six pallets to WAY Academy.

“The distribution went very well and they were very receptive because everyone has been sending it to the homeowners, but it’s the kids that we wanted to focus on,” said Woods. “They were ecstatic and the kids helped unload the product. It was great.”

On Wednesday, February 17th, Council President Jones and Councilman Spivey, along with volunteers took over 25 Semi-Trucks carrying over 1 million bottles of water to Flint.

Leading up to the event, an online fundraiser was held from January 25th to January 31st, to help raise money for the water. “We ran the campaign for a week, with our media sponsor, and we just started

raising money,” said Keith Jones from Councilman Spivey’s Office. “Our original goal was \$30,000; we collected over \$80,000.”

Once the money was raised it was the partnering with key AFPD members D&B Distributors and Faygo that helped make sure the funds were used to purchase as much Absopure water as possible. “We were able to participate in this campaign because of our partners. We are grateful to them for their support,” said Bobby Hesano, President and CEO of D&B Distributors.

The campaign started with Michigan’s largest city reaching out to help the state’s seventh largest. And in the end, it showed that even a city on the comeback can make sure it also helps others along the way.

“People in Detroit have been through a lot in our city and people are very giving and we were very concerned,” said Jones. “Even though we have water challenges here in Detroit, to not have access to water is another issue. We felt we had to do something to help, so we did our part.”

Helping local communities has also been a common thread in the fabric of AFPD. “We have a long-history serving the city of Flint and we have become part of the communities in which our members serve,” said Auday Arabo, president and CEO of AFPD. ■





petroleum news & views

EDWARD WEGLARZ // AFPD DIRECTOR, PETROLEUM

Spring is Just Around the Corner

On Groundhog Day the groundhog said we'll be enjoying spring in just six weeks. So, now that spring is almost upon us it's time to shape up, and address the issues at your station that you were "putting off" until after winter. Any and all stores took a beating during the past winter. Get a jump on the competition and spruce up now for the warm weather.

Even at record-breaking lower gasoline prices, the motorist doesn't want to get short-changed at the pump. As a retailer, you should take extra care to be sure your dispensers are accurately calibrated, within legal tolerances. You don't want to "short" the motorist, but you can't afford to "over-pump" either.

Outward appearance can attract customers or turn them away. Consider power-washing your building, your canopy, your reader board (and the letters used on your reader-board).

When it comes to pump islands: clean and wash the pump cabinets, pump toppers, attached informational signs, and decals. And, check inside the dispensers for "skimmers" that may have been installed by crooks!

Wash your windows, inside and out, and replace outdated, torn, and worn P.O.S. signage.

Summertime changes the customer's habits.

Consider rearranging your ice cream freezer placement. Move it closer to the door. Upgrade your "slushy" and frozen drink machine offerings. Have adequate packaged ice available. Some customers want chilled candy bars in the summer. Determine the needs of the landscapers and construction workers who visit your store in the morning. Have lunch options that are "cooler friendly" available for them when they visit your store in the morning for coffee and donuts.

Clean the floors, dust-off the merchandise, replace burned-out light bulbs, and use some elbow grease on the countertops and display cases. Pricing, cleanliness, and attractiveness all enter into the consumers buying decision.

From a maintenance viewpoint, it's time to address the issues you put-off all winter. Fix and repair the cracks in your driveway. Paint the pump island bases, the protective poles (bollards), and the curbing. This is also the time to repaint your fuel fill covers, after a long, hard winter. Clean out the "spill buckets" under the delivery fill pipes. Use a vacuum cleaner to clean-off the coils in your coolers, freezers, and A/C units. Replace filters as required. They will operate more efficiently, save money on utility expenses, and reduce the frequency of service calls.

Remember your need to differentiate your business from other sites providing the same or similar offerings. That'll be the difference maker, when and where the customer decides to spend their money. ■



\$1,500 SCHOLARSHIPS

ACADEMIC SCHOLARSHIP PROGRAM

Available to AFPD members, their employees, children and customers!

Eligibility:

A high school senior, college freshman, sophomore or junior who is:

- A student employed by an AFPD member company for at least six months as of January 1st OR
- An applicant whose parent is a full or part-time employee of an AFPD member company, for at least one year as of January 1st OR
- An AFPD member company customer and their children.

Special Rules:

- Only one scholarship will be awarded per AFPD member company.
- Applicants are eligible to win a scholarship a maximum of two times.
- **All applications MUST be completed and submitted with transcripts by March 31st to be considered for a scholarship.**

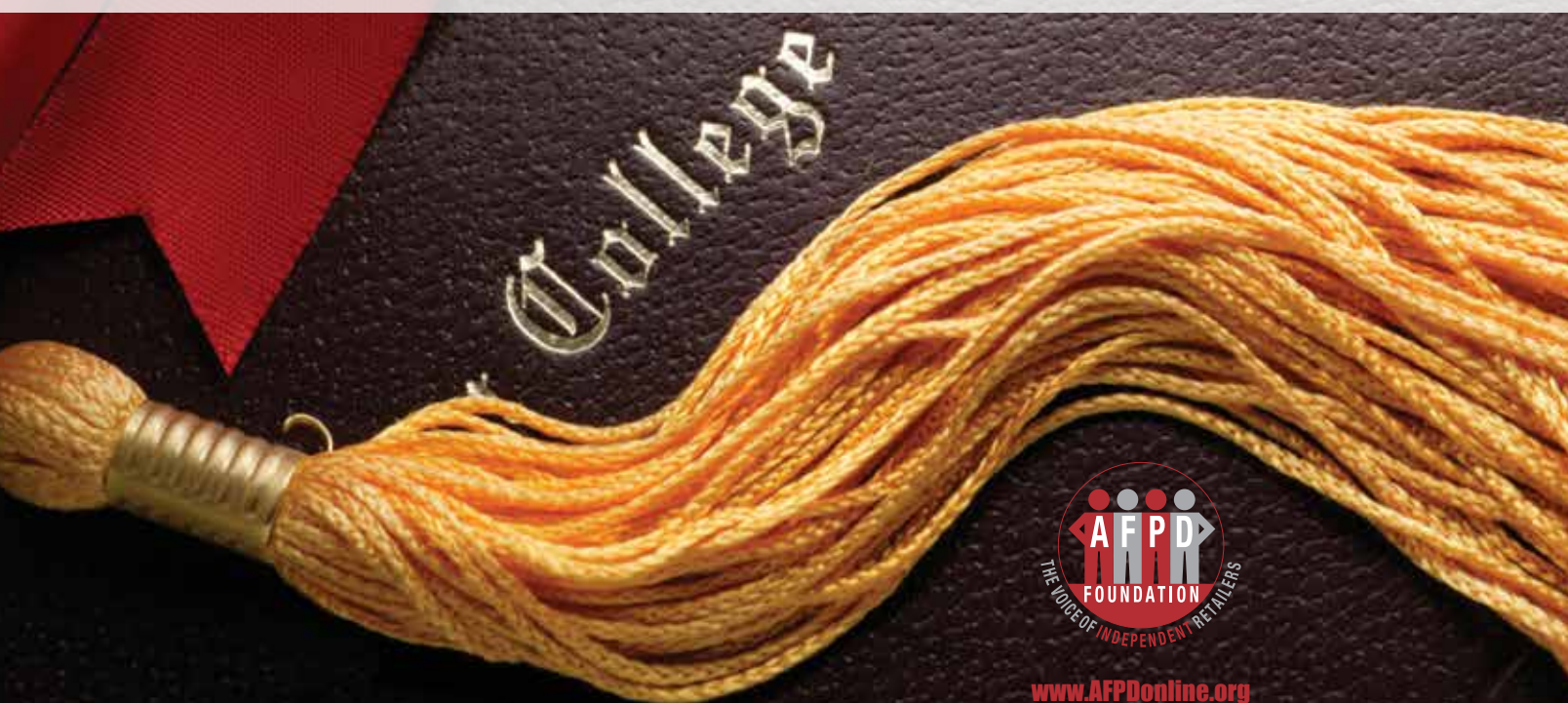
Selection of Winners:

Scholarship winners are chosen by a panel of educators. Winners will be notified by approximately June 1st. Winners must be enrolled as a full-time or part-time student for the fall college semester.

Apply online at aim.applyists.net/AFP or visit www.AFPDonline.org for complete eligibility requirements and full program information.

Deadline to apply is March 31st!

Questions? Call the AFPD Foundation at (800) 666-6233.



www.AFPDonline.org



Michigan UST Cleanup Fund - Deductible Buy-Down Option

■ BY JOSEPH W. BERLIN // PRESIDENT, BLDI

If you haven't yet heard, the new Michigan Underground Storage Tank Fund Authority (MUSTA) (Fund) is up and running and is officially accepting claims as of January 1, 2016. The Fund can be used by all retail fuel sellers to reimburse for costs for new releases from underground storage tanks (USTs), discovered and reported on or after December 30, 2014.

An important deadline is coming up on *March 31, 2016* for smaller Owners/Operators who think they may need to access the Fund in 2016. Here are the details:

- If your firm owns and/or operates 8 USTs or more (each compartment counts as one UST), you do not qualify for a deductible "buy-down" and your deductible is \$50,000 per claim.
- If your firm owns and/or operates fewer than 8 USTs/ compartments, you do qualify for the deductible buy-down.
- Keep in mind that each compartment in a multi-compartment tank is considered a separate UST when calculating the buy-down fee.
- The cost for the buy-down is \$500 per UST/compartment per year and brings the deductible down from \$50,000 to \$15,000 per claim.
- After 2016, the normal deadline for the buy-down will be December 31 of each year. Due to the operational newness of the Fund, the State has allowed the deadline to be

extended this year only until March 31, 2016. It should be noted that there is no proration of the \$500/UST fee, due to limitations in the statute.

If you are considering exiting retail fuel sales, removing existing USTs, or replacing your current USTs with newer models, the buy-down program could prove very valuable. Also, if your UST insurance coverage expires in 2016, you might want to consider taking advantage of the buy-down, as the private insurance market is in flux as the Fund ramps up.

Here are the steps for signing up for the Fund:

- If desired and qualifications are met, submit the Claim Deductible Buy-down Application** (March 31st deadline).
- Submit a Request for Determination of Eligibility** for MUSTA.
- If you intend to utilize the Fund as your financial responsibility mechanism, you must also provide proof of financial responsibility for the deductible amount, whether it is \$15,000 or \$50,000. For example, you can submit a copy of your existing UST insurance or a Letter of Credit from a financial institution. If you intend to use the Fund as your financial responsibility mechanism, you will need a Determination Letter in addition to the buy-down application.
- The first two steps listed above can be completed together and

are good for the entire calendar year. At this time, turnaround from MUSTA on these determinations is generally less than one week.

** Both forms can be found on the MUSTA website at www.michigan.gov/deqmusta.

Keep in mind that there are also recent federal changes to EPA's UST regulations that include new UST system testing requirements, to be completed by October 13, 2018. These changes include new requirements for periodic testing of spill buckets and tank sumps or use of double-walled technology with periodic interstitial monitoring. It is important to remember that when these components are tested and/or inspected, a new release may be discovered, which could trigger reporting requirements to the regulatory agency, insurer or the Fund.

As you know, the older the UST system, the more likely a new release may be discovered, requiring investigation and cleanup potentially covered by the Fund.

The new MUSTA fund can help with your business plans in 2016. As discussed above, if you own and or operate fewer than 8 tanks, you should consider buying down your deductible from \$50,000 to \$15,000 – but remember – there is a March 31, 2016 deadline.

Forms are available at www.michigan.gov/deqmusta. For more information on the Fund, visit www.bldi.com. ■

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government relations update

DAN PAPINEAU // AFPD DIRECTOR, GOVERNMENT RELATIONS

Major Statewide Issues and Elections Consume State Capitols

Things are in full swing here in Lansing with the legislature consumed by a myriad of major issues facing the State. From the financial situation with Detroit Public Schools, the Flint water crises, and state budget negotiations there are plenty of things keeping our elected officials busy. One must also remember election season is nearing with the filing deadline for those seeking election or re-election to the State House being April 19th.

Ohio is just as busy with issues such as unemployment tax reform, medical marijuana, and its own water quality problems to deal with. On a purely local level, AFPD continues to monitor proposals aimed at increasing the legal age to buy tobacco products and the restriction of purchasing flavored tobacco products from only tobacco specialty shops. Ohio has also been a hot bed of national and statewide political activity. With Governor Kasich running for President, the Republican National Convention coming to Cleveland, and several contested House races there is no lack of political action in the Buckeye State.

The AFPD still has its specific legislative priorities we are advocating for. Additionally, we continue to monitor several pieces of legislation that would directly affect our industry in both Michigan and Ohio. While our priorities for Ohio are still being developed I would like to announce our 2016 legislative priorities for Michigan and provide an update on each.

1 AFPD supports a comprehensive plan of recycling in Michigan that would move the return of bottles and

cans out of grocery and convenience stores to another more sanitary, efficient, and simpler system by evolving Michigan's antiquated bottle deposit law.

While the AFPD continues to try and tackle this issue we must remember how much of an uphill battle we are facing. New to the fight against the Bottle Bill, I took up an opportunity to gauge the public's opinion of our existing recycling system by putting two questions on a state wide poll.

First, I asked if people liked the State's current recycling system of having to return bottles and cans to the store – yes or no? A resounding 85% said yes. As a follow up, I asked “Would you prefer leaving things the way they are or would you prefer using a different method to encourage recycling?” and again I was flabbergasted to find that 70% of people polled said they wanted to leave things the way they are as opposed to 22% that said they would prefer a different method of recycling (8% were undecided).

As you can see the 40-year-old Bottle Bill has become a part of our culture. It is difficult for most everyday Michiganders to think of a recycling system other than the one we currently have. This leaves us with the task of educating more people that our current system is holding our State back in overall recycling. This is apparent by our State's overall recycling rate of 14.5%. To fight the Bottle Bill, we will have to weaken it piece by piece.

2 Put a reasonable cap on Specially Designated Merchant (off-premise beer and wine) licenses.

SDM licenses are the only license, other than those for private clubs, that are not subject to a quota. For this reason, stores like Bed Bath and Beyond and dollar stores have begun to apply for SDM licenses. This is absolutely absurd and must be stopped.

Luckily it appears as though we have found some allies in the Senate that are willing to help us out on this issue. Once I have a few soft commitments firmed up, I will be able to provide more details on this priority.



3 Expand the accessibility of craft beers by allowing the sale and fill of growlers at retail locations holding off-premise licenses.

This is another priority with a lot of promise moving forward. Senator Hildenbrand has agreed to begin discussions on legislation that will allow some of our members the opportunity to expand the beer selections they carry. A few concerns from the Michigan Brewers Guild regarding quality assurances have been raised but I believe these concerns can be easily overcome.

4 Reign in overly aggressive tobacco tax enforcement measures.

The stories of overly aggressive State Police activity while carrying out tobacco tax compliance activities are plentiful. No one, including AFPD, supports tax evasion but there are both reasonable efforts to support compliance and unreasonable ones. Actions that border harassment of our store owners and their employees are far from reasonable and must be addressed.

Working with subcommittee chairs on appropriations from both chambers we must understand the training, procedures, and guidelines laid out to State Police Officers who carry these enforcement measures out. Unfortunately, any group appearing soft on tax evasion will burn a lot of political capital quick but asking the right questions and putting the right oversight in place should have an impact on these overly aggressive tobacco tax enforcement activities.

5 Disallow the use of EBT Bridge Cards at “you buy we fry” locations.

“You buy we fry” stores are becoming increasingly popular. On my 11 mile drive in to the Michigan State Capitol I see 3 advertisements for one located in the poorest part of Lansing. In case you are unfamiliar with these stores, they exploit a loophole in the law that allows what basically amounts to a restaurant to accept EBT Bridge Cards by buying raw meat, fish, and poultry to be immediately cooked and consumed by a customer.

These purchases belong in our grocery store

members’ businesses. Working with Senator Brandenburg and the Michigan Department of Agriculture, AFPD is working to tighten up the law to ensure “you buy we fry” stores are licensed as restaurants, like they should be, and be disallowed from accepting EBT Bridge Cards.

6 Support efforts made to combat cross border tax evasion on tobacco, alcohol, and gasoline as well as measures to eliminate bottle and can returnable fraud.

None of our members can compete with stores who do not follow the rules. By evading taxes on products like tobacco, alcohol, and gasoline stores can sell their products at a price far below those who do pay the appropriate taxes. AFPD works hard to support and promote any ideas that reasonably reduce fraud.

7 Protect and codify the current “1/2 mile rule” in statute.

In order to encourage uniformity and clarity in laws regulating the licensing of alcohol sales, AFPD urges the codification of the current rule disallowing two specially designated distributor licenses from being within a half mile of each other unless certain criteria exist.

While too early to officially say it does appear that we do have support in the Senate to introduce legislation to accomplish this priority.

While this is a lengthy legislative update, AFPD is committed to increase its presence and influence in both Lansing and Columbus. We are “the voice of independent retailers” and one of the most important places for our voices to be heard is in the halls of the state capitals in states where our members do business.

Next month I will outline our priorities for Ohio and discuss our plan to accomplish them.

Lastly, I want to urge everyone to consider supporting the AFPD Michigan PAC by attending our event at the Palace of Auburn Hills on March 16th. Supporting candidates who support us is vitally important and the way to do this is through our PAC.

Please feel free to contact me anytime with questions or comments as I am here to be your liaison in Lansing and Columbus. ■



michigan lobbyist report

JOSEPH A. GARCIA // HONIGMAN MILLER SCHWARTZ & COHN LLP

Crisis Central

The legislative schedule for 2016 began on January 20, 2016, with Governor Snyder's Fifth State-of-the-State Address. The legislature will, in all likelihood, deal with an abbreviated schedule since this is an election year for all 110 State House Members. The following are the issues which were either pinpointed by Governor Snyder in his address, or are of specific interest to AFPD members:

FLINT WATER CRISIS

This issue is front and center for the administration, the legislature and all of state government. The problem has become so magnified and the focus has received national attention so that it tends to dominate discussion and suck all of the air out of any other issue. The Governor has already directed and signed a Supplemental Appropriation of \$28 million dollars for the City of Flint to deal with health issues and water filters. Further he has recommended an additional \$30 million to pay for approximately 65% of the water bills for Flint residents and businesses dating back to 2014. The justification for only 65% is that the other 35% is for sewer bills rather than for water consumption and usage. This issue will continue to dominate the landscape and the discussion throughout the balance of this year and into the election.

DETROIT PUBLIC SCHOOLS

Facing a \$714 million dollar deficit, Detroit Public Schools are likely to run out of cash sometime this Spring, unless a legislative solution is achieved. The Governor has proposed, and the Senate has introduced, Bills to reduce the deficit by allocating approximately \$70 million per year for ten years from tobacco settlement funds to alleviate the problem. Detroit Schools are also faced with innumerable infrastructure issues including inferior and dilapidated buildings



which are deemed unfit for students. This issue must be addressed before the Legislature adjourns in June.

GAS STATION CREDIT CARD SKIMMERS

Skimmers have again been detected in the City of Howell on January 27, 2016, and in Livonia on February 4, 2016. The Department of Agriculture and the FBI are working cooperatively to advise customers and independent owners to be on the alert for tampered credit and debit card devices which may have been altered. It only takes 15 to 30 seconds to install a skimmer that will wreck a customer's credit forever.

SENATE BILL 507 STATE-WIDE REPORTING OF RECYCLING

This Bill introduced by Senator Mike Green, Republican from Mayville, and strongly supported by AFPD, would mandate reporting of existing comprehensive recycling practicing in Michigan. The Bill passed the Senate in December on a 37 to 1 vote and is the House National Resources Committee. It is estimated that residential recycling in Michigan is only at a rate of 15% lagging behind most other Great Lakes states and the rest of the nation (35%). The purpose of the Bill is to encourage a move to state-wide comprehensive recycling.

The probability is the 2016 budget will be completed in early June of this year at which time the legislature will recess for the August and November election. County and local elections will coincide with the presidential election this year but you should note that this will be the first year where no straight party ticket voting will be allowed in Michigan according to legislation signed by Governor Snyder last month. ■



MDARD Transitions to Unified Accela Licensing System

For over two years, the Michigan Department of Agriculture and Rural Development has been preparing for the transition from multiple aging and increasingly obsolete licensing systems to one unified, state-of-the-art system. MDARD has been working with Accela, a recognized national leader for providing online licensing and permitting solutions for governments and municipalities.

Once fully implemented, Accela will change the way licensees do business with the department. Businesses and consumers will have access to information about inspections and license status and more -- readily available at their fingertips. The launch will occur in phases over the next several months for program areas department-wide.

Field testing and training of field inspectors began in July 2015 with Phase 1 of the Accela launch taking place on February 2. Phase 1 included licensing, inspection and reporting functions for the department's Food Program, bottled water and water dispensing licenses, Nursery Program and the Motor Fuel Quality Program. Accela replaces the MI-Inspector system used by food inspectors, as well as License 2000 used by the department's Central Licensing Unit and a dBase Motor Fuel Quality licensing system that dates back to 1989.

Accela will benefit our customers in several ways. Scheduled for spring of 2016, the new system will make it easier for businesses to apply for, renew and track licenses with MDARD online, including streamlining applications if businesses receive multiple licenses from MDARD (e.g., convenience stores who also sell gasoline). The fully implemented

Accela system will also give immediate inspection results and allow businesses to request and schedule inspections. Businesses will also be able to access their historical inspection reports online.

One of the biggest improvements for our licensed customers will be the ability to apply for their licenses online, pay using a credit card, and have the license issued with a much quicker turn-around time. Customers will not have to worry about mailing in an application, and waiting days or weeks to find out if their license application had been received and approved. Although traditional mail applications will still be an option, MDARD's goal is to have 100 percent of license applications completed online due to ease of the system and the benefits to businesses it offers.

The public will also have access to inspection reports for many food businesses through Accela's Citizen Access Customer Portal, which will be available once the system is fully functional.

From a regulatory standpoint, once fully implemented, Accela will offer several benefits to our inspectors including access to all information about a licensee in one place, improved off-line access to information, and the ability to use a smartphone app to write inspection reports. Inspectors will be able to tell whose licenses have been paid and processed, produce cleaner and easier to read reports, and email those reports directly from the licensing systems to licensed customers. Accela will increase ease of access and speed of data entry and we expect to see an increase in the number of inspections per inspector due to increased efficiencies.

All current licenses in the Phase 1 programs have been migrated to Accela and the initial results are favorable. As with any new system, there will be some adaptations needed as we move forward, but this has been the smoothest transition to new licensing software since electronic systems were put in place at the department. Inspectors continue to learn their way around the system and its capabilities, and we look forward to full implementation in the months to come.

For more information about Accela contact MDARD at 1-800-292-3939. ■



michigan lottery report

M. SCOTT BOWEN // MICHIGAN LOTTERY COMMISSIONER

Historic Powerball Jackpot Generated Excitement and Sales

Dreams of spending jackpot riches are part of what makes Michigan Lottery games fun for players. Players had plenty of reasons to dream big during the recent Powerball run that saw the jackpot skyrocket to a world-record \$1.5 billion.

The Powerball run excited players in Michigan and around the country. As the jackpot grew, avid and casual players – some of them first-time buyers – took notice, and went to their favorite retailers to buy Powerball tickets and a chance to win the huge jackpot.

During the historic 10-week jackpot run, players flocked to retailers to buy Powerball tickets at an unprecedented rate. Over the course of the Powerball run from November 7, 2015 to January 13th, players in Michigan bought nearly \$104.5 million worth of Powerball tickets. To help put that incredible number in perspective, players bought about \$109.5 million in Powerball tickets during the entire 2015 fiscal year.

All told, Michigan players bought about 49 million Powerball tickets over the course of the run, with 44 million purchased in the final three weeks after the jackpot hit \$255 million. From November 7, 2015 through the December 16, 2015 drawing, players bought about five million Powerball tickets.

The historic jackpot run helped raise public and media awareness of other Lottery games. The strong media attention led to many positive stories about the Lottery and helped build awareness for games offered at retailers throughout Michigan.

The media attention on the Powerball jackpot run provided an opportunity to promote the Lottery's full portfolio of games, which appeal to a broad group of players, and sales show players responded. During the Powerball jackpot run, Lotto 47 sales were up 6% compared to average draw sales per jackpot level in 2015. Even more impressive, during the same period, Mega Millions sales rose 24% compared to average draw sales for similar jackpots on similar days in 2015.

All of the attention and excitement created by a strong Powerball jackpot run generated record store traffic and sales, and that's good for retailers, the Lottery and the School Aid Fund.

RETAILERS, PLAYERS CASH IN WITH CLUB KENO DOUBLER DAYS PROMOTION

January marked the fourth time the Lottery offered the Club Keno Doubler Days promotion and it was a tremendous success for Lottery retailers and players. Club Keno sales increased by a record-setting 22 percent or \$10.5 million compared to January 2015.

Players also had success with during Club Keno Doubler Days, winning nearly \$1.8 million in total prizes.

We appreciate your efforts in making this the most successful Club Keno Doubler Days promotion yet! ■

PULL TAB TICKETS / INSTANT TICKETS

NEW PULL TABS TICKETS:

On sale March 1st:

- MI # 562–Greenback Stash \$1
- MI # 552–\$1,000,000 Casino \$5

PULL TABS GAMES SET TO EXPIRE:

Expiring March 7th:

- MI # 532–I (Love) Michigan \$1

Expiring March 21st:

- MI # 529–\$1,000,000 Bonus \$5

Expiring March 28th:

- MI # 523–100X The Cash \$1
- MI # 516–Detroit Lions \$1
- MI # 534–Midnight 7's \$1
- MI # 533–Silver Reels \$1

Expiring March 29th:

- MI # 530–Fireball Slots 50¢

Expiring April 4th:

- MI # 525–Cherry Twist 50¢
- MI # 530–Cash Bash \$1

NEW INSTANT TICKETS:

On sale March 1st:

- IG # 768–Beginner's Luck \$1
- IG # 760–Bonus Ball Bingo \$3

INSTANT GAMES SET TO EXPIRE:

Expiring March 7th:

- IG # 659–Triple Green Cashword \$5
- IG # 666–Electric 8's \$2
- IG # 668–Neon 9's \$2
- IG # 678–Diamond 7's \$10
- IG # 680–Diamond Wild Time \$5
- IG # 682–\$500,000 Cash \$10

Expiring April 4th:

- IG # 684–Cash For Life \$1
- IG # 685–Cash For Life \$2
- IG # 686–Cash For Life \$5
- IG # 687–Cash For Life \$10

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

MARCH 1-31

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EXAMPLE

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You WIN!
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With an extra chance to win on a straight bet, Daily 4 players will be coming "straight back" for more!



2-WAY, BOXED AND 1-OFF BETS NOT ELIGIBLE WHEEL BET WINNERS WILL BE PAID THE STRAIGHT PRIZE ONLY AND ARE NOT ELIGIBLE FOR THE REVERSE PRIZE. Daily 4 odds: Straight: 1 in 10,101; 4-Way Box: 1 in 2,500; 6-Way Box: 1 in 1,666; 12-Way Box: 1 in 833; 24-Way Box: 1 in 416; 1-Off Straight: 1 in 10,000; 1-Off One Digit: 1 in 1,250. Call The Michigan Problem Gambling Helpline for confidential help at 1-800-270-7117.





ohio liquor report

BRUCE D. STEVENSON // OHIO DIVISION OF LIQUOR CONTROL

Outdoor Refreshment Areas

The Ohio General Assembly passed new laws in 2015 making significant changes for some retail permit holders that will help promote economic development.

The new law creates an exemption from the Opened Container Law, which generally prohibits a person from carrying an opened container of beer or intoxicating liquor in any public place. Under the act, a person who purchases beer or intoxicating liquor from the holder of a permit with an outdoor refreshment area (ORA) designation is permitted to have that beverage in an opened container at any outdoor location within the ORA. However, no person may either:

1 Enter the premises of another establishment with an opened container of beer or intoxicating liquor purchased elsewhere;

2 Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle in an ORA, unless (a) the motor vehicle is stationary and is not being operated in a lane of vehicular travel, or (b) the possession is otherwise authorized under continuing exemptions to the Open Container Law governing chauffeured limousines and the transport of opened bottles of wine that are properly resealed.

An ORA is created at the local level. The executive officer of a municipal corporation or the fiscal officer of a township must submit an application to the corresponding legislative authority to establish an ORA. Once the ORA is created, the Division of Liquor Control must issue an ORA designation to any A-1, A-1-A, A-1c, A-2, or D-class liquor permit holder within the boundaries of the ORA. Any person who is located in an ORA and who is carrying an opened container of beer or intoxicating liquor purchased from an establishment with an ORA designation is exempt from the Ohio's Opened Container Law.

The number of ORAs that may be established in a municipal corporation or township, and an ORA's maximum size, depend on the population of the municipal corporation or township, as shown in the graph below.

Each ORA also must include at least four A-1, A-1-A, A-1c, A-2 or D liquor permit holders.

The executive officer of a municipal corporation or the fiscal officer of a township may file an application for the creation of an ORA with the corresponding legislative authority. An application to create an ORA must contain the following information:

- A map or survey of the proposed ORA in sufficient detail to identify its boundaries;



OHIO LIQUOR
continued on next page.

POPULATION OF TAXING DISTRICT	MAXIMUM NUMBER OF ORAS	SIZE OR ORA
More than 50,000	2	Up to 320 contiguous acres or ½ square mile
35,001 – 50,000	1	Same as above
35,000 or less	Only after 4/30/2017 - 1	Up to 150 contiguous acres



Tax Break for Small Business

The Governor of Ohio signed SB 2, which became effective immediately. There was language put in General Revenue Budget inadvertently that would have negative impact on the small business tax relief enacted in 2013. SB2 clarifies that small businesses will still have ability to receive income tax break on the first

\$250,000.00 in income. AFPD members should check with their accountants to see if they qualify for this deduction.

The Ohio Development Service Agencies announced that a \$20 million dollar fund to clean up abandoned gas stations. These are stations that have underground tank leaks and the owner can't afford the clean up or the owner can't be found. The Agency will conduct competitive bidding on these sites and land banks are eligible as well as private property owners. The idea is to turn these sites into productive use. ■

OHIO LIQUOR

continued from previous page.

- A statement of the nature and types of establishments within, or proposed to be within, the proposed ORA;
- A statement that the proposed ORA will encompass not fewer than four A-1, A-1-A, A-1c, A-2, or D-class permit holders;
- Evidence that the uses of land within the proposed ORA are in accord with the municipal corporation's or township's master zoning plan or map; and
- Proposed public health and safety regulations.

To approve the application, it must pass an ordinance or resolution by an affirmative majority vote. Upon creation of the ORA, the legislative authority must send notice of the approval and a description of the ORA to the Division of Liquor Control and the Investigative Unit in the Department of Public Safety. If the application is disapproved, the applicant may make changes to secure approval. After the creation of an ORA, the Division of Liquor Control must issue an ORA designation to any A-1, A-1-A, A-1c, A-2, or D-class liquor permit holder located within the ORA.

At the time it creates an ORA, the legislative authority of the municipal corporation or township must adopt an ordinance or resolution establishing requirements that it determines necessary to ensure

public health and safety within the ORA. The legislative authority must include in the ordinance or resolution all of the following:

- Specific boundaries of the ORA, including street addresses;
- The number, spacing, and type of signage designating the ORA;
- The ORA's hours of operation;
- The number of personnel needed to ensure public safety in the ORA;
- A sanitation plan that will help maintain the appearance and public health of the ORA;
- The number of personnel needed to execute the sanitation plan;
- A requirement that beer and intoxicating liquor must be served solely in plastic bottles or other plastic containers in the ORA.




Prior to adopting an ordinance or resolution to establish or modify the health and safety regulations, the legislative authority must give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the municipal corporation or township. After adopting the ordinance or resolution, the legislative authority must provide notice to the Division of Liquor Control and the Investigative Unit in the Department of Public Safety.

More resources and links to the Ohio Revised Code and Ohio Administrative Code are available on the Division's website at www.com.ohio.gov/liqr. ■

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Opportunities for Investment

Decades ago, meeting with a bank manager and ending with a hand shake is what many independent retailers depended on for a loan. The bank process has since evolved and the funding options have expanded beyond traditional banking.

A \$6.2 million investment to expand Imperial Fresh Market late last year is the largest investment by an independent Detroit grocer to date. It is owned by the China family.

The opportunity for this non-traditional investment option was developed from a speed-dating type of event hosted by the Detroit Economic Growth Corporation (DEGC). And entities like Capital Impact Partners have also been featured by AFPD over the past few years.

Detroit Economic Growth Corporation (DEGC) is a non-profit organization that serves as the lead implementing agency for business retention, attraction and economic development initiatives in the city of Detroit. DEGC is led by a 60-member board comprised of business, civic, labor and community leaders.

This investment is also the DEGC's Green Grocer Project's biggest project to date for an independent store. "DEGC's Green Grocer Project is honored to support a dedicated, community-focused business like Imperial," said Rodrick Miller, president and CEO, DEGC. "Ensuring Detroit has options is vital in the city's continuing revitalization."

The expansion doubled the size of the Imperial store to 40,000 square feet, as well as added a deli and a café. Fifty new jobs were created as a result of the expansion, doubling Imperial's staff.

The project and other grocery stores also used CBDG funds that come through the city of Detroit.

"When you look around this store you see the kind of quality and choices Detroiters deserve," said Detroit Mayor Mike Duggan. "This project demonstrates what we can do in neighborhoods across our city when we make a strong commitment to small businesses. The community is getting healthier food choices and 50 new jobs. That's a big win for our neighborhoods and for Detroit."

A significant service AFPD provides is to connect members with necessary resources that will enable investment. "We are always looking for alternative funding sources for our members," said Auday Arabo, President and CEO.

DEGC's Green Grocer Project supports Detroit's grocery economy through technical assistance, facade improvements and financing. The Green Grocer Project coordinated technical assistance and financing for Imperial Fresh Market as the China family invested \$6.2 million in the expansion of their store at Lyndon and Schaefer. With Capital Impact Partners as the lead, JPMorgan Chase, Invest Detroit and the WK Kellogg Foundation comprise the financing partners. This project also received multi-million dollar New Markets Tax Credit financing from Capital Impact, a very significant incentive for an independent grocer in Detroit.

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"We are thrilled to partner with the Shina family to finance the expansion of this local, family-owned store that dramatically increases the grocery and retail options in this area of Northwest Detroit," said Terry Simonette, president and CEO of Capital Impact Partners. "This deal shows the power of leveraging investments such as New Markets Tax Credits to support inclusive growth and economic development in neighborhoods across this country."

"The health and vibrancy of neighborhoods is essential to Detroit's economic recovery," said Aaron Seybert, executive director, JPMorgan Chase. "JPMorgan Chase is proud to support the Imperial Fresh Market, which will increase access to healthy food options and provide 50 additional full-time employment opportunities for Detroit residents."

"Our family is proud to be part of the revitalization of the city," said Shina. "We expanded and renovated this store to bring the best market to the neighborhood. It is about our customers; we want them to be proud of their neighborhood store. We are grateful for the partners who were instrumental in making this happen including DEGC, Chase Bank and Capital Impact."

The Imperial Market investment pre-dated the Michigan Good Food Fund, a new \$30 million public-private partnership loan and grant fund created to finance healthy food production, distribution, processing, and retail projects that benefit underserved communities throughout Michigan.

AFPD has been working on these types of projects for years, modeled after the Pennsylvania healthy food financing initiative model. Potential investors could sign up for information at www.migoodfoodfund.org. "It is a fund meant to support and grow the local food economy in the state," said Ian Wiesner, Business Development Manager, and Capital Impact Partners. "The Imperial Market project used a lot of the same recourses and partners available through the Good Food Fund."

Capital Impact Partners is the primary financing partner of the Michigan Good Food Fund.

There are various state and federal subsidies available including the New Market Tax Credit which "was the biggest subsidy that went into the Imperial Market project," said Wiesner. "It is a competitive tax credit that brings in investments to low income communities."

There is a federal program Healthy Food Financing Initiative (HHFI) whose funding came through to Capital Impact for Imperial Market through the Michigan Good Fund. "They are competitive funds," said Wiesner. "You have to meet certain criteria, in order for projects to quality; if this really about impact."

The questions asked include: Is this project serving

an underserved community? Is this project increasing access to healthy food for underserved communities? Is this project creating jobs or increasing distribution of local foods?

"The stronger answers you have to those questions, the more likely you are to access those funds," said Wiesner. "The Focus of Michigan Good Food Fund is about access to food to underserved communities like Detroit, Flint and Grand Rapids and upper eastern portion of Michigan which has the most underserved communities in the state according to a recent study published by Michigan State University; it's also an issue in rural communities as well."

There are forms of technical assistance through the fund including business planning and feasibility planning through the fund.

Capital Impact Partners is a national non-profit mission-driven loan fund that has been in existent for more than 30 years with offices in Washington D.C., Detroit and California.

"We provide financing to help build healthy communities nation-wide," said Wiesner. "We focus primarily on community facilities like schools, health centers and grocery stores," said Wiesner.

In the city of Detroit, Capital Impact provided more than \$100 million of financing to schools, health centers, multi-family residential and grocery stores over the last 10 years.

"Michigan Good Fund is the best resource for alternative funding to apply for financing and business assistance," said Wiesner.

"We see the grocery stores as the anchor part of the neighborhood," said Mariangela Pledl from DEGC "Once those are developed, we are seeing other retail follow suit."

Today some of the grocery stores improved in some of the neighborhoods are part of the Motor City Match program. In those same neighborhoods development is happening. A lot of grocers are moving beyond grocery and have other retail real estate.

The assistance the State offers actually starts with the traditional banking process through the Michigan Economic Development Corporation, (MEDC). "The MEDC doesn't provide direct financing or direct investments; everything we provide is based on assistance to lenders looking to mitigate some level of credit risk that is generally present in many cases of retail businesses," Chris Cook, director of Capital Access for MEDC.

There are two programs that apply to retail businesses. The Pure Michigan Microloan focuses primarily on businesses in Detroit, Grand Rapids, Muskegon,

Kalamazoo, Lansing and select areas of Oakland County. It runs through Certified Development Financial Institutions (CDFI).

The program provides funding through a loan from Huntington National Bank to the CDFI and it is specifically Detroit Development Fund and Opportunity Resource Fund. "The CDFI gets funds for loans from a number of sources," said Cook. "They always need access to additional capital so Huntington agreed to provide these loans to the CDFI which go out and make loans from \$10 thousand to \$200 thousand to any operating company including retail."

While MEDC has set up broad guidelines in terms of the types of companies eligible for the loans, the primary decision maker on the individual credit is the CDFI. They have their own underwriting process. There is opportunity to enroll the loans into a guarantee through the State called the Michigan Strategic Fund.

"We have been thinking to offer additional capital to small businesses because typically senior lenders/banks don't do the smaller loans because it the same amount of work as doing a \$1 million loan," said Cook. "The CDFIs are needed to provide smaller loans especially for retail operations."

Huntington was willing to provide the funding but wanted additional level of security. The risk is taken by the state, CDFI and Huntington. "These are slightly higher risk transactions compared to larger companies like manufacturing," said Cook. "There is a separate deal through Invest Detroit which is another CDFI funded through Goldman Saks."

The loan process starts with the CDFI through the traditional banking process. A potential borrower would go through a commercial lender who would know about the program supported by MEDC.

MEDC originally did unveil this program in the fall of 2014 and then included additional roll out of the program in the summer of 2015 that included a road show to the major markets where the program was offered.

The borrower can start with the SBDC Small Business Development Center (SBDC) because they are handling the initial intake and reviewing the business plans and performance statements. "Once SBDC believes they have all the information needed in a loan application, they can be forwarded to the CDFI," said Cook.

The other program MEDC has that supports retail is the Capital Access Program. It works closely with the first program where a business owner's perspective in that they are not coming to MEDC asking for support but there are specific lender banks through the estate that utilize this capital access program.

"Typically for smaller loans including for retail operation, companies will seek financing through a bank, but if there is risk involved or because it is a smaller loan the state will enroll it through the Capital Access Program," said Cook. "It is a loan loss reserve fund managed by the bank such as Independent Bank."

If you are seeking a loan, it can be enrolled into the Capital Access Program and the total enrolled amount is paid into a fund that is pooled. If the loan is at 6%, for example, then generally it's going to be 1.5% from the lender, 1.5% from the borrower, and then 3% from the MEDC and that combined total is contributed into that account. The program's effectiveness is limited if there are limited numbers of loans enrolled. So, the greater number of loans that are enrolled, the larger the pool, and also the more that's available to cover losses.

"These are typically for smaller loans and can be sued for retail businesses," said Cook. "We have other programs meant for larger loans and not used for retailers, but everything MEDC does rely on private sector lenders. We want the market to select industry and perform the due diligence by the private market."

As the banking industry continues to evolve, banks must become more creative to meet the needs of customers by offering both traditional and non-traditional lending options.

Level One Bank, for instance, partners with various institutions including the Small Business Administration (SBA) to offer non-traditional lending options. They have even created their own in-house programs to meet the unique needs of entrepreneurs.

"We recently developed our Entrepreneurial Line of Credit, also known as eLine, to help support the growth of small businesses in Detroit and the surrounding areas," said Jeff Talicska, VP-Small Business Lending Manager.

The eLine is an unsecured line of credit offering business owners up to \$25,000. As with any bank program, there are some qualifying requirements such as good credit scores and being in business for at least two years.

"Most banks at this level primarily offer traditional business credit card products," said Talicska. "But we saw a need in our market for something more."

With this in mind, Level One created a fully functioning traditional line of credit with minimal documentation requirements and quick turnaround times from application to closing.

Level One will continue to evaluate the success of the program to determine opportunities for each business to grow and expand through additional lending programs. ■

"WHO BRINGS ENERGY TO THIS COMMUNITY?"

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■ BY KRIS HARRIS

Running a grocery store is not new to Marvin Yono, owner of Alpine Market in Linden, MI. Yono grew up in the industry where his Dad, Norman, operated grocery stores in and around Detroit. “I’ve been in the business my whole life, working with my Dad,” said Yono. “I bought a store in Monroe in 2002, before taking over this place.”

Today, Yono operates the Alpine Market with the help from his Dad and Brother, Mason, after purchasing the store in 2007. “I took over the store about eight and a half years ago,” explained Yono. “It was an older run-down store.” Since purchasing Alpine Market, Yono has made significant changes to help separate it from the competition. “What separates us would be our perishable departments,” said Yono. “Particularly our meat and deli departments. We expanded on nearly every department.”

The 20,000-square-foot store allows Yono to stock a large amount of goods and keeping an eye on customer habits has helped Yono identify what types of products he needs to look at more closely. “We are constantly expanding our Natural, Organic and Gluten-free sections,” Yono said. “Customers read their labels more and they want clean ingredients on what they’re purchasing.”

Providing the types of products that health conscious shoppers are looking for is just one way Yono is helping his customers. Alpine Market also offers grocery delivery and has been doing it before the recent



trend with delivery Apps. “Right now, we’re taking orders and deliver on Wednesdays and I hope to do some online delivery program, but haven’t found the right platform to do that yet,” said Yono.

Community outreach is important to Yono, which is why he felt it was important to reach out and help the people in Flint. Even though his store is located just outside the large city, Yono wanted to show his support for the community at-large. “We don’t have too many customers from Flint, but we felt badly about what happened,” said Yono. “We have water purifying machine, so we announced that they’re more than welcome to fill up their water jugs here.”

But it didn’t stop there. Alpine Market shipped cases and cases of water to the residents of Flint. “We donated a semi-truck load with 18 pallets of water to the food bank,” Yono said.

Yono feels strongly about giving back and helping others, which is why Alpine has set up programs to ensure outreach continues on a day-to-day basis. “We give a percentage of our sales to local schools, churches and other charities,” explained Yono.

When asked how long Yono had been a member of AFPD, he said “forever” and couldn’t recall a time when he, or his father, wasn’t a member. Yono takes advantage of as many AFPD programs as he can. “I take advantage of every program that’s applicable to my business,” said Yono. “For me, the Lapari program is nice, so is Monster and others. It’s a no-brainer to join by having these programs because it covers the cost of membership and more.”

But it’s not just the programs that appeal to Yono, it’s the unique strength in numbers that AFPD offers that Yono sees as invaluable. “As retailers, we’re stronger as a group than we are as individuals,” said Yono. “There’s no reason not to join, in addition to all the other benefits of being a member.” ■

Kris Harris is a writer for Denha Media & Communications.

RETAILER: ALPINE MARKET

Location: Alpine Market - Linden, Michigan;
Hi Lite Supermarket - Monroe, Michigan;
Jake’s Liquor - Monroe, Michigan

Founded: 2007

Employees: 64

AFPD member since: 2008

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Can't Take the Business Out of the Man

Nabby Yono may have left the grocery business years ago, but he's still very much involved in the industry. He still goes to industry trade shows around the country to stay in touch and learn of the new trends.

As the Vice President of Community Relations for the Arab American Chaldean Council (ACC), Yono stays constantly connected to the various industries including everyone he has met over the years while serving on the AFPD board.

"Most of the time I am doing my job at ACC, but what I do today is really no different than what I did in the food industry," said Yono. "I left the business, but the business never left me."

He is still very much involved with the AFPD as a foundation board trustee. "I use my contacts for both my positions at ACC and AFPD," said Yono.

He is networking with people throughout the year. Both organizations host golf outings, scholarship events, annual dinners and other events that enable Yono to engage contacts to support both groups.

"I have known people at various companies, for decades," he said "Cultivating and maintaining relationships are important."

He shares his networking experience and practices with others and believes the younger generation coming up in the industry would tremendously benefit from business socializing. "Find out what organizations are relevant," he said. "The Detroit Economic Club for instance is a driving force in this area. I don't just go to the luncheon and walk in with 300 people, eat and leave. I go to the private reception and I walk across the room to talk to people."

It is the same business philosophy he had as the chairman of the AFPD (then AFD) in the 90s. He engaged political leaders and business leaders on a regular basis. In the early 90s, Yono became the first chair of the AFPD's Political Action Committee (PAC) after former board member and chairman of the Republican Party at the time, Mel Larsen urged the group to create the PAC.

In addition to networking, Yono understood the importance of creative marketing. "We decided to raise money for the PAC at one of our trade shows. We contracted with Miss Michigan to autograph photos and we sold tickets for \$100 and the first prize was a



\$1,000 bill," Yono recalled. "We actually had to go the bank and have them request the U.S. Treasury to special order the bill."

Yono is a married father of two grown children; his wife Mary Ann is in business development for AFPD. He uses every opportunity to connect with others. Whether he is at Panera for coffee or at a lunch meeting, Yono doesn't just sit down with friends for conversation and a cup of joe. "I always look around to see whom I might know; I make an effort to talk to people and meet new people; it is opportunity to network."

When he is not networking, he is enjoying his favorite pastime – watching a Hockey Game. He was a season ticket holder for nearly 35 years, Yono is a Red Wings fan. "I bought my first ticket when they played at Olympia Stadium and it cost about \$7 a ticket back them," he said with a laugh "Today I watch most of the games on TV and am always reading about hockey."

He offers that advice to others. "Know your surroundings," he said. "You don't just open a business, operate and leave; you need to know your area: your Chamber of Commerce, the police department, the local mayor or supervisor and members of the city council and your state representatives. Get to know the leadership of the companies that service you, not just your salesman or driver."

Yono is doing much of the same things he was doing decades ago serving the AFPD. "I truly believe that if you want to succeed in business, you must connect with people." ■

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Cruisin' to a Warm Vacation Destination

■ BY KRIS HARRIS

Wanting to escape the cold weather and winter blues is an easy choice, but how to do it isn't as easy a choice to make. Getting in your car or on a plane and traveling to a warm destination spot is one way to get away, but another option is taking a cruise. Cruise line vacations can offer a distinctive experience by providing multiple vacation stops through a single booking. Whether or not you're a novice sea cruiser or an experienced sea traveler, there is an option for you.

If there's a "big four" in the cruise world, the line-up would include Carnival, Celebrity, Princess and Royal Caribbean with each having a niche that helps separate them from the others. For first-time cruisers, a Carnival cruise might be the better option. "It's definitely the most economical and you'll get a good vacation out of it," said Julie Garmo, travel consultant with Volkswagen Group of America. "It's exactly what people are looking for, if you just want to go and have fun." For those who are looking for a bit more luxury, there are other cruise lines that can give you the full experience of what a cruise can offer. "If you want to be pampered and want something a little more upscale, you want to look at Royal Caribbean, Celebrity and Princess," explained Garmo.

Once you've decided on your destination, it's good to keep in mind that cruise lines are known for specializing in certain areas and locations. "Princess and

Holland America both have a niche for Alaska, Royal Caribbean and Celebrity are good for the Caribbean and Europe, and Carnival is more for families and really made cruising more about a family vacation," said Garmo.

Before deciding on which line would best suit your travel needs, you don't have to make all the decisions alone. Travel agents can help walk you through the entire process at very little cost. "A travel agency will take care of everything including your flight and hotel, if you're going down a day early, so you don't have to bother with it," said Garmo. "You don't pay more for your trip because you're using a travel agent, because most places will just charge you a small flat fee or they'll get compensated from the cruise line."

Once you've decided on your cruise line of choice, there are some things to keep in mind before you set out on your travel plans. One term you'll hear a lot is "all-inclusive". This term covers a lot of your cruise experience, but make sure you read the fine print. "Food, water, coffee and tea is included, but soda and liquor is never included," said Garmo.

Another thing to keep in mind is the additional cost of excursions. These are great ways to see your destination spots, up close and personal, but in order to get the excursion of your choice, it's recommended to book them early. "Book them as soon as you book your trip," said Garmo. "If you are interested in shore excursion, I would definitely recommend booking them early and don't wait until you get on the

ship. You can always cancel them 24-hours before."

Even though excursions are a great way to see new areas of the world, you don't have to take advantage of them. If your idea of a vacation is rest and relaxation, staying on the ship when docked at a port, is a great way to have the ship all to yourself. "What's great is that once you're on the ship, you can do as much as you want or as little as you want," said Garmo. "Most cruise ships nowadays have so many activities that if someone doesn't want to do an excursion, they don't have to."

One of the most important tips to keep in mind in your travels is the type of money you're bringing. Having the right currency and knowing, in general, the exchange rate if you're going to use U.S. Dollars can save you a lot of headache. "Having local currency is helpful, especially when traveling to Europe," said Garmo. "When you're doing local shopping for little things you want to use their currency."

Cruisers should also keep in mind that while currency is preferable when at a destination and haggling for goods, it's not the best means of transaction when at a duty-free store. In stores that offer a traditional shopping experience, using your credit card is your best option. "If you're doing major shopping, using your credit card will give you the best exchange rate," explained Garmo.

When you're planning your next vacation experience, remember, taking a cruise to warm destinations will give you a relaxing experience and allow you to see the world, all at the same time. ■



Who Will You be Voting for President and Why?

"The only one that makes sense to me is Kasich right now. He's measured in his response, he's a Washington outsider and he knows the problems of urban America up close. It's not just rhetoric with him, he's actually done stuff. I think none of President candidates, except Kasich, can actually develop an urban agenda and maximize an urban agenda."

STEVE HOOD // RONIN AMERICA CORP.

"I would, no doubt, support Ohio Governor John Kasich. I don't think anyone has the qualifications and background that John Kasich has from when he was a Federal Legislature. I think he's a very devoted family person, an outstanding Governor and I think when you look at his ability to try to straighten out what's happened in this country, I think he certainly has the qualifications to do that."

RON MILBURN // AFPD, OHIO DIRECTOR

"If I had to pick today, I would probably pick Rubio. If he were the candidate, I would probably go for him. Of all the ones out there, he's the one I would feel most closely aligned to with the immigrant connection between my background and his and the fact that he's got a different perspective on that. Much like us who came as immigrants, he's earned a lot on his own and I really respect that."

BURT KASSAB // KULLEN & KASSAB, PC

"I'll be voting for the democrat for President, whoever that is, but my preference is Hilary Clinton. I believe she's got an over-all record and I think her experience at that level, of being the Secretary of State, gives her a lot of street credibility around the world to be a leader. Secondly, the internal issues of the country, I think, are best served by the Democrats."

PAT GAGLIARDI // GAGLIARDI ASSOCIATES, LLC

"I like John Kasich. He's got experience as a governor, so he's got some executive experiences. I think Kasich has done a pretty good job in Ohio. He's conservative and he's balanced a budget and we haven't had a president that's even thought about balancing the budget in a long time. So that's my guy."

JERRY CRETE // IDEAL PARTY STORE

"In my opinion, the first one I would vote for would be Trump. I think he's crazy enough to make this country run right. He's a business man, I don't trust politicians anymore. I gave up on politicians, like everyone else is saying. He might be a little crazy, but in my opinion, he's a business man. He runs a business and he's made millions."

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GOVERNOR
JOHN KASICH
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MARCO RUBIO
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New Budget Deal to Significantly Increase OSHA Fines for the First Time in Twenty-Five Years

Last year, OSHA assembled a work group to evaluate its penalty policies and found currently assessed penalties are too low to have an adequate deterrent effect. Based on the group's findings and recommendations, several administrative changes to the penalty calculation system are being made. The penalty changes will increase the overall dollar amount of all penalties while maintaining OSHA's policy of reducing penalties for small employers and those acting in good faith.

The budget allows for an initial penalty "catch up adjustment," which must be in place by August 1, 2016. The catch up adjustment is tied to the percentage difference between the October 2015 Consumer Price Index (CPI) and the October 1990 CPI.

Because the October 2015 CPI will not be available until November 17, 2015, the actual percentage increase is unknown at this time. However, based on recent CPI trends the increase will likely be in the range of 70% – 80% over current penalty amounts. OSHA would be required to pass an interim final rulemaking to finalize

the "catch up" increase. Assuming an 80% catch up adjustment, starting in August 2016, new maximum penalties are listed in the graph below.

After the initial catch up adjustment, OSHA will be required to implement annual cost of living increases, with the adjustment tied to the year-over-year percentage increase in the CPI. Adjustments must be made by mid-January each subsequent year.

OSHA has the option to implement a catch up adjustment less than the maximum if the Agency determines increasing penalties by the maximum amount would (1) have a "negative economic impact" or the social costs of the increase outweigh the benefits, and (2) the Office of Management and Budget agrees. However, OSHA Chief Dr. David Michaels has long advocated for a substantial increase in penalties so it is difficult to envision the Agency seeking anything other than the maximum increase.

The changes in the budget go into effect on July 1, 2016 with the new penalties coming into effect by August 1, 2016.

OHIO SAFETY CONGRESS & EXPO

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OSHA REMINDS EMPLOYERS TO POST INJURY AND ILLNESS SUMMARIES

Employers who are required to keep Form 300, the Injury and Illness log, must post Form 300A, the Summary of Work-Related Injuries and Illnesses, in your workplace from February 1st to April 30th. If you have questions please contact Jim Wirth of RiskControl360° at (614) 827-0370. ■



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Estate Planning and the Importance of Income Tax Planning

■ BY RANDALL A. DENHA, J.D., LL.M.*

Individuals and Trust are not alike, especially in the world of taxes. Trusts typically are a main component of an estate plan. But do you know how higher taxes can impact a trust's overall effectiveness? Because the income thresholds for trusts are low, it's worth your time to understand how the current tax environment affects your trust planning.

For 2016, the top marginal individual income tax rate is 39.6%. And the capital gains rate for taxpayers in the highest bracket is 20%. High earners are also subject to a 3.8% tax on net investment income — including interest, dividends, annuities, rents, royalties, net capital gains and certain passive business income. The income levels at which these tax increases apply may vary. This year, trusts are subject to the 39.6% ordinary income rate and the 20% capital gains rate to the extent their taxable income exceeds \$12,400. And the 3.8% investment tax applies to undistributed net investment income to the extent that a trust's adjusted gross income exceeds \$12,400.

Thankfully, there are estate planning techniques that can help you offset the bite of higher taxes on trust income. For example, an intentionally defective grantor trust (IDGT) is designed so that you, the grantor, are treated as the trust's owner for income tax purposes — even though your contributions to the trust are considered “completed gifts” for gift and estate tax

purposes. Although the trust name implies that it's defective, it's quite effective. In fact, so effective that all of the assets contained within the trust escape estate taxes at death, but allow the grantor to continue to pay income taxes. Think of the payment of income taxes as an additional gift to the next generation and less money to the IRS.

IDGTs offer significant advantages. The trust's income is taxed to you, so the trust itself avoids taxation. This allows trust assets to grow tax-free, leaving more for your beneficiaries. And, by virtue of paying the tax on the trust's income, you're able to reduce the size of your estate. Further, as the owner, you can sell assets to the trust or engage in other transactions without tax consequences.

Keep in mind that, if your personal income exceeds the applicable thresholds, using an IDGT won't avoid the tax increases described above. Still, the other benefits of these trusts make them very attractive.

Another option is to change your investment strategy. Despite the advantages of grantor trusts, *nongrantor* trusts are sometimes desirable or necessary. At some point, for example, you may decide to convert a grantor trust to a *nongrantor* trust to relieve yourself of the burden of paying the trust's taxes. Also, grantor trusts become *nongrantor* trusts after the grantor's death. One strategy for easing the tax burden on *nongrantor* trusts is for the trustee to shift investments

into tax-exempt or tax-deferred investments.

Finally, you can distribute your income. Generally, *nongrantor* trusts are subject to tax only to the extent they accumulate taxable income. When a trust makes distributions to a *beneficiary*, it passes along ordinary income (and, in some cases, capital gains), which are taxed at the beneficiary's marginal rate.

Thus, one strategy for avoiding income, capital gains and investment taxes is to distribute trust income to beneficiaries in lower tax brackets. The trustee might also consider distributing appreciated assets, rather than cash, and letting the beneficiary sell the asset personally if he or she is able to take advantage of a lower capital gains rate on the sale.

Of course, this strategy may conflict with a trust's purposes, such as providing incentives to beneficiaries, preserving assets for future generations and shielding assets from beneficiaries' creditors.

Even though your estate plan likely contains a variety of trust types, it can be easy to overlook the impact of taxes on them. A primary goal of your estate plan is to ease the tax burden on your family as much as possible after your death, so talk to your estate planning advisor to learn how to reduce the effects of high taxes on your trusts. ■

**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 can be reached at 248-265-4100 or by email at rad@denhalaw.com.*

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French Wine and Spirits Exports Hit All-Time High

■ BY REUTERS

The value of French wine and spirits exports reached an all-time high last year, mainly helped by a weak euro, strong demand for champagne and cognac and a recovery in the Chinese market, but producers warned there was a further drop in volumes.

After two years of decreases, sales abroad of French wine and spirits rebounded to reach a record 11.7 billion euros (\$13.2 billion) in 2015, up 8.7% from the previous year, the sector's export federation FEVS said.

The increase put the sector back in second place in the rankings for the largest export industries in France, behind aerospace and ahead of perfumes and cosmetics, with net exports totaling 10.4 billion euros and equivalent to the price of 126 Airbus aircraft, FEVS said.

"There is a clear advantage from the euro and low oil prices helped on further-away markets,"

said FEVS's chairman, Christophe Navarre, after a news conference.

He declined to give a forecast for 2016.

"It's like the weather, you have to take it when it's good and adapt when it's bad," he said.

About 60% of French wine and spirits exports are made outside the European Union.

The United States remained France's largest market, helped by growing demand for high-value products and the favorable exchange rate making euro-denominated wines more competitive.

The U.S. market now accounts for 22% of French wine and spirits exports at 2.6 billion euros, up more than 28% in 2015.

French exports to Asia were boosted by a near 23% rise in wine and spirits sales to China, where the market had been subdued by the clampdown on extravagant spending.

But the economic slowdown

in China caused FEVS to remain cautious in its forecasts for sales in 2016.

Cognac was the main driver of the spirits sector, with a near 20% jump in exports by value to 2.6 billion euros but lower vodka sales limited total growth for spirits exports to 13%, to 3.7 billion euros.

The wine sector was buoyed by champagne exports which rose by 12% by value in 2015 to 2.7 billion euros, bringing total wine exports to 7.9 billion euros, a rise of 6.7% on 2014.

However, FEVS warned that overall, wine shipments fell 3.6% by volume, due mainly to a drop in still wine supplies.

Navarre called the enduring drop in wine output "a real weakness" hurting France's market share abroad.

Over the past 15 years, French wine's market share in international trade has been cut by nearly half by volume, FEVS said. By value it has been cut by a third. ■

Andrew J. Deloney Voted Incoming Chair-Elect to NABCA Board

■ BY NABCA

Andrew J. Deloney, chairman of the Michigan Liquor Control Commission (MLCC) was voted chair-elect to the NABCA Board of Directors. He will assume responsibilities of this position in May 2016, when current chair-elect Stephanie O'Brien, chair of the Vermont Department of Liquor Control (VDLC), becomes chairman. Mr. Deloney joined the NABCA board in 2011 and among other responsibilities has held leadership roles on the

association's Internal Affairs and Finance committees.

Mr. Deloney was originally appointed as an Administrative Commissioner to the MLCC in 2011 by Gov. Rick Snyder for a four-year term, and was re-appointed April 24, 2015 for a second four-term that expires on June 12, 2019. At the time of both of his appointments, Gov. Snyder designated him Chairman.

Mr. Deloney earned a bachelor's degree in political science with a concentration in public service

from Albion College in Albion, Michigan. He resides in White Lake in the Detroit area.

"Andy's experience in regulation as well as his working with small businesses will make for insightful discussions about the ever changing alcohol policy landscape," said Jim Sgueo, NABCA president and CEO. "We look forward to his leadership on the NABCA board."

For information about NABCA, visit www.nabca.org. For information about MLCC visit www.michigan.gov/lara. ■



USDA Proposed Rule Alters SNAP Retailer Eligibility Requirements

New retailer eligibility standards proposed for Supplemental Nutrition Assistance Program would limit the industry's ability to participate

■ BY NACS ONLINE

Recently, the U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) published in the Federal Register a proposed rule, which includes problematic new eligibility standards for retailers participating in the Supplemental Nutrition Assistance Program (SNAP). SNAP, the nation's largest domestic hunger program, provides critical nutrition assistance to low-income individuals and families. In order to accept SNAP benefits, a retailer must meet certain eligibility requirements, including so-called "depth of stock" requirements that stipulate the minimum number of food items a retailer must offer for sale at any given time.

As expected, the proposal will implement statutory provisions of the 2014 Farm Bill, which require retailers to stock more varieties of products in four "staple food" categories: meat, poultry, or fish; bread or cereal; vegetables or fruits; and dairy. Specifically, retailers must stock no fewer than seven different varieties of food items in each of the four staple food

categories (before the 2014 Farm Bill, retailers had to stock three different varieties in each staple food category). Further, retailers will be required to offer at least one perishable food item in three of those categories rather than two.

FNS also included several proposed changes that went significantly beyond the statutory requirements in the Farm Bill. Problematically, the proposal would make it so "multiple ingredient" items, such as macaroni and cheese or cold pizza, would not be counted in any staple food category and would not go toward a retailer's "depth of stock" requirements. This is a dramatic change from current rules, which permit multiple ingredient items to be counted in one staple food category depending on the main ingredient. For instance, since the main ingredient in mac and cheese is pasta, now it could count as one item in the bread and cereals category. The proposal would also add a "stocking requirement" whereby retailers would always have to have six different units of any food item in a store at any given time.

As currently drafted, the proposal will make it increasingly difficult for convenience store owners and operators to participate in SNAP, which in turn will negatively impact the many SNAP recipients that use their benefits at NACS members' stores.

NACS counsel is currently drafting a memorandum analyzing the proposal, which will be shared with NACS members in the coming days. NACS will be filing comments to respond to the proposed rule, and asks its members to share their thoughts on the proposal and how it will impact their company's ability to participate in SNAP. It is important to note that the issuance of the proposed rule does not in and of itself impose any regulatory obligation on SNAP retailers. No additional requirements will take effect until after the proposal is finalized, which first requires FNS to review and respond to all submitted public comments.

Comments on the proposed rule are due on April 18, 2016.

For more on this issue, visit www.nacsonline.com/snap. ■

AFPD SUPPORTED LIQUOR ADVERTISING AND POST AND HOLD BILL WHICH PASSED THE MICHIGAN SENATE

Recently, the Senate unanimously passed a bill expanding the advertising items liquor licensees may provide to other licensees. SB 667 allows a manufacturer, outstate seller or vendor of spirits to provide brand logo merchandise to a retailer to promote its products. The merchandise may be used for display purposes only. Manufacturers, sellers, and vendors can

also buy drinks for on-premises retail customers for promotional purposes. Suction cups, cooler door attachments, and tear pad holders are some of the goods and services manufacturers and sellers can provide.

Manufacturers or wholesalers are required to file with the Liquor Control Commission a schedule of net cash prices to the retail

licensee for all brands of beer for its market area, in addition to filing a beer package price reduction for its market area. The price reduction could remain in effect for 90 days, or be increased under specific circumstances.

This bill has moved to the House and has been referred to the House Committee on Regulatory Reform. ■



House Passes Menu Labeling Legislation

■ BY JON TAETS // NACS ONLINE

The House of Representatives has taken a very important step towards fixing the federal governments “menu labeling” rule issued by the Food and Drug Administration (FDA) back in November 2014. The rule would require any retail operation, part of a chain of 20 or more, to post caloric content for any prepared foods they make and sell on site. The FDA wrote their rule in such a way that it is easy for large chain restaurants with primarily uniform menus to comply but very difficult for just about any other chain of retail.

On Friday, February 12th, with a strong bipartisan vote of 266-144, the House of Representatives passed H.R. 2017, the Common Sense Nutrition Disclosure Act, which requires the FDA to modify its onerous rule in such a way that operations like convenience stores will have a much easier

time complying. The legislation, sponsored by Reps. Cathy McMorris Rodgers (R-WA) and Loretta Sanchez (D-CA), now moves to the Senate where we hope to see it moved through the process quickly.

Senator Lamar Alexander (R-TN), who is chairman of the Senate committee with jurisdiction over this issue, has expressed an interest in moving the bill through his committee in the near future. While the timing of any Senate committee action remains up in the air the sponsors of the Senate version of the bill - Senators Roy Blunt (R-MO) and Angus King (I-ME) - continue to work to build support for the bill in that chamber.

You can help in that effort by encouraging your home state’s senators to sign on as co-sponsors of S. 2217, which is the Senate companion legislation to H.R. 2017. The NACS Grassroots

webpage (www.nacsonline.com/grassroots) makes this process very simple. All you need to do is take about three minutes to send a letter to your senators - NACS has already prepared a letter that you can edit and send.

Some of the highlights of the legislation passed by the House are:

- Allows retailers more flexibility to decide where to post the caloric content of their offerings.
- Requires FDA to allow for some reasonable variations on caloric content that can be attributed to human error.
- Removes the threat of potential felony penalties for violations of the rule.
- Eliminates the threat of class action or nuisance lawsuits stemming from the rule.
- Provides stores a 90-day period during which potential violations can be corrected without penalty. ■



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U.S. Bottled Water Sales Reach Record Highs in 2015

Nearly half of bottled water drinkers are consuming more flavored waters to replace high sugar drinks

■ BY NACS ONLINE

As Americans look for healthy, better-for-you alternatives inside cooler doors, the U.S. bottled water category is growing. New research from Mintel reveals that sales of bottled water increased 6.4% to top \$15 billion in 2015, and the firm expects sales to continue growing at a rapid pace through 2020, with projected sales growth of 34.7% for the category, including 75.1% growth for the sparkling/mineral water/seltzer segment.

Consumer attitudes reveal that flavor innovation is driving the category's success, with nearly half (48%) of bottled water drinkers saying they are partaking in

more flavored waters to replace high sugar drinks. Consumption of flavored still bottled water is highest among 18–34 year olds (66% v. 48% of consumers overall), who are also the most likely age demographic to consume still bottled water (93% v. 85% of consumers overall).

Mintel found that there is a wide range of interest in functional attributes for bottled water. More than two in five (43%) consumers are interested in bottled water enhanced with vitamins; another three in 10 agree the ideal bottled water should contain minerals (29%) and energy (29%). When it comes to calorie counting, consumers show a clear preference for zero calorie bottled water (31%) as opposed to less than 100 calorie offerings (13%).

American bottled water drinkers also indicate that the “ideal bottled water” would have no artificial sweeteners, artificial flavors or artificial colors. Further, one quarter of consumers say their ideal bottled water would be GMO-free or organic.

“Bottled water brands benefit from the overarching consumer

trend toward more healthful, better-for-you alternatives to unnatural and high-sugar drinks. This has spurred sales growth of bottled water with even greater projected growth over the next five years,” said Elizabeth Sisel, beverage analyst at Mintel. “In the coming years, consumers will likely put even greater value on no artificial ingredients in bottled water.”

While consumers indicate that the overall top purchasing factor is price (62%), the majority of consumers are interested in premium offerings: More than half (53%) of bottled water drinkers prefer to drink premium bottled waters. Furthermore, 39% of consumers agree bottled water is worth the added cost, although half (51%) of consumers are unfamiliar with premium water.

“While price is a major purchasing factor for many consumers, the majority gravitate toward premium water offerings, despite its typically higher cost,” Sisel continued. “To attract the more price conscious consumer, brands should look to incorporate product messaging that justifies a higher price point, as well as communicate the health benefits and sophistication of premium products in order to alleviate any confusion.”

Mintel research also indicates that more than three in four (78%) U.S. bottled water drinkers say they recycle their bottled water packaging, and three quarters (75%) would like to see more reusable bottled water packaging made available. ■





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JUDGE SIDES WITH RETAILERS ON TOBACCO VIOLATIONS

NACS and Orton Motor Co. achieve victory in legal challenge to some practices by the FDA's Center for Tobacco Products regarding violation inspections

■ BY NACS ONLINE

NACS and retail member Orton Motor Co. launched a legal challenge in December 2015 to some of the practices the U.S. Food and Drug Administration's Center for Tobacco Products (CTP) has engaged in to enforce its tobacco regulations. Recently, Administrative Law Judge Lewis T. Booker Jr. ruled in favor of Orton and NACS.

NACS members have been concerned that retailers have been cited for multiple violations of the Tobacco Control Act in a single transaction (failing to check ID and making an underage sale) and/or a single inspection. Retailers have also been concerned that they have not had the right to a hearing to challenge a violation the first time they receive one from CTP.

Judge Booker ruled in favor of Orton on both of these questions. He decided that Orton's failure to check an ID and sale of the product to an underage individual in one transaction amounted to one violation of the Tobacco Control Act—not two—as CTP had alleged.

The Judge also ruled that this was Orton's first violation because, even though Orton had received a warning letter for a 2013 violation, Orton was not given a chance to ask for a hearing (the necessary due process to challenge that violation). Without due process, the first violation was in effect never assessed.

The judge's ruling vindicates NACS's longtime view that CTP was enforcing the law in a way that was inconsistent with the language of the law. This decision, however, might not be the final word on these questions. CTP has 30 days from the date of the decision in which it can appeal. If it does, NACS plans to continue to press for confirmation of the decision that retailers can only be cited for one violation of the law in a single inspection, and that retailers must be afforded due process on every alleged violation. ■

The President Submits Last Budget to Congress

■ BY ANNA READY // NACS ONLINE

Recently, President Barack Obama formally submitted his fiscal year 2017 budget proposal to Congress. It was an act that was more perfunctory than anything else since Republicans are in the majority in Congress and in control of the purse strings. In an unprecedented move, both the House and Senate Budget Committee chairmen said they would not even hold formal hearings on the president's budget request this year.

Nevertheless, President Obama's budget proposal sets the tone for a policy dialogue during his final year in office and the campaign season. So, what did the \$1.4 trillion budget proposal have in it that is relevant to the convenience and fuel retailing industry? Here are the budget highlights:

ENERGY

- Adds a \$10 per barrel crude oil tax (excluding exported oil). The revenues from the tax would support the 21st clean transportation infrastructure package, which would promote greener forms of transportation like light-rail, subway system, and buses.
- Replaces the credit for plug-in electric vehicles with a credit for vehicles that operate on any alternative to petroleum.
- Allows a tax credit for dedicated medium- and

heavy-duty alternative-fuel commercial vehicles.

TAXES

- Repeals the use of the LIFO (last-in, first-out) method of accounting. Taxpayers who currently use the LIFO method would be required to change their method of inventory accounting, which means one would have to include in their income the prior-year's LIFO inventory reserves (the amount of income deferred under the LIFO method).
- Extends the Work Opportunity Tax Credit permanently. The WOTC encourages employers to hire people who have difficulty finding work such as certain classes of veterans and those on public assistance programs.
- Increases expensing limits for small businesses. For property placed in service in 2017, the budget proposal would increase the maximum expensing limit to \$1 million (currently at \$500,000), indexed for inflation.

TOBACCO

- Increases tobacco taxes and indexes them to inflation. The taxes on cigarettes and small cigars would rise to approximately \$1.95 per pack (up from \$1.01 per pack).

You can read more about this in the NACS Daily at www.nacsonline.com. ■



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Websites Now the Target of ADA Lawsuits

■ BY JON TAETS // NACS ONLINE

A new phenomenon akin to well-known “patent troll” activity has begun impacting many in our industry and other retail channels. A large number of retailers have recently received letters threatening them with lawsuits because their websites allegedly do not comply with Title III of the Americans with Disabilities Act (ADA).

ADA requirements with respect to brick and mortar stores are generally well-known and well developed, but the Act’s application to private business’ websites presents somewhat novel legal questions. In general terms, Title III of the ADA prohibits discrimination against disabled persons in places of public accommodation. The crux of the matter, then, often turns on whether and under what circumstances a non-governmental website constitutes a place of public accommodation. Currently, the answers to those questions vary between judicial circuits.

The ADA, passed in 1990, lists several examples of public accommodations but does not specifically mention websites. Some courts, like those in the ninth circuit, have interpreted “place of public accommodation” to mean

a physical place. Accordingly, in that circuit, prevailing on a Title III ADA claim requires a showing of discrimination at a physical place or somewhere with a sufficient nexus to a physical place (i.e. online) to establish a violation of the law. Using this so-called nexus approach, someone could file a suit alleging that a company’s website prevents the full and equal enjoyment of the goods and services offered in the company’s stores, but to the extent the website is not necessary to the equal use of the store the suit likely would be unsuccessful.

Other courts, like those in the first and seventh circuits, have interpreted the ADA more broadly and maintain that websites, just like brick and mortar stores, may themselves be places of public accommodation. Therefore, in those places, the ADA may apply to private business websites even in the absence of a connection to a physical place.

Once a court determines that the ADA applies to a website, it must decide whether the website is compliant or not. In one case against a large, well-known retailer, plaintiffs alleged that the business’s website was not accessible to blind individuals because “alternative text” features had not been employed. Other cases have alleged discrimination against deaf individuals based on

inaccessibility of video content (i.e., no closed captioning).

The U.S. Department of Justice (DOJ) has been slow to finalize regulations in this area. In 2010, the DOJ issued an advanced notice of proposed rulemaking related to the ADA’s application to public accommodation websites. To date, however, no rule has been issued. The DOJ has indicated in recent months that a proposed rule may be released in 2016, but there is no way to predict when final rules will be in place. Notably, briefs filed by DOJ in multiple 2015 lawsuits have commentators speculating that the DOJ plans to sweep in many more websites and website accessibility requirements under the ADA than it initially proposed in 2010.

As a general matter, lawsuits filed under the ADA were on the rise in 2015, so NACS encourages its members to be mindful of these website-related issues, as well as ADA compliance requirements in retail stores. If you receive or have already received a letter pertaining to your website’s compliance with the ADA, NACS encourages you to consult with legal counsel on the best course of action for your business. NACS is monitoring this issue and plans to provide more detailed information to its members on the legal and practical implications of the developments discussed here. ■

CATEGORY MANAGEMENT AND “TIED HOUSE”

■ BY NABCA DAILY NEWS

In response to industry requests for clarification, the Tobacco Tax and Trade Bureau (TTB) has issued general guidance concerning promotional activities commonly associated with category management programs and whether or not those activities are lawful.

Specifically, TTB Ruling 2016-1, The Shelf Plan and Shelf Schematic Exception to the “Tied House” Prohibition, and Activities Outside Such Exception, clarifies what is and what is not permissible in terms of shelf plans and shelf schematics.

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




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R J Reynolds Tobacco Company (336) 741-0727
Tobacco Import USA. (248) 336-2977

TRAINING RESOURCES 1-800-666-6233

Food Safety & Sanitation Training
GHS Hazardous Chemical Labeling Requirement Training
Meat Room Sanitation Education
TIPS Alcohol Training for Intervention Procedures
UST Owner/Operator Class “A” and Class “B” Training

UNIFORMS, LINENS, WORK WEAR & SUPPLIES

 **UniFirst** (888) 256-5255 ext. 232

WASTE DISPOSAL & RECYCLING

 **Midwest Recycling**  (American Red Cross boxes)
..... (313) 304-9099
National Management Systems (586) 771-0700
Planet Environmental (313) 473-9886
Schupan Recycling. (269) 207-5448

WINE & SPIRITS COMPANIES

Bacardi Martini U.S.A. (972) 712-9140
Beam Suntory, Inc. (248) 471-2280
Brown-Forman Beverage Company (248) 393-1340
BuzzBallz, LLC (972) 242-3777
Carmela Foods Distributors. (586) 294-3437
Cornerstone Wine Distributors (586) 839-2552
Diageo 1-800-462-6504
Five O’Clock Brands. (248) 549-0054
Gypsy Vodka. (248) 217-6057
Heaven Hill Distilleries 1-800-348-1783
Luxco (313) 333-4637
North American Spirits & Wine (248) 535-0707
Pernod-Ricard USA. (248) 717-3177
Proximo Spirits (810) 278-0599
Remy Cointreau USA (248) 347-3731
Veritas Distributors (586) 977-5799
Voo Vodka (SSB Group) (248) 416-3405

WINE & SPIRITS DISTRIBUTORS

Great Lakes Wine & Spirits (313) 867-0521
RNDC of Michigan 1-888-697-6424

FOOD RESCUE / FOOD BANKS

MICHIGAN

Feeding America West Michigan Food Bank
..... (616) 784-3250
Feeding America West Michigan Food Bank -
Benton Harbor (269) 983-7229
Feeding America West Michigan Food Bank -
Cadillac (231) 779-0056
Feeding America West Michigan Food Bank -
Ishpeming (906) 485-4988
Feeding America West Michigan Food Bank -
Sault Ste. Marie (906) 632-0348
Food Bank of Eastern Michigan (810) 239-4441
Food Bank of South Central Michigan .. (269) 964-3663
Food Gatherers (734) 761-2796
Forgotten Harvest (248) 967-1500
Gleaners Community Food Bank (866) GLE-ANER
Greater Lansing Food Bank (517) 908-3680
Kalamazoo Loaves & Fishes (269) 343-3663
The Manna Food Project (231) 347-8852
Western Upper Peninsula Food Bank ... (906) 482-5548

OHIO

Akron-Canton Regional Foodbank (330) 535-6900
Cleveland Foodbank (216) 738-2265
The Foodbank, Inc. (937) 461-0265
Freestore Foodbank (513) 482-4500
Mid-Ohio Foodbank (614) 274-7770
SE Ohio Foodbank & Kitchen (740) 767-4500
Second Harvest Food Bank of Clark, Champaign and
Logan Counties (937) 325-8715
Second Harvest Food Bank of North Central Ohio
..... (440) 960-2265
Second Harvest Food Bank of the Mahoning Valley
..... (330) 792-5522
Shared Harvest Foodbank (800) 352-3663
Toledo Northwestern Ohio Food Bank ... (419) 242-5000
West Ohio Food Bank (419) 222-7946

If you are a supplier of a
product/service and would like
the endorsement of AFPD, call
us today at 1-800-666-6233





MARCH 16, 2016

AFPD FOUNDATION FUNDRAISER

Join us at the Palace of Auburn Hills to cheer on the Pistons and raise funds for the AFPD Foundation!

Palace of Auburn Hills // Auburn Hills, MI

APRIL 28, 2016

AFPD'S 32ND ANNUAL INNOVATIONS BUYING SHOW

AFPD's longest running trade show has retailers looking to fill their shelves for the spring and summer months. The Annual Innovations Buying Show is known for high-quality attendees, non-stop interaction and exhibitor satisfaction. Admission for AFPD members is free. Must be at least 21 years old to attend this show.

Shenandoah Country Club // West Bloomfield, MI

MAY 11, 2016

AFPD'S 12TH ANNUAL OHIO GOLF OUTING & SCHOLARSHIP DINNER

This outing is a social event where retailers, wholesalers, manufacturers and service providers all come together to have a little competitive fun. A day on the course includes breakfast, dinner and 18 holes of golf! Sponsorships to the Ohio golf outing allows AFPD to provide \$1,000 scholarships to deserving students in Ohio. Scholars will be presented their awards at this event.

Manakiki Golf Course // Willoughby Hills, OH

JUNE 28, 2016

AFPD FOUNDATION'S 8TH ANNUAL SCHOLARSHIP LUNCHEON

Every year, the AFPD Foundation awards academic scholarships in the amount of \$1,500 each to extraordinary and deserving students in Michigan. Help the AFPD Foundation invest in the leaders of tomorrow. Tickets and sponsorship opportunities available.

Detroit Athletic Club // Detroit, MI

JULY 20, 2016

AFPD'S 40TH ANNUAL MICHIGAN GOLF OPEN

A day on the course includes breakfast, lunch, 18 holes of golf and samples at every hole! Last year we sold out! Sponsorship opportunities are available.

Fox Hills Golf & Banquet Center // Plymouth, MI

publishers statement

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AFPD works closely with these associations:





THE VOICE OF INDEPENDENT RETAILERS

SAVE THE DATE!

ANNUAL INNOVATIONS BUYING SHOW



AFPD's 32nd Annual Michigan Innovations Buying Show is known for its high-quality attendees, attendee satisfaction, special show-only deals & discounts and non-stop interaction. This show continues to be the best and most important trade show in this region for our industry and for your company's success.

APRIL 28, 2016

3:00pm-9:00pm

SHENANDOAH COUNTRY CLUB | WEST BLOOMFIELD, MI

Booth space is now available. Prime exhibit spaces go fast! Please call Maegan Hesano at (800) 666-6233 to reserve your booth today!



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For more information about the SpartanNash portfolio contact:

Jim Gohsman 616-878-8088

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