



2012 LEGISLATIVE AND REGULATORY ISSUES AGENDA

New York Association of Convenience Stores

Neighborhood retailers serving New Yorkers on the go...
...and generating jobs and tax revenue for New York State

NYACS 2012 Legislative & Regulatory Issues Agenda

Bring clarity, common sense to motor fuel regulations.

The State's overzealous enforcement of laws governing gasoline storage and dispensing is a constant source of higher cost and exasperation for motor fuel retailers trying to do the right thing.



NYACS Positions:

- The DEC should shelve its job-killing plan to require fueling stations to invest tens of thousands of dollars to install vapor monitoring systems of dubious environmental value.
- The anti-price-gouging law should be amended to assign an agency responsibility for declaring the onset of an "abnormal market disruption" that triggers price controls, and to clearly define the key term "gross disparity."
- The DEC should utilize the Petroleum Bulk Storage Advisory Council the way the law intended – to review proposed changes in PBS regulations *before* they are enacted.
- The State should adopt clear, reasonable standards for cash/credit price posting to enable more retailers to offer discounts to motor fuel customers paying with cash.

Stop inhibiting our ability to compete and sustain jobs.

There are already too many product restrictions, labeling requirements, mandates, and other anti-business policies that stymie the ability of convenience stores and their suppliers to compete, stay profitable, and retain jobs.

NYACS Positions:

- The main goal of enforcement should be corrective action and achieving compliance – not punishment or revenue enhancement.
- Reject new employer cost mandates such as wage inflation, paid leave, and additional coverages that make health insurance more expensive.
- Avoid redundant tobacco inspections at the federal, state & local levels.
- Leave the Bottle Bill alone. No additional regulations are necessary at the retail level.
- Halt the alarming new State Liquor Authority practice of permitting undercover minors to lie about their age in order to bait stores into illegally selling them alcohol.
- Restore the sales tax vendor allowance that was eliminated in 2010.
- Remove the sales tax on the portion of the selling price represented by pass-through tax receipts.
- Elevate the agent commission on lottery sales to offset the retailer's higher costs.
- Allow our stores to begin offering wine – without having to pay a ransom to the State.



Please don't remove any more products from our shelves.

Well-meaning members of the state Legislature, and Congress, seem intent on eliminating our ability to carry certain products they view as unhealthy or annoying.

NYACS Positions:

- As parents, citizens, and responsible retailers, we share the community's commitment to preventing youth access to tobacco and alcohol. We are improving compliance through training, supervision, and technology.
- Stores with a beer license shouldn't have to forfeit the right to keep selling flavored malt beverages they have been selling for 10 years simply because of media hype about one or two brands.
- "Banning" certain tobacco products such as cigar wraps and flavored tobacco would only backfire by driving consumers of those products to "tax free" Indian reservations, border states, and the black market, costing New York retail sales, jobs, and tax revenue.
- Government should give consumers the nutritional information they need, and trust them to wisely exercise their freedom to choose food and beverages, rather than trying to coerce them through tax policy.

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No more job-killing tax or fee hikes affecting convenience stores.

Exorbitant excise taxes make New York retailers uncompetitive with those in neighboring states and on Indian reservations – driving away customers, jobs and tax revenue.

NYACS Positions:

- New York taxes on core convenience-store products (motor fuel, tobacco, beer) are among the highest in the nation. Further increases are simply unjustifiable.

- Instead, the State should objectively re-examine these tax levels to determine whether any require adjustment in order to maximize New York competitiveness and employment without negatively impacting State or local revenue, safety, or public health.

State Tax Rates as of 10/1/11

	Cigarettes \$ Per Pack	Other Tobacco % of Wholesale	Motor Fuel ¢ Per Gallon
NY	4.35	75%	67.5
PA	1.60	0%	50.7
NJ	2.70	30%	32.9
CT	3.40	50%	50.3
MA	2.51	90%	41.9
VT	2.62	92%	45.0



Rein in runaway credit/debit card swipe fees.

Interchange fees charged by banks and credit card companies to New York convenience store owners for electronically processing card payments have skyrocketed, becoming our second biggest operating expense and threatening the profitability of mom-and-pop operators.

NYACS Positions:

- We support the continuing efforts of the National Association of Convenience Stores and the Merchants Payment Coalition to address this issue at the federal level.

- We urge Congress to reject legislation introduced by New York Rep. Bill Owens to repeal the Durbin Amendment swipe fee reforms enacted in 2011.

- We support New York State-specific initiatives to infuse free-market competition into the setting of swipe fees, rather than having them dictated by monopolies.

Finish the job of restoring fair tax collection.

We applaud the Cuomo administration for the major step it took in 2011 toward leveling the playing field between licensed retail stores and their Native American competitors by commencing lawful tax collection on tribal sales of national-brand cigarettes to non-Indian customers. There's still a long way to go, however. "Tax free" reservation sales of other products continue to flourish, draining business and jobs away from tax-collecting retailers and depriving the State of millions of dollars in tax revenue annually.



NYACS Positions:

- Every 10-gallon gasoline fill-up by a non-Indian motorist on an Indian reservation costs New York State \$5 in lost tax revenue. Indian enterprises collectively sell *millions of gallons* of motor fuel to New Yorkers annually. By law, these purchases are taxable, and the taxes must be collected.

- Native American-made cigarettes sold to non-Indian customers should be subject to state tax, just as with national brands. In accordance with state law, inter-reservation shipments of untaxed Native American-made cigarettes on state highways should be seized as contraband.

- Applicable taxes also should be collected on cigars, smokeless tobacco, and other non-cigarette tobacco products sold by tribal stores to non-Indians.

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About NYACS

NYACS is a progressive, member-driven trade organization that leads, safeguards, and forges a favorable environment for New York State's diverse, dynamic community of neighborhood convenience stores.

We continuously deliver vital knowledge, a unified voice on legislative and regulatory issues, access to business solutions, and ways for our members to share ideas, address common challenges, and build relationships.

Learn more at www.nyacs.org.

About the Industry

From a corner market in downtown Albany to a bodega in a thriving Brooklyn neighborhood, from a country store in the Adirondacks to a sprawling gas-and-go in suburban Syracuse, convenience stores come in all sizes, shapes and formats.

Open extended hours, these small businesses are proud to be part of a \$575 billion nationwide industry that millions of New Yorkers rely on as a gas station, quick-serve restaurant, bank, refreshment center, and source of community connection.

State Regulation

New York convenience stores are regulated by the following New York State agencies:

- Consumer Protection Board
- Department of Agriculture and Markets
- Department of Environmental Conservation
- Department of Health
- Department of Labor
- Division of the Lottery
- Department of State
- Department of Taxation and Finance
- State Liquor Authority

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