

# SOGGDA NEWS

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Southwestern Ohio Garage & Gasoline Dealers Association, Inc.



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Vandalia, OH 45377  
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## SOGGDA's 17th Annual SAFETY & MEMBERSHIP MEETING OCTOBER 28, 2008 HOLIDAY INN Dayton Mall

\*\*\* Note: Different Location for the meeting this year\*\*\*

See Page 15  
for  
Registration  
Form

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# THE SOGGDA NEWS

Official publication of Southwestern Ohio Garage Gasoline Dealers Association is published 12 times yearly and dedicated to the betterment of the position of independents in the automotive and petroleum industry.

**Patricia S. Booker** Executive Director  
**Vonnie Schriml** Accountant

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**Patricia S. Booker** Editor  
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# A Sad Funny...

Please join me in remembering a great icon of the entertainment community. The Pillsbury Doughboy died yesterday of a yeast infection and trauma complications from repeated pokes in the belly. He was 71.

Doughboy was buried in a lightly greased coffin. Dozens of celebrities turned out to pay their respects, including Mrs. Butterworth, Hungry Jack, the California Raisins, Betty Crocker, the Hostess Twinkles, and Captain Crunch. The grave site was piled high with flours.



Aunt Jemima delivered the eulogy and lovingly described Doughboy as a man who never knew how much he was kneaded. Doughboy rose quickly in show business, but his later life was filled with turnovers. He was not considered a very smart cookie, wasting much of his dough on half-baked schemes. Despite being a little flaky at times he still was a crusty old man and was considered a positive roll model for millions.

Doughboy is survived by his wife Play Dough, two children, John Dough and Jane Dough, plus they had one in the oven. He is also survived by his elderly father, Pop Tart.

The funeral was held at 3:50 for about 20 minutes.

If this made you smile for even a brief second, please rise to the occasion and take time to pass it on and share that smile with someone else that may be having a crumbly day and knead it.



*Theodore Roosevelt's ideas on Immigrants and being an AMERICAN in 1907...*

*'In the first place, we should insist that if the immigrant who comes here in good faith be-*

*comes an American and assimilates himself to us, he shall be treated on an exact equality with everyone else, for it is an outrage to discriminate against any such man because of creed, or birthplace, or origin. But this is predicated upon the person's becoming in every facet an American, and nothing but an American... There can be no divided allegiance here. Any man who says he is an American, but something else also, isn't an American at all. We have room for but one flag, the American flag... We have room for but one language here, and that is the English language... and we have room for but one sole loyalty and that is a loyalty to the American people.'*

*any man who says he is an American, but something else also, isn't an American at all. We have room for but one flag, the American flag... We have room for but one language here, and that is the English language... and we have room for but one sole loyalty and that is a loyalty to the American people.'*

*Theodore Roosevelt 1907 - Every American citizen needs to read this!*

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# General Counsel Corner

By: Peter H. Gunst, Esq.  
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## A Classy Class Action

These are troubled times for class actions and class action counsel. William Lerach, lead counsel in a slew of class action securities lawsuits, began serving time for conspiracy to obstruct justice and making false statements, after admitting that he paid kickbacks to some of his former firm's name plaintiffs. Dickie Suggs, who became famous and rich as a lead counsel in tobacco and asbestos class action litigation, stands accused of conspiring to bribe a judge, a charge which he denies.

The Chamber of Commerce and other like-minded groups have jumped upon these episodes in their crusade to eliminate or curtail class action litigation, which they deem to be averse to the interest of big business.

But there is another side to the story. Class-action litigation may be the only means by which a small business person can obtain a meaningful remedy for a substantial wrong.

Consider the class action litigation currently pending in a federal district court in West Virginia, *Loudermilk Services, Inc. v. Marathon Petroleum Company, LLC*.

Marathon is accused of injecting a chemical into gasoline at its Catlettsburg, Kentucky refinery that reportedly caused substantial damage to underground storage tanks at nearly 700 service station sites in West Virginia.

Representative dealers instituted suit seeking to assert claims on behalf of all impacted West Virginia dealers.

Marathon adamantly opposed the certification of a class, contending that each impacted dealer should pursue individual litigation.

As is usually is the case, the issue of class action certification assumed predominant importance in the litigation. This is because, as Marathon well knew, few if any of the dealers could afford to pursue a complex pollution case requiring counsel with special expertise and expensive expert reports and testimony, absent allowance of a class.

In granting class certification this past August Judge Robert C. Chambers recognized the superiority of class action litigation as a means of resolving such complex claims. Judge Chambers wrote:

By litigating their claims through a class action, the plaintiffs will be able to pool their resources and thereby spread the high expense of pursuing their common claims. If a class action were not available, the cost of litigation would prevent many of the class from individually litigating their claims.... Moreover, judicial economy is best served through a class action because of the tremendous resources that otherwise would be required if each of the nearly

700 plaintiffs individually pursued their claims against the defendants.

In late September, the Fourth Circuit Court of Appeals refused to consider Marathon's attack on Judge Chamber's decision, clearing the way for class-wide discovery and, eventually, a class settlement or trial.

During the course of the litigation, Judge Chambers also rebuffed Marathon's attempt to secure summary judgment against some of the named plaintiffs on all too familiar procedural grounds.

With respect to one named plaintiff, Marathon argued that it had obtained a "release" precluding the plaintiff from pursuing any claim for recovery for injury to its underground storage tanks.

The Court's opinion pointed out, however, that the "release" claimed by Marathon was merely a document labeled "Receipt," reimbursing the plaintiff in the amount of \$835.80 for lost gasoline and business interruption occasioned by Marathon's inspection of the service station premises. Therefore, the court concluded, factual issues remained for determination by the jury as to whether Marathon secured its "release" through fraud or by

*Continued on next page.... 13.*

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## General Council Corner - A Classy Class Action Continued...

concealing the true nature and extent of the injuries that it allegedly had caused.

Marathon unsuccessfully sought to dismiss the claims asserted by another named plaintiff as procedurally barred under West Virginia's two-year statute of limitations and under a claim of a spoliation of evidence.

Marathon argued that the dealer had admitted that he had been experiencing problems with the filter system for his underground storage tanks prior to two years before filing suit; and that the dealer had destroyed evidence wrongfully by disposing of the damaged tanks after he had sold his service station over a year before filing suit.

The dealer countered that Marathon has actively concealed from him the true cause of harm to his underground storage tanks, informing him that any problem that he had experienced was not a result of any contaminated gasoline sold by Marathon. Additionally, the dealer asserted that the tanks have been destroyed only as a result of the sale of the service station premises and that tank samples had been retained for analysis.

Denying Marathon's motion for summary judgment, the court ruled that factual issues remained for the jury to decide concerning when the dealer became aware or should have become aware of the extent of his injuries, as well as Marathon's role in concealing from him their cause. Further, the court dismissed Marathon's spoliation of evidence claim because of its failure to produce any evidence that the dealer acted in bad faith and because

Marathon would have equal access to the tank samples that the dealer had retained

Marathon's pursuit of procedural attacks on the named plaintiffs provides further rationale for class action treatment. Such attacks are commonplace in complex civil litigation and, although often unsuccessful, serve the defendant's twin purposes of driving up the plaintiff's litigation expenses and prolonging the litigation beyond the plaintiff's financial and emotional breaking point. Class action treatment, however, evens the disparity of resources that exists between megacorporation and small businessperson.

The West Virginia litigation, like the far larger Exxon "discount for cash" *Allapattah* litigation, demonstrates the proper function that class action litigation performs in the American

judicial system. It is beyond question that class action abuses have occurred, but the baby should not be thrown out with the bath water. An important justification remains for class action litigation.

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To access the latest articles by the Service Station Dealer's legal counsel, please visit the "Service Station Dealers: Legal Issues" section of the Astrachan Gunst & Thomas P.C. website at: <http://www.agtlawyers.com/resources/petroleum.html>.



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# Harassment in the Workplace: A Real Employer Liability

By Nicole Swisher, Founder and CEO ProTelHR

One of the fastest areas of employment law today is harassment. Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

Judgments and settlements continue to rise and are currently at an all-time high. To say that harassment is limited to the opposite sex is simply not the case in today's world. Today, harassment knows no boundaries. Harassment by a co-worker or third party (vendor, customer, etc.) also results in liabilities for the employer if the employer is negligent in following up or remedying the harassment once reported.

## Claims Cost Big Money

The amount paid by employers as a result of harassment claims has reached all-time highs of nearly \$66 million (excluding litigation expenses) in 2007, according to U.S. Equal Employment Opportunity Commission (EEOC) statistics with more than 27,000 cases reported in the year 2007 alone. Cases of harassment claims against the food and beverage industry are becoming more and more common.

One restaurant employee was awarded \$750,000 in compensatory damages for losing his job and \$400,000 as damages for a same-sex harassment case. Seven teenage employees shared a \$400,000 settlement of a sexual harassment lawsuit brought against a burger franchise where a manager had subjected the teenage girls to groping.

Restaurants need to have more than harassment policies in place to help protect and promote harassment-free

work environments. Having formal channels in place for reporting, along with designating more than one person in which to report the Incident Is also a good Idea. The correct documentation needs to be in place, as well.

## Types of Harassment

Harassment generally takes one of two forms. Most allegations of harassment are comprised of "conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating and intimidating, offensive or hostile work environment. These are categorized as "hostile work environment and can include Indecent propositions, discussion of sexual activities, obscene jokes displaying -sexually suggestive pictures, and crude and offensive language.

Further definition is difficult since the hostile nature of the alleged acts is defined by the victim. Based on such a personal and situational definition, corrective action and prevention is essential in such matters by making certain the work environment is free of any such potentially offensive conduct.

Hostile environment harassment can also occur based on any of the "protected classes" covered under the law (Including pregnancy-related conditions); most state laws provide for additional protected classes.

"Quid proquo" is another form of harassment that we find much less frequently. This type occurs when an employee is asked to perform a sexual activity and perceives his or her job is conditioned on such. Harassment in employment on the basis of sex is a violation of Sec. 703 of Title VII.

The absolute worst course of action employers can take is to ignore the complaint and do nothing. Oftentimes, the problem for employers is not that harassment happened, but that the employer did not follow up in a compliant manner. Prevention is the best way to keep this from happening to you.



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*Continued on next page...*

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## Harassment in the Workplace: A Real Employer Liability continued...

### Key Components to a Comprehensive Harassment Policy:

- 1) Recognize that harassment is a significant personnel-related Issue.
- 2) Have a well-written harassment policy.
- 3) Hold a staff meeting and distribute a copy of your compliant harassment policy
- 4) Avoid being alone, or behind closed doors with *an* employee, particularly of the opposite sex.
- 5) Do not condone risqué language or jokes within the business, or have unnecessary physical conduct.
- 6) Post and/or make available EEOC suggested or state required "Harassment in the Workplace" posters or pamphlets within the premises.
- 7) Investigate and respond to all claims of harassment immediately.
- 8) Follow a proper investigation, regardless of how unpleasant it maybe. Sanctions imposed should fit the offense.
- 9) Keep accurate documentation and detailed notes of all pertinent details concerning the nature of any complaint, the names of the parties Involved, the details of the Investigation, and the final outcome. Keep the complainant Informed during the investigation and what disciplinary action, if any was taken. Follow through after the investigation and periodically check In with the employee to make sure all harassment has stopped and that no form of retaliation has taken place.
- 10) Designate another individual to

intervene in case the allegations involve you.

### In Summary

Remember that a preventive approach is the best approach. According to the EEOC, the employer can avoid liability only if it can prove that: 1) It reasonably tried to prevent and promptly correct the harassing behavior: and 2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the

employer. For more Information on how to obtain a Comprehensive Harassment Policy or tools to use in your business on how to provide preventative and corrective opportunities for employees, contact ProTelHR at 1-800-650-5685 or 937-434-8368.



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## EPA Tests Hydrogen Fuel Cell Vehicle under Real World Conditions

U.S. Environmental Protection Agency Administrator Stephen L. Johnson today showcased the fourth generation of Chevrolet's Equinox Fuel Cell Car, the newest addition to the agency's vehicle fleet. The new car underscores EPA's support for national efforts to develop clean energy technologies and help move the United States toward energy independence.

"EPA is turning the key on an engine of change, by turning fleet emissions from 002 to H2O," said EPA Administrator Stephen L. Johnson. "EPA supports new technologies such as hydrogen fuel cells that are good for our environment and good for our economy."

The vehicle, the fourth generation Chevrolet Equinox Fuel Cell, is an electric car enabled by General Motors' advanced fuel cell propulsion system and is tested and engineered for 50,000 miles of driving life. With hydrogen as its only fuel, this vehicle emits no greenhouse gases and serves as an alternative to traditional, petroleum-dependent vehicles that emit carbon dioxide, nitrous oxide, and other air pollutants. Featuring the latest advancements in fuel cell technology, the vehicle can travel up to 150 miles per fill-up, and is expected to meet all applicable 2008 federal motor vehicle safety standards.

EPA has a six-month lease on the fuel cell vehicle, made possible with a grant provided by U.S. Department of Energy (DOE). Through their cooperation, the agencies hope to demonstrate the viability of fuel cell vehicles and encourage a shift in the American marketplace toward alternative fuels that can play a role in securing the nation's freedom and protecting its environment, as alternative fuel technology and infrastructure continue to develop in the future.

For information on Greening EPA's Fleet, go to: <http://www.epa.gov/greeningepa/greenfleet/index.htm>



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Just in Time for...  
Halloween Funnies

Q: What is a Mummie's favorite type of music?

A: Wrap!

Q: What type of dog do vampire's like the best?

A: Bloodhounds

Q: What happened to the guy who didn't pay his exorcist?

A: He was repossessed

Q: What do ghosts say when something is really neat?

A: Ghoul

Q: Why didn't the skeleton cross the road?

A: He had no guts

Q: What's it like to be kissed by a vampire?

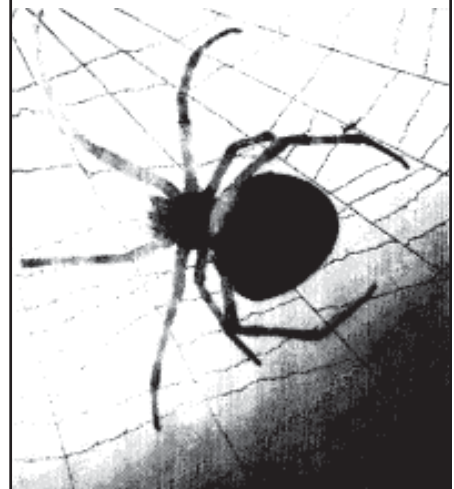
A: It's a pain in the neck.

Q: Why did the angry witch have trouble getting home?

A: She was always flying off the handle

Q: Why is Dracula such a good proofreader?

A: He is always looking for Type O's (typos)



## Actual Article from Cincinnati Post & Times Star Published March 2, 1966 Another Cent-a-Gallon Hike on Gasoline Faced In Local Markets

Cincinnati motorists are faced with a one-cent a gallon hike in gasoline price, the second major jump in the last seven months.....

Standard Oil of Ohio, the pace setter for gasoline prices in the state, has announced it is boosting its costs by one half cent to all of its dealers in Ohio. At the same time it has announced that the 31 company owned service stations in the area have increases their gasoline prices by a one cent margins.

Just when and how much the other gas stations operators will move to offset their costs is up in the air. Said one operator: "I imagine we will call a meeting of the Gasoline dealers and hash this thing out."

Gasoline at most dealer operated Sohio stations is now selling regular for 32.9 cents a gallon and premium for 36.9 cents although some are selling for 33.9 and 37.9.

At the 31 company operated stations, the price was one cent lower than at the dealer owned stations. 10 of the dealer stations said they would adopt a wait and see attitude. Many of the others favored raising their prices by either a half a cent or one cent. Sohio raised its prices last June (1967) stating that they have been one cent under the prices prevailing in most of Ohio for more than five months.

This triggered a two-cent raise by the dealers, who did not share in the companies increase. With the additional hike, motorists will be spending three cents more than they did seven months ago.

In announcing the price boost, Ohio's district manager Clayton Sears, stated that these adjustments raise retail prices in levels prevailing eight years ago, but dealer prices are still seven tenths of a cent lower than in 1958.

"During this period the quality of gasoline has been greatly improved to meet requirements of today's high performance engines and other rising costs of the last several years," said Sears. He also pointed out that the price of gasoline over the past 20 years has been fairly stable.

District managers for other oil companies refused to say whether they will raise their prices and that they will watch the public reaction.

At present most dealers pay 27.4 cents a gallon for regular and 30.9 cents a gallon for premium.

One station operator says he has talked with other dealers in his neighborhood and they do not favor raising their prices, but see it as a necessary evil. "When we raise our prices, we pump fewer gallons, but we make more money."

Sohio has 347 Stations in the Cincinnati district and is the leader in gasoline marketing there. The Boron Oil Company, a subsidiary, which operated in Northern Kentucky, is expected to follow with a similar increase.

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# SOGGDA SAFETY

## Action steps for responding to violent behavior

By Mark J. Mullins

### Step 1:

General response to disruptive behavior (no threats or weapons)

1. Respond quietly and calmly. Try to defuse the situation.
2. Do not take the behavior personally. Usually, the behavior has little to do with you, but the person is using you as a target in the situation.
3. Listen with empathy and ask questions. Respectful concern and interest may demonstrate that aggression is not necessary.
4. Consider offering an apology. Even if you have done nothing wrong, an apology may calm the individual and encourage cooperation. "I'm sorry that happened. What can we do now that will solve the problem?"
5. Summarize and document what the individual says. Make sure you are communicating clearly. In crisis, a person feels humiliated and wants respect and attention. Your summary of the individual's concerns reflects your attention.
6. Focus on areas of agreement to help resolve the concern.

If this approach does not stop the disruption, assess whether the individual seems dangerous. If in your best judgment he or she is upset but not a threat, set limits and seek assistance as necessary.

### Step 2:

Step 1 response, ineffective, individual does not seem dangerous.

1. Calmly and firmly set limits. For example, say, "Please lower your voice. There will be no disruptions in this office." "Please be patient so that I can understand what you need and try to help you."
2. Ask the individual to stop the behavior and warn that you may take official action. For example, say, "Disruption is subject to further

action. Stop or you may be reported."

3. If the disruption continues despite a warning, tell the individual he or she may face discipline or prosecution, state that the discussion is over, and direct him or her to leave the office. Say, for example, "Please leave now. If you do not leave, I will call security and the human resource manager."
4. If the individual refuses to leave after you direct him or her to do so, state that this refusal is also a violation subject to disciplinary action.

### Step 3:

Step 1 response ineffective and the individual seems dangerous

1. If possible, find a quiet, safe place to talk, but do not isolate yourself with an individual you believe may be dangerous. Maintain a safe distance, do not turn your back, and stay seated if possible. Leave the door open or open a closed door, and sit near the door. Be sure a co-worker is near to help if needed.
2. Use a calm, non-confrontational approach to defuse the situation. Indicate your desire to listen and understand the problem. Allow the person to describe the problem.
3. Never touch the individual yourself to try to remove him or her from the area. The agitated individual may interpret even a gentle push or holding his or her arm as an assault and may respond with violence toward you or file a lawsuit later.
4. Set limits to indicate the behavior needed to deal with the concern. For example, say, "Please lower your voice." "Please stop shouting (or using profanity) or I'll have to ask you to leave."
5. Signal for assistance. The individual may be antagonized if you call for assistance, so use a prearranged distress signal to have another staff member check on you to determine how you are. If you need help, the co-worker should alert your

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*Continued on next page...*

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## Action steps for responding to violent behavior continued...

supervisor and/or the police.

6. Do not mention discipline or the sheriff's office if you fear an angry or violent response.
7. If the situation escalates, find a way to excuse yourself, leave the room or area and get help. Say, "You've raised some tough questions. I'll consult HR to see what we can do."

### In an emergency

For violent incidents in progress or specific threats of imminent violence, call the local law enforcement.

Immediately contact a member of management (human resources, the general manager or the health and safety supervisor). Have someone call for you if an individual:

- Makes threats of physical harm toward you, others or him or herself;
- Has a weapon;
- Behaves in a manner that causes you to fear for your own or another's safety.

Use a phone out of sight/hearing of the individual. The law enforcement agency will respond and take appropriate action.

1. Do not attempt to intervene physically or deal with the situation yourself. It is critical that the local law enforcement agency take charge of any incident that can or does involve physical harm.
2. Get yourself and others to safety quickly.

### Post-incident response

Violent incidents affect many people: the victim, witnesses, bystanders, as well as friends and co-workers of those involved in or witnessing the event. To avoid long-term difficulties following a violent event (often called post-traumatic stress syndrome), be sure to take appropriate follow-up actions and interventions. There are crisis management companies and counselors available who can guide you in taking the appropriate steps for post-event counseling and intervention.



BWC Safety  
Leader's Discussion  
Guide

## BWC Update...

# Restoring Operational Excellence

## ...promoting economic success for Ohio's economy

BWC and its stakeholders understand the challenges Ohio's employers face. That's why we're working closely with businesses and employer associations to reform Ohio's workers' compensation system. These reforms will help you control your costs, earn dividends and protect your most important asset — your work force.

What we're proposing

**Caps.....**Control significant premium fluctuations by capping your premium costs

**Deductibles.....**Lower premium costs by choosing a per claim deductible for your policy

**Dividends.....**Earn performance-based dividends for preventing accidents, keeping employees safe and controlling claims costs

**Group rating....**Achieve premium discounts as high as 77 percent while potentially earning performance-based dividends

**Rate stability.....**Implement a split-experience rating plan that balances frequency and severity of claims

### How you can get Involved

BWC wants your feedback on what we're proposing. Visit [ohiobwc.com/reform](http://ohiobwc.com/reform) beginning Oct. 1 to share your thoughts, and sign up to receive e-mail updates on our progress.



## General Counsel Corner

By: *Peter H. Gunst, Esq.*  
pgunst@aggt.com

### No Shelter Behind a Chinese Wall

In the law, a “Chinese wall” is an artificial barrier created to protect someone from responsibility. For example, a law firm may erect a Chinese wall prohibiting communication between an attorney actively working for a client and another attorney who previously represented the client’s adversary as a defense against disqualification. Chinese walls, unfortunately, may afford scant protection in other contexts.

Recently, Foreign Tire Sales, Inc. notified the public and the National Highway Traffic Safety Administration that it had imported from China and resold in the United States nearly a half million light truck radial tires that were lacking an important safety feature - a .6mm gum strip designed to protect the tire from belt and/or tread separations.

FTS told NHTSA that due to its small size- FTS has only 13 full\_ time employees — it did not have the financial ability to recall nearly a half million tires, and requested NHTSA’s assistance.

NHTSA was unmoved. It reminded FFS that; as an importer of motor vehicle equipment, it qualified as the tires’ “manufacturer” under The National Traffic and Motor Vehicle Safety Act, 49 U.S.C. Chapter 301. As a “manufacturer,” NHTSA emphasized, FTS was responsible not only to provide notice, but also to remedy the safety defect.

How did a company that does not even own a warehouse become a “manufacturer” of Chinese tires? The Safety Act includes in its definition of “manufacturer” all persons who import motor vehicles or motor vehicle equipment for resale. Thus, a small importer was forced to step into the shoes of its foreign manufacturer and ~ face all the legal consequences of a safety violation, including NHTSA enforcement actions and product liability lawsuits.

Recalling a half million tires is no small task FTS’ attorney estimates that it will cost \$80 million to perform a full recall of the defective tires — ten times what FTS says it can afford to pay. And the costs do not stop there.

Under the Safety Act; FFS faces fines amounting to \$6,000 per violation of the Act and its regulations, with a maximum of \$16,375,000 in penalties. Because it is the “manufacturer,” FTS can be fined for failure to provide timely notice of a defect to NHTSA, and for failure to provide tire purchasers with timely and proper notice of or sufficient remedies for defective tires.

If a defective tire causes death or serious bodily injury, as is alleged in one case filed against FTS, criminal penalties may be pursued against any person who knowingly and willfully submitted false information to the Secretary concerning the defect. These include a substantial fine or imprisonment of not more than 15 years’ or both. There is, however, a “safe harbor” provision protecting individuals who attempt to correct a falsification within a reasonable period of time.

There is no way to totally escape the high costs of recalls and product liability lawsuits because there is no way for an importer to completely ensure that the products that it resells are free from defect. But there are ways to decrease the risk.

Besides the obvious - complying with all safety regulations -importers who are too small to conduct continual testing of the products they resell might want to rethink their distribution channels. One of FTS’ problems appears to have been its reliance on the Chinese manufacturer’s testing.

Sellers of imported products must take special precautions. Daryl Allegree, manager of Risk Engineering for the Direct Underwriters business unit of Zurich, formerly known as Universal Underwriters, suggests that importers only do business with reputable companies that will provide proof of product liability insurance coverage. He cautions that the importer should pay close attention to the limits of such insurance.

Gary Cecil, Zurich’s National Account Executive for its Direct Underwriters business unit offers these suggestions if you decide to import directly:

Consult qualified legal counsel regarding the negotiations. Discuss with counsel your potential liability and how to obtain certifications of insurance.

Negotiate and put in writing how you and the manufacturer will handle recall and warranty issues.

Obtain a certificate of insurance from the manufacturer’s liability insurance carrier that does a substantial amount of business in the

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*Continued on next page...*

SOGGDA News

## IRS Increases Mileage Rates Through December 31, 2008

The Internal Revenue Service recently announced an increase in the optional standard mileage rate for the final 6 months of 2008. Taxpayers may use the optional standard rates to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

The rate will increase to 58.5 cents a mile for all business miles driven from July 1, 2008, through December 31, 2008. This is an increase of eight (8) cents from the 50.5 cent rate in effect for the first 6 months of 2008, as set forth in Rev. Proc. 2007-70.

In recognition of recent gasoline price increases, the IRS made this special adjustment for the final months of 2008. The IRS normally updates the mileage rates once a year in the fall for the next calendar year.

“Rising gas prices are having a major impact on individual Americans. Given the increase in prices, the IRS is adjusting the standard mileage rates to better reflect the real cost of operating an automobile,” said IRS Commissioner Doug Shulman. “We want the reimbursement rate to be fair to taxpayers.”

While gasoline is a significant factor in the mileage figure, other items enter into the calculation of mileage rates, such as depreciation and insurance and other

fixed and variable costs.

The optional business standard mileage rate is used to compute the deductible costs of operating an automobile for business use in lieu of tracking actual costs. This rate is also used as a benchmark by the federal government and many businesses to reimburse their employees for mileage.

The new six-month rate for computing deductible medical or moving expenses will also increase by eight (8) cents to 27 cents a mile, up from 19 cents for the first six months of 2008. The rate for providing services for charitable organizations is set by statute, not the IRS, and remains at 14 cents a mile.

The new rates are contained in Announcement 2008-63 on the optional standard mileage rates.

Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

### Mileage Rate Changes

Purpose	1/1/08 to 6/30/08	7/1/08 to 12/30/08
Business	50.5	58.5
Med/Moving	19	27
Charitable	14	14

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## General Counsel Corner - No Shelter Behind a Chinese Wall continued...

United States. Have your insurance representative and qualified legal counsel review the certificate to ensure that the manufacturer has adequate limits.

Obtain additional insured vendor's status on the certificate and get 30-day notice of any cancellation or non-renewal.

Place the certificate in a dated file to follow up on 30 days prior to expiration.

Importers should learn from FTS' unfortunate situation they have a legal duty to ensure the safety of the products that they sell, and that they must protect themselves as best they can against the unforeseen they cannot hide between a Chinese wall.



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To access the latest articles by the Service Station Dealer's legal counsel, please visit the "Service Station Dealers: Legal Issues" section of the Astrachan Gunst & Thomas P.C. website at: <http://www.agtlawyers.com/resources/petroleum.html>.

## Most Fuel Efficient Automakers

By J.D. BOOTH/AOL AUTOS

### Tell Us How High Gas Prices are Affecting You.

Have high gas prices made how or what you drive?

Yes 81% No 19%

Are you actively looking at a fuel efficient car?

No 60% Yes 40%

Do you think gas prices will be cheaper in the next year?

No 80% Yes 20%

With fuel prices soaring and seemingly no end in sight, where does one turn?

For some, it's a vehicle that's been engineered to sip, not guzzle. The question then: Which brand is more likely to ease you out of the gas station without feeling you've been turned upside down and shaken?

Perhaps surprisingly, it's not always the Asian-based carmakers that come up on top where fuel economy ratings are concerned.

A look at the U.S. government's official fuel economy ratings (published by the Department of Energy, the Office of Energy Efficiency and the Environmental Protection Agency) might not be light reading, but it does give a new sense of perspective on what is a very complex issue.

### Top 10 Best Average Fuel Economy AutoMakers

Rank	Combined	Manufacturer	# Cars
1	27.66 mpg	MINI	12
2	23.81 mpg	Honda	27
3	23.36 mpg	Chevrolet	88
4	22.33 mpg	Lotus	3
5	22.21 mpg	Volkswagen	28
6	22.20 mpg	Pontiac	24
7	22.14 mpg	Saturn	21
8	21.8 mpg	KIA	20
9	21.77mpg	Suzuki	18
10	21.6 mpg	Toyota	55

One observation: Carmakers are, on the whole, doing a pretty good job of bringing choice to the market when it comes to fuel economy.

There may, however, be two races to win: the most fuel-efficient car on the road and the automaker that "on average" is most likely to save you money at the pump.

On a single car basis, the Toyota Prius comes out on top, its hybrid technology delivering 48 city miles on a gallon (like other hybrids, its fuel efficiency drops slightly on the highway, to 45).

With fuel prices hitting hard, where are motorists more likely to find relief?

On a fleet basis, the best performing manufacturer is

BMW's MINI division, with three models averaging out at just over 27 mpg city/highway.

But fitting a family any bigger than two or three in the MINI isn't possible; Honda might be a more realistic choice, its 27 models average out at almost 24 mpg combined.

Domestically, the winner in average fuel economy is Chevrolet, its 88 models average a combined 23.26 mpg combined city/highway, only slightly lower than Honda's 23.81 mpg average.

What's more impressive is that Chevrolet's numbers factor in a full line of trucks, not the case with Honda (its only offering in that category being the Ridgeline).

But as shoppers would be quick to point out, it's not the fleet that we're buying. It's the individual car or truck.

### Top 10 Worst Average Fuel Economy AutoMakers

Rank	Combined	Manufacturer	# Cars
1	10 mpg	Bugatti	1
2	11.44 mpg	Lamborghini	9
3	11.66 mpg	Bentley	6
4	12.16 mpg	Ferrari	6
5	13.33 mpg	Aston Martin	6
6	14 mpg	Rolls-Royce	3
7	14.5 mpg	Maserati	2
8	14.66 mpg	Land Rover	6
9	14.66 mpg	Hummer	3
10	15.30 mpg	GMC	69

By category, the 2008 Fuel Economy Guide singles out the leaders, and there it's more than a little apparent that the traditional Asian and European brands aren't about to give up their leadership position.

For two-seaters, it's Mercedes' Smart brand that delivers 33/41 mpg city/highway, followed by Mazda's MX-5 and its 22/27 mpg rating.

MINI stands alone in the next size category (mini-subcompact), with its two variations (manual and automatic) delivering 28/37 combined and 26/34 respectively.

An interesting side note: the traditional argument that manual transmissions deliver higher fuel economy no longer holds true. Several carmakers boast higher fuel economy with the automatic transmission than with a manual (if available).

Toyota's Yaris takes top honors in the subcompact category, posting 29/35 with an automatic transmission (29/36 for the manual).

The compact category has the Honda Civic Hybrid at the top of the ratings, with its 40/45 mpg, followed by Toyota's Corolla and its 28/37 mpg rating.

A little bigger vehicle will still take you further, notably if it's the industry leading Toyota Prius. In second place is the Nissan Versa and its 26/31 mpg rating.

<http://autos.aol.com>

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**31 Prestige Plaza**  
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**Dayton BWC:**

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**\*Note: For the Second Year - SOGGDA will be  
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