AMERICA'S LEADING FUEL MARKETERS

IGM

INDEPENDENT GASOLINE MARKETING

SEPTEMBER | OCTOBER 2024

SIGMA

inside:

SIGMA

About SIGMA: Founded in 1958, SIGMA: America's Leading Fuel Marketers has become a fixture in the motor fuel marketing industry. After more than sixty years of leadership, SIGMA is the national trade association representing the most successful, progressive, and innovative fuel marketers and chain retailers in the United States. From the outset, the association has served to further the interests of both the branded and unbranded segment of the industry while providing information and services to members.

SIGMA's approximately 260 corporate members command more than 50 percent of the petroleum retail market, selling approximately 80 billion gallons of motor fuel each year. These member companies operate throughout the United States and Canada.

Regular membership in SIGMA is available to companies involved in motor fuel retailing or wholesaling that are not owned by a refiner. In addition, Associate membership is available to fuel supplier companies and to companies that offer financial services, fuel transport services, and fleet card services. SIGMA member companies have long been recognized, both within and outside the industry, as the most aggressive, innovative, and price competitive segment of petroleum marketers.

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Join SIGMA in Boston for the 2024 Annual Conference

SIGMA's 2024 Annual Conference is November 12-14 in Boston – if you haven't already, you will want to register ASAP. Following closely on the heels of the November elections, the Opening General Session will feature SIGMA's Government Relations team and a discussion of the election results, both in Congress and the presidential election, and what they will mean for our industry – both in 2025 and beyond.

Other education highlights include presentations on Pu*tting Our Energy to Work: Neighborhood Partners to National Networks*, from Erik Slifka, Mark Romain, and Fuel Marketing Leaders, Global Partners, as well as on The Fuel Landscape – *What the Future Looks Like, from Mason Hamilton, American Petroleum Institute.* Other sessions are in the works, so check the SIGMA website frequently for updates.

In addition to timely education sessions, the conference will feature a new program: the SIGMA Women Ambassadors Network (SWAN) inaugural Golden SWAN Awards. During a luncheon on November 12th, attendees will celebrate the recipients of the first Golden SWAN Awards recognizing women's excellence in contributing to the success of their individual companies, as well as to the overall fuel/energy industry.

Nancy Becker, Co-founder of 2Betties, will be the inaugural speaker for the SIGMA Women Ambassadors Network (SWAN) event in Boston. Nancy is truly a trailblazer in the corporate world. She rose through the ranks to become one of the Presidents and owners of United Communications Group (UCG) - the parent company of industry leader Oil Price Information Service (OPIS) as well as host of other B-to-B publications. Under Nancy's leadership, UCG grew from a relatively small company to being a high profile, highly valued player in the publishing world. As President of OPIS, Nancy worked side by side with fuel marketers as well as fuel suppliers to incorporate critical data into their businesses. As a high-level executive, Nancy spearheaded an ambitious initiative to foster and promote women within the company. Since leaving UCG, Nancy has co-founded 2Betties with her daughter, a hugely successful healthy snack company whose ethos is that good for you food should also taste good. You don't have to be a woman to attend the luncheon, but a separate sign up and fee is required, so don't forget to add it to your conference registration.

During the Business Meeting and General Session on November 14th, SIGMA members will elect a new President and Board of Director members to fill the spots of those who are rotating off the Board. I have thoroughly enjoyed my time as SIGMA President – although it has not been without its challenges. As our industry continues to evolve, so too will our association to continue to provide value and meet the needs of SIGMA's members. Exciting times are ahead!

I would like to thank my fellow Board members for their dedication to the association and for taking time away from their companies to serve. It has been a pleasure and an honor to serve alongside you these past two years. I would also like to thank Scott, Mark, and the rest of the SIGMA staff for toiling in the trenches to keep SIGMA strong. Their daily efforts behind the scenes on your behalf deserve recognition.

I am looking forward to seeing you all in Boston – it's a great city with a proud history, great food, and a lot to do. If you haven't yet registered, it's not too late. All the conference information can be found on the SIGMA website. ★

Sincerely,

Dale Boyett

Dale Boyet, Boyett Petroleum
SIGMA President

Inside SIGMA

A Message from the SIGMA CEO

Dear SIGMA Community,

It's hard to believe that it's been three months since I wrote my last article for this magazine. At that time, I was just getting ready to attend my first SIGMA meeting as CEO. Many of you were at the Spring meeting in Austin, and for me it was a fantastic experience to attend and get to speak to you.

You know, it's funny – I have attended so many SIGMA meetings over the last 40 years, but this was my first one as an Officer of the organization. I got to see all the preparation and hard work that the SIGMA staff put into making these meetings happen. It's literally seamless. I'm really excited to be more heavily involved in our next meeting in Boston, November 12 – 14. We have some very exciting things for members.

First, our agenda is filled with knowledgeable, expert speakers including Eric Slifka, who is the CEO of Global Partners. Eric, along with key members of his team, is going to talk about how they partner with their customers to meet the challenges of being in the volatile fuel markets day to day. We also have an amazing young man who I had the pleasure of working with before I came to SIGMA. His name is Anthony Smith, and he's going to present a session on "The State of Freight." Anyone who moves fuel on a regular basis knows that the availability and cost of freight can be just as volatile and unpredictable as fuel.

Back in June, I had the privilege of attending a "Joint Industry Meeting" that was sponsored by our colleagues at API (not for nothing, but SIGMA will be sponsoring the next meeting of the Joint Industry in Washington, D.C. in December). One of the speakers was a gentleman named Mason Hamilton, who did a presentation on the long-term outlook for energy products. Delving deeply into the future of not only fossil fuels, but what the renewable and EV outlook in the next 10, 20, and 30 years is going to look like. I was blown away by Mason and I look forward to having him update this presentation for SIGMA members in Boston.

My dear friend and colleague Elaine Levin is going to do a market assessment and talk about strategies to hedge risk; Benjamin Persofsky is going to spearhead a discussion on generational transitions and how best to plan for that.

Perhaps you haven't realized this, but we are in a Presidential election cycle. Just kidding – you can barely turn away from it. Our meeting in Boston will take place a mere one week after the election, and our GR team headed by David Fialkov is going to do a deep dive into what the election results mean for our industry. This is one of the most pivotal elections in recent memory, and you will not want to miss the conversation that I will be moderating.

Finally, one of the things I am most excited and proud about is the inaugural meeting of the SIGMA Women's Ambassador's Network (SWAN). Recognizing the amazing achievements of women in our industry is something that is long overdue for SIGMA. We have a special luncheon and awards ceremony planned – we encourage as many of you as possible to attend.

I'm going to try to not get choked up when I talk about my friend Nancy Becker who is going to be the speaker for the inaugural SWAN meeting. Nancy was my mentor for the many years that I worked at OPIS. Not only professionally, but personally as well. Nancy a strong advocate for women who inherently understands human nature, and when I was going through a dark period in my personal life, it was Nancy's words and support that got me through it. I can't wait to hear what she is going to share with the group.

There's a lot of other exciting things to tell you about. We are working very hard on our next big initiative – SIGMA University. This will be an extension of the physical fuel buying class that I taught for many years. It's going to be an online course of study that will be ideal for your newer staff members that could use a simple education on how our business works. Stay tuned – more on that in the next issue!

In the meantime, as summer draws to a close and fall is upon us, we put renewed focus on our businesses. We head into Fall with fuel inventory levels well above last year's levels, and demand for gasoline falling. Questions about the future of the economy – interest rates and inflation being two of the biggest drivers – are creating an atmosphere of uncertainty. But be confident in knowing that SIGMA is your partner in navigating these waters.

Until next time – I hope to see you in Boston! ★

Scott Berhang
CEO, SIGMA

SIGMA UPCOMING EVENTS!

2024

SEPTEMBER

September 17-20
SIGMA Share Groups
New Orleans, LA

NOVEMBER

November 12-14
SIGMA Annual Conference
Westin Copley Place
Boston, MA

2025

FEBRUARY

February 2-5
SIGMA 2025 Winter Conference
Vail, CO

APRIL

April 22-24
SIGMA 2025 Spring Conference
Scottsdale, AZ

NOVEMBER

November 4-6
SIGMA 2025 Annual Conference
Nashville, TN

profile: CHRONISTER OIL COMPANY

By Mark Ward Sr.

As a family-owned company that has served Central Illinois for more than 50 years, Chronister Oil Company and its Qik N EZ convenience stores boast powerful local brand recognition. At the same time, its wholesale operations thrive on strong long-term relationships.

"Independent marketers have competitive advantages," says Amy Chronister, President of Chronister Oil Company in Springfield, Illinois. "We know our local customer base and we're nimble, pivoting when market conditions change. But there are some changes that require process and patience," adds Chronister.

"Over the past six years," she explains, "Chronister Oil has undergone an evolution: the unexpected death of its co-founder, the covid pandemic, changes in company leadership, bringing in key non-family executives, and exiting former lines of business to focus on core strengths."

"We've emerged with a clear vision," reports Chief Executive Officer Damon Cranford, "and we're ready to tackle where we go from here. But the focus is always quality, not quantity, and providing the highest level of service to our customers and communities."

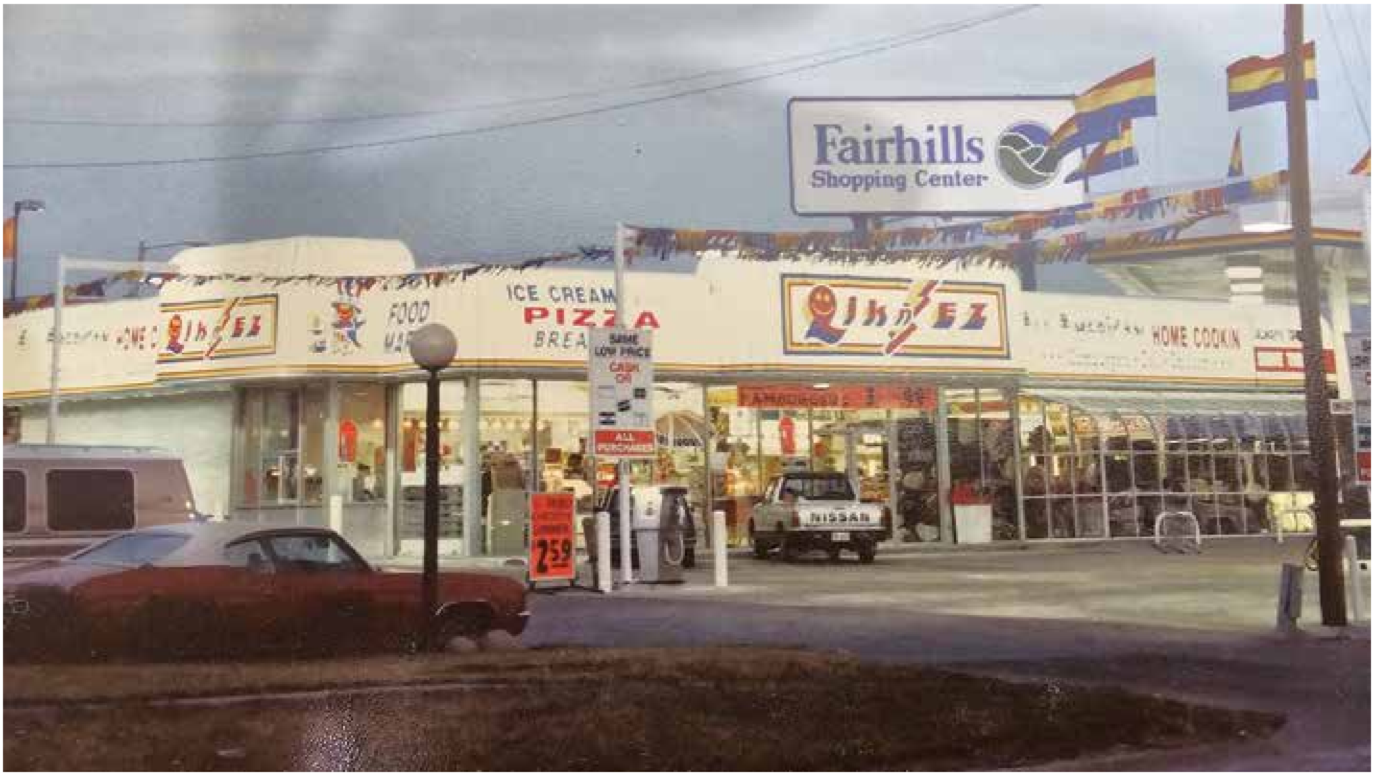
A Time of Transition

The story of Chronister Oil begins October 1967 in Springfield when Grady and Linda Chronister opened a single "Derby" convenience store featuring "Super Gas" on the forecourt. Over the next 20 years, Grady and Linda built a sizable chain of "Super Gas" locations that they eventually sold to Marathon Oil. Next, they developed the "Future Gas" locations, a truck-stop styled offering they eventually sold as well. In the late '80s the Chronisters emerged again, opening a single site in Springfield, the first Qik N EZ.

During the 1990s and 2000s, Qik N EZ steadily grew to a chain of a dozen stores in Central Illinois. Grady, ever the consummate entrepreneur, and Linda serving in various capacities in the organization, supported one another to create a chain of top tier locally branded stores recognized for their great locations and high volumes.

In September 2018, Grady Chronister passed away unexpectedly following a battle with cancer. The loss meant that full-time leadership was needed in the company's Springfield headquarters. As wife Linda Chronister assumed the position of Board Chair, she faced the unenviable task of grieving her husband and business partner while taking on full-time control of the Company. She sought counsel from inside and outside the company, which resulted in a series of decisions.

First, her youngest daughter Amy Chronister rejoined the family business. "I grew up in the business and fell in love with the operations side," she recalls. "Much of my childhood centered ▶



on store visits and interacting with customers. My dad never met a stranger and was always hands on - two things he taught me that I am grateful for. The petroleum and convenience sector is such a unique and challenging industry, it's almost an addiction for those that love it; as so many in the industry can attest."

Amy first joined Chronister Oil in 2000, rising to Vice President of Retail Operations.

Then in 2011, Amy took a career hiatus to raise her children. When her father Grady passed away in 2018, she was drawn back in, helping her mother with the decisions around the future of the company. "The time was right for me personally and professionally to consider going back to work. My mom and my dad had built the company over 50 years, but I felt strongly something different had to be done with the business for it to continue to flourish."

Over the next six months, as Linda came to terms with a new reality and set the company's direction in motion, Amy arrived at the decision she was ready to commit to Chronister Oil as Vice President with responsibility for day-to-day operations.

Mother and daughter, however, made another vital decision. "We agreed that we needed to 'look outside the box' and bring in non-family executives who could add their experience," Amy relates. "There were two reasons. First, my mother and I value our relationship. We want it to be family-centered where we don't always have to talk business. The second, was a desire to recruit a leadership team with varied experience."

In 2019, Kelly Bedolli and Damon Cranford joined Chronister Oil Company. Kelly as Chief Financial Officer came aboard bringing experience from outside the industry as well as increased professionalism and accountability to the finance side of the business. Damon, as Chief Executive Officer, brought 35 years of industry experience with companies such as QuikTrip and Racetrac. "Some companies were private, some public, and in one case a startup," he says. "Through it all, I gained experience in all aspects of the industry."

Though he had these experiences, Cranford continues, "I never had a position where I could put it all together and manage everything. Becoming CEO at Chronister Oil gave me a chance to do that."

Focusing on Core Strengths

Though a new leadership team was in place, Cranford says their first six months were the hardest phase of the transition. "Everyone loved Grady," he explains. "He was active up until

his passing. So, we had to get our employees used to there being no Grady, while at the same time establishing myself, Amy, and Kelly in our new roles. It took a while for our people to accept a new leadership and management style."

"Amy's commitment to change and invaluable contributions towards bridging past and present led to her current role as President." Cranford added.

Then too, Cranford continues, "As a leadership team we needed to learn how to work together—Linda as Chair, Amy as President, Kelly as CFO, and myself as CEO." Relationships and roles clarified over time and, as Cranford relates, "have become streamlined and effective."

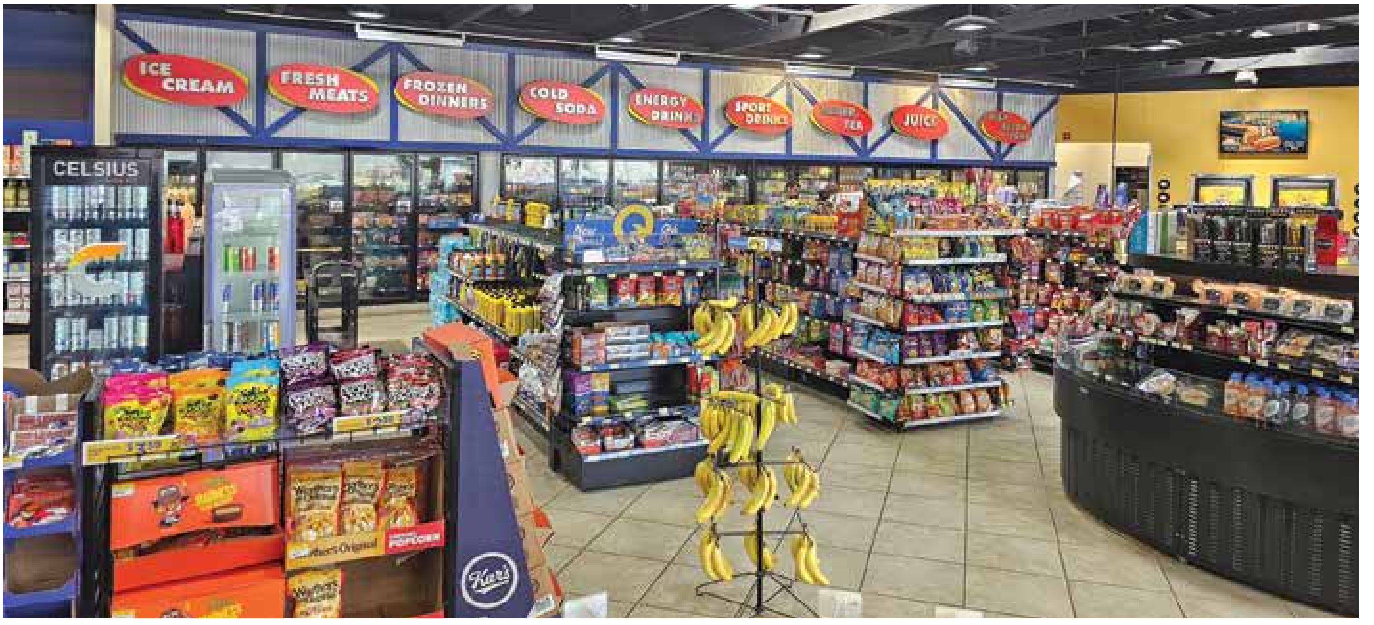
"Linda is Chair of the Board," Cranford continues, "and sets the plan. I'm the liaison between Linda and the business so we can navigate within the parameters she gives us. The arrangement keeps the lines of communication open, while allowing Linda and Amy to have a mother-daughter relationship that isn't all about business."

As the new team settled in, Amy, Kelly, and Damon worked closely together to leverage their strengths and knowledge to chart a new course. Less than a year later, however, the covid pandemic arrived and up-ended business as usual. While the company remained open, the State of Illinois mandated debilitating changes in foodservice, cessation in gaming, and significant operational changes. "Covid was very difficult in that we were just hitting our stride, laying out new plans, moving forward, only to be stopped in our tracks. It made for incredibly poor timing" Amy noted. Since 2022, when Chronister Oil emerged from two years of pandemic lockdowns, Cranford says, "We've been analyzing what we do and looking at how to structure the company around our core strengths."

On the wholesale side, for example, Chronister Oil no longer operates its truck line and bobtail business but leverages the new owners for key advantages in each segment functioning almost as a joint venture. Another example on the retail side is scaling back in-store kitchen operations and taking advantage of recent advances in what Cranford calls "quasi-prepared" foods that offer customers high-quality menu items without the operational cost of scratch preparation. "These kinds of decisions allow us to do what we do best," reports Cranford.

Our wholesale division benefits from our Central Illinois location, Cranford relates, "We can pull product from Chicago, Mid-Continent, and the Gulf Coast. Also, we have our own terminal. These are big advantages for us, allowing us to equally serve single site dealers, large national operators, local farms, and large-scale commercial operations"

Because Chronister Oil has been around for more than 50 years, the company enjoys long-term supplier relationships. These enable the company to offer the gasoline and diesel ▶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FROZEN DINNERS
COLD SODA
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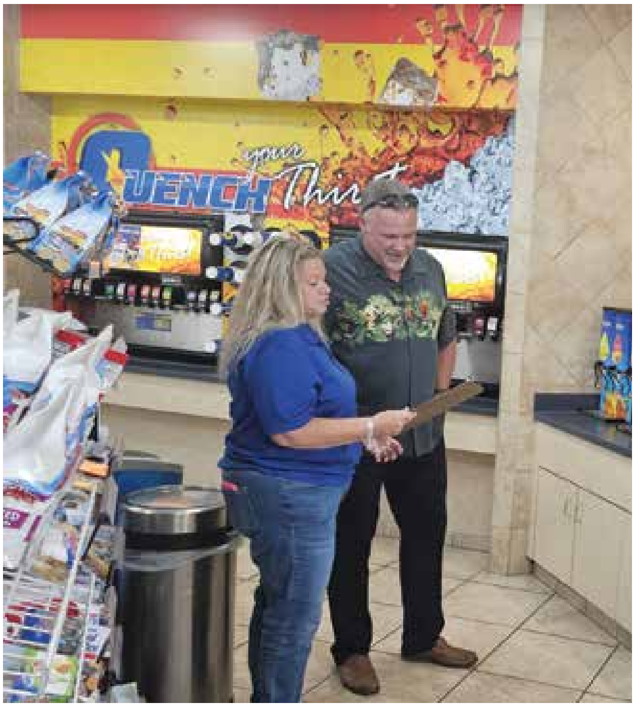
QUENCH your Thirst


WATER, TEA
JUICE
MILK BACON AND EGGS


QiknEZ
ICE

blends its customers need. Central Illinois lies squarely in the Corn Belt, allowing Chronister Oil to provide a full suite of ethanol blends up to E85 for the past 15 years.

On the retail side, says Amy, "Quality over quantity is our motto. We believe that 'the basics' still work. Good customer service and clean stores bring people back. What we 'sell' is a great customer experience."

Springfield is the company's largest market, though several stores serve smaller and more rural areas. "My father Grady was good at picking sites," Amy states. "So our 12 stores all have great locations." To compete in today's c-store sector, Qik N EZ has evolved into a chain of large-format sites with large fuel islands and freestanding stores of up to 6,000 square feet. Ten stores currently feature large formats while the two remaining sites will be converted within the next 12 months.

With the slogan, "Serving you Every Day" Qik N EZ boasts a product mix that combines traditional c-store offerings with a heavy focus on customer service.

"To keep quality and service high, we're happy with our number of stores and their locations. All our stores are within an hour of each other so that we can visit them on a regular basis and provide the support they need. And given our strong local brand recognition, we're very involved in giving back to the communities we serve" adds Amy.

Another legacy handed down from Grady Chronister is SIGMA involvement. The founder served on the association's Board of Directors, and today Amy Chronister and Damon Cranford are regulars at SIGMA meetings.

"The personal nature of SIGMA is a real benefit," says Cranford. "The networking and the way that we can utilize our contacts is great. We can talk to people who are dealing with the same problems as us." Chronister agrees and cites her own networking and involvement in helping to organize a new Women Ambassadors Network for SIGMA called SWAN. "This industry has been predominately male, and I'm thrilled to see more women in involved in leadership. SWAN celebrates this" Amy adds.

Opportunities to talk with other marketers about common problems, Cranford adds, "have really helped us navigate the past six years—the passing of our founder, the covid pandemic, the leadership transition, and then the process of analyzing our core strengths." To that Amy adds, "We're now ready to keep moving forward and ready to leverage all our advantages as an independent marketer." ★

Washington WATCH

The General Election and A Lame Duck: What It Means for SIGMA Policy

When Congress returns from the Labor Day holiday, lawmakers will be in session just three weeks before the General Election.

Labor Day marks the traditional "start" of the General Election, and Congress historically has spent those weeks campaigning in advance of the November election before transitioning into the Lame Duck session.

With the House and Senate Majorities both on the line in November, lawmakers undoubtedly will refrain from negotiating any major legislation until after they see how the balance of power shakes out.

During the final weeks of the year, Congress is expected to tackle a short-term Continuing Resolution to extend federal appropriations that expire Sept. 30 and ensure Government funding as of Oct. 1, 2024.

Debate over tax policy also will heat up amid the pending expiration of the Tax Cuts and Jobs Act of 2017. This tax legislation, which includes individual income, passthrough business, and estate tax provisions, will serve as a significant legislative football throughout 2025.

Behind the scenes, SIGMA is working on many policy priorities, laying the groundwork for both the Lame Duck session and the 119th Congress.

Biodiesel Tax Credit Extension Act of 2024

SIGMA members urged lawmakers to cosponsor the Biodiesel Tax Credit Extension Act of 2024 during the industry's annual Summer Legislative Conference. H.R. 9060 was introduced in July by Representatives Mike Carey (R-Ohio), Claudia Tenney (R-NY), and Annie Kuster (D-NH.) and would extend the biodiesel tax credit for one year at the blender level.

At the time of this writing, Representatives Mariannette Miller-Meeks (R-IA), Lou Correa (D-CA), Paul Tonko (D-NY), Andrew Garbarino (R-NY), and Terri Sewell (D-AL) have all agreed to cosponsor the legislation, which would support the industry's continued investment in advanced renewable fuels.

SIGMA continues to engage in an extensive grassroots campaign. SIGMA members are asked to contact their Member of Congress and urge them to cosponsor H.R.9060.
The Biodiesel Blenders' Tax Credit is scheduled to expire at the end of this year. But the opportunity exists in this political environment to incorporate H.R. 9060 into an end of year appropriations package or to retroactively extend the biodiesel blender's tax credit in larger tax legislation in 2025.

Section 45Z Guidance

In 2025, a new and complex tax credit known as the Clean Fuel Production Credit (Section 45Z), which was enacted as part of the Inflation Reduction Act, is slated to go into effect. This credit is intended to incentivize the production of renewable fuels such as biodiesel and sustainable aviation fuel, rather than the blending or consumption of those fuels. Critical guidance implementing the untested new credit has yet to be developed by the Internal Revenue Service (IRS).

SIGMA continues to urge the U.S. Department of Treasury and IRS to issue comprehensive guidance on the upcoming Clean Fuel Production Credit.

In an August letter to the U.S. Department of Treasury and IRS, SIGMA and its industry partners said impending guidance will have "immediate, direct, and traceable impacts" on the supply and price of gasoline and diesel and that fuel purchasers must be able to determine the precise tax credit value associated with each gallon of biofuel. ▶

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SIGMA, along with NATSO and the National Association of Convenience Stores, said if designed improperly, the implementing guidance could inject massive disruption and confusion into already-volatile motor fuel and biofuels markets. The associations urged Treasury to publish guidance that includes:

- Disclosure of precise credit values for fuel originating from different production facilities to ensure price transparency, enabling consumers to benefit from the credit in the form of lower prices at the pump;
- Additional stringency for the model that calculates the lifecycle emissions of aviation fuels to ensure that implementation of the Clean Fuel Production Tax Credit is consistent with the Inflation Reduction Act;
- Strategies that ensure the 45Z credit does not shut off renewable diesel and biodiesel imports which help to lower fuel prices and emissions; and
- Policies that limit the migration of feedstock away from renewable diesel and biodiesel toward sustainable aviation fuel to ensure that feedstocks continue to gravitate toward the most environmentally compelling end-use.

Year-Round Sale of E15

An additional liquid fuels policy that must be addressed before the 2025 summer driving season is the ability for fuel marketers to sell gasoline blended with up to 15 percent ethanol (E15). E15 lowers prices, diversifies supply, and improves gasoline's emissions profile. An arcane law currently prohibits the year-round sale of E15 across the United States.

Although EPA issued an emergency waiver in May 2024 to allow for the nationwide sale of E15 this summer, it is unclear if they will be able to do so again in 2025.

A national solution to E15 is necessary to avoid a patchwork waiver approach approved by the EPA to take effect beginning next year. The Midwestern waivers granted by EPA will only further stress an already volatile fuel supply chain.

SIGMA continues to urge Congress to pass legislation that would allow for the nationwide, year-round sales of E15.

Investment in Electric Vehicle Charging

SIGMA continues to advocate for policies that ensure the long-term profitability of electric vehicle charging investments.

Fuel marketers have utilized the National Electric Vehicle Infrastructure (NEVI) grant program to kickstart their investments in charging infrastructure. More than half of all NEVI grants have been awarded to fuel marketing locations, underscoring both the pivotal role that our industry plays in building a safe and reliable nationwide network of DC fast-charging stations and the desire by private industry to do so.

U.S. Senators Jeff Merkley (D-OR), along with Senators Chris Van Hollen (D-MD) and Ron Wyden (D-OR), in late summer introduced legislation that seeks to amend 23 USC 111, the longstanding federal law that prohibits commercial services at rest areas, to allow electric vehicle charging stations at state-operated rest areas.

Congress directed state transportation departments to work with the private sector to kick-start a nationwide network of electric vehicle charging stations by establishing the $5 billion NEVI Program under the Infrastructure Investment and Jobs Act (IIJA).

SIGMA opposes S. 4989, the Recharge Your Electric Car on the Highway to Alleviate Range Gaps Effectively (RECHARGE) Act, which comes at a time when many state DOTs are awarding NEVI grant dollars to private fuel retailers to build out their electric charging networks. Altering the competitive landscape stands to upend those existing installation plans already in progress.

The IIJA included provisions ensuring that locations for alternative fueling must consider the availability of amenities such as food and restrooms. It also refrained from incorporating provisions that would allow states to unfairly compete with the private sector by installing electric vehicle charging stations at rest areas.

SIGMA continues to engage with a longstanding coalition of off-highway businesses and local governments to oppose electric vehicle charging at rest areas.

As we progress through the remainder of 2024, these issues will continue to unfold. We encourage each of you to engage with your lawmakers to help secure the best outcome for the fuel marketing community. ★

Tiffany Wlazlowski Neuman represents SIGMA on matters of public affairs.

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U.S.GC/NYH RBOB Arbitrage Hits Seasonal Low

BY STEPHANIE CRAWFORD, ARGUS MEDIA

The U.S. Gulf Coast/New York Harbor (NYH) RBOB arbitrage fell to its lowest point this season amid tightening U.S. Gulf Coast supplies, yet a growing New York Harbor spot shortage on closed arbitrages and lower production could change regional spread dynamics.

Regular RBOB spreads from the U.S. Gulf Coast to New York Harbor have been falling over the past few weeks and hit their lowest point this summer at 3¢/USG on 8 August, well below the Colonial pipeline shipping tariff. Regional spreads averaged 8¢/USG the rest of this month, 12¢/USG in July, and 17¢/USG in June when the Gulf Coast had ample inventories and utilizing the East Coast as a supply outlet.

U.S. Gulf Coast gasoline spot markets began tightening in mid-July when demand rose in the aftermath of Hurricane Beryl's landfall in Texas, according to market participants. This was followed by multiple refinery fluid catalytic cracker (FCC) outages that continued through the first week of August, cutting into available Gulf Coast production capacity.

Gulf Coast refinery runs hit their lowest point since early May at 91.2pc in the week ended 5 August, according to data from the Energy Information Administration (EIA). Utilization rates peaked at a 13-month high at 97pc in early July before dropping off and averaging 91.7pc from mid-July through early August. In the meantime, New York Harbor gasoline markets remained well-supplied most of the summer amid steady Gulf Coast shipments and imports. But an RBOB spot shortage began forming as August rolled around as imports and regional production started dwindling.

Market participants pointed to a closed transatlantic arbitrage in the weeks leading to early August as a contributing factor to spot shortages. New York Harbor gasoline cargo arrivals from Europe were expected to total about 3mn bl in August, according to Kpler, compared with 6.3mn bl in July and 7.7mn bl in August 2023.

Steep backwardation in the RBOB forward curve this time of year also typically discourages more expensive, low-RVP summer gasoline imports, according to market participants, given the expected decline in spot market levels during the cargo transit time.

In the meantime, East Coast production has been falling amid weaker margins this summer and could further exacerbate RBOB spot shortages in August. Total Atlantic Coast refinery

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runs dropped to nearly a two-month low at 88.7pc in the week ended 5 August, according to EIA data, compared with 91.3pc in July. U.S. independent refiner PBF Energy planned to shut a crude distillation unit at its 160,000 b/d Paulsboro, New Jersey, refinery in early August because of refining economics.

U.S. Gulf Coast RBOB stocks hit a four-month low at 10mn bl the last week of July, according to EIA data, before rising to 11mn bl in the first week of August.

Atlantic Coast RBOB stocks reached an eight-week high at nearly 20mn bl as of 5 August, according to EIA data, prior to spot shortages forming in New York Harbor.

Colonial off-line RBOB prices hit nearly a two-month low at \$2.38/USG in the week ended 5 August before rising to \$2.46/USG by 8 August. New York Harbor Buckeye and barge RBOB prices reached a one-week high at \$2.45/USG on 8 August. Cash differentials rose to nearly their highest point this season at September Nymex +5.43¢/USG on 9 August.

U.S. Gulf Coast Colonial RBOB prices rose to a three-week high at \$2.43/USG on 8 August. Cash differentials reached their highest point this season at September Nymex +3.25¢/U.S.G, trading above the Nymex contract for the first time in nearly a year.

Nationwide, U.S. product supplied of finished motor gasoline — an indicator of demand — fell by 3pc to 9mn b/d in the week ended 5 August, according to EIA data, after reaching its highest point since early November at 9.5mn b/d in mid-July. Stronger U.S. Gulf Coast spot demand could have contributed to the growth in national figures last month. ★

Inside
RISK MANAGEMENT

Could Lithium-Ion Batteries Lead to Fires at Your Business?

BY: NATIONAL ACCOUNT EXECUTIVE PATRICK CUNNINGHAM, FEDERATED MUTUAL INSURANCE COMPANY

Lithium-ion batteries power everything from laptops and smartphones to power tools and vehicles with efficiency and portability. However, their widespread use comes with significant risks, as these batteries have been known to cause a growing number of workplace fires.

The Dangers of Lithium-Ion Batteries

Lithium-ion batteries are sensitive to electrical, mechanical, and thermal stressors. Fast charging, out-of-range operating temperatures, and mechanical abuse can result in diminished capacity or short circuiting. Poor maintenance and frequent fast charging can accelerate battery aging, which can result in a shorter battery life and the increased likelihood of damage that could lead to a fire.

Thermal Runaway

A phenomenon known as "thermal runaway" can occur when improper use, storage, or charging leads to a cell failure within the battery. Thermal runaway produces heat faster than it can be dissipated, potentially leading to explosions, smoke, and fire. The fires caused by these batteries can be challenging to extinguish, sometimes requiring thousands of gallons of water and posing the risk of reignition over subsequent hours or days. Fire Prevention Strategies

To help mitigate risks, consider the following guidelines:

- Using Certified Equipment: Ensure that batteries, chargers, and devices are listed by a qualified testing laboratory, and avoid low-quality aftermarket replacements.
- Adhering to Manufacturer Guidelines: For storage, use, and charging, following the manufacturer's instructions can significantly reduce the likelihood of battery failure.
- Inspecting Equipment Regularly: Check batteries and devices for damage before use. Cracks, bulging, leaks, elevated temperatures, or any indication of distress warrant immediate removal from service. ▶

- Maintaining Proper Storage: Conduct all battery charging away from combustible materials, and keep batteries and devices in cool, dry places. Ensure charged devices are removed from chargers once full to prevent overcharging.
- Ensuring Safe Disposal: Damaged batteries should be placed in a fire-resistant container away from combustibles and disposed of in accordance with instructions from a battery recycling center.

By fostering a culture of safety and awareness around the potential hazards of these batteries, you can play an important role in minimizing risks and ensuring a safer work environment for everyone. Reach out to your Federated® marketing representative to learn more. ★

Patrick Cunningham
National Account Executive
Association Risk Management Services Federated Insurance®

Patrick Cunningham is a National Account Executive in the Association Risk Management Services department of Federated Insurance. Patrick is responsible for managing Federated's national association and buying group partners.

Since 1998, Pat has spent his entire career working in the marketing areas of Federated Insurance where he was a successful Marketing Representative, Account Executive-ARMS, District Marketing Manager, and Senior Marketing Representative. Pat earned the trust of hundreds of business owners in the areas of safety, risk, and business management by focusing on value, service, and relationships. Pat was awarded membership into Federated's Chairman's Council, Big Hitter Club, Monthly Leadership Council, and Life and Disability Income Contest winner. He also participated in various company Focus Meetings and workshops, "Street-Talk" seminars, Risk Management Academy seminars, and pilot programs.

A native of Kansas City, MO and an alum of the University of Central Missouri with a bachelor's in business management, Patrick and his wife are the proud parents of three daughters and two grandchildren.

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Inside CONVENTIONS

Reasons to Attend SIGMA's Annual Conference

Reasons to Attend

SIGMA's Annual Conference is the largest gathering of SIGMA members throughout the year. CEO's, presidents and knowledge leaders in the fuel marketing sphere attend this unparalleled forum for in-depth education, networking and innovative business strategy reviews. SIGMA education sessions bring you up to speed on issues of interest and SIGMA's latest advocacy initiatives, while preserving time for marketers to network with fuel suppliers and peers.

Schedule of Events

For the most up-to-date schedule of events for the SIGMA 2024 Annual Conference, visit the conference page on the SIGMA website (www.SIGMA.org).

SIGMA Women Ambassadors Network Golden SWAN Awards

Join fellow SIGMA Annual Conference attendees for the inaugural presentation of the SIGMA Women's Ambassadors Network (SWAN) Golden Swan Awards at the SIGMA Annual Conference in Boston! SIGMA is excited to introduce SWAN, a new and exciting program recognizing women's excellence in contributing to the success of their individual companies, as well as to the overall fuel/energy industry, but you don't have to be female to attend the awards luncheon!

SIGMA is honored to have **Nancy Becker**, Co-Founder of 2Betties as the inaugural speaker for the Golden SWAN Awards Luncheon in Boston. Nancy is truly a trailblazer in the corporate world. She rose through the ranks to become ▶

Registration Rates - Register Online at www.SIGMA.org

	Fuel Foundation Rate*	Regular Rates Thru 9/20	Late/Onsite Rates After 9/20
SIGMA Member Rate BEST RATE!	$725	$1,000	$1,175
Non-Member Rate	$3,000		
Spouse/Guest Rate	$400		

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one of the Presidents and owners of United Communications Group (UCG) - the parent company of industry leader Oil Price Information Service (OPIS) as well as host of other B-to-B publications. Under Nancy's leadership, UCG grew from a relatively small company to being a high profile, highly valued player in the publishing world. As President of OPIS, Nancy worked side by side with fuel marketers as well as fuel suppliers to incorporate critical data into their businesses. As a high-level executive, Nancy spearheaded an ambitious initiative to foster and promote women within the company. Since leaving UCG, Nancy has co-founded 2Betties with her daughter, a hugely successful healthy snack company whose ethos is that good for you food should also taste good.

A separate sign up and fee is required to attend the luncheon ($100 per person). Space is limited, so register today!

Education Highlights

Opening General Session – "Beyond the Ballot: What the 2024 Election Means for Fuel Marketers"
David Fialkov, Jessi Frend, and LeeAnn Goheen, SIGMA Government Relations Team

Hear from SIGMA's Government Relations team on how the results of the 2024 elections will affect your business and SIGMA's advocacy priorities.

Business Meeting and General Session - Putting Our Energy to Work: Neighborhood Partners to National Networks
Erik Slifka, Mark Romain, and Fuel Marketing Leaders, Global Partners

Lunch Education Session - The Fuel Landscape – What the Future Looks Like
Mason Hamilton, American Petroleum Institute

Breakout Education Sessions
Here is a snapshot of the breakout education sessions we have in the works:

- Market Consolidation and Contraction
- The Illicit Tobacco Market
- Price Volatility in the Fuel Market
- The State of Freight
- Cohesive Succession Planning ★

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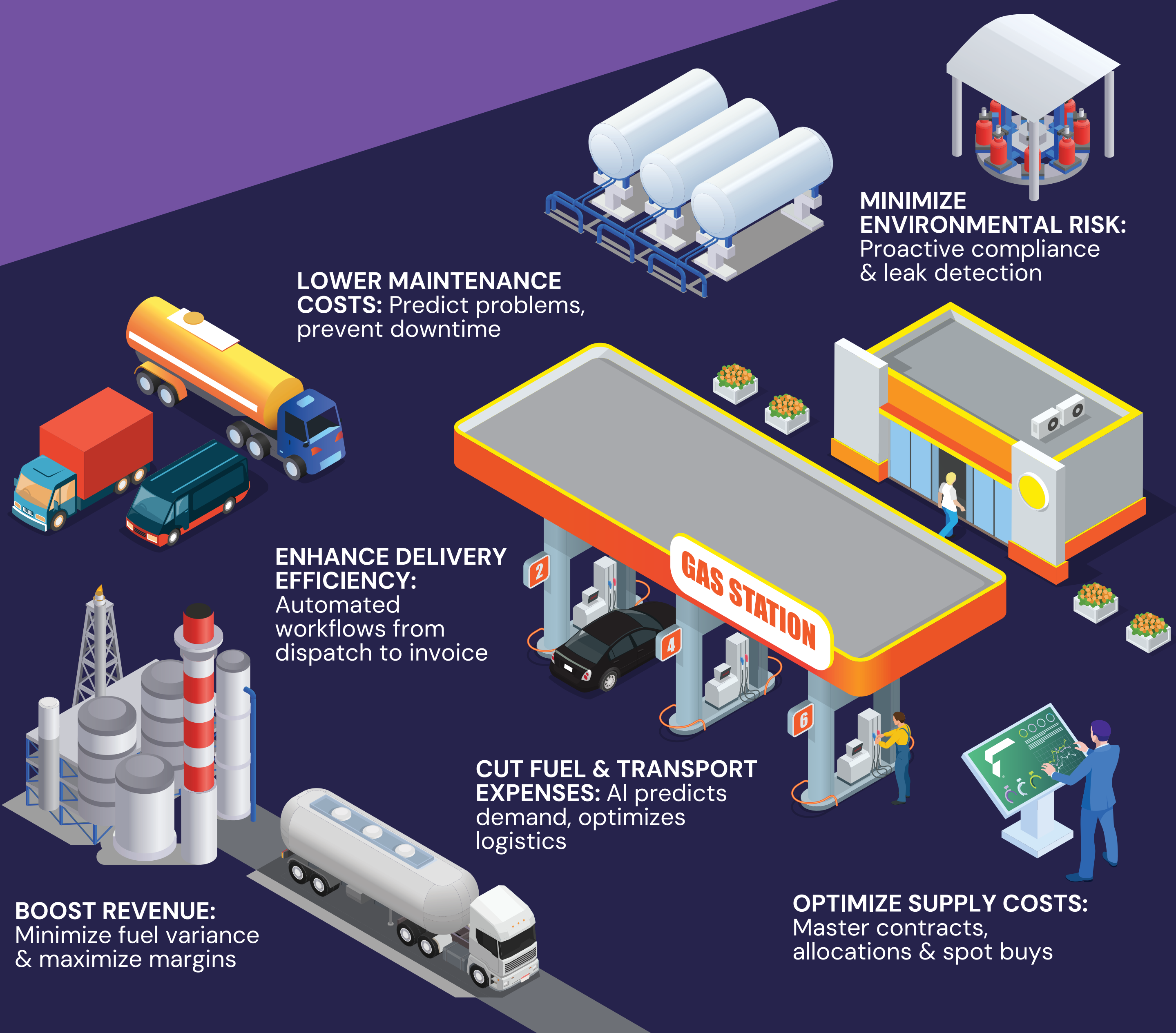

Inside FAMILY BUSINESS

PRESENTED BY RONALD C. REECE, PH.D.

Firing a Family Member Employee

I often have heard, "business would be so much easier without the employee issues." This is true, but even with all the 'take out the human factor' tools available today, the dilemmas with people still arise. Such dilemmas manifest as absenteeism, underperforming, nonperforming, misbehaving, policy breaking, and more. In such situations, tough decisions must be made for the sake of the business.

Those decisions range from implementing corrective action processes or performance improvement plans all the way to termination. The impact of such situations is different for smaller companies that don't have much structure, like an HR department that is found in larger organizations.

Years ago, in my small professional services practice, I was confronted with the challenge of trying to salvage a difficult but qualified nonfamily employee. I can still recall the frustration and remember quite well the stressful emotions associated with the act of firing her. It is not something any business owner relishes. The unpleasantness takes on an added dimension when the problem employee is a family member. It is even more complicated when the family member is also an owner. The impact of such a situation is felt in each of the three circles, Owner, Business, and Family.

Over the years, I have been asked to assist in numerous difficult family member employee situations, from relatively simple to quite complex. Probably one of the most difficult ones was firing the wife who also owned 50%. Each situation has carried significant emotional impact that ranged from immediately intense to long lasting.

Maintaining the peace and preventing family rifts is the typical approach. The well-known phrase – 'kick the can down the road' comes to mind. But what to do when reality can no longer be ignored?

A recent situation with a 5-member sibling owner group has reached that point of reality. One sibling owner, Jack, is the managing member and the other 4 have had enough. Despite Jack's many successes and positive results, his approach and style are non-collaborative, combative, controlling, and defiant of limit setting attempts by his sibling partners. There are also concerns about misdirecting and comingling of funds.

This is a quite complicated matter due to Jack being an owner and because of certain legal agreements that are in place. However, the decision has been made and now it is a matter of how and when. To prepare, the following guidelines and factors were developed for the 4 siblings to use. ▶


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Guidelines and Factors to Consider and Discuss When Terminating a Family Member Employee (some circumstances will require less while some will require more)

Terminating a family member employee is a sensitive and delicate matter that requires careful consideration to minimize business impacts, emotional and relational fallout, while ensuring legal compliance and fairness. Here are multiple factors to consider. **Separating Personal and Professional Relationships:** It is crucial to separate personal family dynamics from professional responsibilities. Ensure that the decision to terminate is based solely on job performance, misconduct, or other legitimate business reasons rather than personal conflicts or family issues. Remember, the person is being terminated from employment not the family.

Input/ideas: Concerns: Questions:

1. **Legal and HR Considerations:** Familiarize yourself with company policies, employment laws, and HR procedures related to termination. Ensure that the termination process complies with anti-discrimination laws, fair employment practices, and any current contractual obligations or operating agreements.
   Input/ideas: Concerns: Questions:

2. **Conflict of Interest and Favoritism:** Avoid any perception of favoritism or conflict of interest in the workplace. Treat the family member employee like any other employee when it comes to performance evaluations, disciplinary actions, and termination decisions.
   Input/ideas: Concerns: Questions:

3. **Documentation of Performance Issues:** Organize and compile clear current and historical documentation of the family member's job performance, including any performance reviews, disciplinary actions, and incidents of misconduct. Also, information including but not limited to corporate meeting minutes, email directives, exchanges, and correspondence related to performance issues. The rationale and documentation will be essential in justifying the termination decision, defending against potential legal challenges, and hopefully minimizing negative family relationship impacts.
   Input/ideas: Concerns: Questions:

4. **Consultation with HR and Legal Counsel:** Before making a final plan, consult with HR professionals and legal counsel to ensure that the termination is handled appropriately and in accordance with company policies and other legal requirements. Hiring a firm with both corporate and labor law expertise (perhaps geographically distant dependent upon community size and resources) to represent the company in this action is a good practice. Legal counsel should review all current contractual obligations, by-laws, and operating agreements to confirm the existing methods/grounds for termination. The law firm can be the central gatherer of any documents mentioned in item 4 and will likely have a list of what will be needed. Counsel should also be involved in the development and delivery of the message.
   Input/ideas: Concerns: Questions:

5. **Compensation Implications:** Assess the financial implications of the termination, including outstanding salary, severance pay, unused vacation time, bonuses, reimbursements due, long-term incentives, and any other benefits the employee is entitled to upon termination.
   Input/ideas: Concerns: Questions:

6. **Communication and Transparency:** Communicate the decision to terminate the family member employee with clarity and empathy. Clearly explain the rationale for the termination, providing specific examples of performance issues or misconduct, if necessary. This can be tricky because it can easily slip into a debate with intense emotion. Advanced preparation and scripting are essential. Further suggestions: Choose a private and neutral location for the conversation. Provide the family member with the opportunity to resign. Legal counsel and no more than two appointed family members be present to deliver the scripted message. A family member can deliver the termination message with comments from the attorney as needed. In some circumstances it may be best for the attorney to deliver the message. A separation agreement could be presented at this meeting or at a future meeting.
   Input/ideas: Concerns: Questions:

7. **Severance and Transition Assistance**: Offer appropriate severance pay and transition assistance, such as outplacement services, career or personal counseling, to help the family member employee navigate the job loss, find new employment opportunities, and deal with the emotional impact. Again, compassionate firmness are the watch words, emphasizing separation from the business not the family.
   Input/ideas: Concerns: Questions:

8. **Communication Plan:** Plan how the termination will be communicated both in the business and externally to family and community. Consider the messaging to employees, stakeholders, customers, and the public, ensuring it is respectful, consistent, and aligned.
   Input/ideas: Concerns: Questions: ▶

9. **Impact on Family Relationships:** Consider the potential impact of the termination on family relationships and dynamics. Be prepared for emotional reactions and strive to maintain open lines of communication to address concerns and provide support during the transition. Also, consider whether to include/inform certain key family members, such as a spouse, ahead of time. If a Family Council structure exists it is an appropriate forum for some of this planning.

Input/ideas: **Concerns:** **Questions:**

10. **Impact on the Business Enterprise:** Consider how the termination will impact the organization, assets or holdings. Evaluate the family member's role and responsibilities, relationships with clients, employees, vendors, tenants, other stakeholders, and potential disruptions to ongoing projects or operations. Also, attend to disabling access to systems and accounts as well as any company property that needs to be returned.

Input/ideas: **Concerns:** **Questions:**

11. **Develop a Transition Plan:** To manage the departure smoothly identify who will assume what responsibilities temporarily or permanently to maintain functioning of the operating business and income producing assets.

- Determine who and how the financial institutions will be notified of change in signatories. Discuss with legal counsel any account situations that might be problematic in gaining access to.
- Determine who will notify current vendors/suppliers/customer/ tenants/or other stakeholders of the change in circumstance, and who the new contact will be.
- If any current or pending litigation is active, and depending on the involvement of the employee's role in it, legal counsel should provide notice to all parties of change in circumstance.
- Interim responsible family members should meet with the current accounting firm to discuss changes and articulate any new reporting requirements.

Input/ideas: **Concerns:** **Questions:**

12. **Maintaining Confidentiality:** Family always talks about family. Therefore, it is important to respect the family member employee's privacy and confidentiality throughout the termination process. Avoid discussing the details of the termination with other family members or colleagues unless necessary for business reasons.

Input/ideas: **Concerns:** **Questions:**

13. **Post-Termination Relationship Management:** Plan how to manage the ongoing family relationship after the termination. Strive to maintain civility and respect to minimize long-term family rifts or tensions. A proactive, not passive, approach to embrace the exiting employee is best.

Input/ideas: **Concerns:** **Questions:**

Navigating the termination of a family member employee requires careful planning, choreography, sensitivity, and adherence to legal and ethical considerations to ensure a fair and respectful process for all parties involved as well as minimizing family and community relationship impacts.

Note: Professional Advisory Team

- Determine if existing legal counsel can be utilized or if a different firm would be best.
- Determine the need for an outside audit of financial information.
- Determine what support the family members will need from a relationship/family dynamics perspective.
- Determine what business management support may be necessary to support family members in interim roles while a determination is made on what is necessary for a permanent replacement of the exiting family member employee.

Input/ideas: **Concerns:** **Questions:**

Usually, by the time termination is viewed as inevitable family and personal relationships are in distress. Termination may be intense and hurtful at the time, however hopefully it is not harmful. Offering a face-saving resignation incentive should be strongly considered. In some cases, the family member may even be relieved.

Lastly, those families who have taken the time to create a Family Member Employment Policy will fare better in this difficult dilemma. And remember, family member or not, I have never heard it said, "We wish we had waited longer to let this person go." The change that occurs can be energizing and future positive for all three circles – Owner, Business and Family.

Soon,
Ron

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THE EVOLUTION OF BUYER BEHAVIOR

BY MAURA KELLER

Look back 15 or 20 years, and you'd be hard-pressed to recognize similarities to today's buyer behavior. From influencer marketing to online shopping to same-day delivery, consumers today face a myriad of purchasing options – all of which affect their buying behavior.

According to Adam Ortman, president and founder of marketing agency Kinetic319, over the past decade, we've witnessed a significant transformation in buyer behavior, particularly within the convenience store (c-store) sector. As he explains, ten years ago, the emphasis was largely on in-store purchases with limited digital interaction. Big brands like Coca-Cola, Pepsi, Lays, etc. dominated the shelves with low-priced snacks.

"Today, consumers expect a seamless blend of online and offline experiences. Mobile technology has revolutionized how people shop, with a strong preference for mobile payments, digital loyalty programs, and on-the-go access to store information," Ortman says. "Additionally, there's been a marked increase in demand for healthier and more sustainable product options, reflecting broader societal shifts towards wellness and environmental consciousness. Lastly, with consumer expectations on shipping moving from 10 business days to same day, consumers are leaning into home delivery for everything from their home necessities to their sushi take-out order, leaving the "C" in "c-store to be more ironic than literal."

Michael Zakkour, founder of 5 New Digital, a retail consulting company that connects offline and online retail to create a unified commerce strategy, and advisory board member for The Center for Retail Transformation, points out that retail has always thrived when retailers provide customers with the four pillars of retail: price, selection, service, and convenience. "In the last ten years, we have seen convenience become the most important of the four. Customers want the highest number of options to buy what they want, when they want, where they want, and how they want to," Zakkour says. "That is why retailers and brands have focused on multi-channel operations, unified commerce to connect them, and the plethora of technologies that integrate online and offline retail. Brand still matters, for retailers and manufacturers, for trust, reliability, and name recognition, paired with convenience."

Zakkour points out that the old system of the top-to-bottom sales funnel is giving way to a system that recognizes consumers can discover, consider, and purchase in a short amount of time, in one place or across several channels.

"The journey is more like a pinball banging around the machine. We like Amazon because of the trust in the brand and the convenience of delivery," Zakkour says. "Consumers also like Ikea because it is more convenient to touch, feel, and try out home furnishings in-person, and bring products home the same day."

While the volume of e-commerce purchases is growing at a rapid rate, the total share of purchases online moves more slowly, from about 13% pre-pandemic to about 22% today. "So the vast majority of purchases are made in a store," Zakkour says. "With that said, the vast majority of physical retail purchases are influenced through digital."

Shoppers are also more informed and connected than ever, using smartphones and other devices to compare prices, read reviews, and make purchases. There has been a marked increase in the preference for convenience, with many consumers gravitating towards online shopping and delivery services.

"The rise of contactless payments and mobile wallets has also streamlined the purchasing process, making it faster and more efficient," Zakkour says.

According to Beth Romer, founder of marketing agency L&L Collective, a 2024 McKinsey study indicates one of the biggest trends potentially impacting c-stores is the fluctuation in shopping loyalty as consumers seek better value from new brands and retailers.

"To address this shift, c-stores should consider expanding their private label offerings to better meet changing consumer demands," Romer says. "Wellness trends are also significantly influencing consumer preferences, which can be a challenge for c-stores given their top sellers are tobacco, alcohol, soda, and candy. By 2030, 75% of consumers in emerging markets will be between the ages of 15 and 34. It's important for c-stores to have a plan in place to tackle the wellness future."

Romer adds that over the last 10 years, consumer behavior has shifted significantly. Brand loyalty has weakened, with consumers more inclined to try different brands and opt for what is most convenient or cost-effective. Social media influence has evolved, as consumers prefer authentic, trust-building content over traditional product showcases. This trend is evident in the increase of brands hiding "likes" on social platforms.

"Additionally, Gen Z has further diversified shopping habits, challenging the practice of categorizing consumers into fixed personas, creating a deeper need for understanding of individual preferences and behaviors," Romer says. "The wellness industry has experienced substantial growth, reflecting a rising consumer focus on health and well-being. We have also seen the perception of private label products significantly improve, with many consumers viewing them as equivalent to brand-name versions in terms of quality."

Driving Forces

Several key forces have driven these changes in buyer behavior. Ortman says technological advancements, particularly in mobile and digital platforms, have set new standards for ▶

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— Tate Sideman, Vice President & General Counsel, The Fikes Company

convenience and accessibility. The rise of e-commerce giants also has redefined customer expectations around speed and convenience, which has trickled down to the c-store environment.

"Additionally, the millennial and Gen Z demographics, known for their tech-savviness and value-driven purchasing decisions, have exerted considerable influence," Ortman says. "These younger consumers prioritize health, sustainability, and a new definition of 'convenience,' prompting a shift in product offerings and marketing strategies within the c-store industry."

Zakkour agrees that technology is the primary driver behind the evolution of buyer behavior as the ubiquity of smartphones has made it easier for consumers to access information and shop online, which also ties into convenience.

"Busy lifestyles have led consumers to prioritize convenience, driving demand for online shopping, delivery services, and quick payment options," Zakkour says..

Social media, featuring peer recommendations, reviews, and influencers has also radically changed consumer behaviors and patterns.

"Additionally, COVID-19 accelerated the shift towards online shopping and contactless payments as consumers sought safer, more convenient ways to shop," Zakkour says. "But, even with that, consumers of all ages and types still desire in-store shopping, as long as it is modern, tech-enhanced, and convenient. All of this speaks to why convenience stores and gas station retail is thriving today. But owners cannot rest on their laurels. They must evolve with new technology, the new marketing landscape, and changes in consumer psychology."

Romer agrees that COVID-19 played a significant role in transforming consumer purchasing habits. As she explains, the pandemic disrupted supply chains, leading to shortages of certain products and forcing consumers to try new brands and alternatives. This experience shifted brand loyalty, as people adapted to whatever was available.

"Additionally, the shift to online shopping and increased digital engagement during lockdowns contributed to changes in how consumers interact with brands, favoring convenience, accessibility, and authenticity over traditional brand loyalty," Romer adds.

Required to Adapt

In response to changes in buyer behavior, retailers have had to adopt a more digital-centric approach to stay competitive. This includes integrating mobile payment systems, developing user-friendly apps, and leveraging social media for marketing and customer engagement.

Additionally, as Ortman explains, c-stores have expanded their product ranges to include healthier food and beverage options and environmentally friendly products.

"On a recent road trip, I personally was able to get a container of freshly cut fruit from my gas station, a happy surprise," Ortman says. "Enhanced loyalty programs that offer personalized rewards and promotions based on consumer data have also become crucial. Essentially, retailers have had to create a more holistic shopping experience that aligns with the digital and conscious preferences of modern consumers."

As Zakkour further explains, many retailers are also thriving by recognizing that there is a "new retail model" that demands the full integration of online, offline, technology, supply chain, and media to enhance operations, margins, and consumer loyalty.

"Many have also adopted a 'unified commerce' model that connects back-end data and technology and ensuring that their sales and marketing channels are connected and working to enhance each other in a virtuous cycle," Zakkour says.

Indeed, retailers have had to evolve their strategies to better target and engage with customers. "Generic emails are no longer cutting it," Romer says. "Instead, leveraging data to understand customer preferences and tailoring suggestions is crucial." Retailers have also had to revamp their online presence, moving away from perfectly curated Instagram feeds to more authentic and relatable content. Brands that foster real connections with their customers, demonstrating authenticity, are the ones thriving in this new landscape.

"This shift requires a deeper investment in customer insights and personalized communication," Romer says.

Steps to Take

Retailers lagging in adapting to changes in buyer behavior should start by embracing digital transformation. Ortman suggests implementing mobile payment solutions, offering delivery options, and creating a robust online presence are essential first steps.

"Investing in a well-designed mobile app that offers convenience features like store locators, digital loyalty programs, and mobile ordering can significantly enhance the customer experience," Ortman says. "Additionally, updating product offerings to include healthier and more sustainable options can attract a broader customer base. Engaging with customers through social media and gathering feedback to continuously improve can also help retailers stay relevant and responsive to changing consumer preferences. And always listen to your customers." ▶

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What's next for the refined products markets?

https://bit.ly/SP-RefinedProducts

Zakkour's advice to retail and brand clients who have found themselves behind the curve to do the following as a start.

- Invest in technology: Develop a user-friendly e-commerce platform and mobile app to facilitate online shopping.
- New retail integration: Create an engaging, consistent, and connected experience across all channels.
- POE: Embrace a mindset that prioritizes point of experience as much as point of sale.
- Leverage Data and AI: Predictive analytics, personalization, and convenience can all be optimized through data and AI.
- Stay Educated: Focus on new consumer trends, preferences, and behaviors and the people, processes, and technologies that will keep you ahead of your competition.

Romer suggests that c-store retailers that have been slow to adapt should begin by experimenting with new strategies and leveraging AI for customer segmentation. Understanding and connecting with customers on a deeper level is crucial. This involves moving beyond product promotions to create meaningful engagement.

"Building brand loyalty today means fostering genuine relationships and offering value beyond products, ensuring that customers feel understood and valued," she says.

Continuous Understanding and Improvement

Ortman believes buyer behavior will likely continue to evolve towards even greater integration of technology in the shopping experience. He say the industry can expect advancements in artificial intelligence and machine learning to provide highly personalized shopping experiences.

"The ongoing focus on health and direct-to-home convenience will drive further changes in product offerings and marketing strategies," Ortman says. "External factors such as economic shifts, environmental concerns, and regulatory changes will also play a role in shaping future buyer behavior."

In addition, retailers can stay ahead of the curve by investing in ongoing market research and staying attuned to emerging trends. This can be as simple as surveying existing customers. Ortman suggests c-store owners and operators participate in industry conferences, subscribe to relevant publications, and leverage data analytics to understand customer behavior that can provide valuable insights.

"Building strong relationships with technology partners can also help retailers implement the latest digital solutions," Ortman says. "Additionally, fostering a culture of innovation within the organization and being willing to experiment with new ideas and technologies can ensure that retailers remain agile and responsive to continuous changes in buyer behavior." And remember: There has never been more information about the retail industry, consumer behavior, and technology available.

"Owners and operators need to watch, read, and listen to a wide-array of sources to not only keep up to date, but to strategize on how to get ahead," Zakkour says. "Retailers should also leverage local or national industry associations to network, learn, and get fresh ideas on what the definition of 'retail' will be in the next two to five years."

Romer predicts that buyer behavior will continue to evolve, significantly influenced by Gen Z, as this generation is already reshaping the market with trends like the #sobercurious movement, impacting alcohol consumption and driving the growth of the alcohol-free industry, which is expected to grow by 25% between 2022 and 2026.

"Each new generation brings shifts in buying habits, and Gen Z is no exception. Moving forward, we can expect a stronger emphasis on wellness and authenticity in purchasing decisions, leading to hopefully a whole lot more sales," says Romer, who also stresses that retailers need to embrace creativity and continuous experimentation to stay updated on changing buyer behaviors.

"Understanding customers requires an ongoing commitment, not a once-a-decade effort. Leveraging AI can provide real-time insights into customer preferences and behaviors, making it easier to adapt strategies swiftly," Romer says. "Regularly engaging with customers, analyzing data, and being open to trying new approaches will ensure retailers remain aligned with evolving consumer trends and needs." ★

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Maintaining a Growth Mindset Through All Economic Cycles

BY SPENCER CAVALIER, CFA, ASA, CO-HEAD; NATHAN WAH, CPA, SENIOR ASSOCIATE, AND JAMES MICKELINC, CPA, ASSOCIATE; DOWNSTREAM ENERGY & CONVENIENCE RETAIL INVESTMENT BANKING GROUP, MATRIX CAPITAL MARKETS GROUP, INC.

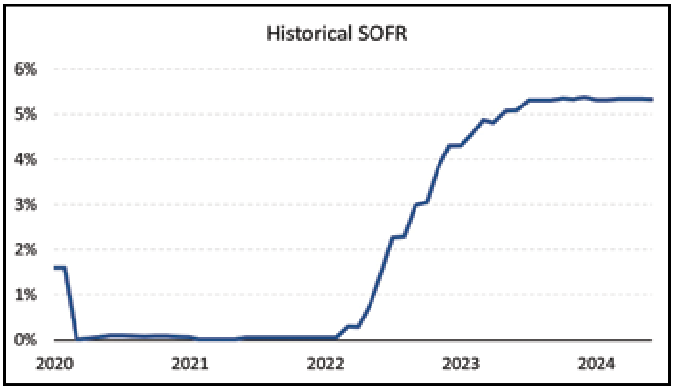
All of us have heard the old business adage - "a business must grow or go, because without growth, a business will eventually decline and fail." This adage is used so often, it can be viewed as cliché, to the point of being dismissed. However, in the petroleum marketing and convenience retail industries, this adage is reality. In particular, fuels distributors and convenience retailers must always retain a growth mindset due to an ever changing, and consolidating, competitive environment. The consequences of not growing include the risk of losing market share, reduced ability to cover ever-increasing corporate overhead, and facility quality and offering decline. We often observe certain business leaders becoming very conservative in times of higher economic uncertainty, similar to what we have experienced over the last few years with higher inflation (but declining), lower consumer discretionary spending, and the higher cost of capital.

However, for the most part, operators in our industry do adhere to a growth principle. And while it is to be expected that the largest fuels distributors and convenience retail fuel chains would grow at a higher rate in general, the "when" also matters and larger retail fuel chains are most likely to expand, no matter the economic cycle. According to a recent Oil Express article "Fifty-seven percent of the brands with 100 or more stores increased their networks, and 54% of the retailers with 50 to 99 stores expanded last year. Only 19% of retailers with less than 50 units increased their store numbers." ("OPIS Study Suggests More Retailers Grew But the Larger Retailers Had the Clear Advantage in 2023" Harris, Page 1, 2024).

Obviously, company size yields many advantages when seeking growth (e.g., scale to realize synergies, better access to and lower cost of capital, opportunities for larger deals, etc.). The larger operators have earned this advantage through many years, and economic cycles, of grinding growth, but many smaller and midsize operators tend to ignore the prospect of seeking growth in times of greater economic uncertainty and may not be aware of the advantages that continued growth could afford them. This is often referred to as "Conservatism Bias," a behavioral finance term we covered in our April 2020 issue of Capital Markets Perspective®. Conservatism Bias refers to investors forming viewpoints but failing to change opinions even as new information becomes available. This article does not suggest or imply business leaders should grow at all costs or in a reckless manner, it is simply outlining some of the potential advantages should they choose to do so. We have observed the most successful business leaders are disciplined and consistent in seeking growth regardless of the economic cycle, and also employ a long-term plan to guide their growth decisions.

A Simple Case Study Example

One of the primary reasons we hear today for not pursuing growth is the increase in interest rates. The following graph illustrates the Secured Overnight Financing Rate (SOFR), which is the base rate for most corporate loans, from 2020 to current:



Source: Federal Reserve Bank of New York

As is visible in the Historical SOFR exhibit, the base SOFR rate increased sharply between 2020 and 2023. Without additional context, or testing one's intuitions through a financial model, such a dramatic change in credit markets is more than sufficient to convince many operators that they should simply focus on existing operations and "weather the storm" until capital is available on more favorable terms. Our intuitions, however, are not always aligned with reality.

In order to illustrate the power of a growth mindset, we have created an abbreviated case study to compare cash-on-cash equity returns for a convenience store portfolio after a five-year holding period under two scenarios: one in which an operator continues to acquire stores even as the cost of capital ▶

Projected Financial Performance — *All Figures in Thousands*

	Time Zero	12 Mos. 12/31/2021	12 Mos. 12/31/2022	Static Scenario 12 Mos. 12/31/2023	Static Scenario 12 Mos. 12/31/2024	Static Scenario 12 Mos. 12/31/2025	Bolt-on Scenario 12 Mos. 12/31/2023	Bolt-on Scenario 12 Mos. 12/31/2024	Bolt-on Scenario 12 Mos. 12/31/2025
Store Count		*30*	*30*	*30*	*30*	*30*	*45*	*45*	*45*
Total Fuels Gallons		37,005	36,517	36,037	35,564	35,098	54,540	53,823	53,117
Total Fuels Gross Profit		$ 16,601	$ 16,757	$ 16,905	$ 17,048	$ 17,185	$ 25,206	$ 25,426	$ 25,637
Total Fuels Gross Margin - cpg		*44.9*	*45.9*	*46.9*	*47.9*	*49.0*	*46.2*	*47.2*	*48.3*
Total Inside Sales		61,800	63,654	65,564	67,531	69,556	96,464	99,358	102,338
Total Inside Gross Profit		22,241	22,908	23,595	24,303	25,032	34,715	35,757	36,830
Total Inside Gross Margin		*36.0%*	*36.0%*	*36.0%*	*36.0%*	*36.0%*	*36.0%*	*36.0%*	*36.0%*
Total Other Income		1,011	1,021	1,031	1,041	1,052	1,536	1,552	1,567
Total Adj. Operating Expenses		25,530	26,070	26,386	26,905	27,439	39,094	39,857	40,643
Total Adjusted EBITDA		$ 14,323	$ 14,615	$ 15,146	$ 15,488	$ 15,829	$ 22,364	$ 22,878	$ 23,391
Annual Cash Flows & Equity Returns									
(-) Principal on Long Term Debt		(4,800)	(4,800)	(4,800)	(4,800)	(52,800)	(7,200)	(7,200)	(84,000)
(-) Interest on Long Term Debt		(2,820)	(2,626)	(2,432)	(2,238)	(2,044)	(4,809)	(4,451)	(4,094)
(-) Taxes		(966)	(306)	(941)	(1,385)	(1,647)	(1,313)	(1,444)	(2,006)
(-) Capital expenditures		(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(2,250)	(2,250)	(2,250)
(-) Equity Cash Outlay for Bolt-on		-	-	-	-	-	(24,000)	-	-
(-) Taxes on Sale		-	-	-	-	(11,916)	-	-	(15,361)
Net Cash Flow		4,237	5,383	5,473	5,565	(54,078)	(17,209)	7,532	(84,320)
Terminal Value						133,038			196,735
Pre-Tax Cash Flow to Equity	(48,000)	5,203	5,689	6,414	6,949	92,523	(15,895)	8,976	129,782
After-Tax Cash Flow to Equity	(48,000)	4,237	5,383	5,473	5,565	78,960	(17,209)	7,532	112,415
Pre-Tax Equity IRR						*22.6%*			*23.8%*
After-Tax Equity IRR						*18.1%*			*19.0%*

Source: Matrix Capital Markets Group, Inc.

Annual Same-store Performance Drivers

Initial Acquisition & Bolt-on Acquisition	
Gasoline Volume, YoY % Change	(1.5%)
Diesel Volume, YoY % Change	–
Gasoline Margin, YoY Change (cpg)	1.0
Diesel Margin, YoY Change (cpg)	1.0
Inside Sales, YoY % Change	3.0%
Other Income, YoY % Change	1.0%
Operating Expenses	*2.0% - 2.5%*
Annual Corporate Overhead per Store:	
Pre Bolt-on	$30,000
After Bolt-on	$24,000
Annual Maintenance CapEx per Store	$50,000
Four Wall EBITDA per Store	$500,000

Acquisition & Financing Assumptions

Initial Acquisition	
Initial Number of Stores	30
Acquisition EV/Four Wall EBITDA Multiple	8.0x
Debt Financing, %	60.0%
Equity Financing, %	40.0%
Term Loan Details	
Amortization, straight line (years)	15
Term (years)	7
Interest Rate	
SOFR at Time Zero	*1.54%*
Credit Spread	*2.50%*
Total Interest Rate	4.04%
Total Funded Debt/Corporate EBITDA	5.0x
Exit EV/Four Wall EBITDA Multiple	8.0x

Bolt-on Acquisition	
Initial Number of Stores	15
Acquisition EV/Four Wall EBITDA Multiple	8.0x
Debt Financing, %	60.0%
Equity Financing, %	40.0%
Term Loan Details	
Amortization, straight line (years)	15
Term (years)	7
Interest Rate	
SOFR at Time of Bolt-on	*4.31%*
Credit Spread	*2.50%*
Total Interest Rate	6.81%
Total Funded Debt/Corporate EBITDA	5.0x
Exit EV/Four Wall EBITDA Multiple	8.0x

Source: Matrix Capital Markets Group, Inc.

increases (the "bolt-on scenario"), and another in which the operator chooses not to pursue additional acquisitions and solely operate his existing stores (the "static scenario"). Similar to the historical SOFR rate changes observed between 2020 and 2023, the initial acquisition in each scenario was assumed to occur at the beginning of 2020 when SOFR was 1.5%. In the bolt-on scenario, the financing was assumed to occur at the beginning of 2023 when SOFR was over 4.3%. To ensure comparability between each scenario, same-store performance drivers remained the same in both cases, acquisition and exit multiples were held constant, and only limited overhead synergies were projected on the acquired stores. Additionally, any cash flow impacts generated by working capital, likely to be minimal in c-store operations regardless, were ignored. Detailed same-store performance drivers, as well as key acquisition and financing assumptions are available below in the model output.

As previously shown in the summary financial performance and model outputs, not only was the operator that continued to acquire stores during a tougher economic cycle able to increase total proceeds at the end of five years ($85.8mm vs $68.8mm), but the operator also increased its internal rate of return on the total investment (23.8% vs 22.6%) while borrowing at costs 68% higher than their initial investment. So, how did the operator in the bolt-on scenario increase their total return? This is primarily driven by the operator's decision to continue using leverage to grow the business. Even borrowing at rates 68% higher than the initial acquisition, it is still accretive to continue pursuing acquisitions. Additionally, while not factored into the bolt-on scenario addressed in this article, the majority of acquirers will be able to begin leveraging their scale for procurement and operational synergies to increase the profitability of acquisitions and enhance their internal rate of return even further.

It is human nature to become more risk averse during times of economic uncertainty, but we all must remind ourselves to consistently pursue growth opportunities and not let the fluctuations in business cycles unduly influence future business decisions. Often, those that continue to pursue growth gain an advantage in more challenging economic cycles as there can be less competition from other companies seeking new sites, acquisitions, and other growth avenues. Similar to the theory of dollar cost averaging, the case study shows it is better to make consistent investments into a business over time, rather than attempting to time the market. Lastly, operators do not have the luxury of choosing the timing of when acquisitions are presented to them, and thus when a well-suited acquisition does become available, it is important to act as that opportunity may never come to market again. ★

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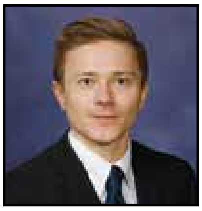

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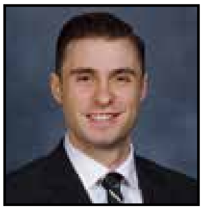

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Checking the Halfway Point

BY JOHN EICHBERGER, TRANSPORTATION ENERGY INSTITUTE

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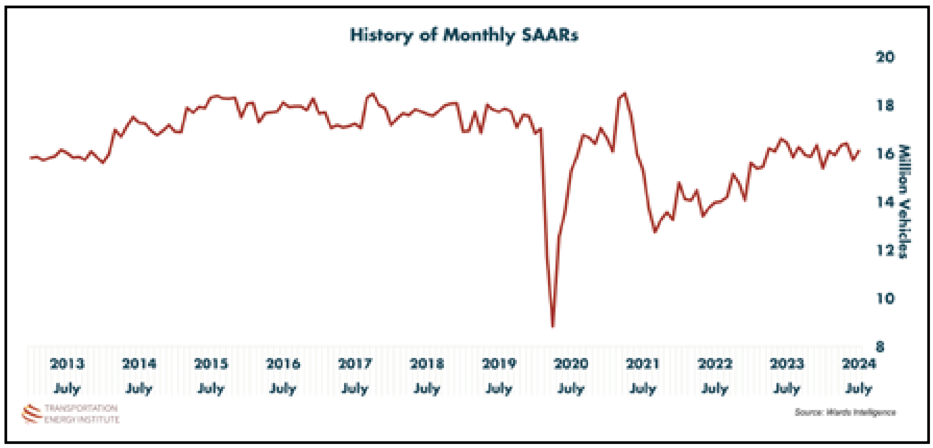
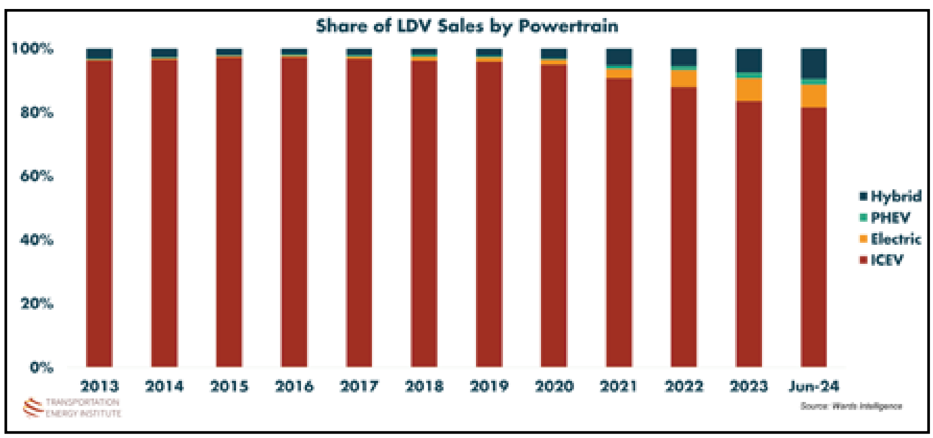
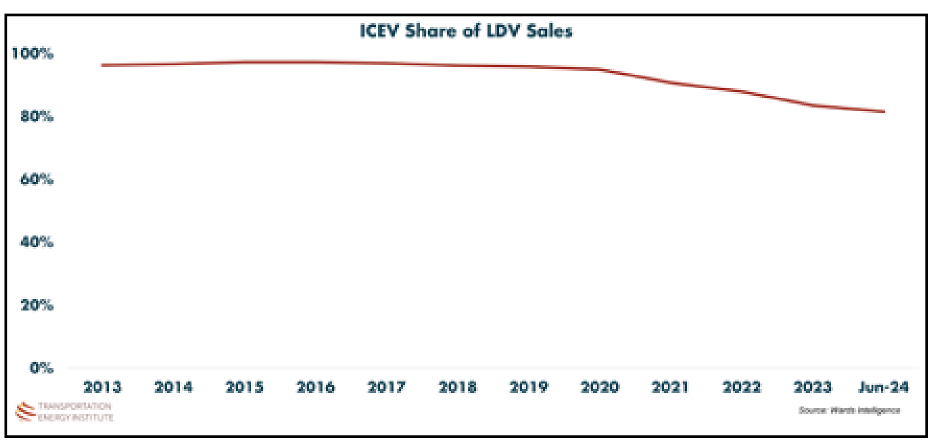
Summer is a great time to take stock of where things stand for the year, and with the vehicle market having crossed the halfway point, now is a great time to look at vehicle sales data to see what is happening.

According to WardsIntelligence, sales through June and entering into July have resulted in a seasonally adjusted annual rate (SAAR) projection of light duty vehicles (LDV) sales for 2024 of 16.1 million units. If this holds true and sales do eclipse 16 million units this year, that will be the first time that threshold has been crossed since before the pandemic. The SAAR is calculated each month to give an idea of where the market is heading. How accurate might it be? Well, since 2020, there have been 55 monthly SAARs calculated and 22 of those have predicted more than 16 million units sold. That said, the SAAR changes every month to factor in new developments in the market and seasonal factors that affect sales. If accurate, however, the vehicle industry is poised for a good year.

As we always do, we track the sales of vehicles with different powertrains. Through June, vehicles equipped with only internal combustion engines (ICE) remained dominant at 81.4%, although this continued a consistent decline in market share that began after 2016 when they commanded





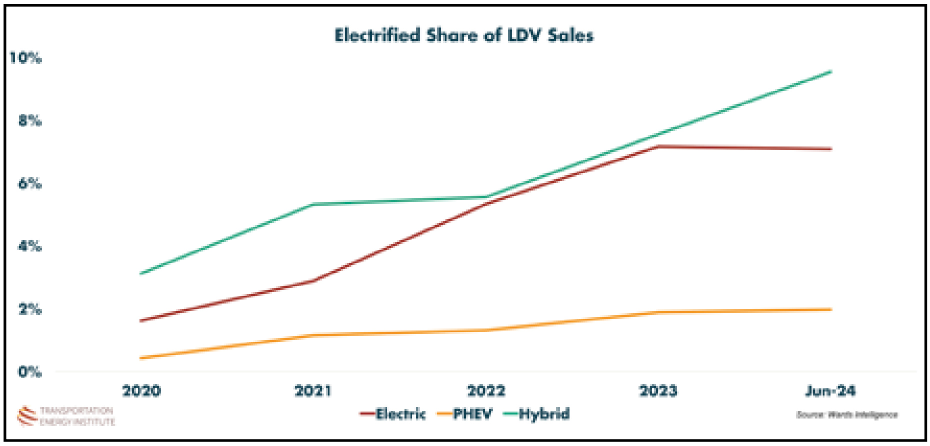


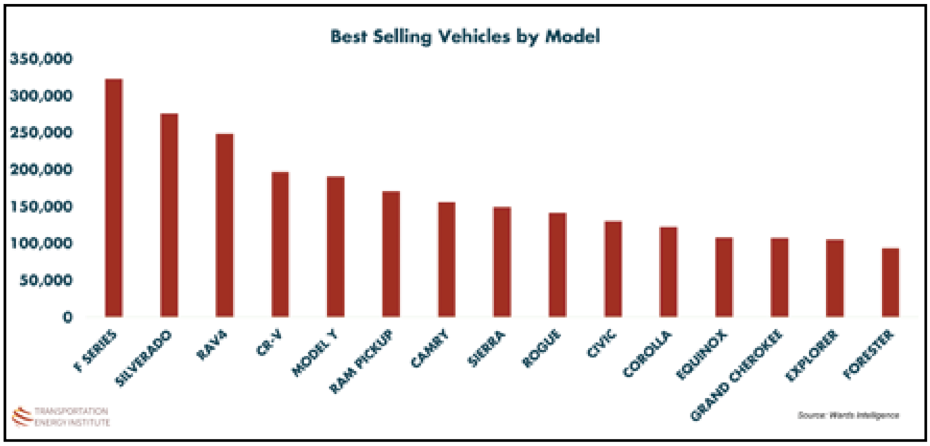
97.2% of the market. Hybrid electric vehicles (HEV) remain the second most popular powertrain, jumping from 7.6% of sales in 2023 to 9.5% through the first half of 2024.This continued a growth trajectory that has seen market share increase from just 3.1% in 2020. Pure battery electric vehicles (BEV) remained at 7.1% share of the market, just below their 2023 average of 7.2%, but still up from 1.6% in 2020. Meanwhile, plug-in hybrid electric vehicles (PHEV) gained some share, climbing from 1.9% of the market in 2023 to 2.0% through June and up from just 0.4% in 2020.

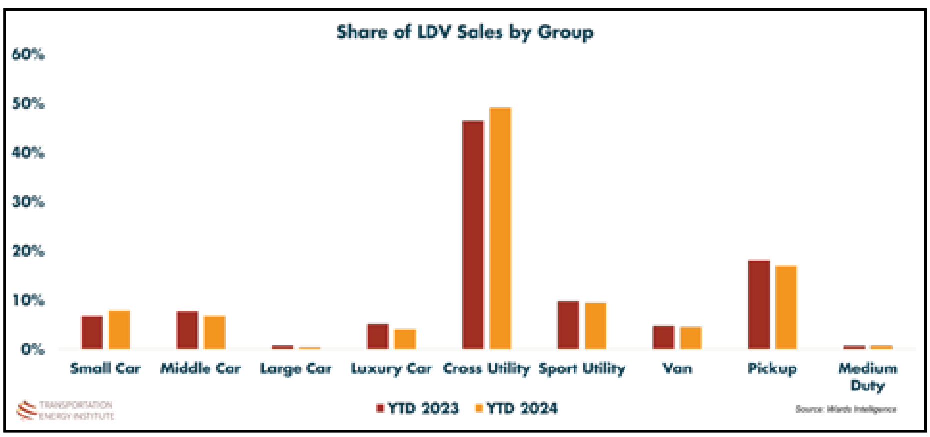
Top 15 Vehicles

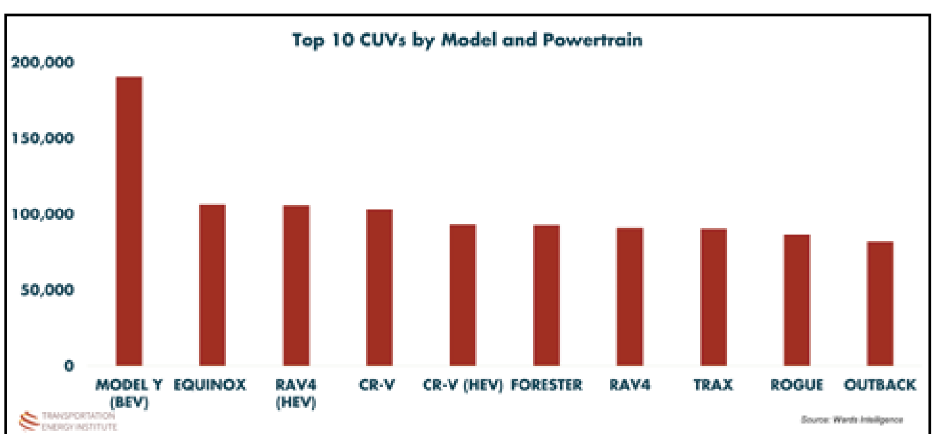
Again, using WardsIntelligence data, the top 15 vehicles sold through June are not very surprising. Wards' original listing includes all vehicles within a specific model and is presented below. The Ford F-series remains the dominant vehicle in the market (297,335 ICE, 33,674 HEV, 15,645 BEV), followed by the Chevy Silverado, and then the Toyota RAV-4 and Honda CR-V. The Tesla Model Y commands the fifth position, a significant development for an all-electric vehicle to rank so high. The top six is rounded out by the Ram pickup after which the first passenger car enters the list in the form of the Toyota Camry.

But when we sort the data and separate specific models by powertrain variants, we get a slightly different view of the market. That is also presented below. In this assessment, the Model Y rises to the third most popular model in the U.S. through the first six months. This is very impressive, especially considering it is flanked on both sides by ICE-powered pickup trucks. The Honda Civic ICE then takes over sixth position as the most popular passenger car. Notably, the RAV-4, which was the third most popular model when all powertrains were combined, is eighth overall with its hybrid powertrain.









Crossovers Still Dominate

In a trend that has been consistent for more than a decade, the category of cross-over utility vehicle (CUV) remains the favorite option for American buyers, increasing its dominance over the first six months of 2024 to 49.1% of all vehicles sold. This is a jump over last year at this time when CUVs captured 46.4% of the market. Not only did CUVs dominate in units sold, but manufacturers also made available for sale approximately 200 different models and variants, giving buyers the greatest selection of options from which to choose.

It is worth noting that when we evaluate the top 10 CUVs sold through June, the Tesla Model Y is the number one model, selling more than 190,000 units. Positions two and three were in a dead heat, separated by fewer than 500 units with the RAV-4 HEV coming up just short of second place. Rounding out the top five was another HEV, the Honda CR-V.

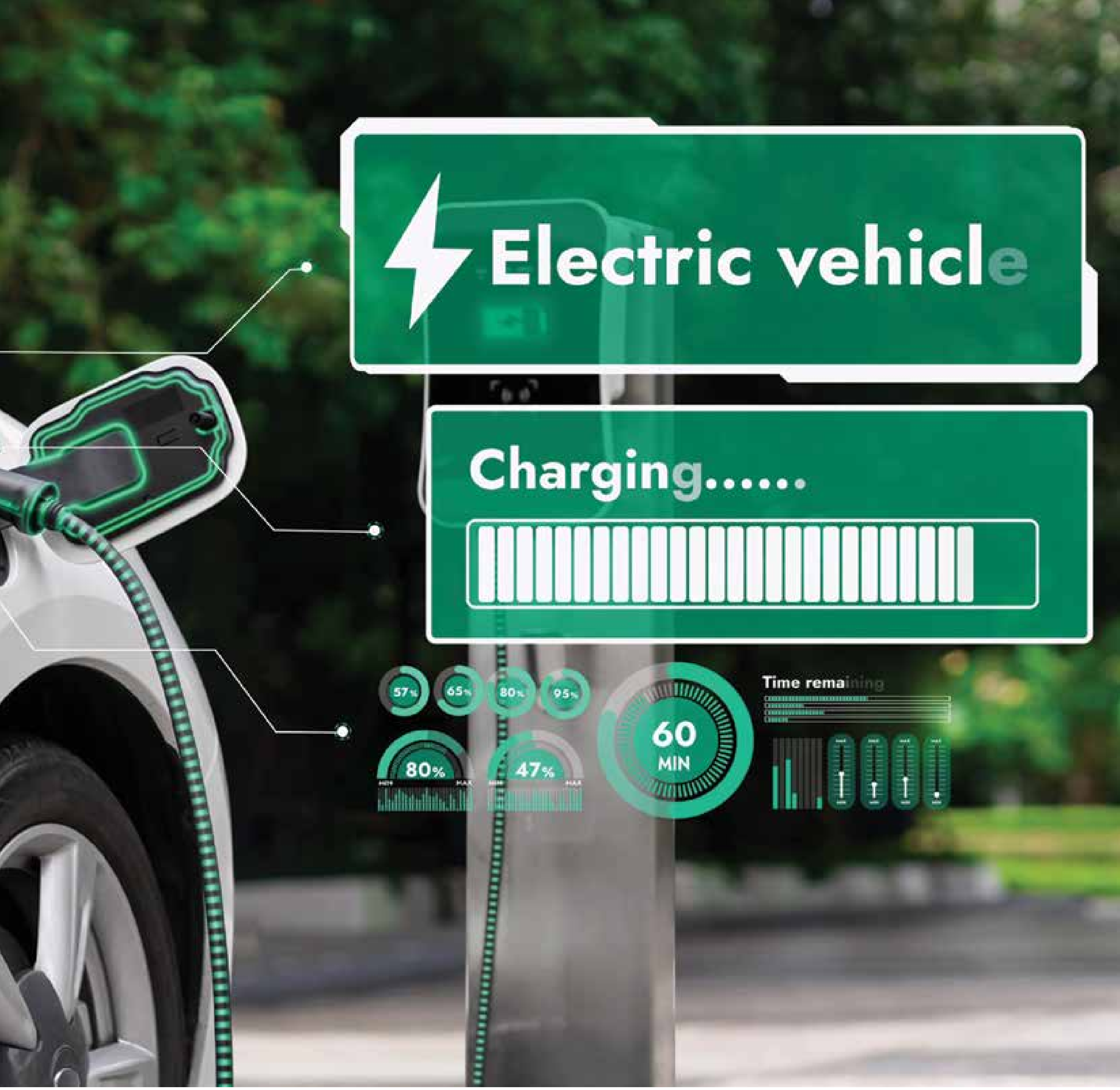
Summary

If the SAAR can be relied upon, 2024 could be a good year for vehicle manufacturers, but we will see how the final six months play out. You never know what might happen in an election year.

When we look at sales data, it is important to look beyond the top line results. Those results tell us that ICEV remain dominant, hybrids continue to gain share, and BEVs have steadied around the 7% market share threshold. However, diving a bit deeper uncovers some nuances that show that not all can be summed up in top line data. Certain models of BEVs and HEVs are performing very well and outpacing their ICE variants, which might indicate additional life for electrified powertrains assuming they are offered in vehicle models that consumers want.

And that is the ultimate message data has been telling us for years – consumers will buy the vehicle they want. If manufacturers want them to purchase alternative powertrains, they need to focus on delivering a vehicle the consumer wants – period. Otherwise, it doesn't really matter what powertrain is being promoted. ★

John Eichberger is Executive Director of the Transportation Energy Institute, a non-profit, independent think tank founded and managed by NACS, the association for convenience and fuel retailing. Drawing diverse stakeholders from the vehicle and fuels industries, the Institute encourages multi-industry collaboration and produces credible, independent analytical reports to better inform business leaders and policymakers about opportunities and challenges in the vehicles and fuels markets.



LOYALTY AND EVS

BY MAURA KELLER

Today's loyalty programs are key ways of getting people to remember your company, your products, and your brand. While loyalty programs have historically captured the attention of gasoline consumers, the industry is having to pivot and reevaluate what loyalty programs look like as the influx of electric vehicles (EVs) gains momentum.

So what role does customer loyalty marketing play in the c-store industry today, especially in light of the growth of EV consumers?

"It starts with redefining the word at the heart of the category – convenience – because it doesn't mean the same thing it did a decade ago," says Ian Baer, founder, Sooth, a market intelligence company. "Ten years ago, electronic and app-driven commerce had an audience but did not necessarily represent the mainstream of how life gets done. The pandemic closed the gap between the 'traditional' and 'digital' consumer. It evolved behaviors rapidly so that now, whether you're older or younger, urban or rural, affluent or not, you can pick up your phone and get nearly anything delivered to your door within an hour or so. So, where loyalty may have been a matter of location or offering a perk like gas rewards or free coffee, today, loyalty needs to come from a more personal place and deliver a level of gratification Ninety-five percent of people choose the brand that meets their needs at the moment, and now those people have nearly limitless ways to do so."

Indeed, c-store owners and operators have had to pivot their loyalty marketing initiatives as more consumers begin to drive EVs.

As Baer explains, it certainly makes loyalty programs based on fuel discounts less universal – and there's a movement away from practical, accumulated rewards in most consumer categories. Whether it's access to better service, exclusive products, or something that makes people feel personally recognized and respected, Baer says those types of "soft benefits" engender true loyalty and make it harder for competitors to throw money at a customer to win their business.

"As consumers have come to understand that owning an EV is more based on personal values than any dramatic cost benefit, local businesses have an opportunity to align around support of community-based green initiatives that align with the other life priorities of these green vehicle drivers," Baer says. "Knowing, for example, that proceeds from purchases at a local c-store might be used to clean up a local beach or park will go a long way toward gaining these consumers' loyalty."

Reilly Newman, brand strategist and founder at Motif Brands, says brand now matters more than ever since it is the "core" of customer loyalty. Previously, loyalty was derived from proximity. Now, loyalty is more brand-centric and includes what your engagement means with this brand.

"The 'meaning' of this engagement takes into account the context of the experience and our perception of it. Did the c-store brand provide a clean, easy, and friendly experience that also gave you the products you prefer?" Newman says. "Unfortunately for many c-stores, the entire model was based on simple convenience. So things were done not with the brand in mind, but just efficiency. As Amazon (and others) have now changed our definition of convenience and efficiency when it comes to shopping, brands who have hung their hat on 'convenience' must now look beyond the expectation of such." And in the area of EVs and c-stores, Newman sees brands needing to pivot just as Mercedes and Starbucks currently are in their recent collaboration announcement of installing Mercedes chargers at 100 Starbucks.

"It's a brilliant move that elevates the need beyond just getting a charge, but also creates the convenience of charging both our cars and ourselves – the brand association and 'cross-pollination' between the two premium/luxury brands will be powerful," Newman says. "Brands like 7-Eleven will need to start doing the same by thinking more of the lifestyle of their buyer who want a Slurpee or snack. However, their model of convenience and fill n' go, will have to pivot since charging does take longer."

Michael Schmied, senior financial analyst at Kredite Schweiz, has been keeping a close eye on how loyalty programs in convenience stores are evolving – especially with the rise of EVs.

"These changes are fascinating because they directly impact consumer behavior and spending, which is crucial for the financial health of these stores," Schmied says.

Schmied noticed that convenience stores are enhancing their mobile app capabilities to stay relevant in the age of EVs. They're not just adding basic features – these apps are becoming powerhouses of convenience and engagement.

"For instance, I've seen apps that now offer real-time updates on available charging stations, which is incredibly useful for EV drivers. But it doesn't stop there," Schmied says. "These apps are also integrating exclusive in-app discounts for in-store purchases made while charging. Imagine getting a notification for 20% off your favorite snack just because you're using their charging station."

Schmied does foresee a potential reduction in foot traffic and a decrease in fuel sales as more people charge their EVs at home. This trend can be a challenge for fuel marketers aiming to grow their customer base.

"It's not just about selling fuel anymore," Schmied says. "Stores need to diversify their offerings and create a more compelling in-store experience to keep customers coming back." ►

Strategies To Take

So what will these loyalty programs need to look like as people purchase electricity rather than gasoline for their vehicles?

According to Bonnie Woods, convenience store loyalty specialist at Paytronix, customer loyalty marketing plays a significantly larger role in budget and decision making of convenience operators than it did a decade ago. Loyalty programs in the c-store space used to be an optional investment and have since have become table stakes. Punch cards were more common, and technology implementations that are common today such as carwash integrations, Push/Pull messaging, and one-to-one customer journeys were practically nonexistent.

"Today, one point that convenience operators need to contend with is the fact that many EV consumers can charge their car at locations apart from gas stations. According to the Department of Energy, 80% of all EV charging takes place at home – this does not include consumers who charge their vehicle at work or in charger-friendly parking lots," Woods says. "This means more often than not, complete EV fill-ups are likely to come from transient guests "just passing through" who are less apt to be local residents. Because of these factors, it is likely that convenience stores will have a more difficult time converting EV customers to loyalty by focusing on EV alone."

For consumers that choose to charge at a convenience location, Woods says there is an opportunity to "woo" them in a manner you can't with fuel-based consumers. "Depending on the available charging equipment, retailers can have several minutes with a customer who is waiting for their vehicle to charge. In that time, they can be encouraged in-store with signage – both digital and traditional – advertising product discounts and a variety of convenient, high-quality food options."

Newman says the selling of gas or electricity shouldn't be the point for these brands. They are the excuse for visitation, but the brand must look beyond these functional benefits and see how they can increase the perceived value.

"I'd rather recharge at 7-Eleven because I want a Slurpee and I have a rewards account with them," Newman says. "However, since electricity is much cheaper, they could also "give it away" as many EV brands have done to entice the preference of the buyer. It will be more difficult for gasoline marketers to establish that loyalty with EV consumers since it is no longer just about refueling. As the market of the demand for charging is saturated by EV brands as well as collaborations like Mercedes/Starbucks, c-stores will need to focus on their brands to draw in the demand through desire. The choice is no longer 7-Eleven vs. Arco, but 7-Eleven vs. Starbucks; Slurpee vs. Frappuccino."

That said, brand appeal will help draw the demand for loyalty rewards on the part of EV consumers.

"These c-stores will now need to focus on adding more value that isn't just saving time (convenience) or money but more subjective value like one's perception of a brand," Newman says. "Do they want to identify with the brand? Would they wear it? Just as Starbucks has made their tumblers into more branded fashion items, 7-Eleven seems to be pushing this direction when you look at their social feeds. The imagery is of cars, late-night lifestyle, and urban fashion. This is pushing and changing the perception of the brand by adapting the meaning of it."

Of course, it's important to remember that money, whether in the form of discounts or rewards, is just one type of currency. According to Baer, for people who used to spend three minutes filling their tank and now may have 30 minutes or more to kill while their EV charges, time may be an even more valuable commodity. C-stores need to think about how to help people get more out of that time. This could be a coffee or snack bar offering quick and healthful food options or even games and experiences that offer customers the opportunity to be entertained or win a prize.

"Or, knowing there can be a wait for charging stations to be available, perhaps it's more about a membership program or a level of earned status that ensures the availability of a quick charge when you need it," Baer says. "Those are the experiences that will keep people coming back."

How easily it will be to "woo" EV consumers will depend on what is waiting inside that store. As Baer points out, people are going to want to use that charging time productively. Other time-consuming automotive services that could be offered during charging, such as cleaning or detailing, are natural.

"Certainly, some sort of engaging food and beverage experience makes a great deal of sense – beyond salty snacks and sodas. And who wouldn't want a relaxing massage while their vehicle charges? Realizing that time may be the most important commodity in this equation changes how you look at things," Baer says.

To further address these challenges, Schmied says companies should provide EV-specific perks to entice customers. Offering free or discounted snacks and beverages during charging sessions can make a big difference.

"Or how about loyalty programs that reward frequent charging visits with points redeemable for store merchandise? Partnering with local businesses to offer exclusive discounts for app users is another great idea," Schmied says. "These perks can create a loyal customer base that sees real value in stopping by – even when they aren't refueling their vehicles."

The Future of EVs in the C-Store Environment

With so many mobile and e-commerce alternatives to the traditional convenience store, today's gasoline marketers need to lean more into their physical presence and connection to the local community.

"You'll never be more convenient than a service that delivers to someone's door, but you can be more connected to their community, local businesses, schools, sports clubs, and the like," Baer says. "And speaking of home delivery, being able to offer that in addition will go a long way towards keeping these customers loyal."

We also know that emotional connection offers the greatest leverage with customers today – whether they are purchasing gas or charging their EV. According to Baer, people who feel emotionally connected spend four times more and remain far more loyal while recommending those businesses to friends and family. For businesses, this means investing in a level of customer understanding.

"Talk to people in the stores. Find out what matters to them. What else you could offer to make their lives easier or more satisfying. Use customer surveys," Baer says. "Partner with other local businesses to offer customers greater value and recognition. It's a matter of making sure you know your customers better than anyone else and making people feel rewarded based on that knowledge."

Because loyalty programs are far from the norm in this new era of EVs, Woods says it's important for convenience stores to find opportunities to differentiate themselves. Consider your competition and where you can make a name for yourself amongst your consumers. Retailers should strive to create additional purchase occasions outside of regular fill-ups or EV charging in anticipation of this shift away from solely fuel-driven or charge-driven trips.

"Creating a strong food service program, continuing to offer products that drive habitual shopping patterns, investing in a proprietary packaged food offering, and a commitment to operational excellence and cleanliness are all strategies to help drive consumer loyalty outside of gasoline," Woods says. "Loyalty programs are not the sole solution when the branding is lacking, instead the best loyalty programs are simply a reflection of strong branding that the retailer created." ★

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The Future of Internal Combustion Engines: A Strategic Approach to Decarbonization

BY SCOTT FENWICK, TECHNICAL DIRECTOR, CLEAN FUELS ALLIANCE AMERICA

For over a century, the internal combustion engine (ICE) has been the backbone of global transportation and industry. Yet, as the world intensifies its focus on decarbonization, the role of ICEs is increasingly scrutinized. Electrification often dominates the narrative, with many viewing it as the inevitable future of energy. However, it's crucial to recognize that ICEs, powered by various fuels, still have a significant role in our energy future, especially as we explore the potential of clean and renewable fuels.

Central to this evolving discussion is the Engine Technology Forum (ETF), formerly known as the Diesel Technology Forum. As someone deeply involved in the clean fuels sector, I recently had the opportunity to speak with Allen Schaeffer, executive director of ETF, about the organization's rebranding and its implications for the future of ICEs.

Rebranding an organization is no small feat, as we at Clean Fuels Alliance America know well. When the National Biodiesel Board transitioned to Clean Fuels Alliance America, it was a deliberate decision to more accurately reflect our broadened focus on all types of clean fuels, not just biodiesel. This shift was necessary to ensure that our mission aligned with the evolving needs of the market and the environment. Similarly, the Diesel Technology Forum's evolution into the Engine Technology Forum acknowledges the expanding scope of ICEs beyond just diesel technology. As Schaeffer explained, this rebranding followed more than a year of introspection and external feedback, driven by the need for a more inclusive discussion around engines. The focus is no longer solely on defending diesel; it's about advocating for the entire spectrum of internal combustion technologies, whether powered by gasoline, natural gas, propane, or other fuels.

A key point of our discussion was the misconception that electrification is the sole solution to decarbonization. While electrification will undoubtedly play a crucial role, our energy landscape is diverse, and our solutions must be as well. The idea that a single technology can meet all the varying demands of our economy is unrealistic. ICEs continue to prove their value, offering versatility by operating on a wide range of fuels, each with distinct advantages and applications. Diesel engines remain essential in heavy-duty transportation and agriculture, while natural gas engines are gaining ground in sectors like power generation and refuse collection. Meanwhile, advancements in renewable fuels — such as biodiesel, renewable diesel, and sustainable aviation fuels — are making ICEs cleaner and more efficient than ever.

This conversation is often portrayed as a battle between combustion technology and electrification. However, this binary view oversimplifies a complex issue. The reality is that ICEs, especially when fueled by renewables, can coexist with electrification and other emerging technologies to provide ▶

a balanced, resilient energy system. ETF's broadened focus enables a more comprehensive dialogue, positioning the organization to advocate for the continued relevance of ICEs in a decarbonized world. As Schaeffer noted, the challenge of decarbonizing our global economy is too vast for any single solution; a multi-fuel, multi-technology approach is essential.

Despite the increasing emphasis on electrification, the ICE industry is far from stagnant. Many of ETF's members are making significant investments in new ICE technologies, including those using hydrogen and other alternative fuels. This investment reflects the understanding that in many applications, ICEs remain the most practical and cost-effective solution. Research and development are also critical to ETF's strategy, with the organization involved in several major research projects, including studies on hydrogen as a fuel for ICEs, the future of light-duty vehicles powered by ICEs, and the adoption of next-generation technologies in heavy-duty trucks.

It's important to remember that ICEs power not just on-road vehicles but also agricultural and construction equipment, marine vessels, and locomotives. Each of these sectors has unique requirements and challenges, and ICEs continue to be the technology of choice for many. For example, in the marine and rail industries, ICEs are often the best option for reducing emissions in the near term. These engines, generally older and less efficient, are prime candidates for upgrades to cleaner technologies and fuels. By focusing on these sectors, ETF is helping ensure that ICEs remain a viable and environmentally responsible option across the entire spectrum of transportation and industry.

The work being done by ETF complements our efforts at Clean Fuels Alliance America. While we focus on advancing the adoption of clean fuels, ETF ensures that engines themselves continue to evolve and improve. Together, we are working to create a future where ICEs and clean fuels operate in tandem to reduce emissions and enhance sustainability.

The future of internal combustion engines is not just about maintaining the status quo; it's about embracing change and innovation. As we move forward, it's essential to advocate for a balanced approach that includes a wide range of technologies and fuels. The road to decarbonization is long and complex, but with organizations like ETF leading the way, I'm confident that ICEs will remain a vital part of our energy future.★

SCOTT FENWICK
is the technical director for Clean Fuels Alliance America, where he leads the advancement of member services related to technical and quality assurance. With nearly 25 years of experience in the fuel inspection industry, Fenwick has played a key role in positioning the biodiesel industry and currently coordinates OEM and fuel quality programs.

C-stores Should Get to Know These 3 Consumer Behaviors

BY GREG CROW, PDI TECHNOLOGIES

Those of us in the data crunching business spend a lot of time trying to identify sweeping trends, the next great thing, and even microscopic shifts in consumer behavior. Why? Understanding the consumer mindset is critical to defining actionable insights that can quickly give both convenience retailers and CPG brands a competitive advantage.

The more you know what's driving c-store consumers at a micro and macro level, the better you can align your business strategy and day-to-day operations. In the fuel and convenience retail space, we especially need to understand how consumers behave at both the pump and inside the store.

Here are three consumer behavior patterns that should influence decision-making for c-store operators of all sizes.

1. A return to "normal" behavior has increased overall fuel trips

Following a rough couple of years in the COVID era, we finally started seeing consumers showing up at c-stores in numbers approaching what they were in 2019. One of the biggest drivers of these c-store trips was a bit of inflation relief. In particular, falling average prices (especially lower gas prices) drove shoppers back to c-stores.

Those lower gas prices have been beneficial for both fuel retailers and consumers. Because consumers are no longer suffering price shock every time they head to the pump, they're much more likely to venture inside the store. The resulting recovery in store trips reflects a return to more familiar buying patterns—as indicated by average basket sizes and a rise in foot traffic across all the expected dayparts.

With less money exiting their pockets for fuel purchases, shoppers have re-embraced filling up their tanks. In turn, this trend has created more opportunity for retailers to capture the attention of consumers who are spending more time at the pump.

2. Pump-to-store conversion is hot again

Motivating those consumers to leave the pump and enter the story is critical to store profitability. The good news is that pump-to-store conversion is making a bigger comeback.

When consumers make their way into the store while fueling up, what's on their priority list? The transaction-level data reveals that they're focused on addressing two primary needs: hunger and thirst.

To dive a bit deeper into categories, pump-to-store transactions have over-index on packaged beverages and foodservice options. In order, the top five pump-to-store conversion drivers are:

1. Packaged beverages
2. Foodservice
3. Salty snacks
4. Candy
5. Dispensed beverages ▶


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The value of conversion is clear when you consider the average basket spend on combined fuel and in-store trips is $28.88 while in-store only trips average just $12.64. Even if pump-to-store consumers spend more per trip, they often have fewer categories in their baskets—with fuel being the primary expense.

This brings up the question of whether (and how) you can motivate them to add incremental items to their basket. One possibility is to advertise and promote offers at the pump or leverage a mobile app or rewards program to incentivize fuel shoppers into visiting your store.

3. Location has an outsized impact on beer sales

Drilling down into category-level consumer behavior often yields some intriguing results. For instance, what happens when c-stores must compete with nearby liquor stores and grocery chains that sell alcohol?

Based on a detailed study conducted in the Denver metropolitan area, the proximity of nearby competitors often takes a big gulp out of c-store beer sales. In fact, the data reveals that c-stores located a mile or further from competitors tend to report much higher beer sales, units, and store trips:

- 2.5 more beer sales per store
- 2.2 more units sold per store
- 2.3 more trips per store

These staggering numbers have profound implications for both convenience retailers and CPG brands representing beer. As a result, beer brand representatives might need to re-evaluate their strategy for supplying c-stores facing stiff nearby competition, and they might also want to explore the value of using age-restricted offers to connect with potential beer shoppers.

If you operate a c-store located near alcohol-selling competitors, you might also want to scrutinize how much beer to carry in your inventory, potentially devoting less shelf space to beer or stocking more single-unit options rather than multi-packs.

The right data should lead to actionable insights

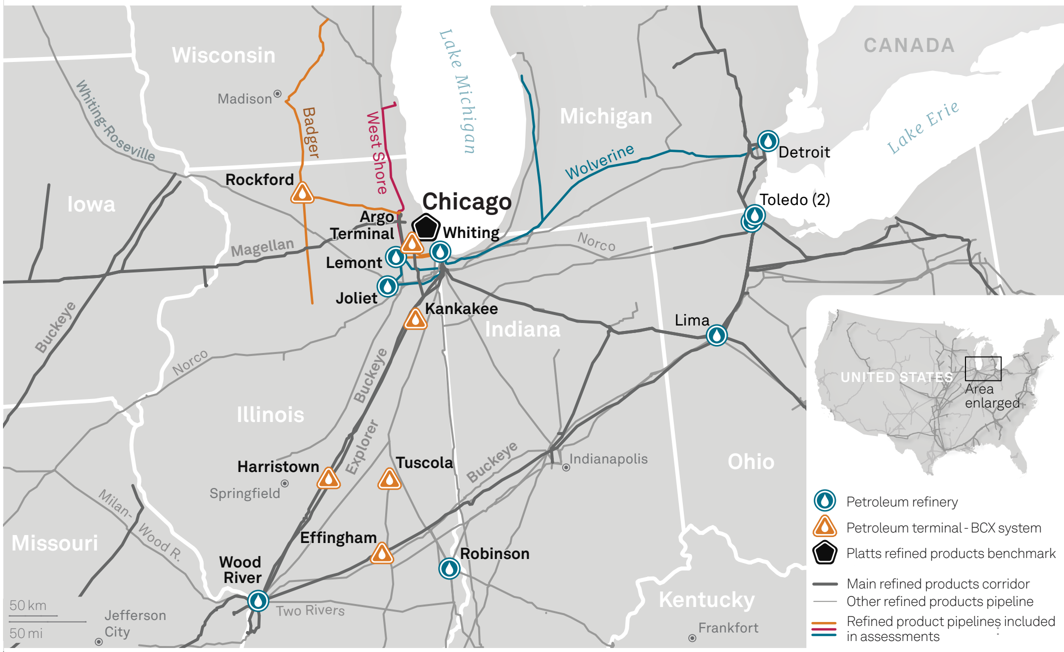
No matter what role you play in the c-store ecosystem, having access to the latest fuel and convenience industry data is critical to understanding consumer behavior and ensuring you can engage them on their terms.

To discover more industry trends and insights, download the free “Tracking Convenience Report: from the Pump to the Store.” https://pditechnologies.com/resources/report/may-2024-tracking-convenience/★

Chronicle of a Volatility Foretold

BY JULIA MARTINEZ, SALVADOR URIBE, AARON TUCKER, S&P GLOBAL COMMODITY INSIGHTS

Chicago area refined products supply system



Credit: CI Content Design
Source: EIA; S&P Global Commodity Insights

The US Atlantic Hurricane season is nothing new to refiners along the Gulf Coast, but July's Hurricane Beryl proved to have its most lasting effects a thousand miles inland. Gasoline price differentials spiked and plunged in the Midwest following a string of regional refinery issues, while differentials for RBOB in the Gulf Coast and the Atlantic Coast hit record highs for 2024.

The Category 1 storm made landfall near Matagorda, Texas, halfway between the refinery hubs of Houston and Corpus Christi, affecting a handful of refineries in the region. The remnants of the storm later tracked north, also inflicting damage to several refineries in the Midwest, most notably causing ExxonMobil's 251,800 b/d Joliet refinery in Channahon, Illinois to lose power on July 15.

Despite the efforts of the Gulf Coast markets attempting to resupply the Midwest, the impacts in the region were serious enough for the US Environmental Protection Agency to issue a temporary fuel waiver amid gasoline supply shortages.

Supply issues in the Midwestern region are driven by the isolation of the overall refinery systems in the region. Diesel has shown a less constrained system amid the increase on biodiesel content in the Midwest blends. Summer gasoline was the main concern, an issue that is expected to get worse as more restrictive regulations on gasoline quality are coming to market next year.

Summer Midwest Gasoline Roller Coaster

The Joliet refinery in Channahon, Illinois experienced a sustained outage after a tornado decimated Commonwealth Edison's power infrastructure July 15, forcing the refinery to shut down as its crude distillation unit, fluid catalytic cracking unit and catalytic reformer went offline. The company announced it had successfully restarted the refinery by Aug. 11.

ExxonMobil's Joliet refinery is one of the Big Three among the five refineries serving the Chicago area, along with BP's 435,000 b/d Whiting, Indiana, refinery and the 356,000 b/d Wood River, Illinois plant jointly owned by Phillips 66 and Cenovus. They are complemented by two other refineries: Citgo's 184,414 b/d Lemont, Illinois, plant and Marathon's 243,000 b/d Robinson, Illinois plant.

The Midwest gasoline complex jumped amid Joliet's news also drawing gasoline supply from the Gulf Coast via the Explorer Pipeline. Gasoline prices in the Midwest have spiked and plunged throughout the summer, as the region continues to be plagued with regional refinery interruptions even before the July 15 shutdown of Joliet. ▶

Volatility increased after BP's Whiting announced an accelerated turnaround for July, instead of the originally planned September with Wolverine and Buckeye products shifting to premiums above the NYMEX RBOB front month contract on July 17. The Explorer pipeline freeze notification on July 18 boosted Chicago generics prices.

On July 22, BP's coker at Whiting experienced some operational issues, causing Chicago RBOB prices to spike again. Two days later, Cenovus restarted the Toledo, Ohio fluid catalytic cracking unit after being offline since July 15, while Exxon also announced that power had been restored to the Joliet facility, causing prices to fall slightly but remain positive overall.

Then on July 31, the Cenovus Lima, Ohio refinery shut down two units, causing CBOB prices to spike for Chicago generics, Wolverine and BCX amid tight regional supply.

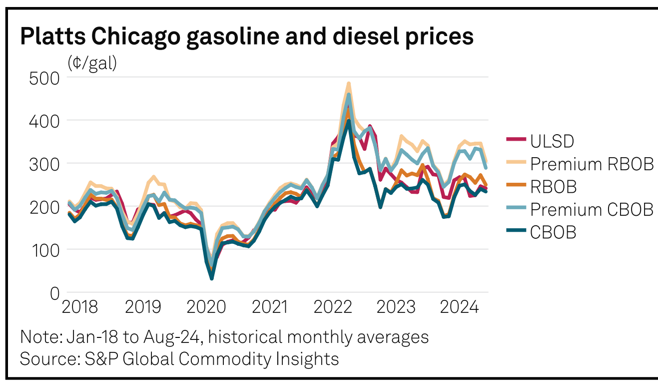
"Everything is so whacky right now, I'm not really sure," a Midwest source said about the difficulty to establish reference values for every product in Chicago on July 31.

In an effort to respond to regional supply shortages after Joliet's power outage, the EPA on Aug. 1 issued an emergency waiver of summertime volatility regulations for gasoline in four Midwest states. The waiver took effect immediately Aug. 1 and was valid through Aug. 20.

It allowed conventional gasoline with a Reid vapor pressure (RVP) up to 9.0 psi – or 10.0 psi for gasoline blends with 9%-15% ethanol – to be produced, sold and distributed throughout Illinois, Indiana, Michigan and Wisconsin, compared with the reformulated 7.8 psi and other conventional grades with lower RVP limits otherwise in effect for those states during the summer to limit the formation of ozone pollution.

"This is one instance where the government is showing a flexibility and common-sense approach to a somewhat rare natural disaster situation and working with other departments to help with supply issues for the short term," one Midwest source said Aug. 1.

The EPA could opt to renew the waiver through Sept. 15, the end of the summertime restrictions on gasoline.



Midwest Drags Up Gulf and Atlantic Coast Gasoline While Diesel Remains Stable

The Joliet refinery outage had an outsized impact on the Chicago refined-products market because ExxonMobil was unable to supply fuel to its partners, one Midwest market source said.

The isolation of the refinery system makes dealing with regional supply shocks more difficult, making the Midwest reliant on Gulf Coast supplies. The Atlantic Coast, however, also relies on the Gulf Coast for gasoline supplies, causing a strain on the Gulf Coast as it attempts to restock its own gasoline while supplying others with product.

On July 31st, Wolverine and BCX CBOB reached a near year high of \$2.6825 cents/gal while generics CBOB was at \$2.625/gal, the highest since Sept. 14 when it was at \$2.655/gal.

Generics RBOB reached $3.1206/gal on July 22. It was last assessed higher on May 21, at $3.51 cents/gal. RBOB at the Buckeye complex reached a nine month-high of $3.4875/gal on May 21 and rose again to $3.1206/gal on July 22.

Generics premium CBOB reached a nine month-high on June 21 when it reached $3.5187/gal and spiked again on July 18 to $3.4689/gal. Generics premium RBOB spiked to a six month-high of $4.1075 on May 21 and on July 22 was at $3.6706/gal.

Meanwhile, market participants on the diesel side cited easy availability of product amid high storage and lackluster demand as reasons for weaker pricing during the Midwest's gasoline supply issues. As a result, the refinery outages experienced over the summer have had a minimal impact on diesel prices.

Group 3 X-Grade ULSD prices were low compared to prior summers. S&P Global Commodity Insights pricing data shows the 2024 summer has been unusually weak, averaging a 9.45 cents/gal discount to the front month NYMEX futures contract from June 1 to Aug. 14. For comparison, 2023 averaged a 1.90 cents/gal discount and 2022 average a 6.38 cents/gal premium.

After the unexpected shutdown at Joliet, Explorer Pipeline froze shipments of refined products from July 16 through Aug. 5 on Line 4A, which runs from Wood River, Illinois, to Chicago, sending other refiners scrambling for product, market sources said July 18.

Explorer is one of the two major pipelines that run from US Gulf Coast refineries into the Midwest. Explorer serves the Chicago market, while the other pipeline, Magellan, serves the Group 3 market running from the USGC into Minnesota.

The 1,800-mile Explorer can carry 660,000 b/d of refined products from the USGC to the Chicago area.

"Too many shorts put on by people who do not have the barrels, combined with the storm having sucked all of the excess capacity out of the system," a trader said on Aug. 5, referring to Beryl, adding that the Joliet shutdown was also "pulling barrels on Explorer Pipeline."

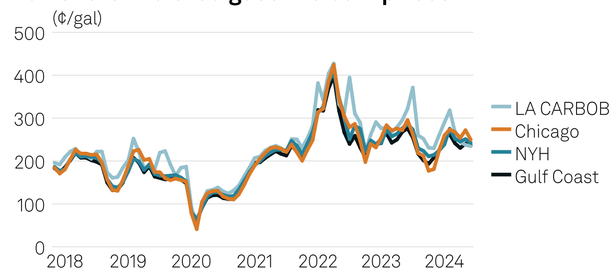
The demand for more barrels in the Gulf Coast led to a new 2024 high for the regular RBOB differential after trading in the Platts Market on Close assessment process on Aug. 8. The most recent high before then was reached on Aug. 29, 2023.

On the Atlantic Coast, New York RBOB barge differentials to the underlying NYMEX RBOB futures spiked to a record high for 2024 on Aug. 9 amid the Gulf Coast's resupply issues.

"This is for sure the strongest I've seen the NYH complex this summer," a trader said.

The Atlantic Coast is structurally short gasoline, meaning demand outstrips local supply, making the region vulnerable to supply shocks. The high-demand Northeast region is supplied mainly by the Colonial Pipeline, which carries Gulf Coast supply as far north as Linden, N.J. Points further north are supplied primarily by barge or waterborne imports.

Platts reformulated gasoline bulk prices



Note: Jan-18 to Aug-24, historical monthly averages
Source: S&P Global Commodity Insights

More Volatility to Come on Gasoline

In addition to the already well studied supply restrictions and logistic challenges in the Midwest, on February the EPA issued a final rule to eliminate the current 1-psi waiver for E15 gasoline, which would become effective in 2025. The new rule applies to eight Midwest states whose governors requested the change: Illinois, Iowa, Minnesota, Missouri, Nebraska, Ohio, South Dakota and Wisconsin.

Platts assessments for the summer Group 3, Chicago generics, BCX and Wolverine gasoline grades currently reflect the value of barrels with maximum 9 RVP after ethanol blending for the summer grades.

Amid the new rule, the lower RVP boutique gasoline blendstock must be supplied to meet air pollution standards. The Midwest gasoline complex will have to rely on external, low-RVP blendstocks such as reformate, aromatics, alkylate, raffinate and heavy naphtha, likely adding upward pressure to Gulf Coast and Atlantic Coast prices and almost guaranteeing a permanent open arbitrage from the US Gulf Coast.

On one hand, the final rule would ensure consumers receive better quality and environmentally friendly summertime gasoline, eliminating the need to continually request an E15 waiver during the summer months to ensure regional supply.

On the other hand, the higher cost of gasoline blending, along with other handling and distribution costs should be considered. In response to the EPA's final rule, the American Fuel & Petrochemical Manufacturers on April 20 called on the governors of eight Midwest states to rescind petitions for a fuel policy shift. ▶

The AFPM contends that the policy could run up regional fuel production and distribution costs for oil refiners by at least $500 million-$800 million in the proposed policy's first year alone, with the potential for costs to exceed $1 billion if unexpected challenges arise while producing or distributing the new boutique fuel.

Additional gasoline supply restrictions can occur during the seasonal maintenances to come, as refiners will start preparing their diesel producing units to face the increase on diesel demand for the harvest and the heating season. The table below summarize the market intelligence compiled about the coming seasonal turnarounds.

Contrary to gasoline, on the diesel side stability on traditional diesel prices is foreseen amid the increased consumption of biodiesel in the region.

Illinois has biodiesel blending requirements to drive increased consumption in the state. On April 1, 2024, the required biodiesel blend rose from 10% to 13%, with B14 serving as the baseline blend. In subsequent years, the blend requirement will increase 3 percentage points, rising from B14 to B17 in 2025 and B17 to B20 in 2026. These increases will further drive biodiesel consumption in Illinois and the Midwest overall. ★

Aaron Tucker has been with Platts since January 2023 and part of the North American distillates team since August 2023, mainly covering US diesel.

Salvador Uribe is on the S&P Global Platts US Light Ends team covering Midwest and West Coast gasoline in the US. He has been covering gasoline for Platts since May 2024.

Julia Martinez is on the S&P Global Platts US Light Ends team covering Atlantic Coast gasoline in the US. She has been covering gasoline for Platts since February 2024.

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The End Of Zero Tolerance Drug Policies

BY CHASE STOECKER, HEIDI URNESS, AND DOUGLAS CHARNAS, MCGLINCHEY STAFFORD

Zero-tolerance drug policies in the workplace are an endangered species. Traditional drug laws and policies as they relate to the workplace are being upended, and employers are increasingly struggling to grapple with the patchwork of state drug-testing laws – that oftentimes conflict with federal law – as well as the proliferation of legal THC-containing products derived from hemp.

Over the past five decades, drug testing employees and zero-tolerance drug policies have become staples of thousands of professions throughout the United States. However, as an increasing number of states now permit the legal use of marijuana, either medically or recreationally, many of these same states have also passed laws restricting employers' rights to administer drug tests to employees. In short, traditional drug laws and policies as they relate to the workplace have been upended in many states, and this trend is expected to continue with other states adopting similar laws in the near future. As a result, employers are left confused and frustrated, often unable to determine what, if anything, they can do to determine if an employee is utilizing marijuana and what actions they can take if an employee tests positive for marijuana. For employers with employees in multiple states, the confusion and frustration is compounded due to being required to navigate state-by-state laws, which can also, sometimes, conflict.

Moreover, in addition to employers being concerned regarding their own liability, a vast landscape of additional business and legal considerations spring from marijuana use by an employee. For example, what about liability insurance coverage when an employee injures someone while on the job after consuming a federally illegal substance, such as marijuana? Will the insurance carrier cover damages resulting from the injuries? What if an employee is injured by a third-party driver who has consumed marijuana? Will the company's insurance cover the damages, including medical expenses?

Further, there are individual circumstances that affect a company's conduct with respect to employee marijuana use. For example, does it matter if the employee has a state-issued medical marijuana patient card? What about the type of product consumed? Do the employee's job duties have any impact? Is this the end of zero tolerance drug policies?

What is Marijuana? What is Hemp? Why Does it Matter?

To answer these questions, employers must first educate themselves on the legal fiction that distinguishes marijuana from hemp. While marijuana and hemp are both the plant species Cannabis sativa L., the former is federally illegal and the latter is federally legal (as of the writing of this article). However, an employee's consumption of either product can and oftentimes will trigger a positive drug test.

Marijuana and hemp are both the Cannabis sativa plant. The distinction is a legal fiction: Cannabis sativa is considered "marijuana" when the plant, whether growing or not, contains a delta-9 tetrahydrocannabinol ("THC") concentration of more than 0.3% by dry weight. (Dry weight is the measurement of the plant when all water is removed.) By contrast, Cannabis sativa is considered "hemp" when the plant contains a delta-9 THC concentration of not more than 0.3% by dry weight. In 1970, the Controlled Substances Act ("CSA") was passed by the 91st Congress and signed into law by President Nixon. The CSA set forth four drug schedules; both marijuana and hemp were listed as Scheduled I controlled substances, along with heroin, lysergic acid diethylamide (LSD), 3,4-methylenedioxymethamphetamine (ecstasy), methaqualone, and peyote. However, in 2018, the U.S. Congress passed the Agriculture Improvement Act of 2018 ("2018 Farm Bill"), which was signed into law on December 20, 2018. It removed "hemp" from the definition of "marijuana" under the CSA, effectively making hemp federally legal. The 2018 Farm Bill had the effect of allowing parties to begin cultivating, processing, selling, and transporting hemp or any derivative thereof (and in compliance with state law and other licensing requirements). Just four years later, in 2022, hemp product sales reached $28 billion, according to cannabis data firm Whitney Economics.[1]

By carving "hemp" out of the CSA, the floodgates were opened to the cultivation, processing, and sale of various hemp-derived cannabinoids. The term "cannabinoid" refers to any of the various chemical constituents found in cannabis; over 100 cannabinoids are found in the cannabis plant. Delta-9 THC is the most well-known cannabinoid and the one that most ▶

[1]Forbes Daily: The Budding $28B Hemp Market's Feud With Marijuana.

people associate with marijuana. However, delta-9 THC can be derived from hemp and, when sold as such, is federally legal under the 2018 U.S. Farm Bill.

Another well-known cannabinoid, CBD, is also a federally legal substance when derived from hemp. A third hot-topic cannabinoid that can likewise be derived from hemp is delta-8 THC which has similar effects when ingested as delta-9 THC. Delta-8 THC is a psychoactive cannabinoid that occurs naturally in the plant, but also can be created through chemical synthesis in a lab to deliver the cannabinoid to the consumer in larger quantities than naturally occur. Under the current definition of hemp as set forth in the 2018 farm bill, this practice and Delta-8 itself is federally legal.[2]

Consumption of Hemp Derived Products Can Trigger a Positive Drug Test

Some states do not regulate the sale of hemp-derived products within their state. Therefore, products containing CBD, Delta-8 THC, and even Delta-9 THC (provided it is derived from hemp, not marijuana) are often sold at gas stations, corner stores, farmers markets, convenience stores, and more. Requirements with respect to product testing and traceability vary by state and, in some instances, there are little to no such requirements. This can result in impurities (as well as blatant misrepresentations) with respect to the content of the final product.

As a result, an employee's consumption of a federally legal hemp-derived product (such as one containing delta-9, delta-8, CBD, and other hemp-derived cannabinoids) can trigger a positive drug test by an employee, even though these products may be completely legal to sell, purchase, and consume under federal and state law. For example, the cannabinoid CBD, isolated, does not contain any THC. However, CBD can also be derived from the plant in a way that it maintains the presence of other cannabinoids that are naturally occurring in the plant. Thus, some CBD products legally derived from hemp may still contain low-levels of THC based on the CBD extraction process used. (These are referred to as "broad-spectrum" or "full-spectrum" CBD products.) If an employee consumes a large amount of the CBD product, or consumes it regularly, this could result in the employee ingesting a sufficient amount of delta-9 THC to trigger and fail a drug test.

The takeaway is that employers should know, even if an employee tests positive for marijuana use, whether the employee may actually be consuming a product that is entirely legal under the current legal landscape before taking any adverse action against the employee.

States Where Marijuana is Legal: What Can Employers Do?

To be clear, just because marijuana is legal under state law does not automatically confer protections to employees who consume it.

As an initial matter, medical marijuana use is not protected under the American with Disabilities Act.[3] Of the 38 states that permit the consumption of marijuana in some form, just 24 of them have passed laws protective of an employee's off-site use of marijuana.[4] Thus, employers hands are not necessary tied when it comes to the use of marijuana by employees in states where marijuana is legal under state law. In other words, the adage "it's legal, and therefore I cannot take action" is not always the case when it comes to (still, federally illegal) marijuana.

In the 24 states in which recreational consumption of marijuana is legal, so long as there is not a state law prohibiting an employer from taking adverse action against an employee in connection with the off-duty use of marijuana, employers still have the right to terminate an employee for failing a drug test. That is, the employer is still empowered to take disciplinary (and further) action against the employee irrespective of the fact that the employee may hold a medical marijuana card or the employee may be consuming a hemp-derived product that is legal under federal law. However, as is explained later in this article, employers should not make any such decisions before understanding whether their state has any laws prohibiting such conduct and/or any post-drug test mitigation processes in place.

Of those 24 states that do allow recreational marijuana use, some states have in place laws that protect an employee against negative employment consequences for any off-duty use of marijuana, while other states protect an employee's off-duty marijuana use only if it is used pursuant to a doctor's medical recommendation.[5] Indeed, employers oftentimes are confused regarding these interactions of state and federal law, and are unaware that an employee's possession of a medical marijuana card is not a "get out of jail free" pass. As explained above, that is sometimes – but not always – true.

[2] *AK Futures LLC v. Boyd St. Distro, LLC,* 35 F. 4th 682 (9th Cir. 2022).

[3] *Zarazua v, Ricketts,* No. 8:17-cv-318, 2017 U.S. Dist. LEXIS 161990, at *5 (D. Neb. 2017) (no cognizable claim under the ADA for denial of access to medical marijuana); *Steele v. Stallion Rockies, Ltd.*, 106 F. Supp. 3d 1205, 1212 (D. Colo. 2015) (termination on basis of medical marijuana use did not constitute discrimination for purposes of the ADA).

[4] On-site impairment is universally prohibited; however, there is currently no industry accepted method for testing if someone is currently impaired by marijuana.

[5] *See, e.g.,* La. Rev. Stat. Ann. § 49.1016;

Are Zero-Tolerance Policies Dead?

Is this the end of zero tolerance drug policies? Not yet. However, they are certainly an endangered species.

Assuming an employer has determined there are no state laws prohibiting it from taking adverse action against an employee who tested positive for marijuana, this still does not provide an employer with a green light to take adverse action. State law, again, dictates what an employer can and cannot do following a positive drug test in the absence of off-site use policies.

For example, recently, in Williams v. BHI Energy I Power Servs., LLC, Case No. 0:21-cv-1186 (KMM/DTS), 2023 U.S. Dist. LEXIS 148720, *58 (D. Minn. Aug. 24, 2023), an employee was terminated for testing positive for THC after she drank a weight-loss tea that purported to be free of marijuana. The court determined that the employer violated Minnesota's Drug and Alcohol Testing in the Workplace Act ("DATWA"). The employer relied on an unconfirmed drug test and successfully argued that, under DATWA, employers must provide employees who test positive for drug use the opportunity to complete a rehabilitation program, which the employer did not do.[6]

Even more recently, in Fisher v. Airgas USA, LLC & Airgas, Inc., 2024 U.S. App. LEXIS 2258 (6th Cir. 2024) (unpublished), an employee consumed a hemp product that triggered a positive drug-test. After the positive test, the employer notified his employer that he had not used marijuana, and he had been taking a hemp product to alleviate symptoms of liver cancer; he also asked for a retest. However, for purposes of that retest, the employer never told the drug testing company that the employee was taking hemp, nor did it ask the drug testing company whether hemp usage could cause the employee's positive result. Instead, the employer just resubmitted the same sample for testing and terminated the employee when the retest came back positive. At first, the trial court granted summary judgment in favor of the employer based on Ohio's "honest belief" rule, which allows an employer to terminate an employee if the employer honestly believed that it has a nondiscriminatory reason for doing so (even if it is later shown to be mistaken or baseless). However, this decision was later reversed. Ultimately, the federal court ruled against the employer because the employee had notified the employer that he was consuming hemp for disability purposes after the first positive drug test; the court of appeals ruled that the employer should have investigated the possibility that what the employee was consuming was not federally illegal marijuana. Because the employer did not do so, and simply retested based on the same parameters, the employer could not use the "honest belief rule" and the summary judgment order was reversed.

What About Insurance Coverage?

If an employee is involved in a vehicle accident while on the job and tests positive for the presence of cannabis, will the employer's vehicle insurance policy cover bodily or property damages resulting from the accident? A decision from the Court of Appeals of Ohio, Grange Ins. v. Cleveland, 2022-Ohio-4303 (App. 6th Dist. 2022), addresses this issue as well as the novel issue of extending alcohol intoxication exclusions to insured persons who use marijuana.[7]

The case of *Grange Ins. v. Cleveland* involved a driver insured by Grange Insurance Company ("Grange"). The driver caused bodily injury and property damage while driving under the influence of marijuana. Specifically, the driver was dismissed from her work after showing visible signs of impairment. As she was leaving, she proceeded to drive her car through the employer's store window, hitting one person and nearly hitting another person, and crashing into two additional vehicles while fleeing the scene, eventually leaving her car disabled and sending her to the hospital. The driver admitted to smoking "weed" in her deposition and that the acts related to this event were attributed to such use.

Grange denied coverage to the driver on two grounds, which the court upheld. First, the insurance policy contained a criminal act exclusion, which the Ohio Appellate Court found applied because the insured committed a criminal act while driving, as the recreational use of marijuana was illegal in Ohio at the time of the accident. Second, the insurance policy contained a controlled substance exclusion which excludes coverage for bodily injury or property damage arising out of the sale, use, manufacture, delivery, transfer, or possession by any person of a controlled substance under federal law. The court accepted the insured driver's admission under oath that she was under the influence of marijuana, a controlled substance, while driving at the time of the incident.

Farmers Insurance of Columbus, Inc. ("Farmers"), which covered one of the innocent persons struck by the intoxicated driver, argued that the controlled substance exclusion in Grange's policy should be void as against public policy the same way such exclusions are not permitted when the substance consumed is alcohol. That is, Ohio prohibits insurance companies from excluding coverage in the event of damage or injury caused by alcohol use. Farmers' argument with respect to marijuana ▶

[6] Minn. Stat. § 181.953, subd. 10(b).

[7] For a more complete discussion of the Grange case, see *Ohio Appellate Decision Tackles Excluded Coverage for Marijuana Use,* FORC Journal – Vol. 34 Edition 1 – Spring 2023.

hinged on Ohio's state law (and supporting policies) prohibiting insurance companies from denying claims associated with the consumption of alcohol in the state. In other words, Farmers argued the Court of Appeals should extend the prohibition on intoxication exclusion provisions with respect to alcohol to cannabis. Otherwise, innocent persons could be left injured by marijuana-impaired drivers but with no way to recover funds to pay for automotive damages, their medical care, or other injuries. The Court of Appeals summarily dismissed this argument.

The Grange case, however, does not address the difficult evidentiary question of whether a positive drug test in a particular case has resulted due to the use of federally illegal marijuana or federally legal hemp. Indeed, if a driver involved in an accident tests positive for THC, it is critical to determine if the positive test has resulted from the use of federally illegal marijuana or legal hemp. This is because, if the positive test result is due solely to a person's consumption of federal legal hemp products, the insurance policy at issue in Grange should then cover medical expenses and property damage of those injured.

Relatedly, the Grange case could also have had a different outcome if the factual circumstances played out today, because recreational consumption of marijuana is now legal in the state of Ohio but was not at the time of the decision.

The key takeaway from the Grange case is companies that employ drivers – in addition to every driver on the road, regardless of their personal marijuana use – are well advised to examine the extent of, and exclusions in, their existing coverage. Such exclusions, in the cannabis context, can render unavailable the lion's share of coverage to which a policyholder believes they are entitled in the event of an accident caused by marijuana impairment. Indeed, even nonusers of marijuana are well-advised to take heed of these issues, as such policies may effectively leave a person innocently injured by a marijuana-impaired driver (such as the victim insured by Farmers in the Grange case) with no way to recover their medical expenses or property damage if the driver is unable to pay and their own policies do not fill in the gap.

Where Does This Leave Employers

With few exceptions (such as certain safety-sensitive positions and a number of federally regulated professions), employers should not rely on a positive drug test as a basis for termination or taking other adverse action against an employee. Instead, employers should conduct a state-by-state analysis in each state in which they operate, and in each state in which employees reside, to determine, among other things, whether the employee's off-duty marijuana use is protected. Employers should also update their drug policies to address off-duty marijuana use, the consumption of hemp products, and outline any processes mandated by state law that apply when an employee does test positive for marijuana. Employers should also confirm that whoever is performing their drug tests are screening out hemp-derived products to the extent possible. This should all be done with an understanding that, given the growing acceptance of marijuana throughout the country, employers are reporting that it is becoming increasingly difficult to hire and retain employees if their policies state that a positive marijuana drug test can be a justification for termination.

Employers also should review their insurance policies, particularly if employees drive for them or interact with the public in a manner that could result in physical injury to themselves or others or property damage.

While zero tolerance policies were previously an accepted standard across all businesses and industries in the United States, they are now increasingly looking like they will go the way of dial-up internet, the rotary phone, and the floppy disk: a relic of the past. ★


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