



The Industry Update

**A membership service of the Northwest Automotive Trades Association
For the weeks of July 7 and 14, 2008**

Appeals court rejects Pep Boys' claim that techs not due overtime pay –

A federal appeals court has rejected Pep Boys' claim that its mechanics are paid by commission and were thus not subject to rules for overtime pay. The ruling sends the case back to district court in Nashville where Pep Boys (a Philadelphia-based auto parts and service company with 562 locations) could be found liable for millions of dollars in overtime pay. This case is separate from one settled in 2005 that applied to Pep Boys' employees other than mechanics.

Pep Boys said its flat-rate pay system amounts to a commission under labor law. The courts, however, found that for it to be a true commission, there must be a proportional link between what the mechanic gets paid and what the customer gets charged. Because Pep Boys bundles its services and for other reasons, that proportional link is not there, the court found.

Since 2001, at least four different federal courts have looked at whether the flat-rate system is a "commission" and have come to opposite conclusions, leading many labor law attorneys to recommend paying techs overtime.

Shops' class action suit against insurer moves forward - The Connecticut Supreme Court has affirmed a trial court's 2006 order giving a group of body shops in that state class action status in their suit against The Hartford.

The insurer had challenged whether the shops, who allege that The Hartford has engaged in unfair trade practices by steering consumers to its direct repair program shops and improperly establishing artificially low reimbursement rates, should be granted class action status. A spokesman for The Hartford said the company was disappointed with the ruling but would not appeal and was "eager to move ahead" and "confident of prevailing on the merits."

The Auto Body Association of Connecticut, one of the plaintiffs in the suit (originally filed in 2003), said a trial in the class action suit is tentatively scheduled for December. It says the class in lawsuit could include hundreds of independent shops across the state. The association also filed a similar suit against Progressive Insurance last year.

From Earlene at Vic's Auto Center - We have reorganized our parts department and have some steel shelving we would like to sell. It is the standard 7 ft. tall, blue colored shelving. My guess is we have 12 to 14 units. They stand individually, and we had them standing back to back. If you are interested in these shelves, e-mail us at coupe40@comcast.net, or call Vic at 503 504-4494. Best offer takes all!

Federal Minimum Wage is increasing - Beginning July 24, 2008 the federal minimum wage is increasing to \$6.55 per hour. Call Laurie at the NATA office for your free updated poster.

Oregon team in Top 10 at national contest - Vale High School students Caitlin Short and Lance Erickson finished in eighth place in the country at the 59th annual Ford/AAA Student Auto Skills national finals in June. The Oregon students were accompanied to the event by automotive instructor **Merle Saunders**, whose students have a long history of top finishes at the event.

All of the top 10 team finishers in the contest, which includes written and hands-on tests, receive education scholarships valued from \$400 to \$2,500. Ford and AAA awarded a total of \$7 million in scholarships at this year's state and national competitions, \$1 million more than last year.

NEW POSTER – Family Medical Leave Act – For businesses with over 25 employees, there is a newly required poster. Call Laurie in the NATA office for a free, updated poster.

THE CALENDAR OF EVENTS:



Wednesday, August 20 – Lisa Trussell, Government Affairs Director for Health Net Health Plan of Oregon, Inc., joins us to share information about current statewide initiatives and mandates now under discussion to **decide the future of health insurance in Oregon**. Join us to learn what you can do to make sure your opinion is heard on this hot topic in our state!

LOCATION: **NACM** Classroom, Ste. 201
7931 NE Halsey St., Portland OR 97213
Call to register, 503 253-9898
Members \$25 Non Members \$30

Wednesday, September 17 – Do HR issues have you baffled and confused?

NATA presents **Carrie Eisenbrandt**, Beecher Carlson, with over 20 years of experience in Human Resources! From HR basics to regulatory compliance to customer service, she enjoys helping others improve their knowledge base and management abilities through managing people.

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Have questions? Want more information? We are here for you!

Northwest Automotive Trades Association
7931 NE Halsey St. Ste. 212, Portland, OR 97213
503 253-9898 | Toll Free 1 800 730-7282