



VOLUME 6

# NATA UPDATE

A quarterly publication of the National Alliance of Trade Associations (NATA)

## Develop Your 2020 Vision for EMV Implementation

As a convenience store owner, you are already familiar with EMV implementation that was a payment fraud liability shift for in-store c-stores as of October 1, 2015. The deadline of October 1, 2020 for outdoor automated fueling dispensers is approaching so you may want to refresh your knowledge about the technology and liability associated with EMV compliance.

Using an added layer of protection against payment fraud with a card chip, EMV provides a unique transaction code that can't be used again. In some circumstances, merchants may be liable for fraudulent transactions, so c-store owners should act now to upgrade or replace in-store and outside hardware and software technologies to exchange payment and transaction data with chip cards.

Merchants are currently protected from most pump fraud. But, after October 1, stores without outdoor EMV will become liable for 100% of the cost. In general, the least sophisticated link in the transaction chain determines liability. Organized criminals will be able to continue skimming non EMV-fuel pumps that may remain vulnerable. Customers will gravitate to c-stores with upgraded pumps that accept EMV cards. Act now to avoid dealing with a certification backlog that will only increase before the 2020 deadline.

Because profits are at stake, c-store owners need to invest now or accept liability for accepting magnetic-stripe transactions after the deadline. C-stores that delay in converting to EMV might need to spend more on security to guard against fraudulent activity and will bear the cost of card fraud at their pumps. Also, the four major U.S. card networks — Visa, Mastercard, American Express, and Discover — may raise fees



on mag-stripe transactions as a way of forcing gas retailers to comply.

Skimmers, including small ones that are almost impossible to detect, are becoming increasingly more sophisticated. The financial burden of credit card crimes will shift to gas station owners who are still using non-EMV compliant terminals on their pumps.

Act now to meet EMV compliance standards to ensure that your c-store will help you maintain your customers' continued trust and patronage. By reaching out to your payment processor and upgrading your hardware, you'll avoid costly chargeback expenses that could impact your reputation and business.

**NATA members represent more than 5,697 independent retail stores with more than \$2 billion in total sales per month and some 20,000 employees.**



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## ADA Lawsuits—Protecting the Rights of Disabled Americans or Flooding the Courtrooms with Frivolous Lawsuits against Small Business?

By Mary Meyer and David Jaffer, Jaffer Law, PC

The Americans with Disabilities Act (ADA) was enacted in 1990 to prevent discrimination against individuals with disabilities and to provide them with equal access to facilities and buildings open to the public. Today, this law is used by some attorneys to file countless lawsuits against C-Stores, gas stations and other small businesses.

According to a recent *Atlanta Journal-Constitution* article, one Atlanta law firm filed over 550 ADA lawsuits, 86% of them brought in just the last two years. In Florida, a Miami lawyer who filed more than 650 lawsuits across the state was recently sanctioned by a federal judge.

ADA lawsuits are typically filed against the property owners alleging that retail businesses located on their property discriminate by having “architectural barriers” which prevent disabled persons from full and equal access to the business.

No matter the state in which an ADA suit is filed, it tends to follow a same pattern: a handful of serial plaintiffs go around visiting stores, many times visiting multiple stores on the same day, with the sole intention of identifying targets for ADA lawsuits.

If a business is sued for an alleged ADA violation, there are two choices for the business owners—hire a lawyer and settle quickly to minimize cost and expenses or fight a federal lawsuit and become entangled in long and expensive litigation. The fact of the matter is that an ADA violation is relatively easy to prove by plaintiff and hard to defend against. The plaintiffs’ attorneys who file these suits know this. They fight because the ADA allows successful plaintiffs’ lawyers to recover attorneys’ fees from the defendant. The recovery of attorney’s fees alone is a strong motivator for some lawyers and makes ADA litigations a lucrative proposition.

The best way to avoid becoming the target of one of these suits is to ensure that your business is in compliance with the ADA guidelines. The Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities spell out the



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requirements for locations related to disabled parking spaces, counter height, slope requirements for wheelchair-accessible ramps, and handrails in public restrooms. There are also safe harbor provisions and other defenses that may be available to mitigate liability. If you become a target of an ADA lawsuit, consult an attorney who has experience in handling ADA suits.

In addition, there are private inspectors who can be hired to conduct ADA-compliance inspections of your building or facility. It is a good business practice for C-Store operators and property owners to collaborate and take the necessary steps to make the building compliant as opposed to ignoring the ADA requirements until the property owner and/or business owner become defendants in a federal lawsuit. If you wait until you get sued to bring your location into compliance, you’ll find yourself paying not just for the necessary renovations and alterations, but also for your attorney’s fees and the plaintiff’s attorney’s fees. As the adage goes, an ounce of prevention is worth a pound of cure.

### For more information contact

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## Keeping Your C-Store Safe and Secure This Holiday Season

You've decorated your c-store and arranged seasonal items on prominently displayed shelves, but are you prepared to reduce the risk of robbery and to increase the potential safety of your employees and customers? Review the following tips for planning c-store security and safety:

### Employee Training

Train employees to focus on crime awareness, prevention, and reaction and in the event of a robbery to:

- Remain calm and follow suspect's instructions.
- Assume that the suspect is armed even if a weapon is not displayed.
- Focus on recalling a description of the suspect, vehicle, direction of travel, any weapon shown or mentioned, and any other verbal communication.
- Call 911 as soon as possible to enable police to apprehend the suspect and recover stolen cash.
- Protect any remaining evidence.
- Close the store to customers.
- Ask witnesses to stay until police arrive or get contact information so they can be reached later.

### Visibility

Visibility of a c-store with only one point-of-entry makes it easier for employees to spot an unwanted intruder. The property should be kept free of litter to promote customer trust and to create a more attractive environment. Store windows should be kept clear of items blocking view into the store, especially near the cash register.

### Lighting and Door Signal

A well-lit parking lot and entrance area are welcoming to customers and uninviting to criminals. Store managers should maintain adequate lighting inside and outside the store and install a door signal to alert employees to customers entering the store.

### Bullet Resistant Barriers and Accessories

A bullet resistant barrier is a proven way to protect employees from harm. Some c-stores install a slider system to provide the option of an open window during the day and a locked-down barrier during evening hours.



### Cash Control and Signage

Keep as little cash in the register as possible to serve as a deterrent to criminals considering targeting your c-store. Excess cash should be placed in a drop safe accessible only by specifically authorized employees. Signage about cash management systems, the presence of cameras, and bulletproof barriers should be displayed prominently.

### Video Surveillance Cameras

Surveillance cameras should be placed high on walls inside and outside in clearly visible areas to let customers know they are being recorded and to make sure cameras are not easily damageable. C-store owners should place height markings along the vertical frame at store entrances to help identify criminals through surveillance footage.

***Although some of these tips may not apply to your c-store environment, be certain that you have established a plan if a crime does occur so you will be prepared to reduce the risk to the security and safety of your employees and customers.***

## Understanding the Changing Vaping Laws

**Background:** Electronic cigarettes, also known as e-cigarettes, e-vaporizers, or electronic nicotine delivery (END) systems, are battery-operated devices that people use to inhale an aerosol, which typically contains nicotine, flavorings, and other chemicals.

### Legal Issues and Penalties for Non-Compliance

The Food and Drug Administration (FDA) regulates e-cigarettes. If you sell tobacco products, you must comply with all applicable federal and state laws and need to:

- Check photo ID of everyone appearing to be under age 27 who attempts to purchase any tobacco product.
- Only sell tobacco products to age-appropriate customers.
- Not sell tobacco products in a vending machine unless in an adult-only facility.
- Not give away free samples of tobacco products to consumers.
- Ascertain that required warning statements are present on all tobacco products.

### Federal Regulation

FDA conducts inspections of tobacco product retailers to determine compliance with federal laws and regulations. Results from compliance inspections of tobacco retailers are available in a [searchable database](#).



*For the current status of vaping laws, please visit [publichealthlawcenter.org](http://publichealthlawcenter.org)*

## STATE VAPING SALES LAWS

Below are brief overviews of the 12 states in which NATA's 13 trade associations operate.



**Alabama:** Sale of electronic nicotine delivery systems and alternative nicotine products to persons under age 19 prohibited.



**Arkansas:** Sale or possession of vapor products, e-liquids, or any component are prohibited to persons under age 21.



**Florida:** Sale, distribution, or possession of nicotine dispensing devices or nicotine products to persons under age 18 prohibited.



**Georgia:** Sale, purchase, possession, or receipt of vapor products to persons under age 18 is prohibited.



**Illinois:** Sale, distribution, or purchase of electronic cigarettes to persons under age 21 prohibited.



**Kansas:** Sale, distribution, purchase, or possession of electronic cigarettes to persons under age 18 prohibited.



**Louisiana:** Sale, distribution, or purchase of vapor products to persons under age 18 prohibited.



**New York:** Sale or distribution of e-cigarettes or liquid nicotine to persons under age 21 prohibited.



**Oklahoma:** Sale, distribution, purchase, or possession of vapor products by persons under age 18 prohibited.



**Tennessee:** Sale, distribution, purchase, or possession of vapor products to persons under age 18 years prohibited.



**Texas:** Sale, distribution, purchase, possession, or use of e-cigarettes to persons under age 21 is prohibited (unless purchaser is at least 18 and has U.S. or state military id card).



**Virginia:** Sale, distribution, purchase, or possession of nicotine vapor products to persons under age 21 prohibited (unless person is active duty military 18 years of age or older).