



# RAN

Retail Association of Nevada

June/July 2011

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NEVADA NEWS

## THE 2011 LEGISLATIVE SESSION: A LOOK BACK

By Mary Lau, President/CEO Retail Association of Nevada

**THE 2011 LEGISLATIVE SESSION IS HISTORY; HOWEVER, IT IS ALWAYS BETTER TO**

memorialize history so that one can go back and reflect on what worked, and what didn't, so that the next session will be free of the same issues and problems.

It would be wonderful if it worked that way but it doesn't, as evidenced by the 2011 Legislative Session, which ended up being a Déjà vu session. There were 1318 Bill Draft Requests and the RAN team followed 542 active bills. (Please refer to articles in this newsletter for RAN team member discussions of specific bills and issues.) The 2011 Legislature included a very large class of freshman lawmakers, some of who have been active in their respective parties, so they had their positions fully formulated prior to the start of session. Many of these freshmen were "given" bills to run to start off their careers, and some were approached by special interest representatives to introduce legislation, that had previously failed, in hopes that new members would give a fresh face to old ideas.

We all knew going into this session that it was going to be a rough session. Legislators, who got used to the idea of growing government and creating special programs (often based on campaign promises and strategy

rather than public need) during the "boom" years, reacted angrily as those programs needed to be either cut or reduced during the "downturn" years. As RAN has pointed out many times in its Economic Bulletins, legislators have to adjust to the new economic reality, and this session was a strong example of the need for a different approach. Sadly, many haven't got it yet!

I have been privileged to sit at the helm of RAN for over twenty years, and every legislative session during that time has contained battle cries of, "Third leg of the stool," "Business must pay its fair share," "Bottom of good lists, top of bad lists," "Evil corporations that do nothing for Nevada and take the money and run." This session was no different. One thing that is never acknowledged is the many contributions that businesses are already making. Businesses in Nevada have had new taxes assessed and collected; the Business License Tax was implemented as the "third leg." Despite this business tax, we still were threatened with the gross receipts tax, which was really floated in 2001 and then fought in 2003. This was again touted as the "third leg," even when it was changed and passed as the Modified Business Tax (MBT). Once again, the 2011 Session included the desire to grow government,

and legislators ignored facts and focused on creating a Texas-style gross receipts tax coupled with a tax on services with legislators, including freshmen, singing the exact same songs we have been hearing for a decade.

Trying to get an explanation as to why the MBT has been so easily dismissed as a tax on business, I talked with legislators, lobbyists and economists. Finally, I received this answer: The MBT is difficult on government in that employers can control costs and, therefore, their tax liability. An income-based tax (net, gross, modified or whatever) does not allow the business to control costs (as the government gets its money first) so government income is more stable.

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So, history repeated itself in the 2011 Legislature and increasing taxes became the issue. No surprise there, as the writing was on the side of the barn again long before the session began. However, what was different was the strength of Governor Sandoval, and that industry did not battle industry this time, as happens all too often. While all Nevada businesses didn't necessarily stand together, we didn't stand that far apart either. Another reason for this difference was the entire tax package was introduced too late in the session for anyone to truly analyze, and discuss

with members, peers, or even CPAs or tax attorneys, what the fiscal effects would be. When everyone was faced with such great unknowns, most decided to oppose such major changes.

The 2011 Legislative Session did differ from others in one major way, and the change is not a positive one. Civility, decorum, and even common courtesy rarely appeared in the building. Some freshmen legislators, in particular, felt the need to counsel and criticize from their committee chairs, even if the person testifying was a subject-matter expert and/

or member of the public. A few committee chairs often became insulting, and frequently downright rude to those appearing before them. I personally don't excuse that behavior, be it to a member of the public, a peer or a lobbyist. Did no one ever teach these elected officials manners or how to temper arrogance? As often happens, there were also a lot of legislative and campaign punishment activities going on. This session, it was simply more obvious because of the lack of subtlety. This trend is also part of history, but it's getting worse.

It will be interesting to see if this tenor remains during the interim when the committees meet to hammer out policy, and legislators are also raising money for campaigns.

RAN members should take note of the Matrix for this session, as these aspects of a legislator's behavior are part of what makes up a legislator's total score. The entire Matrix will be published in a future edition of our newsletter, but at this point in time the average Senate percentage score is 64.48 and Assembly is 61% — not very business friendly at all. ■

# AMAZON THREATENS TO SUE NEVADA

*By Bryan Wachter*

**I**N MAY, THE RETAIL ASSOCIATION OF NEVADA (RAN) LAUNCHED A MEDIA campaign designed to educate the public and the legislature about the glaring inequality of the Nevada Sales and Use Tax. This campaign led to RAN introducing an amendment to SB34. The amendment was designed to bring parity to all of those who are supposed to collect the sales tax on behalf of the State of Nevada. Presently on-line only companies like Overstocked.com and Bluenile.com, along with companies with warehouses in Nevada but no retail outlets like Amazon.com, are not

required to collect the Nevada Sales Tax, unlike their brick and mortar counterparts.

This inequality means that in-state businesses have to charge (based on sales tax) an extra 6–8% for the same goods offered by on-line-only vendors. While RAN garnered plenty of attention in the media, and in public comments, it was not enough to combat the harsh talking points from Amazon's lobbyists, who argued Amazon would rethink their investments in Nevada, and would be unlikely to add new jobs.

Perhaps the most cited reason by legislators for not being able to support local re-

tailers and instead siding with on-line giants was Amazon's threat to sue the State of Nevada if the law was changed to try and require their in-state warehouses to collect taxes on purchases shipped to Nevadans.

A Report released by the Retail Association, from Applied Analysis, showed what could have been several economic reasons to require everyone to play by the same rules. For one, the state would have seen an additional 32 million dollars over the biennium, which could have paid for things like property tax relief for seniors, or expanded learning opportunities for Nevada's kindergartners.

Secondly, the state would have saved 900 jobs that were being lost from small businesses shutting down due to not being able to compete with the lower-cost good of on-line retailers.

RAN has commitments from the Chair of Assembly Taxation to thoroughly address this issue in the interim, and while that isn't very comforting to those of our members that will be forced to close their doors between now, and when the state decides to act, you can rest assured that RAN will work tirelessly and without restraint to bring parity and equality to Nevada's tax laws. ■



# LEGISLATIVE BILL OVERVIEW GROCERY AND GENERAL MERCHANDISE ISSUES

By Lea Tauchen

This is a brief review of key bills that were passed during the 2011 Legislative Session and may affect the retail industry. For more information on these bills and other 2011 legislation, please refer to the Nevada Legislature's website at [www.leg.state.nv.us](http://www.leg.state.nv.us). You may also visit the RAN website at [www.rannv.org](http://www.rannv.org) for a complete list of bills that RAN tracked this session. In addition, you will receive a more detailed analysis of these bills and more in our publication of "It's the Law" which will be sent to you later this year.

## BILLS THAT TAKE EFFECT IMMEDIATELY

**Assembly Bill 571** — This bill extends the provisions of the Nevada Clean Indoor Air Act to allow the serving of food in a "standalone bar, tavern or saloon" that presently allows smoking along with drinking and forbids patrons under the age of 21 from entering. Those who presently provide food service or sales, might be able to allow smoking as long as patrons under 21 years of age are prohibited from entering.

## BILLS THAT TAKE EFFECT ON JULY 1

**Assembly Bill 261** — This bill increases the monetary limit from \$5,000 to \$7,500 in actions for small claims adjudicated in a justice court. It also imposes a \$125 fee for preparation and filing of an affidavit and order for the new sum claim amount between \$5,000 and \$7,500.

**Senate Bill 210** — This bill allows the health authority, when there are reasonable grounds to suspect a substantial health hazard, to require a food processing establishment to test food for contaminants. This bill also ensures that the health authority

comply with the Federal Food Safety Modernization Act and its regulations. Furthermore, should a food processing establishment conduct testing, they are responsible for the cost and it must be performed with nationally recognized laboratory standards. The record of the results must be retained for two years and any contamination must be reported to the health authority within 24 hours.

## BILLS THAT TAKE EFFECT ON OCTOBER 1

**Assembly Bill 142** — This bill increases the monetary threshold for the penalty classification of theft and related property offenses. The Category D level is raised from \$250 to \$650; the Category C level is from \$650 to \$3500 instead of \$2500; and the Category B level would be bumped to anything over \$3500. Raising the threshold was a recommendation from the Advisory Committee on the Administration of Justice to reduce the number of crimes that mandate prison.

**Assembly Bill 170** — This bill requires retailers who sell cigarettes to post signage regarding the dangers of smoking tobacco during

pregnancy. The contents of the warning may be added to any other required sign or a new sign may be printed on an 8.5 inch by 5.5 inch sign (half-sheet of paper). This message matches existing law that requires establishments that sell alcohol for on-premise consumption to post signage regarding the dangers of drinking alcohol during pregnancy.

**Assembly Bill 211** — This bill defines "gender identity or expression" and adds it to the list of categories upon which discrimination is prohibited. It also allows employers to require employees to adhere to reasonable workplace appearance, grooming and dress standards.

**Assembly Bill 398** — This bill prohibits the landlord of commercial property from interfering in certain manners with their tenants. It also establishes a process for a tenant to recover their possessions from the premises when the landlord has locked them out. And it authorizes a landlord to dispose of abandoned personal property left on the premises by a tenant.

**Senate Bill 140** — This bill prohibits a person from texting or talking on a cell phone

(two-way radio devices are excluded) while driving, unless a hands-free device is used or it is an emergency situation.

**Senate Bill 267** — This bill requires a data collector to encrypt or destroy personally identifiable information stored on the hard drive of a "multifunction device". It also authorizes the Office of Information Security of the Department of Information Technology to adopt regulations which identify alternative methods or technologies which may be used by a data collector to encrypt data being stored or transmitted.

**Senate Bill 282** — This bill prohibits a person from willfully and intentionally posting or displaying the social security number of another person unless authorized and required to do so by law or regulation. It also authorizes a person whose social security number has been unlawfully posted to bring a civil cause of action against the person who posted it to recover actual damages and reasonable attorney's fees and costs.

## BILLS THAT DID NOT SURVIVE

This is a brief review of bills

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## GROCERY AND GENERAL MERCHANDISE *Continued from page 3*

that did not survive the 2011 Legislative Session, but would have had a negative impact on the retail industry had they made it into law. We are always mindful of these issues as we may see similar bills drafted next legislative session.

**Assembly Bill 90** — This bill would have prohibited employers from subjecting an employee to an abusive work environment. It also would have prohibited employers from discriminating against an employee because of a physical characteristic such as height or weight.

**Assembly Bill 234** — This bill would have prohibited any candle, air additive, air fragrance, air freshener or potpourri in any place of public accommodation (any

business, church, school, etc.). It would also have prohibited the application of an indoor pesticide while the place was occupied and only if it was an approved "least-toxic chemical".

**Assembly Bill 293** — This bill would have required a person who owns or controls the premises on which an injury or death allegedly occurred to produce copies of any visual evidence pertaining to a claim for personal injury or death when such visual evidence was requested by a claimant or claimant's attorney, except when a civil action has already commenced.

**Assembly Bill 313** — This bill would have prohibited an employer from obtaining a "consumer report" to evaluate a potential/existing employee

unless the report is required by law, you believe the person engaged in illegal activity reflected in the report or the information in the report is related to the employee's duties or position.

**Senate Bills 147, 148, 207, 208, 242** — These five bills were the result of an interim study conducted by the Legislative Commission's Subcommittee on Employee Misclassification. Each bill was written to address various aspects of the issue. Amongst these bills are three conflicting definitions of an "independent contractor" that contain three different "ABC tests". These bills would have been extremely confusing for an employer to navigate and would have imposed excessive penalties against

employers who misclassified employees, even if it was done unintentionally or unknowingly. Essentially, these bills took a very aggressive approach to eliminating independent contractors, except in the most stringent of all possible scenarios.

**Senate Bill 313** — This bill would have required the Energy Commissioner to adopt regulations prescribing a minimum standard of energy efficiency for portable light fixtures, televisions and small appliances. It also would have required the Commissioner to establish procedures for a manufacturer to demonstrate that their devices comply with the standards, make available samples of their devices for testing and pay a fee for the cost of that testing. ■

## LEGISLATIVE BILL OVERVIEW

# PHARMACY/HEALTH CARE/BOARDS AND COMMISSIONS

*By Liz MacMenamin*

### BILLS THAT PASSED

**AB56** was language brought forward by the Attorney General (AG) and will allow that office to take legal action to recover reasonable costs and expenses incurred in an investigation or prosecution of cases within the Medicaid Fraud Control Unit. The AG may also issue subpoenas to obtain certain documents, records, or materials to carry out these investigations. If a person fails to comply with the subpoena, they will be deemed guilty of a misdemeanor. This bill was

one that we monitored during the session. This law should be able to help the Medicaid Fraud Unit in their attempts to further drive down the costs to the states for cases of fraud and abuse in the Medicaid system. This bill becomes effective July 1, 2011.

**AB59** establishes in the Open Meeting Law that all meetings of quasi-judicial bodies must be open and public. If any public body is found guilty of a violation of this law, they must post it on the next agenda for the public meeting and acknowledge the findings of

the Attorney General's office. It also gives the AG's office the ability to issue subpoenas for production of documents and materials regarding the investigation of an open meeting law violation. Sections 1 and 2 to 7 become effective July 1, 2011. Section 1.5 of this act becomes effective on January 1, 2012.

**AB61** creates the Substance Abuse Working Group to study issues relating to substance abuse in Nevada. This group originally was the "Meth Task Force" created by Governor Gibbons. The group realized

after much discussion that the problem was greater than just methamphetamine and now this group will expand their scope of issues to study all substance abuse and the problems related to such abuse. This bill becomes effective July 1, 2011 and expires by limitation on June 30, 2015.

**AB199** authorizes a registered pharmacist; pursuant to a collaborative practice agreement entered into with a physician and approved by the State Board of Pharmacy,



# PHARMACY/HEALTH CARE/BOARDS AND COMMISSIONS

Continued from page 4

to implement, monitor and modify the drug therapy of a patient at a facility other than a licensed medical facility or licensed pharmacy. This bill was heard on March 14th and was amended and passed out of committee. Senator Schneider added an amendment to the bill in Senate Commerce and Labor that would have allowed the use of "Rx" or "RX" by businesses that are not pharmacy or health care in nature. We opposed the change in existing law, which states that the general public may not use these terms. This bill went to conference committee on the last day and Senator Schneider then tried to add his language regarding selling marijuana in a pharmacy. This language had died in committee and this would have ultimately killed this legislation. The sponsor of the bill did not agree to this language and did not allow it to be added during the conference committee. She did allow us to add changes to the "RX" language to make it more difficult for the general public to use the term and to give the Board of Pharmacy the ability to deny the use of these letters if it is "misleading or threatens the health and safety of the residents of Nevada." This bill becomes effective July 17, 2011 for the purpose of adopting regulations and October 1, 2011 for all other matters.

**AB537** is legislation heard in Assembly Commerce and Labor and was initially brought forward by another pharmaceutical manufacturer, Allergan. The company

representative stated that what they were attempting to accomplish was the use of "foreign" products where safety and storage procedures are unknown. We opposed the language as initially presented but the company agreed to change their language to include the amendment to remove pharmacy from the language. We remained neutral on the bill but believe that this is something that the Board of Pharmacy already monitors with the wholesalers by assuring the "pedigree" of drugs on the market. This bill becomes effective October 1, 2011.

**SB97** extended the expirations of provisions within the Medicaid program to develop the list of preferred prescription drugs for this program. This law was enacted under Governor Gibbons and this will allow the expiration date of this provision to be moved to June 30, 2015. At that time the department is to bring studies involving the utilization of the preferred drug list. These studies should highlight savings to the state as they would have the ability to implement the use of more generic drugs in categories that had been excluded previously. This bill became effective June 2, 2011.

**SB114** will allow the State Board of Pharmacy to enter into written agreements with other states to exchange or receive information from the computerized system that tracks prescriptions of controlled substances. It will also provide immunity from criminal and civil liability for

pharmacies that provide this information to the Board or Division for use in the tracking system. This bill becomes effective October 1, 2011.

**SB143** removes the requirement that a resident producer of insurance maintain a place of business in this State which is accessible to the public and where he or she principally conducts transactions. It also removes the requirement that the license of a producer of insurance be conspicuously displayed in the place of business and instead requires only that the license be made available for public inspection upon request. It further amends provisions governing the Nevada Insurance Code (title 57 of NRS) to provide that any certificate of insurance issued regarding a contract or policy of property or casualty insurance, other than a group master policy, which is delivered or issued for delivery in this State: (1) does not constitute any part of the contract or policy of insurance; and (2) does not amend any term or alter or extend any coverage, exclusion or condition of the contract or policy of insurance. This bill becomes effective July 1, 2011.

**SB329** required practitioners to include on a prescription the symptom or purpose for which a drug is prescribed; authorizing a patient to choose whether the symptom or purpose for which a drug is prescribed be included on the label of the container of the drug. It further required a pharmacy to provide the

contents of a prescription to a person authorized by the patient for whom the prescription was originally issued. This bill was heard in Senate Commerce and Labor. There were quite a few problems with the bill and RAN worked with the sponsor to remove the sections that we opposed. The bill was amended to only require that a physician post a sign in examination rooms that would educate patients on the labeling availability on prescriptions. This bill was also the vehicle to bring Nevada statutes up to date with current technology and evolving technology on electronic prescribing of scheduled substances. This bill is effective October 1, 2011.

**SB411** establishes certification by the State Board of Nursing of nursing assistants as certified medication aides; prescribing the acts a certified medication aide may perform; authorizing a certified medication aide to possess and administer certain drugs and medications in certain medical facilities; authorizing the Board to establish certain fees and charges. This becomes effective June 4, 2011, for the purpose of adopting regulations and October 1, 2011, for all other purposes.

**SB419** requires the Health Division of the Department of Health and Human Services, certain district boards of health and certain boards that license, register or certify health care professionals to require, as a condition of issuing or



# ALL THE SMALL THINGS

By Bryan Wachter

## IT NEVER FAILS, EVERY SESSION THE ARGUMENT ABOUT WHETHER NEVADA

should have annual legislative sessions, or maintain its biennial legislative system, comes and goes without much resolution. This year those that favor annual sessions got closer to winning the argument. Thankfully Governor Sandoval vetoed **AB578**, which would have created a "de-facto" annual legislature. In an effort to illustrate why the Legislature needs more time for the budget, we've listed a few of the bills that the Legislature used their 120 days to pass. As you can see it was time well spent.

Bills like **AB19** which require the state to now give fishing licenses to all groups

that benefit children not just at-risk children. This bill not only took time away from a previous legislature to actually create the mandate, but when they did, they limited who could receive licenses. Now the 76th session had to take time out of its 120 days to expand the licenses to all groups supporting children.

Or how about **AB127**? This bill is exactly two sentences long and no longer requires the legislature to actually print the bills, and compile them into books, which they can reference while voting.

Because of **AB170**, just in case there are people who don't read the surgeon general's warning on the side of cigarette packages, smokers will have a new warning to read when they purchase their

cigarettes that informs the buyer that smoking is harmful while pregnant.

Under current law it is illegal for you to brew your own beer (even if you have all your permits) and transport that same beer to a charitable event. **AB200** changed that provision but you have to wonder why it was created in the first place, forcing the legislature to take time to "fix" the law.

As if the 120 days wasn't long enough, **AB260** requires new legislators to attend training sessions after their first election and before the legislative session.

**AB304** and **SB190** made new licensing requirements for fire-performers and musical therapists respectively. During testimony for the musical ther-

apist bill, it was discovered that there is only one person who this new license would capture.

And lastly, **SB84** requires police to now place signs 700 feet away from a roadblock in a rural area and 1000 feet away from a roadblock in an urban area. Watch for police officers measuring distance instead of protecting.

These are just a few examples of how our elected legislators spent their time in Carson City. That isn't to say they didn't do good hard work during the 76th Session but it makes you wonder what else could have been accomplished if not for music therapists and smoking warning signs. ■

## PHARMACY/HEALTH CARE/BOARDS AND COMMISSIONS

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renewing a license, registration or certificate, that the applicant for issuance or renewal of the license, registration or certificate must attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices. It also requires certain medical laboratories licensed by the Health Division and persons who register a radiation machine with the Health Division, as a condition of issuing or renewing a license or registration, to attest that certain employees

have such knowledge of and are in compliance with such guidelines. This bill becomes effective October 1, 2011.

### BILLS THAT DIED THAT ARE WORTHY OF ATTENTION:

**AB221** was the legislation brought forward by Astellas Pharma, US, a drug manufacturer from Japan. The coalition who came forward in opposition to this legislation was able to amend the bill in committee with an agreement that we would reserve our right to change our position upon viewing the amendment. Upon viewing the amended language, the coalition rescinded their neutral position

and opposed the bill going forward. This language was much like language seen in other states on "market share policy" from brand manufacturers. This is bad public policy. RAN opposed. This bill was placed on the Chief Clerks desk and was never brought up for a vote before the April 26th deadline.

**SB203** was the legislation that would have required a prescription for cold medications in Nevada. The sponsor of this bill pulled her legislation when it became clear that the people of Nevada were against this measure. This was a good chance for the legislators to make a statement

on methamphetamine abuse in Nevada by requiring the use of the national Nplex system that would track all purchases. This was also offered at no cost to the state by the manufacturers but there was no traction within the body to implement this. That is very unfortunate as we now understand California is moving forward with this system and we believe that cross border problems may occur due to inaction of this legislative body. If the real issue was to stop the meth abuse in this state than the use of the system should have at least been part of the discussions. ■



# 2011 LEGISLATIVE UPDATE

By Bryan Wachter

## FOR THOSE OF OUR MEMBERS WHO RECEIVED OUR IN-SESSION WEEKLY

update *The Express Lane*, you will no doubt find a lot of this wrap-up as more of a refresher on the happenings of the 76th Legislative Session. For those of you who don't receive our email update please email our office manager Piper Brown to be placed on our mailing list.

### BILLS THAT PASSED

In the area of Worker's Compensation, Nevada businesses fared fairly well.

**SB21** dealt with catastrophic claims by redefining a catastrophic claim and who and how vocational rehabilitation experts handle them.

**SB58** brings parity to the employer/employee statutes by making it a crime for any party to misrepresent their wages or their employees' wages when being considered for a claim.

**SB63** clarifies when and how an employer must pay penalties to the Department of Industrial Relations when a summary judgment is involved. The Nevada Supreme Court ruled in a case where a special legislative session had swept funds from the Clean Water Coalition to use in operating expenses. Some of the taxpayers who paid into the fund (created to clean the water in Lake Mead) sued the state, under the idea that the money wasn't the states' to take, and if the money wasn't going to be used for its intended purpose then it should be returned to the taxpayers.

The Supreme Court agreed, and with its Decision, created two problems for the Legislative Budget. The first problem, and the one no one disputes, is the money that was swept totaled 62 million dollars and created a hole in the budget that would have to be filled. The second problem (and

the one that is still debated) was whether the Supreme Court decision applied to other swept funds (a total of roughly 600 million dollars).

Governor Sandoval, deciding not to "wait and see," and risk having to call a special session of the Legislature to re-do the budget, instead proposed a tax plan that included extending most of the 2009 "temporary" tax hikes. It included a reduction to 0.0% for businesses whose pay roll is \$67,500 a quarter, and a rate of 0.5% for all income over the quarterly threshold. State business licenses will still cost \$200 per business, and the .35% increase on the Local School Support Tax still applies, as does the mantra "it could have been worse."

### BILLS THAT DIDN'T PASS

Several workers' compensation bills were introduced that would have gotten rid of sole remedy and completely changed the

system, and would have had disastrous affects on Nevada's businesses. These bills were ultimately killed during the legislative session.

One day the Legislature will create a tax system that doesn't need to be "fixed" every other year, but sadly that day wasn't one of 2011's 120. What was proposed was a new margins tax on business income over one million dollars, and a new transaction tax on services at one percent. It was every left leaning activist group's tax dream come true. The margins tax and the transaction tax were heavily discussed in committee, and were supported by every organization that either had legislation they wanted passed, or every organization that would benefit from increased taxes. During this time the Senate Republicans (all of them) put out a press release emphasizing their steadfast opposition to new taxes. ■

## MISSED OPPORTUNITY (SB203)?

By Liz MacMenamin

## SENATOR SHEILA LESLIE BROUGHT FORWARD SB203, WHICH WOULD

have required a person in Nevada to get a prescription for simple cold medication, in an effort to have another weapon in the battle against methamphetamine abuse. While the Association and all retailers realize this abuse is a public health crisis, we stand firm behind the belief

that the answer does not rest in an inconvenience to the vast majority of people who use these medications legitimately. We had hoped to have a conversation about a system that would address the illegitimate acquisition of these products during session but the sponsor would not even let this come up for discussion.

Methamphetamine is a powerful psycho stimulant drug that impacts the

central nervous system, is highly addictive, and can be synthesized with a basic understanding of chemistry from a variety of chemicals that are commonly available to consumers. A principal ingredient in clandestine methamphetamine production is pseudoephedrine/ephedrine and its isomers and/or salts, which are also common decongestant ingredients in many OTC cold and allergy

medications. **NPlax**, an electronic tracking system, tracks over-the-counter (OTC) pseudoephedrine (PSE) purchases in real-time to prevent "smurfing." It alerts the retailers immediately when a consumer is about to exceed the purchase limits, and requires the retailer to deny the sale. Retailers would have been required to in-put the

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# Nevada Notes

## SPECIAL ELECTION FOR CD2

A special election is set for Sept. 13 to fill the Congressional District 2 (CD2) House seat after Gov. Brian Sandoval appointed Rep. Dean Heller to the U.S. Senate, replacing John Ensign.

But a legal challenge over how the election will be held is pending with the Nevada Supreme Court, and justices have hinted they might seek a postponement to the election to allow more time to vet the arguments.

In a recent meeting of the Republican Central Committee, former State Senator Mark Amodei was elected as the "official" candidate. State Treasurer Kate Marshall is expected to be the Democratic nominee.

New voter registration numbers show Republicans retain a big edge over Democrats in Nevada's CD2. The secretary of state's office says the number of total active voters in the district fell by 4,625 voters in May from the previous month. Republicans outnumber Democrats by 30,490.

AP

## NEVADANS FARED WELL IN LEGISLATURE

On the money side, Mary Lau of the Retail Association of Nevada said average Nevada residents "fared well" at the Legislature because their taxes won't go up on July 1.

Among the continuing taxes will be a 0.35 percent

sales tax that raised \$282 million for public education. With the retention of this tax, the sales tax in Clark County remains at 8.1 percent.

"It won't be noticed by most consumers," said Lau, who figures the typical resident doesn't know the sales tax rate. "When the increase was first put in, you notice it. But after a while people just pay it."

And businesses? Lau said small businesses did well at the Legislature. Under the budget compromise, businesses will continue to pay a 1.17 percent tax on the payroll of their employees.

But the first \$250,000 in annual earnings won't be subject to business taxes. \* That frees 70 percent of companies in Nevada from this tax, a savings of up to \$1,250.

Yet Lau said that's enough money for a small company to pay for a computer or a copy machine.

LVRJ

*\*(Ed. Note: According to Carole Vilardo of the Nevada Taxpayers' Assn., annual earnings are figured on a quarterly basis. If the amount is over \$62,000, taxes will be owed.)*

## WAL-MART EXPANDS FINANCIAL SERVICES

Wal-Mart Stores Inc., already a major provider of nonbank financial services, isn't wasting any time expanding its presence.

Wal-Mart is rolling out MoneyCenter kiosks,

offering a variety of financial services to shoppers, according to a company spokeswoman. The kiosk resembles an ATM machine and will be placed in Wal-Mart stores without full MoneyCenters.

Wal-Mart has more than 1,000 full MoneyCenters across the county staffed by customer service agents that provide bill payment, wire transfers, check cashing, money orders and other services.

Each service comes at a fee. For example, fees for money orders or bill pay start at 88 cents, while check cashing costs \$3 and a money transfer will cost \$4.75.

The kiosks give customers access to all the financial services the retailer offers, including Wal-Mart's prepaid MoneyCard and gift cards.

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## CVS CAREMARK PROGRAM FEATURES VSA KIDS' WORKS

CVS Caremark and the corporation's "All Kids Can ... CREATE" program, for a grant to VSA Nevada for field trips to the historic Lake Mansion and arts workshops in its "Art Happens Here" studio.

CVS Caremark managers Steve Check and Ed Thompson assisted with VSA Nevada's Youth Art Month exhibit featuring artwork created during 1,000 workshops in self-contained special education classrooms. Four pieces

were submitted to the "All Kids Can CREATE" on-line national exhibit.

From more than 4,700 entries by artists across the country, a panel of judges selected 102 students for a national touring exhibition.

Pieces by Demetrius Markley from Caughlin Ranch Elementary School in Reno and Benjamin Munk from Lowry High School in Winnemucca were picked to represent Nevada in the "Imagination Across America" exhibition, which debuted in Washington, D.C., on June 13.

RGJ

## SECOND CLINIC OPENING AT WALMART

Walmart and Carson Tahoe Regional Healthcare are partnering to open Carson City's newest location for basic health care services – "The Clinic at Walmart" operated by Carson Tahoe Physician Clinics. The clinic is now open to patients inside the Walmart located at 3200 Market St., off College Parkway.

The clinic will provide access to basic health care services, seven days a week, with no appointment necessary.

The clinic joins the first clinic operated by the physicians' clinic, located in Douglas County, and is among six other clinics at Walmart locations in Nevada.

Nevada Appeal



# National Notes

## AS STATES' TAX REVENUE PLUNGES, MANY LOOK TO ONLINE RETAILERS AS A WAY TO ADDRESS BUDGET GAPS

State governments across the country are laying off teachers, closing public libraries and parks, and reducing health care services, but there is one place they could get \$23 billion if they could only agree how to do it: Internet retailers such as Amazon.com.

That's enough to pay for the salaries of more than 460,000 teachers, according to the U.S. Bureau of Labor Statistics.

But collecting those taxes from major online retailers is difficult. Internet retailers are required to collect sales tax only when they sell to customers living in a state where they have a physical presence, such as a store or office. When consumers order from out-of-state retailers, they are required under state law to pay the tax. But it's difficult to enforce and rarely happens.

That means under the current system the seller is absolved of responsibility, buyers save 3 percent to 9 percent because they rarely volunteer to pay the sales tax, and the state loses revenue.

AP

## WAL-MART WINS SUPREME COURT SEX-BIAS CASE RULING

The Supreme Court

ruled that a sweeping gender-discrimination lawsuit against Wal-Mart Stores Inc. can't proceed as one large class action, a significant victory for the discount retailer and other corporations.

The court, in an opinion by Justice Antonin Scalia, said the plaintiffs didn't have enough in common to pool all their claims into a single case. The plaintiffs wanted to sue on behalf of more than a million women who are current or former employees of Wal-Mart.

To proceed, Justice Scalia said, the plaintiffs would need significant proof that Wal-Mart operated under a general policy of discrimination. "That is entirely absent here," he wrote in a 27-page opinion.

Justice Scalia said Wal-Mart's corporate policy barred discrimination and said the plaintiffs offered "weak" anecdotal evidence. His opinion quoted with approval a lower-court judge's view that the plaintiffs "have little in common but their sex and this lawsuit."

The case is Wal-Mart v. Dukes, 10-277.

WSJ

## TECHNOLOGY TAKING THE HASSLE OUT OF MALL PARKING

As malls grow larger and U.S. shoppers continue their love affair with large vehicles, parking is a growing concern for many

retailers. The more time a shopper spends trying to find a spot, the less time she spends in your store. Using a new technology, retailers and malls now have the potential to make their parking lots more efficient and user-friendly.

Using its patented M3 camera vision system, wireless sensors and PASEServer, on-site parking management platform Park Assist helps drivers find spaces and park their vehicles as quickly as possible. Park Assist managing director Richard Joffe says that while malls and retailers have long been using technology in their stores, they have neglected an important location where many shopping experiences begin.

With Park Assist, drivers no longer have to slowly creep through a multi-floor garage and turn blind corners to look for spots. The M3 cameras detect the presence of vehicles in each space and update LED indicators and digital signage around the garage to direct customers to vacant spaces.

When it comes time for a shopper to leave, the system can also help customers find their vehicles quickly and easily. Cameras in each parking spot take photos of the license plates and hold them in the database. Customers can simply walk up to a kiosk, punch in the first few digits of the license

plate number and the kiosk will show them exactly where they parked. What's more, license plate tracking allows the system to ensure that employees are parking where they are supposed to.

STORES Magazine

## CDC REPORT NOTES PHARMACIES' KEY ROLE IN FLU VACCINATION

Retail stores with pharmacies are playing a strong and growing role in the influenza vaccination effort, according to the June 17 Centers for Disease Control and Prevention (CDC) Morbidity and Mortality Weekly Report.

"For adults overall, a doctor's office was the most common place (39.8%) for receipt of the 2010-11 influenza vaccine, with stores (e.g., supermarkets or drug stores) (18.4%) and workplaces (17.4%) the next most common," the CDC report found.

"The proportion of adults vaccinated in stores (18.4%) during the 2010-11 season increased in each age group compared with the 1998-99 and 2006-07 influenza seasons, when 5% and 7% of adults, respectively, were vaccinated in stores. This increase likely resulted partly from changes in state laws allowing pharmacists to administer influenza vaccinations to adults, and subsequently, more pharmacies offering influenza vaccinations."

CDC Release



## MISSED OPPORTUNITY *Continued from page 7*

federally mandated consumer information into the electronic database. They would then be able to have direct access to the consumers' information and would then be alerted at the point of sale if the consumer had been ineligible to make the purchase. The data that goes into the system is the same as the data the retailer is presently required to maintain in a logbook.

• The retailer is also required to obtain identification at the time of sell pursuant to federal law. The problem with the logbook system is that there is no coordination of the information. This system centralizes the information and makes it available to all pharmacies in real-time, to prevent pharmacy shopping. One concern we have is the implementation of a statewide

• electronic tracking program in retail outlets in California. Will this make Nevada more attractive to the "smurfers" (criminals who go from store-to-store attempting to exceed the legal purchase limits established in federal law)? I am sure this was not the Senator's intent when she shut the door on these discussions. There was no fiscal note attached, as the Consumer

• Health Products Association was willing to bear the cost of implementation to the state and to the retailer. Was this a missed opportunity? RAN will continue to work on this issue in Nevada, with hopes that during the next legislative session we can look at bringing forth some dialogue on what is best for all citizens in Nevada. ■

## Important Information for SIG Members

*The NRS governing self insured groups requires notifying members of all new members to the Nevada Retail Network Self Insured Group. New members for NRNSIG from May 1, 2011 to June 30, 2011 are listed below.*

Bead Jungle  
Centurion Management Services  
Codega Concepts LLC  
Elite Bookkeeping & Tax Services  
Floor Tech, Inc.  
Gardnerville Town  
Water Company, Inc.  
Great Basin Physical Therapy  
Merry Maids #1138  
Mudd Hutt

Nevada High Speed, LLC  
Quick Response Restoration  
Rehabilitation &  
Vocational Assoc.  
RODO, LLC dba JD Byrider  
RODO Company dba CNAC  
Speedi Tech LLC  
T.L. Caudill Enterprises, Inc.  
Vachon Drafting, Inc.

**NRNSIG** members who wish to register a negative vote on a new group member, please write NRNSIG at 575 S. Saliman Road, Carson City, NV 89701, indicating which member and the reason(s) for the negative vote.

## UPCOMING EVENTS

### **NRFtech: IT Leadership Summit**

Aug 14–16, 2011 • Lake Tahoe, NV

### **Shop.org Annual Summit**

Sep 12–14, 2011 • Boston, MA

### **RAMA CMO Summit 2011**

Sep 14–15, 2011 • Washington, DC

### **ARTS Users' Conference**

Sep 25–27, 2011 • Orlando, FL

### **NRF Human Resource Executives Summit**

Oct 11–13, 2011 • Dallas, TX

### **NRF 101st Annual Convention & EXPO**

Jan 15–18, 2012 • New York, NY

## TAKE CONTROL OF YOUR WORKERS' COMP COST

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**MEMBERSHIP INFORMATION:** Find out more about RAN's self insured group. Call Mike Olson, **800-859-3177**, or the RAN office at **775-882-1700** (toll free in Nevada 800-690-5959). Don't forget to check out our website, **www.RANNV.org**.



# MEET RAN'S SUMMER INTERN

*(Morgan Blomstrom will be working at the RAN office this summer inputting data from the Legislative Session and assisting in quantitative analysis for the Legislative Matrix.)*

## **N**ATIVE NEVADAN **MORGAN** **BLOMSTROM** **WAS BORN IN**

Reno and grew up in Douglas County, Nevada. She attended Jacks Valley Elementary School, Carson Valley Middle School and Douglas High School (DHS). Blomstrom presently attends George Fox University (GFU), with a major in International Business and a Psychology Minor.

Morgan graduated from DHS with Honors and an Advanced Diploma. She was Vice President of Psi Mu Sigma, a DHS fraternity focused on psychology. She was also an active member of the DHS Honor Society and Block D.

Morgan played softball from second grade through her varsity career at DHS.

She originally planned to play college ball as well but decided that, with an academic scholarship, her studies would need to be the most important component of a successful college career. That has proven true as Morgan recently completed her freshman year.

Softball gave Morgan life skills to take into her work world. She is organized, a team builder, a team player and a hard worker. She brings a passion for people to whatever she does.

In her spare time during high school, Morgan volunteered with the Douglas Animal Welfare Group, walking dogs at the Douglas County shelter and helping to find homes for abandoned dogs and cats. She also worked part-time at the Retail Association

office inputting data and organizing NRS material.

During her freshman year at GFU, she volunteered with Night Strike, an organization that serves downtown Portland's homeless population. She also participated in GFU's Serve Day, where the entire campus spends a day giving service to the area surrounding the school. Morgan served at an elementary school in Dayton, Oregon.

Morgan plans to graduate from GFU and then possibly pursue a graduate degree. She also plans to experience the GFU Juniors Abroad program and hopes that it will be in a country where her Spanish skills can be refined.

In addition to her summer internship at RAN, she is taking



online summer classes from GFU, including Marketing and Life of Christ.

Her parents are Mark and Cheryl Blomstrom. She has an older married brother, Sam. Morgan's pets include three dogs, Griffin, Simba and Roo, as well as three cats, Goldwyn, Sushi and Zachary and various fish and snails. ■

# NEW STUDY EVALUATES CONSUMER BEHAVIORS, ATTITUDES TOWARD "SOCIAL COMMERCE"

## **S**HOPPERS ARE **WILLING TO** **INTERACT WITH** **RETAILERS**

through a variety of social networks and retailers have limitless opportunities to capitalize on the momentum, according to the 2011 Social Commerce Study, a joint research project by Shop.org, comScore and Social Shopping Labs. The report, which evaluates shopping directly influenced by social

media, polled 1787 adult online shoppers in April 2011.

According to the survey, 42 percent of online consumers have "followed" a retailer proactively through Facebook, Twitter or a retailer's blog, and the average person follows about six retailers. While shoppers' reasoning for following a retailer varies, the majority of respondents (58%) said they follow companies to find deals,

while nearly half (49%) say they want to keep up to date on products. More than one-third also follow retailers for information on contests and events (39%).

Though many retailers use social media to build their brand, research indicates that companies may also be able to monetize these channels. According to the survey, more than half of Facebook users (56%) say they have clicked through to a

retailer's website because of a Facebook post, while over two-thirds of Twitter users (67%) say a post has spurred them to click through to a website. Additionally, the appetite for buying directly through social networks appears strong: one-third of shoppers say they would be likely to make a purchase directly from Facebook (35%) or Twitter (32%). ■



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### WASHINGTON RETAIL INSIGHT

# NATIONAL RETAIL FEDERATION CALLS SWIPE FEE VOTE VICTORY FOR AMERICAN CONSUMERS

**MATTHEW SHAY, PRESIDENT AND CEO**

of the National Retail Federation, issued the following statement upon Senate rejection of the Tester-Corker amendment to delay swipe fee reform:

"This is a landmark victory for American consumers that will give them the break from skyrocketing swipe fees that they have been seeking for years.

"With the economy still trying to gain momentum and consumers facing skyrocketing costs for necessities like food and fuel, this badly needed reform will help ensure our nation's economic recovery. It will prevent more than a billion dollars a month from being pocketed by big banks and, in turn, allow retailers to hold down prices for consumers.

"Congress came to the right conclusion last

year — hidden swipe fees charged by big banks have driven up prices far too much for far too long. The National Retail Federation and America's retail merchants commend the Senate for standing by last year's vote and for voting on the side of American consumers."

As the world's largest retail trade association and the voice of retail worldwide, the National Retail Federation's global membership includes

retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the U.S. and more than 45 countries abroad. In the U.S., NRF represents the breadth and diversity of an industry with more than 1.6 million American companies that employ nearly 25 million workers and generated 2010 sales of \$2.4 trillion. **www.nrf.com** ■