

# Nevada News

Serving the Retail Community Since 1969

June 2005

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## 2005 Legislative Roundup

By Mary Lau

Executive Director, RAN

Now that the dust has settled from the 2005 Legislative Session, as well as the third-session-in-a-row Special Session, our members will have the time to assess what happened during the 120-plus-1 legislative days.

Most citizens will be thankful for the 3 percent property tax cap, but Nevada's business community should still be concerned about the 8 percent property tax cap disparity inflicted on businesses. For some businesses, this was a break. For others, this was an increase. But regardless of where you stand, there is still this band-aid stretch and direct assault on the state constitution. Our constitution does not allow for this difference, and it will be interesting to see how this mess gets corrected. I think that it will all depend on who the next governor is and what action he or she may take.

Actually, I will say that the members of the Retail Association of Nevada fared well this session, and that our friends on both sides of the building were helpful in passing legislation that helped our retail climate.

One very important bill, SB 457, which was known as the "Albertson's Bill" in the halls, actually clarified language in statute that liquor retailers may transfer from their temporary storage facilities within a wholesale area. This was very important for our liquor retailers. Of course, they cannot transfer between

territories unless there is an affiliate relationship between the wholesalers and permission is granted. I covered this bill in my last article, so I won't belabor the point. If you want the full language, you can go directly to the legislative website, [www.leg.state.nv.us](http://www.leg.state.nv.us), for that information. Paul and Liz will highlight other bills in their articles. Plus, each member will receive the 2005 *It's the Law* as soon as it is published.

The disappointing part of the session is that legislators had an opportunity to actually cut taxes and roll back some of the inequities. Yeah, there was a slight decrease in the overall payroll tax to .63 for two years; however, the banks did not get appropriate tax relief. They did get a pittance of one branch per county only, but even pawnbrokers obtained a reclassification and put in parity with other businesses. Pawnbrokers should have never been classified as a financial institution, but come on folks, banks should not be separated from other businesses.

Nevada's private hospitals had the big fight this session. There were so many anti-hospital business bills against them that it was embarrassing. Thank goodness that they have an effective lobbying team and that more legislators considered policy as to a hospital's right to return on investment rather than join the

*2005 Legislative Roundup  
continued on page 4*

# Seen & Noted

## E-Retail Directory

**W**ant to know who was the biggest Internet retailer in 2004? Find that information and more in Internet Retailer's 2005 guide, the *Internet Retailer Top 400 Guide*, the company's second edition of its guide to Internet retail business.

The *Top 400 Guide* contains completely new profiles of the 400 biggest e-retailers. It ranks them by their 2004 sales and includes an average of three executive contacts per listing. It also contains a wide array of operating data from the average ticket size to conversion rate on each of the e-retailers ranked. It also includes a complete list of the vendors who provide solutions to each leading e-retailer in 16 key service categories.

Find out more about the *Top 400 Guide* at [www.internetretailer.com](http://www.internetretailer.com). The book costs \$49, plus \$5.95 shipping.

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## Gift Cards are a Growing Business

**A**t least \$55 billion in gift cards were sold in 2004, and companies are carrying millions of dollars of liability due to unused cards. Home Depot just reported \$43 million in "breakage" from 1998 to 2001, to the Securities and Exchange Commission. Companies can choose to report unused portions of gift cards as breakage—income—or as a liability. (Although Home Depot has reported this as income, their gift cards carry no expiration date or service fees. A Home Depot gift card holder can redeem it at any time for whatever value is on or left on the card.)

Other companies have reported outstanding gift card amounts as liabilities. Those reporting liabilities include Best Buy at \$410 million, Lowe's at \$264 million and Target at \$214 million. The report indicates that each of these companies expects cardholders to spend them.

Gift cards have been growing in popularity, and state legislatures are starting to look at inactivity and other fees that businesses charge. New York put a law on the books in 2004 that prohibits retailers from charging monthly service fees on gift cards until the card has been unused for 12 months. There are 31 states with statutes pending on governing gift cards, including rules on fees charged and requirements of full disclosure.

The Pelorus Group, a New Jersey-based research firm, includes gift cards issued by banks, such as Visa gift cards, in their estimates of gift cards sold. Using that, they estimated that \$94.8 billion worth of gift cards were sold in 2004, with \$109 worth expected to be sold in 2005, and \$120 billion worth in 2006.

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## Bankruptcy Hurts Small Businesses

**B**usiness bankruptcy filings have been underreported says research conducted by two law professors, Robert Lawless from the University of Nevada, Las Vegas, and Elizabeth Warren from Harvard. The study estimates that at least 19.5 percent, not a mere 2.3 percent, of filings are at least partly business related. The Administrative Office of the U.S. Courts (AOC) has used the 2.3 percent rate in its reports.

Lawless and Warren say their report, "The Myth of the Disappearing Business Bankruptcy," puts a different face on how new bankruptcy legislation will affect small businesses and entrepreneurs in this country. Blaming the growth in bankruptcies over the past 20 years on consumers' misuse of credit was misplaced, and the bankruptcy legislation recently passed could hamper small business and entrepreneur recovery in the U.S.

The non-partisan Ewing Marion Kauffman Foundation, a non-profit focused on entrepreneurship, financed the research.



## Pharmacy Legislation 2005

By Elizabeth MacMenamin

Director of Government Affairs, RAN

This session began with RAN receiving an invitation from Senator Valerie Weiner to assist with her work on Senate Bill 157, which would require the state to establish and maintain a website providing certain information to consumers concerning the prices of prescription drugs and pharmaceutical services. While we understood the intent of this legislation,

we were opposed to this in theory. Senator Weiner stated that she wanted to make this a purely voluntary law. However, as we have seen in the past, once implemented, if there is no participation, then it could very easily become mandatory once the website is in place. While we all agree that the cost of healthcare is high, we still believe that free enterprise should be protected. This bill was heard in Senate Government Affairs but failed to meet the first deadline for passage and no further action was allowed. We do appreciate the opportunity to work on this bill with Senator Weiner.

Senator Weiner also brought forth Senate Bill 37, legislation that would strengthen the wholesaler regulations within the state. We supported the work that the Senator, the State Board of Pharmacy, and a very involved wholesaler did on this legislation. I applaud all involved in this legislation. RAN included an amendment to Senator Weiner's bill that would allow the pharmacy to resume the practice of a one-year expiration date from dispensing on the label attached to the dispensed drug. The law that was passed in 2003 did not take into account the change in the efficacy of the drug once the original bottle is opened and the drug is no longer in a controlled environment. Another amendment that Assemblywoman Chris Guinchigliani added to this bill was that the Executive Secretary of the State Board of Pharmacy must have experience as a licensed pharmacist in

this state or in a state with comparable licensing requirements.

Assemblywoman Debbie Smith brought forth Assembly Bill 276 and invited us to work on legislation that would enable patients to have their prescription transferred upon their request. While I was under the impression that this was already in regulation, Keith MacDonald informed the Assemblywoman that this regulation was purely voluntary. I believe that she was able to craft legislation that will work very well for our pharmacies. It will mandate that "upon request of a patient," the pharmacist shall transfer said prescription. This legislation came about at the request of a constituent who was trying to have her prescription transferred to a different pharmacy and was denied this request.

This same language was used again in Senator Maggie Carlton's legislation, Senate Bill 163. This was added after Assemblywoman Chris Guinchigliani added an amendment to this bill regarding the "morning after" pill for Planned Parenthood. Several legislators interpreted this as being "consciousness clause" legislation, even though Planned Parenthood and the Assemblywoman denied this. The testimony given was that a pharmacist denied a diabetic her insulin and needles because "he didn't like her looks." The amendment failed, but the group agreed to having Assemblywoman

Smith's "upon request the pharmacist will transfer the prescription" clause. Legislators felt that the practice of a pharmacist having a moral objection to dispensing a "morning after pill" is no different than a doctor having an objection to performing abortions and should strictly be an employer/employee issue.

Assemblyman Marcus Conklin introduced a particularly onerous piece of legislation for AARP that we followed very closely—Assembly Bill 66. It would have required the drug manufacturers to report to the State of Nevada on an annual basis any gifts, fees, payment, subsidy, or other economic benefit over \$25.00 that was provided to a practitioner licensed to purchase wholesale, prescribe or dispense prescription drugs. We certainly tried to understand why this legislation would be needed when in fact the manufacturer must already comply with this on the federal level. Assemblyman Conklin also added a penalty of up to \$10,000 for failure to report. I failed to see the need to add such an outlandish penalty to an industry after stating that this legislation was purportedly to decrease the cost of drugs to his constituents.

We were brought into the bill because of our belief that the industry we represent relies on the education given in areas regarding new innovative drugs that are coming on the market. We opposed this bill in the Assembly. The bill moved to the Senate and our work really began when AARP testified at the table that the chain drug companies compile a list of the prescribing physicians'

*2005 Pharm Legislation  
continued on page 4*



## Sales Tax Holiday Dies in Last Minute Legislative Wrangling

By Paul Enos

Manager of Government Affairs, RAN

While measures to implement or authorize a sales tax holiday in Nevada were introduced during the 2005 session of the legislature, a bill never made it to the Governor's desk. Assembly Speaker Richard Perkins (D-Henderson) introduced a bill that initially sought approval

from the voters in the 2006 General Election to give the authority to the Legislature to implement a sales tax holiday. The bill, however, was changed during a committee work session to implement a sales tax holiday in August of 2005 on items such as clothing and school supplies. Perkins' version did not exempt the entire amount of the sales tax; it only exempted the local taxes and required that retailers collect 2 percent of the total sales price for the state. While that measure passed unanimously in the Assembly, it died in the Senate.

Senator Maggie Carlton (D-Las Vegas) sponsored a bill that sought approval from voters in the 2006 General Election to authorize the Legislature to implement a sales tax holiday. Unlike Speaker Perkins'

version, Senator Carlton's version would exempt the entire amount of the sales tax. Senator Carlton's bill died in the Senate Committee on Finance.

In the last few days of the session, RAN worked with Senator Carlton and Senator Mike McGinness (R-Fallon), Chairman of the Senate Taxation Committee, to find a vehicle for her sales tax holiday legislation. The sales tax holiday language then was amended into S.B. 356 when that bill was in conference committee. While there was support in the Senate to pass Senator Carlton's version of the holiday, the measure died when Speaker Perkins insisted that no sales tax holiday would be considered unless his August holiday was implemented.

## 2005 Pharm Legislation

continued from page 3

dispensing habits without the inclusion of any patient information. We discussed this at length with the Senate Commerce and Labor Committee, but Senator Joe Heck, a doctor, voiced distaste for this practice. I personally contacted my physicians for their opinion on this, and it was clear that the community of private practice physicians rely heavily on the education that the manufacturers provide. This bill failed to make the final deadline of passage out of the second house.

Senate Bill 5 of the special session, the Canadian Drug bill, was an interesting piece of legislation. It became the political hot potato that the Senate used as a lever to obtain legislation that was needed for its political purposes that was hostage in the Assembly. While the implementation of this legislation will have only a minor impact on our members, we firmly believe that the patient safety and face-to-face with a pharmacist is far more important than allowing citizens to obtain drugs that may be contraindicated to something they may already be taking and could have potentially disastrous results. Further, the committees heard testimony from Canadian pharmacists and healthcare providers that stated they were currently working on legislation to make this practice in Canada illegal. The only hope is that the State Board of Pharmacy will continue diligently to make certain any pharmacy willing to provide drugs to our citizens are, in fact, operating a reputable pharmacy.

We feel that the issues raised this session brought forth lively discussion and "at the end of the day" resulted in good legislation for pharmacies operating in this great State of Nevada.

## 2005 Legislative Roundup

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feeding frenzy. This pattern of singling out one segment of our state's economy needs to stop, and as long as we allow separateness, (i.e., bank branch fees and payroll tax differential) then we might as well grab a chair and watch the drinking pond waiting to see which of the weaker ones (businesses) becomes food for the predators (taxes and fees).

What's next for RAN? Well there is, of course, the Interim Committees and we are already hard at work on the next election cycle. We haven't, as of this writing, calculated the legislative votes on our matrix but feel that this will be a very enlightening document again this year.

As always, if any RAN member has questions or concerns, please give us a call. feeding frenzy. This pattern of



## 2005 Legislative Session – Education Wrap-Up

By **Randi Thompson**  
Guest Contributor

Following is a look at the education bills passed during the 2005 legislative season.

### Special Session

The Legislature approved two education bills during the Special Session held Tues., June 7, 2005. One allocates \$22 million for 2006 and 2007 for full-day kindergarten at schools where 55 percent or more students are “at risk.” Schools must apply for the funding. Many schools currently receive federal funds from No Child Left Behind for full-day kindergarten. These schools can redirect the federal money to other remediation programs (as allowed by the law) and still apply for funding to cover full-day kindergarten. If they wish, parents can opt out of full-day kindergarten for their children and send them to half-day classes.

The other bill made changes in the Millennium Scholarship program including:

- A name change to the “Governor Guinn Millennium Scholarship,” offered by Senator Raggio.
- The GPA requirement was raised from 2.60 to a 3.00 for the class of 2003-04, and a 3.10 for the class of 2005-06. The maximum number of credits that a scholarship will pay for is 12. It will pay for summer school but not for remedial education courses.
- Students must maintain a 2.60 GPA their first year. It rises to 2.75 for all semesters after that. Students are allowed two semesters at 2.74 or below (or 2.59 in their first year) before they lose their scholarship. However, two strikes and you’re

out.

- The Board of Regents shall establish procedures to ensure that all money from a millennium scholarship awarded to a student that is refunded for any reason is refunded to the Trust Fund and not the student.
- A one-time \$35 million goes into the Trust Fund this year. Due to the declining revenues from the Tobacco Settlement, \$7.6 million from the General Fund will be transferred to the Millennium Scholarship Trust Fund each year to keep it solvent. Predictions are that the program will remain funded until 2012 or 2014.

### Regular Session

There were several primary education bills that passed, which changed attendance requirements and created a grant program for remedial and innovative education.

SB 404 was the cornerstone of Governor Guinn’s education package. It creates a Commission on Educational Excellence (this is now the twelfth panel that is responsible for some area of education, not including the elected State Board of Education whose job it is to oversee education).

This Commission will oversee the distribution of \$78 million in grants to schools so that they can increase student & school performance. (It was \$100 million, but \$22 million was taken out for full-day kindergarten.) This bill sets up an account for “Programs for

Innovation and the Prevention of Remediation” that the Commission on Educational Excellence will administer. The Commission will consist of nine members—three teachers, two principals, two school district administrators, one parent or legal guardian of a pupil enrolled in a public school, and the superintendent of education. Schools will apply for grants to address their needs, including remediation, innovative education, ESL, or gifted and talented programs. The Commission will decide what grants warrant funding.

An additional \$14 million is moved from the School Distributive Account to the “Programs for Innovation and the Prevention of Remediation” to be used for either remediation or innovation.

AB 580 was a comprehensive “pork” bill that includes several education issues. First is the requirement that each school district must undergo a financial management audit every six years. The audit is to provide cost-saving suggestions to school districts, if necessary.

An appropriation in this bill that received little discussion is the \$7.5 million from the State General Fund to the Department of Education for the purchase of portable classrooms to accommodate full-day kindergarten. However, Clark County is not eligible to receive these funds.

Funding of \$175,000 is available for school districts that establish a pilot program to teach English to children who have limited proficiency in the language, during the summer

*Education Wrap-Up continued on page 7*



## Minding the Store

# KETTEN HARDWARE



**Y**ou could call it a mom and pop operation, but it's not the small corner grocery store. Ketten Enterprises, Inc. in Tonopah likens to the old-fashioned hardware store where you can pick up a little of this and a little of that and talk about the weather with the owners, who have lived in the area for about 50 years.

Ketten started the business about 30 years ago. He says there was a need in the town that was a long way from the biggest city in the state, Reno. So, he started making trips to Reno and buying lumber from Nevada Wholesale Lumber. It wasn't just a matter of hauling in some lumber and hoping for sales. No, his mission was pretty clear. Everyone knew that he was making a trip to the city once a week, so they left orders. He would fill the orders and buy a little more, and as his supplies dwindled, he would buy more.

As the lumber business grew, he also saw the opportunity to expand

the business into selling materials that went along with the building trade like screws, nails, paint, hinges, tools, electrical supplies and whatever people started asking for. The store grew along with the customers' needs. Eventually he bought the sand and gravel pit from the airport and added those supplies to his stock. At one time, the store had 47 employees.

When Ketten first started hauling in lumber, he would put it in the unprotected yard of the store. He says, "People would pick up lumber when I wasn't there and leave a note." They would settle up at another time. That's one of the first things that changed through the years. When people just started picking up lumber and leaving nothing behind, the lumber had to go behind closed gates.

Over the years, Ketten has seen a lot of changes. He eventually sold the sand and gravel part of the business. Then about 12 years ago, he sold the store and sort of retired. The sale didn't take, though, and he took the

business back and rebuilt the clientele and the stock. Now it's he and his wife minding the store. They still sell lumber and associated hardware, and they've added gardening supplies like tools, drip systems, sprinklers and hoses. Ketten says the local Scolari's Food and Drug carries flowers and other planting materials.

Then there are the things that don't change. Tonopah has not been untouched by the do-it-yourself craze, and Ketten still takes trips to the big city, now Las Vegas, and picks up lumber that he doesn't order from a Washington firm. He also carries his list of special orders from customers, and he does his best to fulfill their requests. He'll pick up supplies like special moldings, doors and other items that folks can't buy in Tonopah—and they appreciate that Ketten will make the 400-mile roundtrip for them. Even though he tries to fill every request, there have been some that he couldn't get, like the 1,000-gallon diesel tank one customer requested.

Ketten Enterprises is the local hardware-and-more store in a town that serves a hundred mile radius including such places as Fish Lake Valley, Goldfield, Silver Peak, Round Mountain and Hadley. He serves everyday folk along with state and federal government contractors. It's still the store where people come in to buy and shoot the breeze. And it's for sale. Ketten says he and his wife are ready to retire, the business is thriving and he's ready to hand it over to another enterprising person willing to buy, sell and be a friend in the community. Ketten says you can find the property at [www.lvbizbroker.net](http://www.lvbizbroker.net).



## Education Wrap-Up

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before they attend kindergarten. Clark will receive \$100,000 and Washoe will receive \$50,000. The balance goes to the rurals. For each school district whose application is approved, the school district shall distribute \$1,000 to each school that will participate in the pilot program to promote parental involvement with the parents and legal guardians of children enrolled.

There is \$1 million set aside for pilot programs for finding alternative programs for disruptive pupils.

A fund of \$10 million is available for grants to school districts that adopt a program of performance pay and enhanced compensation for the recruitment, retention and mentoring of licensed personnel. This includes signing bonuses and higher pay for teachers in high-need areas (math, science and "at risk" schools).

The Department of Education received \$2 million to establish a technical skills advisory committee to provide for the support of career and technical educational programs.

SB 525 lays out how money in the Distributive School Account (DSA) is to be spent. School districts are guaranteed a basic support of \$4,486 per pupil in 2005-06, and \$4,696 in 2006-07. The total budget is about \$3 billion for the two years.

### Higher Education

Higher education received about \$200 million more that it requested this session. Most of the funds will go to capital improvement projects.

The name of the University system was officially changed to the Nevada System of Higher Education. Residency requirement for in-state tuition was also changed from 6 months to 12 months.

UNR will get \$32 million for a new math and science building, \$5.5 million to design a new biotechnology and genomics research facility, \$20 million for a new campus library, and \$10 million for a cancer and chronic-fatigue syndrome research center. DRI will receive \$14 million for its Cave Automated Virtual Environment facility.

The legislature passed an amendment to the Constitution that changes the Board of Regents structure. Currently, there are 13 members, all voted upon. This bill reduces the number of members to nine, with six being appointed by governor and three elected from each of the state's three congressional districts. This issue will go to voters in the November 2006 general election and become law if approved by 51 percent.

The regular session ended at 1:00 a.m. on Tues., June 7, 2005.

## • Seminars •

### August 2005

#### **NRFTech – IT Leadership Summit**

August 7 - 9, 2005

La Jolla, CA

Contact: 202-783-7971

### September 2005

#### **NRF Washington Leadership Conference & Lobby Day**

September 19 - 20, 2005

Washington, DC

Contact: 202-626-8152 or

[www.nrf.com](http://www.nrf.com)

#### **National ERA Convention & Exposition**

September 19 - 21, 2005

Las Vegas, NV

Contact: 800-987-6462 or

[www.retailing.org](http://www.retailing.org)

#### **ASIS International 51st Annual Seminar & Exhibits**

September 19 - 21, 2005

Orlando, FL

Contact: 703-519-6200 or

[www.asisonline.org](http://www.asisonline.org)

### October 2005

#### **RILA' ALEx 2005**

October 9 - 12, 2005

Chicago, IL

Contact: 703-841-2300 or

[www.retail-leaders.org](http://www.retail-leaders.org)

#### **Western Food Industry Exposition**

October 23 - 25, 2005

Las Vegas, NV

Contact: 916-448-3545 or

[www.cagrocers.com](http://www.cagrocers.com)

### Abbreviations

ERA • Electronic Retailing Association

NRHA • National Retail Hardware Association

NRF • National Retail Federation

RILA • Retail Industry Leaders Association



## New Seafood Labeling and Recordkeeping Rules

**A**lthough the new regulations for seafood labeling and recordkeeping went into effect April 4, 2005, retailers have until the fall of 2005 to comply before fines will be handed out. According to the U.S. Department of Agriculture (USDA), USDA inspectors will focus on “helping

people comply with the law, rather than fining them for their mistakes until the fall of 2005.”

Key points of the labeling regulation include:

### **Consumer Notification:**

Retailers are required to tell customers the country of origin and the method of production (wild or farm-raised) of the unprocessed seafood they sell.

### **Affected Seafood Products:**

All fresh and frozen seafood products that are not “processed” must be labeled. Examples include salmon fillets and uncooked shrimp.

### **Types of Labeling:**

Retailers can use placards, signs, labels, stickers, bands, twist ties, pin tags or any other format that gives consumers the information. It must be conspicuous, legible and typed, printed or handwritten.

### **Pre-labeled Products:**

If the manufacturer’s label has the necessary information, you do not need to add anything.

### **Keeping Records:**

The rules require retailers to keep the information that they relied upon at store level to post the signs. You must keep records that identify the supplier, a unique identifier for the seafood, and the origin and production information, unless the product is pre-labeled. Retailers must keep the second set of records for one year after sale, although not necessarily in the store.

After a USDA survey of 11 grocery stores in the Washington, D.C., area was released, the Food Marketing

Institute (FMI) suggests that stores make sure their personnel are following through on certain areas, e.g. making sure all covered seafood product are identified by both country of origin and method of production; check to make sure that products in the fresh case, over-wrapped products and frozen seafood are all labeled properly; and proper labeling is situated for easy viewing around fresh lobster tanks and frozen, uncooked lobster tails. Check FMI’s website, [www.fmi.org](http://www.fmi.org), for more information on the survey results.

Some parts of these rules could change as they are termed “interim final” rules. Rules such as those regarding recordkeeping or the types of fish the USDA considers processed could change. For a look at the entire set of regulations, visit the USDA website at [www.ams.usda.gov/cool](http://www.ams.usda.gov/cool).

## ADA Design Standards Rulemaking in Progress

**T**he comment period for revising the Department of Justice’s (DOJ) design standards under the Americans with Disabilities Act (ADA) was closed last month, and groups like the National Retail Federation (NRF) are watching closely.

The DOJ revises ADA regulations to make them consistent with the revised ADA Accessibility Guidelines published by the Architectural and Transportation Barriers Compliance Board, or Access Board, which

published new rules on July 23, 2004. NRF is concerned that the new rules will be enforced retroactively and has asked that retailers and other businesses that are in compliance with current requirements should be given a safe harbor exempting existing facilities from the update. They suggest, “Facilities that are in compliance with state or local codes that provide equivalent or greater access than ADA requirements should also be exempted, along with those that have been upgraded as the result of a lawsuit.”

NRF projects that one change suggested by the new rules, modifying checkout counters and display cases for closer wheelchair access, could cost the industry close to \$1 billion if applied retroactively.

NRF also objects to the implementation time suggested by the rule changes, six months to one year, and suggests a more reasonable time frame would be 18 months.

The rule changes are in the first of three steps in the process. Next comes the proposed rule, then the final rule. Until final regulations are released, the revised ADA Guidelines have no legal effect on the public.

To look at the proposed changes and other ADA information, go to <http://www.usdoj.gov/crt/ada/proposal.htm>.



## Smile...It May Be the Boss Calling

By Nancy Friedman  
The Telephone Doctor™

There is rarely a program I present that someone doesn't ask me if smiling is really that important—either on the phone or in person. People actually ask me, "Nancy, can you really hear a smile?" Yes, Virginia, you can really hear a smile. And your caller can hear the lack of a smile as well.

So, this is a column about SMILING and the reasons for it. Now, if you happen to already be a smiler, you might want to pass this article on to someone who isn't or doesn't know that you CAN HEAR a smile.

First, let's take the word smile from Webster's dictionary:

Smile: To smile, be astonished; to have or take on a facial expression, showing pleasure, amusement, affection, friendliness, irony...and characterized by an upward curving of the corners of the mouth and a sparkling of the eyes

See!! It's something most everyone can easily do.

And if it's that easy, don't you wonder why more people don't do it? Have you ever been in a store or just been walking around, and see that people aren't smiling? Even when you start talking with them?

A recent New York Times review by Roxana Popescu of the book *A Brief History of the Smile* written by Angus Trumble asks a very good question, "Why do English speaking people say CHEESE to make you smile, but Chinese speakers say Eggplant?" Trumble continues, "The spontaneous smile of the little child is essentially truthful."

Certainly, we all know that not saying 'please' and 'thank you' is usually considered rude, but the list of rude behavior is much longer than those offenses. I'm not sure why we constantly need to be reminded to smile, but we do. You would think it would be common sense to smile when you're with a customer. Ah, but common sense is not that common now, is it?

Will a smile help? Well, as my mother used to say, it couldn't hurt. I also suggest keeping a mirror by your desk. That is yet

another good reminder to keep a smile on your face when you're talking with customers.

My husband and I are in airports a lot. We've made a conscious decision to keep a slight smile on our face when we walk through them. Why? Because when we looked at the faces coming towards us, mouths turned downwards, looking worse than sad, almost angry, we decided we didn't want to look like that. Sure, it may feel a little funny keeping that little smile on our face, but we both know we look better for it.

SMILE week, celebrated in August, reminds me of a story a skycap told me a few years ago. You'll enjoy it.

Joe, our friendly skycap at the St. Louis airport told me this story. He was walking through the airport and came upon a woman sitting hunched over on her luggage, mouth turned down as far as it could be turned down. He said she looked terrible. He decided to go over and ask her if she was OK. "Excuse me, M'am," he said, "are you OK?" The woman looked up, mouth continuing in its downward turn and grumbled a mean, "YES." "Well," he said, "notify your face."

So remember, if someone comes up to you and asks, "Are you OK?" it probably means you don't look very happy.

Now say..."Cheese."

Nancy Friedman is President of Telephone Doctor, a customer service training company in St. Louis, MO. She is a featured speaker at association and corporate meetings. Receive her free monthly email article on customer service and a free subscription to the Telephone Doctor Newsletter, **The Friendly Voice**, email [press@telephonedoctor.com](mailto:press@telephonedoctor.com), or call 314-291-1012.

## Visa & MC Settlements on the Way

When Visa and MasterCard required that retailers that accepted Visa and MasterCard credit cards must also accept their debit cards, retailers got together and just said no. About 20 of the nation's largest retailers and the National Retail Federation brought suit against the companies—and won. Now, Visa and MasterCard are getting ready to pay about \$3.4 billion to retailers involved in the 1996 lawsuit.

The appeals period has passed, and now it's time to pay up. The original settlement of \$3.1 billion has grown to \$3.4 billion. Credit card companies have two years to make the payments, but the merchants' lead counsel, Constantine Cannon, hopes that retailers will begin seeing their settlement by the end of the year.

The 2003 settlement required that Visa and MasterCard lower their transaction fees for signature-based debit cards by at least one-third, effective Aug. 1, 2003. However, on Jan. 1, 2004, the 'Honor All Cards' policy went out of existence and freed retailers to negotiate the rates, if any, at which they would be willing to accept the cards.



## Self Insured Group

**Are processing fees cutting into your profits?**

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## 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 15, 2005 to June 30, 2005 are listed below. For a complete member list, please call RAN at 775-882-1700.

- |   |  |
|---|--|
| A&B Security Group, Inc.                        | Party Gals                             |
| AccuStaff, Inc.                                 | Perea Landscapes, Inc.                 |
| BB & G Electric, Inc.                           | Pizza Factory Spring Creek             |
| Communications Properties, Inc.                 | Pooltechs, Inc.                        |
| David Groover & Associates, Inc.                | Professional Healthcare Staffing, Inc. |
| Desert Inn Office Center                        | R B Soils, Inc.                        |
| Electric Motorworks, Inc.                       | R B Trans                              |
| Haddan Engineering, Inc.                        | Reno Christian Fellowship              |
| Hilton Garden Inn Elko                          | Southern Nevada Pain Center            |
| Hogan Medical Center                            | Stephen C. Rose, DDS, Ltd.             |
| Indulge   | Stew's Sportatorium at the             |
| K & K Bowling Services, Inc.                    | Lucky Spur                             |
| MTM Capital Services Corp.                      | Wasabi's Sushi & Asian Bistro          |
| Nevada Trading Co.                              | Woodworking by Kurt                    |
| Nicklin Property Management & Investments, Inc. |  |

NRNSIG members who wish to register a negative vote on a new group member, please write NRNSIG at 810 E. Fifth Street, Suite A, Carson City, NV 89701, indicating which member and the reason(s) for the negative vote.

**Membership Information**

Find out more about RAN's self insured group.  
Call Willie Kerschner, 775-720-8125,  
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](http://www.RANNV.org).

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## Deciding With Your Emotions

*New Research Reveals a Weakness in Decision-Making*

Consider the following situations and guess what they have in common.

- 1) Your elderly parents both develop coronary artery disease and their doctor recommends that they undergo bypass surgery. Your father decides to go first, but the outcome is disappointing.
- 2) A great aunt dies and leaves you \$20,000. You decide to invest the money. After careful research, you decide to buy stock in two big oil companies. You buy 200 shares of the first company, but by the end of the day, your stock in this company has lost a dollar a share.
- 3) You decided to expand your retail business because it's making money. After careful study, you select two locations for branch stores, but you concentrate on one store at a time. Unfortunately, the first expansion store disappoints you. Walk-in traffic and gross sales at the end of the first week are well below your hopes.

In all three situations, an initial choice turns out to be disappointing and throws the decision maker into a dilemma: should the mother reject the bypass surgery for herself; should the investor look for a different kind of investment; should the retailer go ahead with his plans for a second expansion store?

Whenever choices cannot provide a guaranteed outcome, the best one can do is to choose carefully and to prepare for disappointments. Unfortunately, recent research by Rebecca Ratner, from the University of North Carolina at Chapel Hill, shows that most people fall down badly on the second step in this process, preparing themselves for a disappointing outcome.

Professor Ratner conducted an experiment placing people in investment situations and asked them to choose between two brokers, one with a 54 percent probability of success and the other with a 43 percent probability of success. Most people chose the broker with the better record, but that choice turned out badly. Her subjects were told that the investments this broker chose lost 15 percent of their value.

Next, Professor Ratner repeated the

experiment asking them to choose again, and limiting them to these same two brokers. This time, many of her subjects chose the poorer broker.

Professor Ratner believes that this experiment revealed the power of regret to interfere with logical decision making. People regretted the outcome of their initial decision, and then chose badly the next time. She believes such bad choices are a common event.

For people who make decisions everyday, this is not a good finding. It suggests that we have a problem making wise decisions when our emotions are aroused, especially the emotion of regret when it follows a disappointing outcome of a good decision.

Professor Ratner conducted three more experiments that explored factors that might impact this negative effect. She worsened the effect by asking people to focus on their emotions just before selecting the second broker. She lessened the effect by asking people to review their beliefs about each broker's probability of success before selecting again. Finally, she measured her subjects' tendencies to think logically and found that logical people tended to choose the better broker in the second trial while emotional people chose the poorer one.

Professor Ratner believes we can control the power of regret by dampening emotional reactions to disappointing outcomes.

- 1) Consider the second decision before learning the outcome of the first, focusing attention on probabilities of success and away from emotional reactions.
- 2) Defer learning the outcome of the first decision to dampen emotional reactions.
- 3) Conduct dry runs. Repeat the initial decision many times without committing any resources to it. This gives you a history, a track record, which can place an occasional disappointing outcome in its proper perspective.
- 4) Notice the outcomes of rejected alternatives. Regret often feeds upon the imagined positive outcomes of choices not made.

Reference: Ratner, Rebecca and Kenneth Herbst (2005) "When Good Decisions have Bad Outcomes: The Impact of Affect on Switching Behavior." *Organizational Behavior and Human Decision Processes*, 96 (1), 25-37.

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# Capital Watch



## **Statewide Taxable Sales Still Increasing Revenue in State**

**Coffers**—Taxable sales in the state continue to soar, adding big money to the state coffers and a green light for business development. Businesses statewide reported a 10.6 percent increase, or \$3.6 billion, in taxable sales from April 2004. Building supplies and car sales are spurring the increase.

Statewide, sales of durable goods in wholesale trade rose 17.2 percent to \$249.3 million; building materials were up 7.9 percent to \$288.7 million; and eating and drinking

posted a 5.6 percent increase to \$679.7 million.

“The statewide taxable sales increase of 10.6 percent for April 2005 and the 14 percent increase for the fiscal year continue to demonstrate confidence in Nevada’s economy and business climate,” said Governor Kenny Guinn.

The state received \$75 million from its 2 percentage point portion of the sales tax, an increase of 14.6 percent from the last year. So far this fiscal year, the state has collected \$732.1 million, a 15.5 percent increase from 2004.

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### **Retail Association of Nevada**

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Elizabeth MacMenamin, Director of Government Affairs  
Paul Enos, Manager of Government Affairs  
Willeta Kerschner, Account Executive/Workers’ Comp  
Lea Lipscomb, Legislative Analyst and Office Administrator  
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# Nevada News

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### **Retail Association of Nevada**

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