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The 2009-2010 session for the Pennsylvania General Assembly officially ended on November 30, 2010. Over these past two years, PRA has actively tracked over 350 pieces of legislation; ten percent of which are priority issues. Below are brief summaries of some of the most significant pieces of legislation followed by a list of issues for which we will be aggressively advocating - or defending - after the new class of legislators are sworn in on January 4, 2011.

ORGANIZED RETAIL THEFT

HB1720 (Act 33 of 2010; effective August 16, 2010)

Summary: Creates a new section in Title 18 of the Pennsylvania Consolidated Statutes that reads:

§ 3929.3 Organized retail theft.

(a) Offense defined.--A person commits organized retail theft if the person organizes, coordinates, controls, supervises, finances or manages any of the activities of an organized retail theft enterprise.

(b) Grading.--

(1) If the retail value of the stolen merchandise in the possession of or under the control of the organized retail theft enterprise is at least \$5,000, but not more than \$19,999, **the offense is a felony of the third degree.**

(2) If the retail value of the stolen merchandise in the possession of or under the control of the organized retail theft enterprise is at least \$20,000, **the offense is a felony of the second degree.**

Background: The House passed version of HB1720 included language that captured the "boosters" of ORT rings; however, the language was met with opposition in the Senate. Therefore, we compromised by focusing only on the ringleaders/fences in order to achieve a felony level grading. We also have an agreement with the Senate to revisit Title 18 in the upcoming session. They are open to lowering the current felony retail theft threshold of \$2000 to be more in line with our neighboring states.

VENDORS' ALLOWANCE

HB325 (unsuccessful tax code vehicle of the House Democrats'/Rendell Administration)

Summary: Would have revoked the 1% discount merchants receive for costs associated with collected and remitting state sales tax. This discount is estimated to be valued at approximately \$75M for fiscal year 2010-2011 making this a major victory for PRA members.

Background: Governor Rendell has repeatedly called for a repeal of the vendors' discount. He aggressively pursued the repeal via his budget address and numerous press conferences both years of this legislative session.

PREPAID 911 FEES

HB2321 (Act 118 of 2010; effective July 1, 2011)

Summary: Requires retailers to collect and remit to the Department of Revenue \$1 at the point-of-sale on every prepaid device transaction.

Background: Large wireless carriers have aggressively and successfully pushed this proposal through the legislatures of many states in the past two years. Our efforts delayed implementation of the legislation for six months, secured a 35% vendor discount for the first six months after the law takes effect on July 1, 2011 and 3% thereafter. While we came very close to completely defeating the bill (the House returned to voting session on November 17th after they had declared they would not return after the November 2nd election), the "concessions" we received via an amendment in the Senate are far better than any other state in the country. In fact, the vendors' discount for the first six months alone is valued at approximately \$5.4M.

E-WASTE

Summary: HB708 (Act 108 of 2010; effective January 22, 2011)

A freestanding act entitled the Covered Device Recycling Act, establishes a statewide program to recover and recycle electronic waste: specifically, computer equipment and televisions.

Background: The prime sponsor of the legislation, Representative Chris Ross, and his staff agreed to draft several amendments on our behalf that made this legislation acceptable to the retail community.

INDEPENDENT CONTRACTORS

Summary: HB400 (Act 72 of 2010; effective February 11, 2011)

The Construction Workplace Misclassification Act states, for the purposes of Workers' Compensation, Unemployment Compensation and improper classification of employees, an individual who performs services in the construction industry is an independent contractor only if: (1) the individual has a written contract to perform such services; (2) the individual is free from control or direction over performance of such services both under the contract of service and in fact; and (3) as to such services, the individual is customarily engaged in an independently established trade, occupation, profession or business. The bill provides for determination of violation and penalties. Additionally, the Secretary of the Department of Labor & Industry may petition a court to issue a stop-work order. Penalties collected shall be paid into various Workers' Compensation and Unemployment Compensation Funds. The department shall report annually to the General Assembly. The

department shall not be required to enforce this act until adequate funding is appropriated.

Background: Various proposals have attempted to address vague and often unenforced regulations regarding independent contractors. Because many legislators and stakeholders - including PRA - also found this proposal to be vague and possibly unenforceable, it did not have overwhelming support in either chamber. PRA along with other business groups attempted to amend the bill, but were unsuccessful as the rush to push something through before the end of the legislative session made compromises nearly impossible.

SUCCESSFULLY DEFEATED PROPOSALS:

- Broadening of the sales and use tax on 74 currently exempt products and services
- Allowing counties to enact an additional 1% sales tax
- Increasing energy portfolio standards of alternative energy sources (wind, solar)
- Increasing minimal wage annually via a cost-of-living increase based upon the Consumer Price Index for all urban consumers

2011-2012 PRIORITY ISSUES

- Amend tax code to prevent bi-monthly sales tax remittance (otherwise, the current law - Act 48 of 2009 - would be effective in May 2011)
- Continue to retain 1% vendor allowance
- Close internet sales tax loophole (amazon.com)
- Decrease retail theft threshold from \$2,000 to \$1,000
- Continue to prevent the passage of various proposed ordinances to ban/regulate plastic bags within the city of Philadelphia by promoting voluntary recycling efforts and the sale of reusable bags by PRA member stores

We are looking forward to the new Corbett Administration, as he and majority leaders in the GOP controlled House and Senate are committed to making Pennsylvania as business-friendly as possible despite having to confront their first budget (fiscal year 2011-2012) with what is likely to be a \$4-5 billion deficit. Therefore, while we are very optimistic about next session, we must be cautious about taking anyone's "no tax pledge" for granted, as "tax" is a term with various interpretations - depending on the source. For example, we intend to promote initiatives like closing the sales tax loophole - which will help competition for PRA members while simultaneously increasing revenue for the state - by emphasizing that the legislation would simply enforce current tax policy rather than creating a new tax.