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Looking Ahead

Although we were very successful throughout the 2007 - 08 Legislative Session of the Pennsylvania General Assembly on behalf of the retail industry, 2009 and 2010 are going to present some serious challenges.

November dollars into the treasury were more than 5 percent less than had been forecast. That deficiency brings the fiscal year-to-date shortfall to a massive \$658-million after only five months of collections, and that number is expected to soar to as high as \$2 billion by year's end in June. Because of this, lawmakers will not only be curtailing spending, but may also be faced with raising taxes and/or finding other sources of revenue.

Faced with this scenario, we are very concerned that certain legislative leaders will look to broadening and/or increasing the current 6% sales tax. Counties, because of lacking revenues, are already asking for the ability to levy their own sales tax. We are also very concerned that retailers 1% sales tax vendor's allowance may be in jeopardy. The Governor's 2008 -09 fiscal budget estimates this is worth \$72 million to tax collecting retailers in Pennsylvania.

We will also be advocating for the passage of an Organized Retail Crime (ORC) bill early in the next session and an extension of PA's Employment Incentive Payment (EIP) Tax Credit, which is scheduled to sunset on December 31, 2009. In addition to these priorities for the PRA in 2009, we will continue to aggressively lobby the PA Congressional Delegation in opposition to the federal "Card Check" bill, which will have a devastating effect on the retail industry if enacted.

These are just a few of the many issues we expect to be addressing in our upcoming Legislative Session.

Now more than ever, we need to be a strong and united retail industry in Pennsylvania to make certain the voice of the retail industry is heard loud and clear on Capitol Hill in Harrisburg on every issue that impacts the retail industry.

2007-2008 End of Session Update

Below are several bills PRA lobbied last session as priority issues. Some were signed into law by Governor Rendell, while others received little to no action at all. That being said, we are quite certain that many of the bills, which did not make it to the Governor's desk, will be reintroduced in the 2009-2010 session.

HB 44 – Rubley – Mercury Thermostats

This legislation – which was **signed by the Governor** to become **Act 97 of 2008** – requires retailers of mercury thermostats to post information regarding collection sites. The signage is to be produced and distributed by the Department of Environmental Protection.

Before we had the legislation amended, the original language required retailers to act as collection sites for the thermostats.

HB 94 – Youngblood – Credit Information

The proposed “Use of Credit Information in Personal Lines Insurance Underwriting Act” outlines specific guidelines to regulate the use of credit information for personal lines insurance so that consumers are afforded certain protections with respect to the use of credit information.

Because of the PRA’s opposition, no action was taken on this legislation.

HB124 – Godshall – Gift Cards

This legislation would add to the Act on "unfair methods of competition" and "unfair or deceptive acts or practices" by prohibiting expiration dates or imposing after the sale any type of charge or fee that reduces the face value of the certificate established at the time of sale.

Because of the PRA’s opposition, no action was taken on this legislation.

HB 296 – Stevenson – Passing Bad checks

This legislation, which the *PRA successfully lobbied* for, was **signed by the Governor** to become **Act 70 of 2007**. This bill amends section 4105 (relating to bad checks) of Title 18 to increase the service charge that a payee can collect from a bad check writer upon conviction from up to \$20 to up to \$50. If the actual amount of the service charges incurred by the payee is more than \$50, then the actual amount will be assessed against the bad check writer. Written notice of the service charge must still be conspicuously displayed at the place of business. In addition, HB 296 was amended in the Senate by adding a new subsection to 7312 (relating to debt pooling) of Title 18 to exempt debt adjustment businesses from the debt pooling prohibition if they are tax exempt under the Internal Revenue Code, 26 U.S.C. 501(C)(3).

HB 349 – Cohen – Minimum Wage Act

This bill proposed to raise minimum wage to \$8.15, \$8.75 and \$9.35 in 2008, 2009 and 2010, respectively.

Because of the PRA’s immediate opposition, no action was taken on this legislation.

HB 807 – Gergely – Interior Design Licensure

The proposed “Interior Designers Licensure Act” would prohibit an interior designer from practicing without a license. The legislation establishes an Interior Designer State Licensure Board and provides for sanctions, remedies and penalties relating to the licensure of interior designers.

The PRA testified on public hearing held on this bill, and then no further action was taken.

HB 1371 – Pashinski -- Prepaid Wireless Phone Sales

This bill would require a seller of prepaid wireless phones to collect and remit to PA State Police on a quarterly basis the following information when the phone is paid for by cash consideration or the purchaser buys 3 or more phones by any consideration:

- Purchaser’s name
- Purchaser’s date of birth
- Purchaser’s residential address
- Date of sale
- Manufacturer or wireless device

The PRA testified in opposition to HB 1371 at a public hearing that was held on the issue, and then no further action was taken.

HB 1839 – Bennington – Returnable Beverage Containers

The “Returnable Beverage Container Act” requires a returnable beverage distributor to pay the Department of Environmental Protection, on a monthly basis, a returnable beverage container assessment on each returnable beverage container manufactured in or imported into the Commonwealth.

A "Returnable beverage distributor" or "distributor" is a person who

- (1) is a manufacturer of beverages in returnable beverage containers in this Commonwealth; or
- (2) imports and engages in the sale of filled returnable beverage containers to a dealer or consumer in this Commonwealth.

Because of the PRA’s strong opposition, no action was taken on this legislation.

HB 2087 – DePasquale – Unsafe Toys

This bill amends the Unfair Trade Practices and Consumer Protection Law to provide for duties of manufactures, retailers and the Attorney General. Under this legislation, a child’s toy would be deemed to be unsafe if:

- (1) it does not conform to all federal laws and regulation setting forth standards for the product;
- (2) it has been recalled by an agency of the federal government; or
- (3) its manufacturer or an agency of the federal government or the product’s manufacturer has issued a warning that the product’s intended use constitutes a safety hazard.

A retailer is required to do the following after a recall warning is issued:

- (1) within three business days, stop selling the product.
- (2) within thirty days, attempt to contact each purchaser of the product
- (3) within five business days, place information on its website regarding the recall or warning.

*The legislation **passed the House 199-0**, but never received action in the Senate.*

HB 2198 – Bennington – Plastic Checkout Bags

This legislation requires retail grocery stores to phase out single-use plastic bags to no more than two thirds in 2011, one third in 2013 and none in 2015. A “store” is defined as a “full-line, self-service retail supermarket with annual gross sales of \$1,000,000 or more and which sells a line of dry groceries, canned goods or nonfood items and some perishable items.”

Stores must also provide a recycling receptacle for single-use plastic bags.

Stores are permitted to make available compostable plastic checkout bags, reusable plastic checkout bags or paper checkout bags.

The bill was discussed at a House Environmental Resources and Energy Committee meeting, but no further action was taken due to PRA’s opposition.

HB 2400 – Lentz – Independent Contractors

HB 2400 attempts to redefine independent contractors for Unemployment Compensation, Workers' Compensation and Minimum Wage purposes. This bill was amended in the House Labor Relations Committee so as to only apply to those employers engaged in the "commercial or residential building construction industry". The House passed this bill by a 122 - 80 vote margin, but the Senate took no action on it.

Had PRA not successfully amended HB 2400, it would have applied to all employers in the Commonwealth.

HB 2788 – Petri – Licensing of Retailers

This legislation would prohibit retailers from offering clinical health care services to the public. "Clinical health care services" means, "operating a health care clinic, providing health care, prescribing medications or any combination thereof." No action was taken on this bill.

HR 94 – Waters – Violent Video Games

HR 94 is a Resolution directing the Joint State Government Commission to establish a task force to investigate the effects of violent interactive video games in context with all other media forms children are exposed to in this Commonwealth.

The Pennsylvania Retailers' Association was appointed to the task force. Our input, which recommended that retailers continue to voluntarily adhere to the policy of not selling Mature (M-rated) games to children under 17 years of age without their parents' permission, was included in the official report to legislators.

SB 246 -- Greenleaf – Smoking Ban

Now known as the **Clean Indoor Air Act**, **Governor Rendell signed Senate Bill 246 into law on June 13, 2008**. The legislation prohibits smoking in a public place or a workplace and lists examples of what is considered a public place. The bill allows for some exceptions, including a private residence (except those licensed as a child-care facility), a private social function where the site involved is under the control of the sponsor (except where the site is owned, leased, or operated by a state or local government agency) and a wholesale or retail tobacco shop. It also imposes penalties for those establishments in noncompliance, as well as those individuals smoking in prohibited areas.

SB 406 – Browne – Indoor Tanning

The "Indoor Tanning and Regulation Act" would provide for increased regulation of indoor tanning facilities and respective penalties.

Because of the PRA's influential opposition, no action was taken on this legislation.

SB 407 – Browne – Indoor Tanning

This bill would make it a crime to permit anyone under 18 years of age to utilize an indoor tanning device without consent and presence of a parent or guardian.

Because of the PRA's strong opposition, no action was taken on this legislation.

SB 682 – Tartaglione – Minimum Wage Act

This legislation proposes to increase minimum wage annually, based on the Consumer Price Index for All Urban Consumers (CPI-U) for the PA, NJ, DE and MD area. No action was taken on this bill.

SB 705 – Baker – Product Seller Liability

This bill would prevent a product seller other than a manufacturer from being liable for damages resulting in death, injury to person or property or economic loss notwithstanding certain exceptions. No action was taken on this legislation.

SB 928 – Fumo – Gift Certificates

The “Fair Gift Certificate Act” prohibits gift certificates from being issued with an expiration date of less than two years from the date of issuance and provides for other stipulations.

Because of the PRA’s strong opposition, no action was taken on this legislation.

SB 1063 – Earll – Local Tax Collection

Act 32 of 2008 consolidates Pennsylvania's collection of the local earned income tax at the county level to 69 from the current level of 560 entities. With consolidation, there would be standardized collection practices, coordination, reporting and accountability among and between jurisdictions and collectors. These would reduce the loss of revenue for municipalities and school districts. It’s estimated that currently \$237 million annually in

Earned Income Tax revenue does not arrive at the municipality or school district where it rightfully belongs.

The PRA was an active member of a coalition of business organizations and local government groups that aggressively lobbied for the passage of SB 1063.

SB 1115 - Williams, C. – Electronic Waste

The “Computer and Electronic Equipment Disposal and Recycling Act” bans the disposal of all computer and electronic equipment in landfills and provides regulation for the recycling of electronic waste. The bill essentially proposes a shared burden among producer/manufacturers and retailers.

Therefore, when PRA was asked to testify at the Senate Environmental Resources and Energy Committee’s hearing on the topic, we urged the Committee to consider a producer/manufacturer responsibility model, as it is the global trend and eases the unfair burden on retailers who are usually the “middle-man” between producers and consumers. No further action was taken on this particular bill.

SB 1352 – Browne – Electric Rate Caps

This bill proposes a three-year phase in of electric rate caps so that any annual increase is not greater than 15%. It also allows consumers to prepay towards the phase in at an interest rate of 6%.

No action was taken on this legislation; however, this issue will begin receiving a great deal of attention as soon as the 2009-2010 session begins. Various phase-in plans as well as proposals to extend the rate caps altogether will most definitely be introduced.