

YOUR CONSTITUENTS ARE OUR CUSTOMERS

By Bryan Wachter

AS WE ENTER THE FINAL WEEKS OF THE 2019 NEVADA

Legislature, the RAN team has been on our toes, watching for concerning bills and amendments and reminding legislators of the impacts of their votes. In the whirlwind that is Carson City this time of year, legislators can lose sight that their constituents, the voters who elect them to office, are our retail customers, and the legislation that is passed impacting business ultimately impacts those constituents.

What may sound like good ideas during the election don't always turn into good legislation. I wish I had a dollar for every piece of legislation we've opposed with an honorable goal but an unrealistic or overburdened solution, nearly always on the backs of Nevada businesses. These are bills we oppose not because we don't want to participate in solutions but because the expenses of implementation are too great and will be passed along to consumers in

the increased cost of goods.

The theme of this session has been significant increases in government services and, in turn, spending, resulting in some big holes to fill during the final weeks to pay for expansions and new programming. In many cases, businesses have become the target to fill those gaps. This is a nearsighted solution with long-term consequences.

For us, the math is simple. When expenses go up, those expenses must be included in the price of the items sold or services provided. It is unrealistic to think that retailers can absorb these added burdens within our narrow margins.

One of the most interesting discussions in this session has been the increase in automation and technology in the retail industry. Our customers are putting pressure on the retail industry to lower costs and improve efficiency when compared to online options. Instead of seeing this as an opportunity, some legislators view this as a threat and have tried to penalize it. What

they're not seeing is that automation has come at the request of our customers, and they will continue to expect it from their retailers.

This legislature has presented challenges for the business community, but as we end the session and begin to look to the next election, Nevada consumers will again be faced with the choice of who to elect, and Nevada's retailers need to be thinking about how to inform our customers that their votes have long-term impacts not just for business but their individual finances. ■

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CEO corner

DOING BUSINESS IN NEVADA

By Mary Lau, CEO RAN

G IDEON J. TUCKER (FEBRUARY 10, 1826 – JULY 1899) WAS

an American lawyer, newspaper editor and politician. In 1866, as Surrogate of New York County, he wrote in a decision of a will case: "No man's life, liberty or property are safe while the Legislature is in session."

I have a plaque in my office that displays the above quote from Mr. Tucker. It was given to me by one of our then largest members, Sears. I used to laugh at the sentiment; however, over the years I have come to respect it. It has become a mid-session mantra.

Another famous quote came in 1966 when Robert F. Kennedy delivered a speech that included an instance: "There is a Chinese curse which says "May he live in interesting times." Like it or not, we live in "interesting times."

Now we have both, a lack of safety and interesting times. Years ago, the Republican Party was pushed to the right, now the Democrat Party is being pushed to the left. Various constituencies have opinions and politics

have been infused with ideology and social issues rather than the issues of the past decades that focused more on the broad spectrum of law and gentle nudging of complex issues.

RAN team members continually discuss the role that leadership has played this session in helping to negotiate these issues and ideas to achieve a more balanced outcome. There are problems that are being looked into, but patience needs to be given to all forms of the combat that is occurring in "the halls". It pays to pay attention to all of the issues that touch the delicate balance of economic prosperity in Nevada, coupled with the social issues that have come forward.

Governor Sisolak touted business issues in his State of the State speech and expressed concern for the smaller business operations. He indicated he was less enamored with the larger businesses romanced into Nevada by GOED, and the legislature has recently responded with the elimination of tax incentives authorized by GOED. The bad news, our

growth may slow down but you can look to that as possible good news since we have to catch up.

Minimum wage increases will net increased MBT income and the Marketplace Fairness bill should also accomplish the same but there is a lot of campaign promise issues still on the forefront.

Off the usual topic of the state's law-making, is the functioning of Nevada's professional licensing boards. Governor Sisolak also mentioned this in the SOS and he is slowly making efforts to start tackling that issue during the interim. The legislators keep close watch of these boards and commissions and every session we have these issues come forward.

Our businesses are not only affected by our laws but it sometimes seems more so by the regulators and administrators that they work with daily. RAN should also point out that the new Director of Business and Industry, Michael Brown has spent time with us concerning difficult issues.

There are several bills introduced regarding professional licensing boards too, along with an Administration bill



allowing the Governor to terminate board members under certain circumstances. This bill should pass, and should be supported. All embedded citizens of Nevada should remember the Dasai case when then Governor Jim Gibbons found out he could not change the members of the responsible board. There's been testimony just this session on boards that have buried themselves in debt and have not handled judicial orders correctly, boards that may have engaged in protectionist policies, etc.

Nevada elected officials have very little time to read the newspaper and study our neighboring states during the legislative session but they really do have to pay attention to a recent AP article posted on April 10, 2019 titled



MEMBER UPDATE 2019 SESSION

By Liz MacMenamin

BILLS OF INTEREST:

● **AB49** – This legislation is “clarifying” language from 2017 requiring the Chief Medical officer or designee to upload information of those who suffered or were suspected of having suffered a drug overdose. This also allows the Board of Pharmacy to suspend or revoke entities from accessing the PMP for unauthorized uses of the system. This language passed out of the assembly unanimously on April 11, 2019.

POSITION: RAN supports

● **AB239** – This language was crafted to clarify the role of the Board of Pharmacy in the ability to discipline violations of prescribing procedures for controlled substances. The previous session the governor passed legislation regarding controlled substance prescriptions and this language set out to clarify and codify language used in these cases, such as “acute pain.”

POSITION: RAN supports

● **AB310** – This legislation would require all prescribers to submit prescriptions for controlled substances in an electronic format. The language allows the prescriber to apply for waivers or certain exemptions with the Board of Pharmacy. It also authorizes disciplinary action for those who violate these requirements. This bill has been heard in Assembly Commerce and Labor and was passed unanimously out of committee with amended language that addresses the concerns of the prescribers. The final version is being prepared for final adoption in the Assembly. (At the time of this article the bill has still not been amended and brought up for a floor vote.)

POSITION: RAN supports

● **SB178** – The bill creates the Council on Food Security and the Food For People, Not Landfills Program. This allows the Director of the Department of Health and Human Services to adopt regulations for these

programs.

POSITION: RAN supports

● **SB283** – This language allows administrative changes on the coverage of prescription drugs under the State Plan for Medicaid and the Children’s Health Insurance Program. It also makes changes to the governing restrictions imposed on the list of preferred prescription drugs to be used for the Medicaid program and changes the criteria for selecting prescription drugs for inclusion on that list. Original language would have required ALL prescription information filled in a pharmacy in Nevada be transmitted and uploaded into the PMP. The number of these prescriptions in pharmacies is around 32 million. RAN was part of a coalition of providers and patients that expressed concern with this process. This part of the language was amended out and the amended language passed on April 18, 2019.

POSITION: RAN supports the amended language

● **SB361** – This bill would allow a pharmacist to prescribe or order and dispense contraceptive supplies to a patient. Further, it sets up a payment mechanism requiring the State Plan for Medicaid and certain health insurance plans to provide certain benefits for these contraceptive supplies. RAN testified in support with the understanding that the pharmacy would be able to be provided payment for this procedure. This legislative body understands and accepts the importance of a pharmacist in the health care industry.

POSITION – RAN supports

For further clarification or other bills being heard this session, please feel free to reach out to Liz MacMenamin at lizm@rannv.org or call **775-720-2528**. ■

DOING BUSINESS IN NEVADA *Continued from page 2*

“Arizona becomes first state to match other states’ work licenses”. Arizona Governor Ducey was quoted in the article as saying “You don’t lose your skills simply because you

pack up a U-Haul truck and make the decision to move to Arizona”. Wow, it’s probably a bit late this session, maybe the best outcome can be changing the boards highlighted this

session and taking care of administrators during the interim, but if we are really prone to doing business in Nevada we can’t afford to let the hard and heavy lifting being done during

this 2019 Legislative Session by leadership and lobbyists alike go to waste. ■

Mary Lau



BILLS WITH SERIOUS CONSEQUENCES

By Andy Peterson

WE ARE A COUNTRY BUILT UPON THE RULE OF

law. Nevada's legislature reviews and adjusts our state's laws every two years, and that includes the laws businesses must follow in conducting business. At this point in time, the session can be best described as a defensive session.

Below are a number of bills that demonstrate the challenges faced. It is important to remember all bills must first be heard by the other chamber and be agreed upon before the governor can sign them into law, but at the moment this article was authored the following bills are of concern.

● **SB493** creates a task force on employee misclassification. In other words, some employees mistakenly misclassify employers as independent contractors' versus employers. Six amendments were proposed including a new ABC testing procedure which could have profound impacts upon businesses and those who choose to work as independent contractors. Huge fines

for misclassification, both for intentional and unintentional misclassification, were proposed in another amendment. RAN initially opposed the bill due to the amendments but since those amendments were deleted, RAN is now neutral on the bill. **We continue to monitor the bill.**

● **AB456** raises Nevada's minimum wage to \$12 dollars per hour. The wages to be paid are increased annually giving employers some time to adjust. However, by 2023 all employers will pay a minimum of \$12 per hour. Currently there are no carve outs for tipped or training wages. **RAN opposes this bill.**

● **AB394** proposes certain self-service machines pay a fee. Machines such as ATM's, self-service kiosks, and even some airline phone apps could be subjected to the measure. The fee per machine is equal to the average unemployment compensation tax paid per employee for any individual firm. This bill is aimed at employers who automate employee functions. One can think of

this bill as an incentive or punishment. Certainly, it was a bill that RAN viewed as anti-competitive, anti-business, and anti-free enterprise. **The bill died in committee but we remain attentive should it come back as an amendment in another bill.**

● **SB310** proposes Nevada create a pilot program for the refund of recycled beverage containers. This bill went through numerous machinations. First, it was a program operated by the state that included a five-cent refund for single use bottles. This would have cost Nevada consumers \$14 million. Then it briefly became a bill which required retailers to pay wholesalers a ten cent deposit for each bottle, then pass the deposit to consumers, then operate recycling centers and pay consumers for each bottle returned for deposit, and finally return collected bottles to wholesalers to regain the original deposit for each bottle. Finally, the bill – still unclear as to how it would operate - became a pilot program within the state. The bill passed out of committee and remains viable. **RAN opposes the bill.**

● **SB312** required private employers to provide employees with paid sick leave. As proposed the bill would provide 40 hours of paid sick leave and allow an employee to carry over 48 hours year to year and an employer would need to keep records. Legislators and businesses worked on a compromise and came up with one that was agreeable to all. No one testified in opposition. The compromise changed sick leave to personal time off. Employees can earn 40 hours of personal time off. Unused leave can be carried over if an employer chooses. This affects employers with more than fifty employees. **RAN supported the bill.**

● **SB166** addresses penalties imposed by the Nevada Equal Rights Commission as it relates to unlawful employment practices and discrimination. Significant fines are imposed per employee grievance; \$50 thousand for employers with less than 101 employees, \$100 thousand for employers with less than 201 employees, \$200 thousand for employers with more than 201 employees, and \$300

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PROPOSED FEDERAL OVERTIME RULE

By Jason Sifers, McDonald Carano Law Firm



Government Affairs & Advocacy Group

UNDER THE FAIR LABOR STANDARDS ACT ("FLSA")

an employee who works more than 40 hours in a week must be paid overtime unless the employee may lawfully be classified as exempt. An employee may be classified as overtime exempt under the FLSA if the employee fits into one of several exemptions. The three most common are the exemptions for executive, administrative, and professional employees.

In order to qualify for one of these exemptions, an employee must satisfy both the "duties test" and the "salary basis test." The Department of Labor ("DOL") appears poised

to change the salary basis test in the coming months, the first change in approximately 15 years. This change will result in many workers who are currently properly classified as overtime exempt becoming entitled to overtime. Accordingly, it is critical employers review their internal overtime policies to make sure they are compliant with the current law and prepared for the likely changes on the horizon.

DUTIES TEST

To understand how the changes to the salary basis test will affect employees' overtime exempt status, we first need to briefly review the three most common duties tests, those for executive,

administrative, and professional employees.

The duties test for executive employees looks at whether: (1) the employee's primary duty is managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise; (2) the employee customarily and regularly directs the work of at least two or more full-time employees or their equivalent; and (3) the employee has the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.

The duties test for



Jason Sifers

administrative employees looks at whether: (1) the employee's primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and (2) the employee's primary duty includes the exercise of

Continued on page 11

BILLS WITH SERIOUS CONSEQUENCES

Continued from page 4

thousand for employers with more than 501 employees. **Ran opposes this bill.**

● **AB236** is a comprehensive judicial reform bill. It is a well-intended bill designed to slow the incarceration rate in Nevada. Concerns include reduced penalties

for the burglary of a business, increased felony theft thresholds, weakened larceny laws, dismissal and sealing of some fraud related felonies, and the weakening of Nevada's habitual criminal enhancement. Like the bill the details are too complex to explain in a short essay. However, you should know

we have opposed the bill in current form and are working with the chair of the Assembly Judiciary Committee to address the concerns of the retail industry. **Due to the size and intricacies of the bill an extension to get this bill out of committee has been granted.**

The RAN Government Affairs team has read each and every bill. Know we are on top of the bills so you can attend to your business with a reasonable assurance the most damaging bills will be limited or eliminated. ■



Nevada Notes

WALMART TO INVEST \$16.3M IN NEVADA, INCLUDING ROBOT JANITORS

Walmart shoppers in Nevada may soon feel as if they stepped into the world of Wall-E.

The retail company plans to invest \$16.3 million in innovations in Nevada this year, which means some shoppers will be accompanied by robots as they pick up their online order or wander through select stores.

"This is part of our journey to become the retail store of choice, the employer of choice," Tiffany Wilson, the director of communications for Walmart, told the Review-Journal. "Retail is changing. And we're changing with it."

The upgrades are part of Walmart's plan to invest \$11 billion in stores nationwide. While all states will be seeing new innovation in some form, Wilson said Nevada is one of Walmart's "key states" in these rollouts.

Five Nevada stores will see pickup towers put in place this year. The 16-foot-tall machines can fulfill a customer's online order within a minute of their arrival; the buyer just has to scan a barcode on their smartphone and the device retrieves their item.

Another 15 stores will be seeing FAST unloaders — a device that automatically scans and sorts items unloaded from trucks — and autonomous

floor scrubbers. Wilson said the company hasn't yet released which stores will be seeing the new technology.

While there will be more autonomous technology hitting local stores, employees shouldn't be concerned about being replaced with robots, said Lee Peterson, executive vice president of marketing for retail consultancy WD Partners.

Instead, he said the roles are likely going to shift from perfunctory tasks — like cleaning floors — to those that require face-to-face interaction with customers.

Grocery shopping made easier

Consumers who don't have the time or energy to shop in-person will now also have the option to pick up or have their groceries delivered from select stores.

Northern Nevada

Walmart also plans to remodel two stores in Northern Nevada: one on West 7th Street in Reno and the other on Pyramid Way in Sparks.

LVRJ

HOW NEVADA LOST MILLIONS IN FEDERAL GRANT DOLLARS

For more than two years, a six-figure contract to operate a statewide grant management system has been on ice amid a lawsuit charging that the administrator juiced the contract for a preferred vendor.

Although state lawmakers in 2017 approved \$200,000 a year in new funding for a grant

management software program — a system backers said could result in up to tens of millions of dollars in untapped federal funds — a lawsuit filed by a company that sought but didn't receive the contract has stalled implementation of the system for the foreseeable future.

The concept of federal grants typically evokes imagery of Medicaid, Medicare and other large federal government grant programs automatically dished out to states through a formula based on population. But federal grants are much broader, and often crucial to cash-strapped state governments, local agencies, nonprofits and businesses while accounting for roughly a third of all state government revenues according to Census Bureau data. In total, the share of federal funding as a source of revenue for state governments has been climbing for years — in large part because of the expansion of Medicaid under the Affordable Care Act.

The Nevada Independent

(Editor's note: There are a number of pieces of legislation addressing the grant issue, but what many do not understand is that no matter who works on the grant, the agency named on the grant is who will get the money and be in charge of spending.)

INITIAL CLAIMS FOR UNEMPLOYMENT INSURANCE BENEFITS SEE FIRST UPTICK IN FIFTEEN MONTHS

According to the latest initial claims data from the Department of Employment, Training and Rehabilitation,

initial claims for unemployment insurance (UI) benefits saw their first year-over-year uptick in fifteen months in March; rising slightly by 0.5 percent, or 50 claims, compared to last March's reading.

"Relative to last month, claims activity is up one percent, or nearly 100 claims. However, when we consider the first quarter of 2019 compared to the first quarter of 2018, claims activity is down 6.4 percent, or nearly 2,040 claims.

The average duration that a claimant receives benefits has held steady over the year, at 13.3 weeks. The exhaustion rate, a measure of the number of people who have used up their UI benefits, has fallen by 1.5 percentage points from last March, with a reading of 32.9 percent this month," said Jeremy Hays, Economist at the Department of Employment, Training & Rehabilitation.

March Claims Highlights:

- Initial claims totaled 9,390 in March, up 100 claims, or one percent compared to February.
- Initial claims increased 0.5 percent year-over-year, or 50 claims.
- The relative trend, expressed in the 12-month moving average of the series, held steady with a reading of 10,170 this month.
- Average unemployment duration held steady over the year, at 13.3 weeks.
- The exhaustion rate



National Notes

MAY HOLIDAYS

May includes such holidays as Cinco de Mayor (May 5th); Armed Forces Day (May 18th); and Memorial Day (May 27th) but without a doubt the biggest holiday sales day for retailers is Mother's Day Sunday May 12th.

The gifts for Mother's Day run the gamut from cards, candy and flowers to dinners, apparel, jewelry and even appliances.

One survey found that women this year are interested in lightweight gifts such as: shoes, hair dryers, umbrellas, tote bags, water bottles, phone charger, and sandals.

The Strategist

NO, ONLINE SALES AREN'T BEATING BRICK-AND-MORTAR RETAIL

A recent U.S. Department of Commerce retail report showed non-store sales eclipsed general merchandise sales by a narrow margin in February, a first in the history of the government agency tracking such data.

News reports on the data said e-commerce had trumped brick-and-mortar retail for the first time. But hold up, retail experts say. Most peg e-commerce to account for between 10% and 12% of all retail sales, with brick-and-mortar making up the rest.

"The best way to explain

it is describing your car and only talking about the tires," JLL Americas Retail President and CEO Greg Maloney said.

"It's a total misrepresentation of general retail sales and zeroing in on something insignificant that doesn't tell the story in order to glorify a headline."

The problematic reporting stems from how the Department of Commerce labels retail categories. Non-store sales include online sales, but the category also includes other retail sectors like vending machines and mail-order catalogs. General merchandise, despite the widespread-sounding term, is only a portion of brick-and-mortar sales and excludes automobile sales and food and beverage transactions.

Comparing general merchandise to non-store sales as a proxy for brick-and-mortar retail to e-commerce transactions isn't a fair fight.

"Non-store sales are not a true measure of pure e-commerce sales," National Retail Federation Chief Economist Jack Kleinhenz said.

"This just suggests more work needs to be done in better understanding data and what these terms mean."

Bisnow Boston

FOOD STAMPS AND ONLINE GROCERY SHOPPING ARE ABOUT TO MIX

Amazon and Walmart

on Thursday kicked off a two-year government pilot program allowing low-income shoppers on government food assistance in New York to shop and pay for their groceries online for the first time.

ShopRite will join the two retailers on the program early next week, said the U.S. Department of Agriculture, which oversees the Supplemental Nutrition Assistance Program, or SNAP.

The USDA has long required customers using electronic benefits transfer, or EBT, pay for their purchases at the actual time and place of sale. So the move marks the first time SNAP customers can pay for their groceries online.

ShopRite and Amazon are providing the service to the New York City area, and Walmart is providing the service online in upstate New York locations. The agency said the pilot will eventually expand to other areas of New York as well as Alabama, Iowa, Maryland, Nebraska, New Jersey, Oregon and Washington.

The pilot program will test both online ordering and payment. SNAP participants will be able to use their benefits to purchase eligible food items but will not be able to use SNAP to pay for service or delivery charges, the agency said. *AP*

CONGRESS TO CONSIDER RAISING TOBACCO-BUYING AGE TO 21

Senate Majority Leader Mitch McConnell plans to introduce legislation raising the minimum age to purchase tobacco products to 21 from 18, a move that public-health advocates and tobacco companies hope would curb the use of e-cigarettes among youths.

More than a dozen states have passed or enacted laws raising the minimum age to 21 and others are considering doing so. Sen. McConnell's announcement Thursday follows the introduction earlier this month of similar bills in the House.

Altria Group Inc. MO -3.22% and British American Tobacco BTI -1.46% PLC, the two biggest U.S. cigarette manufacturers, both support an increase of the minimum age to 21, as does Juul Labs Inc., a startup whose e-cigarettes are blamed by health officials for a surge in underage smoking.

WSJ

RETAILERS THAT OFFER COMPELLING IN-STORE EXPERIENCES WILL FLOURISH

People don't flock to retail locations because it's convenient (some still do, but because of ecommerce,

Continued on page 11



Editor's Note: This poster is for those who accept SNAP benefits. It's for the consumer to read. Posters are also available in Spanish. The Division of Welfare and Supportive Services has a customer service call center. Live representatives are available Monday through Friday, between the hours of 8:00 am to 5:00 pm at:

● Northern Nevada 775-684-7200

● Southern Nevada 702-486-1646



The Day You Receive Your SNAP Benefits May be Changing

Fact Sheet

- Who:** All SNAP recipients.
- When:** July 1, 2019
- Where:** Anywhere your SNAP benefits cards are used.
- What:** Instead of SNAP benefits being available on the first day of the month, benefits will be staggered over the first ten days of the month.



The new issuance date is determined based on the SNAP cardholder's birth year.

The last number of the birth year will be the day of the month that benefits are available.

- For example, if the cardholder was born in 1973, the benefits will be available on the third day of the month.

Use this chart to see the issuance dates.

How: Continue to use your existing card. SNAP benefits will automatically be available on the assigned issuance date.

| Last digit of birth year | SNAP benefits available on this day of the month |
|--------------------------|--|
| 1 | 1st |
| 2 | 2nd |
| 3 | 3rd |
| 4 | 4th |
| 5 | 5th |
| 6 | 6th |
| 7 | 7th |
| 8 | 8th |
| 9 | 9th |
| 0 | 10th |

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Visit <http://dwss.nv.gov>, or call the Division of Welfare and Supportive Services Southern Nevada (702) 486-1646 Northern Nevada (775) 684-7200 Toll Free (800) 992-0900



MARCH RETAIL SALES GAINS ARE “VERY ENCOURAGING” AND “SET THE STAGE” FOR FURTHER IMPROVEMENTS THIS YEAR

RETAIL SALES WERE UP 1 PERCENT IN MARCH

seasonally adjusted from February and up 0.8 percent unadjusted year-over-year, the National Retail Federation said today. The numbers exclude automobile dealers, gasoline stations and restaurants.

“March’s numbers are very encouraging and set the stage for improved expectations for the economy in the coming months, especially since the first quarter is typically weak,” NRF Chief Economist Jack Kleinhenz said. “These numbers boost first-quarter performance and suggest a strong consumer. It is clear that underlying consumer fundamentals including job and wage growth and

healthy household balance sheets continue to support spending. Consumers were busy in March after weaker-than-expected spending earlier.”

Kleinhenz said the numbers could have been better if not for cold weather early in March and changes in the timing of two key religious holidays:

“The change of seasons is always a factor because of the weather, and a later Easter and Passover this year mean holiday-related sales that took place in March last year won’t come until April this year and sizably impact year-over-year comparisons.”

As of March, the three-month moving average was up 2.6 percent over the same period a year ago. March’s results make up for a revised monthly loss of 0.8 percent seen



in February and build on February’s year-over-year gain of 2.5 percent.

NRF’s numbers are based on data from the U.S. Census Bureau, which said today that overall March sales – including auto dealers, gas stations and restaurants – were up 1.6 percent seasonally adjusted from February and up 3.6 unadjusted year-over-year. The release of retail sales data for December through March has been delayed as the

Bureau works through a backlog caused by the government shutdown earlier this year.

The results come as NRF’s preliminary forecast projects that retail sales during 2019 will increase between 3.8 percent and 4.4 percent to more than \$3.8 trillion. The forecast is subject to revision as more data is released in the coming months. ■

NEVADA NOTES *Continued from page 6*

stands at 32.9 percent, 1.5 percentage points lower than last March. *Press Release*

REPORT FINDS SALES ARE UP, BUT FRAUD ON THE RISE, TOO

The e-commerce space

is booming. A report from e-commerce analysis company Internet Retailer found that e-commerce sales grew 15 percent last year.

But this burgeoning industry has been attracting more fraudulent activity.

Experian found e-commerce fraud attacks in the U.S. were up more than 30 percent between 2016 and 2017.

Las Vegas native Adam Rogas saw an opportunity in this space and helped launch NS8, a software company

that protects e-commerce merchants from things like credit card and advertising fraud. The company opened its Las Vegas office in 2018.

LVRJ



Important Information for SIG Members

*NRS requires all existing members of a self-insured group to be notified of all new members.
NRNSIG new members are listed below.*

Advanced Sierra Eye Care dba Advanced Sierra Eye Care Inc

CBS Mattress Company LLC dba Encore Mattress Discounters

Garse Group LLC dba City Wide Lawn Care

NV1, LLC dba Harcourts NV1

Steve Obrien Group LLC

Stith Printing

Wee Kirk Ltd II LLC dba Wee Kirk o'Heather Wedding Chapel/Wee Kirk Wedding Chapel

CREDIT CARD PAYMENTS

The Retail Association of Nevada is happy to announce that you can now pay your annual membership dues by credit card on our website: www.rannv.org.

Please contact Piper Brown if you have any questions, 775-882-1700.



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.



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10 ♦ 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.



PROPOSED OVERTIME FEDERAL RULE *Continued from page 5*

discretion and independent judgment with respect to matters of significance.

The duties test for professional employees looks at whether: (1) the employee's primary duty is the performance of work requiring advanced knowledge, meaning work that is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment; (2) the advanced knowledge is in a field of science or learning; and (3) the advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

SALARY BASIS TEST

Currently, an employee satisfies the salary basis test if the employee is paid at least \$455 a week (\$23,660 per year). An employee who satisfies the salary basis test

and every element of either the executive, administrative, or professional duties test may properly be classified as overtime exempt. There is an additional category of employees, called "highly compensated employees."

Highly compensated employees who satisfy any element of either the executive, administrative, or professional duties test may properly be classified as overtime exempt. Highly compensated employees are currently those who make at least \$455 a week in salary and over \$100,000 per year in total compensation.

Here, total compensation includes commissions, nondiscretionary bonuses, and other nondiscretionary compensation, but not what are generally thought of as "benefits," such as payments for board or lodging, payments for medical or life insurance, or contributions to retirement plans.

The DOL's proposed rule change would raise the minimum salary required to satisfy the salary basis test and change the definition of a highly compensated employee.

First, the proposed rule change would raise the minimum salary needed to satisfy the salary basis test to \$679 per week (\$35,308 per year). The proposed rule would allow employers to count discretionary bonuses and incentive payments, like commissions, towards up to 10% of the salary requirement. In order to count towards the base salary requirement, discretionary bonuses and incentive payments would have to be paid out annually or more frequently

Second, the proposed rule would redefine a highly compensated employee as one who, in addition to receiving at least \$679 in weekly salary, makes at least \$147,414 in total

compensation.

This proposed rule is currently in a 60-day comment period, where the DOL is accepting public feedback on the proposed rule change. After that period, the DOL may issue the rule as currently proposed or make further changes.

It is likely any new rule would take effect around the beginning of next year. Employers who have employees classified as overtime exempt should begin working with their employment counsel or human resources professionals in order ensure they are compliant with any new rule before its effective date. ■

(Editor's Note: Jason Sifers is an associate in the Employment & Labor Law and the Commercial & Complex Litigation Groups with McDonald Carano. He works with Josh Hicks, partner with McDonald Carano and RAN's General Counsel.)

NATIONAL NOTES *Continued from page 7*

"convenience" usually means shopping online). Modern consumers make the effort to head to retail shops because of the experience they get in the store.

Retailers need to be attuned to the reasons why their customers shop offline, and then design their stores to fit those needs.

The "right" customer

experience strategy will depend on your products, your store, and your shoppers. It's essential that you know all three like the back of your hand so you can come up with the best offerings possible.

Here are some of the common experiences that keep people coming back:

- Treasure hunts (e.g.,

discovering a cool product or an amazing deal)

● Face to face customer service (e.g., having knowledgeable associates explain products)

● Constant reinvention (e.g., coming to a store and finding new things or experiences)

● Community (e.g., attending classes or events)

● Product-building (e.g., personalizing items, building products or purchase bundles)

● Services (e.g., coming in for a makeover or personal shopping advice)

● Retailtainment (e.g., finding attractions or entertaining experiences)



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RETAIL IMPORTS RISING AGAIN AS SUMMER APPROACHES

WITH TARIFF INCREASES DELAYED FOR THE foreseeable future and the busy summer season approaching, imports at the nation’s major retail container ports are beginning to climb again, according to the monthly Global Port Tracker report released today by the National Retail Federation and Hackett Associates.

“Retailers are starting to stock up in anticipation of a strong summer,” NRF Vice President for Supply Chain and Customs

Policy Jonathan Gold said. “Tariff increases are on hold and progress is being reported in talks between the United States and China, so the imports we’re seeing now are driven primarily by expectations for consumer demand.”

U.S. ports covered by Global Port Tracker handled 1.62 million Twenty-Foot Equivalent Units in February, the latest month for which after-the-fact numbers are available. That was down 14.3 percent from January and down 4 percent

year-over-year. February is traditionally the slowest month of the year because of Lunar New Year factory shutdowns in Asia and the lull between retailers’ holiday and summer seasons. A TEU is one 20-foot-long cargo container or its equivalent.

“The U.S. consumer, while more cautious, has not stopped spending,” Hackett Associates Founder Ben Hackett said. “The inventory-to-sales ratio, however, is on the rise. Part of this can be attributed to the heavy

front-loading of imports ahead of expected tariff increases that took place in 2018.”

U.S. tariffs of 10 percent on \$200 billion worth of Chinese goods that took effect last September were scheduled to rise to 25 percent in March, but the increase was postponed by President Trump, citing progress in talks between Washington and Beijing. The tariff increase has been put on hold indefinitely while the negotiations continue. ■