



# Nevada Legislative Report

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LOOKING OUT FOR NEVADA BUSINESS



# Session Wins, Challenges, and Outcomes

By Mary Lau



“Legislative sessions are dynamic and have a life of their own. Every session is different having its own set of challenges, obstacles, and winners. For those who engage – legislators, business owners and operators, and lobbyists alike – it is consuming, exhausting, and exhilarating all at the same time.

RAN members were again strongly represented in the 2019 Session. The entire team, comprised of Mary Lau, Bryan Wachter, Liz MacMenamin, Andy Peterson, and Piper Brown, were all engaged and oversaw various bills, all of which dramatically affect Nevada Retailers.

Although we successfully promoted many bills, it was primarily a defensive session. This was due to the 2018 election which ushered in significant Democrat majorities in the Assembly and Senate. Democrats also controlled the governor’s office. This meant RAN had to pivot and primarily work with a different set of objectives and expectations. These differences primarily centered around the small government proclivities of the Republican controlled 2015 Session, the 2017 Session when government was divided amongst Democrats and Republicans, and the newly found social justice footing the Democrats brought to Carson City in the 2019 Session. Depending upon one’s viewpoint, one either cheered or groaned. In our view it was what it was – our main job to make sure retailers found themselves getting the best legislation possible.

The results included mandated paid time off for all employees, collection of sales taxes on internet sales, electronic prescribing of controlled substances, significant minimum wage increases, organized retail crime reforms, and increased tax collections. Fortunately for RAN, legislative leadership allowed access and a listening ear.

As a result of the session, it will be more challenging to do business in Nevada. Yet the sky is not falling and retailers will live for another day. We know the retail powerhouse of Nevada’s economy will adjust, adapt, and anticipate more changes in the 2021 Session. Until then we’ve compiled a set of significant 2019 bills for which we have been intimately involved. We anticipate the governor will sign the bills in the next ten days. There are more bills, of course, but these represent the most pressing.

The team was honored to represent you, and we will happily discuss how any one of these bills became law and how they might affect your business.

**President & CEO  
Retail Association of Nevada**



## Assembly Bill List

### AB90 Paid Sick Leave

Allows an employee to use his or her sick leave to assist immediate family members with an illness, injury, medical appointment, or other authorized medical needs.

**Bottom Line** – We recognize the need for employers to be flexible in certain circumstances in order for employees to be fully present when they are at work.

**RAN supported the bill but it failed due to provisions in SB312.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6069/Overview>

### AB113 Private Gun Sales Tax

Makes certain that the act of transferring a gun for the purposes of conducting a background check is not calculated in the retailer's inventory for purposes of taxation.

**Bottom Line** – RAN's concern included the taxable portion and the tax liability to retailers. Democrats regard this bill as a win over the gun lobby.

**RAN supported this bill; however, the bill died in committee.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6128/Overview>

### AB132 Pre-employment Screening for Marijuana

Prohibits, with certain exceptions, denying employment to a prospective employee due to a positive drug test for marijuana.

**Bottom Line** – Employment laws are evolving due to legalized marijuana and will continue to be a topic of discussion in sessions to come. Employers are still allowed to have and enforce their drug-free workplace policies after hiring.

**RAN supported amended legislation, and the bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6191/Overview>

### AB181 Employee Reporting in Sick

Prohibits employers from requiring employees to be physically present at their workplace in order to "call in" sick for the day. Allows employers to maintain other aspects of absence/attendance employment policies.

**Bottom Line** – This is a common sense bill. If an employee is sick, he or she should stay home in order to recover and avoid spreading the illness to other employees.

**RAN supported the bill and it passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6284/Overview>

### AB236 Criminal Justice Reform

Criminal Justice Reform is a massive bill addressing most aspects of criminal justice sentencing including increased felony theft thresholds, dismissal and sealing for some fraud-related felonies, treatment for drug and alcohol related crimes, mental illness, and so forth. The bill's intent, ultimately, is lowering the state's incarceration rates and avoiding spending massive amounts of money on incarceration.

**Bottom Line** – While criminal justice reform is needed, culpability and consequences are still important to the business community.

**RAN supported the final amended version of the bill. It passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6419/Overview>

### AB271 Call Centers

Requires call centers to give notice when attempting to move to another country. As well, it requires any economic development monies that the company may have received would have to be paid back prior to moving. As a result, private employers are more controlled by government regulations.

**Bottom Line** – This bill prescribes labor arrangements regardless of technological advancement or collective bargaining and illustrates an intrusion of union self-interest.

**RAN originally opposed, but after amendments we were neutral. The bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6494/Overview>

### AB310 Electronic Prescribing

Requires doctors to electronically submit prescriptions for all controlled substances. The intent of the bill is to reduce or eliminate opportunities for the abuse of controlled substances and to improve accuracy and efficiencies for the benefit of the patient and medical community.

**Bottom Line** – This bill is another step in addressing the opioid epidemic. RAN worked with all stakeholders and the speaker to craft language that would achieve best practice goals for Nevada.

**RAN supported and promoted this bill. The bill passed unanimously in both houses.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6569/Overview>



## AB337 Railroads

Requires two person crews on all major railroads regardless of technological advancement.

**Bottom line** – This bill prescribes labor arrangements regardless of technological advancement or collective bargaining, and illustrates an intrusion of union self-interest.

**RAN opposed this bill but it passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6628/Overview>

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## AB355 Grocery Store Sales

Originally required those selling grocery stores to give 90 days' notice and continue to employ its employees 90 days post sale. Ostensibly, this would ensure continued union representation of organized employees. This would set a precedent for other employers thereby resetting labor law in Nevada. The bill was amended to 60 days for both sale notice and employment.

**Bottom Line** – The bill in original form was terrible public policy for labor law in Nevada.

**RAN opposed this bill, and it died in the senate.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6659/Overview>

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## AB370 Provides COLA Increases for Death Beneficiaries of Work Comp Recipients

This requires workers' compensation providers to provide COLA increases to survivors of death benefits going back into perpetuity.

**Bottom Line** – The bill originally spread liability unfairly, but with legislative intent, it provides for a fair distribution of this liability.

**RAN opposed, but the record of legislative intent assured providers that the regulatory process would be fair. This bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6701/Overview>

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## AB447 Retail Tax on Sale of Digital Products

Imposes a sales tax reflective of the tax charged in each county for digitally delivered products. These include downloads of music, electronic books, videos, software and so forth.

**Bottom Line** – RAN supports the concept of this bill but it needs more study and further research in the legislative interim in order for it to be good public policy.

**RAN opposed the bill. The bill died in committee.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6860/Overview>

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## AB455 Collection of Sales Tax on Internet Sales

Brings the state into compliance with the "South Dakota versus Wayfair" US Supreme Court decision thereby allowing the state to collect "use" or sales taxes on internet sales. It also outlines the requirements of internet marketplaces and their role in tax department collections. The bill levels the playing field between brick and mortar stores and online stores.

**Bottom Line** – This bill is good for retail and prevents the state from choosing winners and losers amongst retailers no matter if they are physically present in the state or not.

**RAN promoted and supported this bill. It passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6858/Overview>

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## AB456 Minimum Wage Bill

Raises the minimum wage for all private employees in Nevada. Starting in 2020 the minimum wage will increase yearly by \$0.75 per hour until 2024 when it reaches \$12 per or more per hour. If an employer provides health care, the wage increases yearly by \$0.75 until it reaches \$11 or more per hour.

**Bottom Line** – The bill is indiscriminate and targets all employers large and small. It offers no relief for training wages, youth wages, or credit for tipped employees. It may also make it more challenging for some Nevada businesses to compete. On top of other employer mandates passed this session it will surely be more difficult for some businesses to remain viable.

**RAN opposed this bill; nonetheless, the bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6870/Overview>

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## AB477 Interest Contracts

Interest Contracts Is a consumer protection bill which prescribes conditions regarding loans and enforceability and non-enforceability.

**Bottom Line** – This bill reflects the continued erosion of legal rights for businesses.

**RAN opposed this bill, but it passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6918/Overview>

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## AB538 Modified Business Tax (MBT)

Maintains the current rate charged on employers rather than dropping it to predetermined rates defined in the commerce tax legislation.

**Bottom Line** – When passed the commerce tax called for reductions in the MBT if the commerce tax preformed at certain rates. Governor Sisolak included the rate to be maintained, at the current rate, in his budget in order to maintain certain spending levels.

**RAN opposed this bill due to the constitutional requirement that any bill which raises revenue requires two thirds of legislators to vote affirmatively. The bill died in the Assembly after the vote was rescinded.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/7064/Overview>





## Senate Bill List

### SBI35 State Employee Collective Bargaining

Allows for collective bargaining for state employees.

**Bottom Line** – Collective bargaining will likely raise costs for Nevada taxpayers, as it has in other states, and would create budget pressures in future biennium budget cycles.

**RAN took no position on this bill. The bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6159/Overview>

### SBI66 Employment Discrimination/Pay Equity

Brings state law into compliance with federal law by defining the time an employee can file a discrimination claim. The bill also allows for penalties if an employer discriminates against an employee.

**Bottom Line** – As filed this bill was extremely punitive towards employers, but after compromise with the bill sponsor, it is now a reasonable bill banning discrimination in the workplace.

**RAN originally opposed the bill but supported it after amendment. The bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6256/Overview>

### SBI76 Workers Compensation

Makes changes to the Nevada Industrial Insurance Act by requiring inclusion of certain health care providers and allowing an injured employee to choose their health care provider.

**Bottom Line** – The bill included approximately \$2.3M to implement.

**RAN was neutral to this bill. It never had a hearing and failed due to deadline requirements.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6277/Overview>

### SBI77 NERC Right to Sue

Requires the Nevada Equal Rights Commission to notify employees who have filed a complaint of their right to file a civil lawsuit. The bill also revises timelines for such lawsuits.

**Bottom Line** – This bill reflected a campaign promise of legislative leadership. As amended, it is more straightforward for employers than originally proposed.

**RAN supported the bill as amended. The bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6295/Overview>

### SBI78 Creates Council on Food Security and FOOD for People, Not Landfills Program

Statutorily establishes a new council and program regarding food waste.

**Bottom Line** – The council will work with the governor and Department of Health and Human Services on food security issues and oversee the Food for People, Not Landfills program. The program will evaluate ways to reduce food waste and divert the waste to increase food security.

**RAN supported this bill. The bill passed unanimously in both houses.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6298/Overview>

### SBI87 Controlled Substance

Changes requirements and restrictions for prescribing controlled substance.

**Bottom Line** – The bill would have allowed changes to Governor Sandoval's opioid legislation from the 2017 Session (AB474). The practitioner is currently required to do a review of patient medical records before prescribing an opiate. This would have removed that requirement for a dentist, a physician, an optometrist and a pain management physician. Language also revised restrictions on renewals of a prescription for opiates.

**RAN remained neutral with concerns on this bill. The bill was passed by the Senate but failed to receive a vote in Assembly Commerce and Labor.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6315/Overview>

### SB215 Heart Lung Bill

Allows certain carcinogens to be an occupational hazard and be compensable for firefighters and police officers.

**Bottom Line** – This is a “devil is in the details” type of bill. The amended bill is reasonable and straightforward.

**RAN's position is neutral as amended. The bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6359/Overview>



## SB263 Regulation & Taxation of Vapor Products

Requires certain vapor products be taxed, regulated, and charged a licensing fee, and makes selling to minors subject to penalties for both employers and employees.

**Bottom Line** – Common sense bill which slows minor consumption and collects a tax on a nicotine product.

**RAN supported the bill. The bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6446/Overview>

## SB283 Prescription Coverage Under State Plans

The legislation removes restrictions on the list of preferred drugs used for Medicaid and revises criteria for selection of these drugs by the Prescription and Therapeutic Committee.

**Bottom Line** – The preferred drug list for Medicaid has been prevented from considering a “protected class” of drugs and this would remove that protection from certain drugs on this list. RAN opposed the original language of this bill that would have required all prescription information be submitted to the Prescription Drug Monitoring Program. The bill sponsors worked with RAN and amended this language out of the bill. This agreement moved our position to neutral.

**RAN opposed originally and neutral on the amended versions. Bill was not passed by committee.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6491/Overview>

## SB310 Bottle Deposit & Recycling

**Bottom Line** – The bill was amended into a pilot program which ultimately is expensive, cumbersome, and onerous for government, retailers, and recycling companies.

**RAN Opposed the original bill and the amended bill. The bill died in committee.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6545/Overview>

## SB312 Paid Time Off

Paid Time Off Is a bill requiring forty hours of sick time for employees.

**Bottom Line** – As amended the bill now requires forty hours of PTO for each employee to be accrued after 90 days of service. There are no reporting requirements for employers but requires employees to give reasonable notice of intent to use PTO. Employees can use the PTO for any reason.

**RAN Supported the amended version of the bill. The bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6553/Overview>

## SB361 Pharmacist Prescribed Contraceptives

**Bottom Line** – Require the Chief Medical Officer of Nevada to issue a standing order allowing for the pharmacist to dispense contraceptives. RAN will be working with the Board of Pharmacy on regulations if this bill is signed into law.

**RAN supported this bill. The bill was not passed by the Assembly.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6655/Overview>

## SB377 Provides COLA for Workers' Compensation Total Disability Recipients

This language increases compensation of “permanent total disability” claims that occurred before 2004.

**Bottom Line** – This would increase compensation for certain claimants that were not included in a COLA increase for claimants injured after January 1, 2004.

**RAN supported the original bill, but after amendments we moved to neutral. This bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6684/Overview>

## SB431 Organized Retail Theft

Allows for aggregation of organized retail theft of at least \$3,500 and a period of 120 days for participation in and/or if the person involved uses the internet as a means to return, sell, or profit from stolen goods.

**Bottom Line** – This bill is helpful in combating increasingly brazen organized retail crime.

**RAN fully supported this bill, and it passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6812/Overview>

## SB493 Employee Misclassification

Applies a strict test to employee and independent contractor classification and applies fines and eventual business license revocation for non-compliance.

**Bottom Line** – As amended the bill studies, in the legislative interim, employee misclassification.

**RAN originally opposed the bill but moved to neutral. This bill passed.**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6952/Overview>

## SB551 MBT Tax

Incorporates AB448 and AB443 and provides for educational appropriations.

**Bottom Line** – Simply put this bill was introduced late in the session with the goal of keeping Democrat campaign promises, funded by the extension of MBT without a two thirds vote.

**RAN opposed this bill. The bill passed**

Link <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/7071/Overview>





# Looking Out For Business

The Retail Association of Nevada (RAN) is an alliance of Nevada's most successful and innovative retailers. The retail community contributes more than 1 billion dollars in tax revenue annually and accounts for more than 400,000 jobs with an estimated economic impact of 20 billion dollars to Nevada's economy. As the only statewide business advocacy group in Nevada, RAN gives business a voice in the State Legislature so that government leaders and the retail industry can work for a more promising Nevada





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