



# RAN

Retail Association of Nevada

November/December 2019

LOOKING OUT FOR BUSINESS

410 South Minnesota Street • Carson City, NV 89703-4272

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NEVADA NEWS

## IT'S GETTING TO LOOK A LOT LIKE CHRISTMAS

By Mary Lau

**T**HOSE OF US THAT CAN SING ALONG WITH PERRY COMO OR DEAN MARTIN'S

renditions of this song can even point to the lines with Hopalong boots, think Hopalong Cassidy, or the mention of the five and dime. Well Hopalong Cassidy isn't part of the lingo now, and neither is the five and dime, unless you want to compare it to the dollar store. Christmas, however, hasn't diminished nor has other aspects of the family holidays.

It was heartwarming to hear several interviews known as "man in the street" interviews about the recent Halloween events, coupled with Thanksgiving and Christmas. Retailers have always struggled with when is too soon, how much is too much and does the public approve. True, mass media, polling, mega data and other tools help in making those decisions. But considering that data isn't always the human touch, the street conversation was totally fun. It felt good to hear about the transition of the fall holidays from pumpkins to presents. More people than I thought were totally excited about the Christmas season and openly

discussed their transitions from one holiday to the other as being part of the whole experience.

Christmas is such an inspiring time of the year and also a concerning time. Charities struggle to keep up with the need and so many retailers respond to that need – both large and small operations.

Each season brings about its own conundrums as it were and each year brings about reflections, planning, reorganizing and rethinking for retailers such as yourselves. I don't care if you are trying to balance a board of directors, stockholders, Wall Street investors or your own personal and family needs – you are a business person making business decisions on a daily basis and your investment in the other eleven months of the year often times is judged by the end-of-year financials. Merry Christmas.

Retailers in today's world really have to focus on national politics, such as the trade agreements being negotiated by administrations, ratified by congresses and sustained, if necessary, by the courts. Business (using politick

to speak — is the backbone of the country) is what pays for government. True, workers pay taxes, but, then, if they didn't have a job in business, where would they get the money to pay those taxes?

Keeping up with trends in politics is only part of the obligations of businesses. Retailers must also keep up with trends in fashion, trends in service, trends in food, trends in technology, trends in – well, trends.

Trying to guess what the consumer wants is no longer a crystal ball issue but a mega data, scientific and artistic art. Those that are successful at it survive, others don't. Our own Bryan Wachter pointed

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# HOLIDAY EXPECTATIONS

By Bryan Wachter

## WE ALL HAVE SOME KIND OF EXPECTATION

when it comes to the holidays. Some liken back to simpler times as children when the whole season was magical. Others have favorite memories of a special family gathering or holiday season that brought surprise and reunion. Whatever the holidays mean to you and your loved ones the often-overlooked heroes that go unnoticed are the retail workers in our country who go to extremes to make sure the holidays are special.

This year there are fewer days between Thanksgiving and Christmas making for a compressed shopping season. Yet, the National Federation of



Bryan Wachter

Retailers and others predict an uptick in sales of around four to five percent over last year. The retail industry will have a good year despite the swirl of life that continues to go on around us. Much of the uptick in sales can be attributed to national prosperity and retail workers. Certainly, prosperity allows consumers to buy but

workers make it happen. Consider the ability to run to Walmart, Target, or any local retailer at all hours to pick up the right gift for each family member or friend. Workers make this happen as they arrive early and often stay late. Your 4 AM Black Friday shopping spree is only possible due to multitudes of retail workers who cut their Thanksgiving holiday short to make sure things are in order. Moreover, they are expected to be their best in the face of heightened expectations and massive crowds who are intent on getting a special deal.

Lastly, consider the fact many of these workers are seasonal, first time employees, or are filling in as many hours as possible in order to make

the retail shopping holiday work. While retail can be a good career choice for many, the holiday season in many ways is proving ground for those entering the workforce and those seeking to make a few extra bucks. Regardless of motive, it's important to remember retail workers show up for work on nights, weekends, and holidays, to make sure your holidays are special.

This year remember to say thanks to all the hard-working retail workers as you go about your business. Whether those workers are front line customer service workers at your favorite retailer, or they work the grocery line as you stock up on supplies, they all are doing their best. ■

**Happy Holidays!**

## IT'S GETTING TO LOOK... *Continued from page 1*

out in a recent interview regarding Sears store closures that the once brilliant Sears catalog was a precursor to Amazon.

There's that trend thought again! Look at payment systems, shopping and paying technologies, on-line payment with physical shopping and on-line shopping and paying. From POS, to PayGo to anything your heart can imagine, it's there for the

asking. AI is real, and the societal ramifications are many.

Mom and Pops compete daily and offer the one-on-one experience that many consumers crave even at the same time that some consumers want it all, at once, without human interaction. It's fair, it's the future and it doesn't change the fact that our culture, our attitudes still include the warmth of a

Christmas tree and cookies left out for Santa.

It's our job at RAN to help you with some of those conundrums, give you clear insight into some of those trends and to also assist in deciphering the path through politics. But right now, it's also our pleasure to wish you and yours a very Merry Christmas and a Happy New Year. By the way, if your holidays don't include Christmas per se, fine –



Mary Lau, RAN CEO

have a blessed time in what ever your belief is. ■



# SOUTHERN NEVADA HEALTH DISTRICT FINANCES UNCLEAR, RESTAURANTS AFFECTED

By Andy Peterson

## A T A FINANCE COMMITTEE MEETING, ON OCTOBER 30,

it became clear the finances, or the accounting of the SNHD's\* financial situation is unclear. Meeting agenda item number three, Discuss Audit Status and Scheduling of Financial Reports to Board of Health; direct staff accordingly or take other action as deemed necessary (for possible action), sought to, at staff recommendation, seek a thirty-day postponement of a mandated audit of health district finances to the state.

Further discussion amongst finance committee members and health district staff at the meeting clarified the district could not, at this time, provide a clean audit. In other words, finances are amiss for various reasons and an audit at this time would result in a "modified" audit according to the accountants from Eide Bailey, who is conducting the audit.

To be clear, there were no accusations of unaccounted monies and nobody remotely

intimated that criminal acts may or may not have taken place.

What came to light was the fact the district is struggling to implement a billing system designed to capture insurance and federal government payments from those the district serves. This is due to a switch from paper billing to electronic billing by an outside vender.

Representatives from the contracted vender at the meeting, tried to reassure the committee that things will soon change and revenue ought to soon flow into the district. Others at the meeting were skeptical.

It became clear thirty days postponement of the district's audited finances would not help the situation and would not be forthcoming. Clark County Chair and Finance Committee member Marilyn Kirkpatrick was quick to display her displeasure. She called the situation "unacceptable and disgusting."

She went on to say she has wanted this situation cleared up, and that she

had been, for the last two years, warning this might happen. Without a clear financial picture, it is nearly impossible to form a new budget for 2020. As a result, she indicated she would not support the agenda item to postpone the audit report.

Unfortunately, many in the business community have come to expect and tolerate government ineptness. However intolerable, the situation described above has a direct impact upon RAN's restaurant members. In

***"Unfortunately, many in the business community have come to expect and tolerate government ineptness."***

this case a subsequent meeting agenda also called for increased, and new, fees to be assessed in order to help cover likely deficits even though at the last finance committee these fees were scuttled pending greater stakeholder engagement.

The same proposals were floated by staff and it was decided there would be a 5.5 percent increase in fees and a hefty new fee established in case a restaurant was downgraded to a "C" rating.



Andy Peterson

Evidently, the deficits, and subsequent fee increases, are due to staff salary step increases and an already approved labor contract for which no budget is yet available. Hence the solution, at least from their perspective.

We all want clean and sanitary restaurants. We all want our restaurants to be profitable and successful. What we don't want or need is to have government ineptness be projected directly on to private business. At the November 21st health district board meeting these fees will either be approved or rejected. Ms. Kirkpatrick, like the rest of us, is right to be disgusted. This is no way to run an organization. ■

\*Southern Nevada Health District



# RECENTLY ENACTED PHARMACY REGULATIONS

By Liz MacMenamin

## OCTOBER 30, 2019 THE LEGISLATIVE COMMISSION

met to review and adopt regulations that have been approved by boards and commissions in Nevada. The following regulations were heard by the Board of Pharmacy and were adopted at this meeting:

**R001-19A** This regulation adds certain substances to the controlled substances listed in Schedule II.

**R002-19A** This regulation adopts provisions relating to the ratio of pharmaceutical technicians to pharmacists but only includes pharmacies that do not

dispense. The increase of ratio for those types of pharmacy increased 8:1 from 3:1. The association is still working to increase the current ratio for a dispensing pharmacy. Please call if you have any questions regarding this regulation.

**R034-19** This regulation will increase fees for application registration and renewal of licensure for a pharmacist from \$180 biennially to \$200 biennially. It will increase the registration for a pharmaceutical technician from \$40 biennially to \$50 biennially. It will increase the authorization for a provider to prescribe or possess controlled

substances from \$80 biennially to \$200 biennially.

The following regulation was pulled from the agenda and Dave Wuest requested more time to work on this rule:

**R00 5-19A 639** This regulation would establish new provisions related to the costs for inspections and would require applicant pay those costs. This regulation does not clearly explain what those costs would be or how they would be determined. The cost of these inspections was clearly part of the original fees that were collected by applicants and part of



Liz MacMenamin

the boards requirements in authorizing an applicant to provide services in the state. RAN will follow this regulation at the board level to obtain more clarification on how the board will enact this fee. ■

# GOVERNOR SISOLAK REVIEWS BOARD OF PHARMACY PRACTICES

By Liz MacMenamin

## GOVERNOR SISOLAK HELD A PRESS CONFERENCE

on October 29, 2019 to inform the media about an ongoing investigation in practices by the Nevada Board of Pharmacy. The governor became aware

of an issue regarding the board not implementing a statute that was passed in 2005 and regulations enacted in 2007. This statute was enacted to allow the board to be able to background check and run fingerprints on third party wholesale

distributors that were coming into our state and marketing counterfeit drugs.

An audit exposed the fact that the board was collecting fees for the fingerprint and background checks but never followed through

with doing them. This practice continued during the entire tenure of Larry Pinson as the executive secretary. It is my understanding that board members were never aware that the former executive secretary

Continued on next page



# TAKE BACK DRUG DAY SUCCESSFUL

By Liz MacMenamin

## CITIZENS OF NEVADA HAVE AN OPPORTUNITY

around the state to return their unused drugs on October 19th, 2019 in Northern Nevada and on October 26th in Southern Nevada. This is an opportunity for the community to dispose of their unused drugs to ensure that any of the opioids or other controlled substances do not fall into the wrong hands.

At the time of this

article, RAN only has access to the count of drugs that were returned in the northern locations. The total pounds collected was 3277.92. This still confounds me that there are still this many unused drugs to be disposed of in our community. We have



been doing this in the north since 2009 and the number is smaller than it was in the beginning it still is a rather large number. There are many options available for the public to dispose of their medications including in their community pharmacy kiosks and law

enforcement locations. Some community pharmacies also offer "disposal bags" that are safe to dispose of your drugs right at home. Thanks again to all the organizations in our state that make this possible. RAN would particularly like to thank Smiths, Walmart, and Walgreens for their hospitality and assistance at the locations around the state. ■

## BOARD OF PHARMACY PRACTICES *Continued from page 4*

failed to do his duty while in office. Once this discrepancy was pointed out to the current board staff and recently appointed executive secretary, Dave Wuest, they quickly adopted and executed plans to rectify this issue. The former executive secretary retired at the beginning of this year, only a few months before this audit.

There is a little misunderstanding regarding the purchasers of product from these

wholesalers. The only thing I do know is that, according to the community pharmacies that are members of RAN, none of your community pharmacies purchase from these third-party wholesalers. A reporter with the Reno Gazette Journal stated in an article that these wholesalers were selling to Raley's, Walgreens, and CVS. That is factually incorrect. The national community pharmacies only purchase from the

three national wholesalers that are federally regulated and have gone through thorough vetting. If you are obtaining your prescription from a reputable national community pharmacy, you are protected. At the request of Governor Sisolak, the current president of the board, Jason Penrod, was asked to resign and the governor indicated that the seated board members will not be reappointed. He is wanting to have a "clean slate" going forward.

RAN would like to thank Governor Sisolak and his team for the due diligence on this matter. Below is the list of board new members. RAN will continue to monitor the regulatory and discipline process of this board. ■

**NEWLY APPOINTED BOARD OF PHARMACY MEMBERS:**  
**Krystal Freitas**  
**Helen Park**  
**Richard Tomasso,**  
*Public Member*



# Nevada Notes

## VACCINATED STUDENTS EXPERIENCED WHOOPING COUGH

Washoe County Health District officials said three of four students diagnosed with whooping cough were vaccinated. County officials, however, still recommend people get vaccinated due to the vaccine's diminishing effectiveness over time.

The department contends the vaccine is the best way to prevent the contagious respiratory disease. Moreover, district officials say the vaccine is not one hundred percent effective but it can offer more protection and lessen the severity and potential transmission of the disease.

*Reno Gazette Journal*

## RENO RECOVERY CENTER WHICH OBJECTED TO CANNABIS DISPENSARY EMBRACES IT AS NEIGHBOR

A Reno recovery center which objected to a cannabis dispensary next door now supports it as a neighbor. Officials from the recovery center objected on the basis the dispensary

could trigger a relapse. The recovery center is starting a multimillion-dollar capital campaign in order to facilitate a move, and the dispensary was interested in helping the recovery center move.

According to a statement from Reno Mayor Hillary Schieve private dealings changed the landscape.

*Nevada Independent*

## UNEMPLOYMENT INSURANCE RATE DECREASE

Due to a strong economy and record reserves the Nevada Economic Security Council recommended a rate decrease for unemployment insurance.

The UI trust fund now has a record \$1.84 billion in its coffers. That is enough to pay out benefits for seventeen months. The newly proposed rate will still generate \$600 million in tax revenue in 2020.

After deducting for benefit payments of \$260 million the fund will still add \$376 million to the trust fund.

Employment Security Administrator Kimberly Gaa is expected to adopt the rate at their December 5th meeting. The new rate

will take effect January 1, 2020.

*Nevada Appeal*

## SPARKS FLORIST EXPANDS

Sparks Florist, Inc. has opened a new location at Renown Regional Medical Center in Reno. It is

located in the Sierra Tower and is a full service florist that is offering beautiful, fresh floral arrangements, plants and unique gifts.

It is open six days a week and customers can order flowers for delivery in the hospital or anywhere in the world.

The store is open Monday through Friday from 9 am–5pm and Saturdays from 10 am–4 pm. Also, people can place an order for same day delivery both in the hospital or anywhere in the Reno/Sparks area.

## WALMART & TESLA SETTLE LAWSUIT

Walmart has agreed to drop its lawsuit

against Tesla regarding solar panels the retailer said were defective.

Walmart accused Tesla of "widespread negligence" that led to fires of its solar systems. The solar panels were responsible for fires at seven locations. In a joint statement after the settlement both Walmart and Tesla said they were "pleased to have resolved the issues raised by Walmart" concerning the installations, and were looking forward to "a safe re-energization of our sustainable energy systems."

*Chain Store Age*



Sparks Florist has expanded with the opening of their new store in Renown Regional Medical Center.



# National Notes

## PRIVATE GROCERY LABELS GROW

According to Coresight Research, private label consumer products have grown from 2.2 percent in 2015 to 5.8 percent in 2018. Moreover, annual sales of private label sales are growing faster than national brands by a factor of four. Many major brands, including Target and Kroger, are stepping up their brands.

*Retail Brands*

purchases. According to NYU business professor Alixandra Barasch, retailers are trying to outdo their competitors by offering gold and platinum levels and they are investing large amounts of cash. However, Barasch also indicated customers tend to shop based on price and convenience so retailers may pull back if they find the program less valuable. *Market Place*

## TARGET JOINS LOYALTY PROGRAM ARMS RACE

Target is set to roll out its revamped loyalty program; Target Circle. Included are birthday rewards, one percent back on in-store purchases people can redeem on a future purchase, and their choice of supporting a Target selected non-profit. They join other major retailers in in response to declining customer loyalty according to Denise Dalhoff, a marketing professor at the University of Pennsylvania's Wharton School of Business.

Loyalty programs also allow retailers to collect all manner of data regarding customer buying habits. As a result, they can tailor rewards and incentivize

## A BRICK-AND MORTAR HOLIDAY

According to a new survey by the International Council of Shopping Centers, 2019 holiday shopping will increase by 4.89 percent over last year for a total of \$832.9 billion. The average adult will spend \$683 dollars on holiday related items.

Ninety percent of all adults plan to shop in a physical store. This will, in part, be driven by promotions which encourage in-store shopping. In addition, 82 percent of those who pick up online purchases in stores will also buy additional items while there.

Eighty seven percent of adults will do online research prior to shopping

in physical stores, and eighty two percent will use a mobile device to compare prices, get digital coupons, and check inventory. The vast majority of shopping will be done between the Thanksgiving and Christmas holidays.

*Chain Store Age*

## WALGREENS DISCONTINUES SALE OF E-CIGARETTES

Walgreens, in a statement, said, they have made the decision to stop selling e-cigarette products their stores nationwide. This as health officials continue to examine the issues surrounding e-cigarettes. It is also due to multiple states and municipalities who are considering new regulations.

*Chain Store Age*

## IN STORE SPENDING SPURRED BY CLEAN STORES

According to a new survey, clean stores drive sales. Other features which also help are organization, an open environment, comfortable seating, attractive artwork, and minimalist interior design.

What is not helpful is a store environment packed with merchandise.

Store employees can also have a large influence on whether customers spend money. Specific employee skills include clear communication, honesty, patience, and friendliness.

*Chain Store Age*

## SUSTAINABLE PACKAGING; A REVOLUTION THAT MIGHT COME YOUR WAY

Like the milkman of old, 90,000 customers in the Northeast are on a waiting list to use reusable containers to buy their products according to one company who is ready to start delivering products in reusable containers.

A recent Nielsen survey found seventy five percent of consumers globally would "definitely" or "probably" change their buying habits if it had a positive effect upon the environment.

Nearly half of U.S. consumers said likewise. Kyle McKinley, vice president of design solutions at Nielsen, said, "and these consumers are putting their dollars where their values are, spending \$128 billion on sustainable fast-moving consumer products this year."

*Path to Purchase*



# NEW LAWS EVERY EMPLOYER NEEDS TO KNOW ABOUT

By Jason Sifers



## THIS PAST LEGISLATIVE SESSION, THE NEVADA

Legislature passed several bills that will affect Nevada retailers' employment policies. Three bills in particular deserve retailers' immediate attention, as they will require many employers to make significant changes to policies regarding hiring, paid time off, and settling sex discrimination claims.

### AB 132 – Pre-hiring Cannabis Screening

As of January 1, 2020, most employers in Nevada will be prohibited from failing or refusing to hire an applicant because the applicant submitted to a drug screening test and the screening test indicated the presence of marijuana. This prohibition does not apply to employers hiring (1) firefighters; (2) emergency medical technicians; (3) employees who will operate a motor vehicle if federal or state law requires the employee to submit to screening tests; or (4) employees who,

in the determination of the employer, will be in a position to adversely affect the safety of others. This prohibition also does not apply if an employment contract or collective bargaining agreement provides otherwise, if the prohibition would be otherwise in conflict with federal law, or if the position is funded by a federal grant.

Employers who engage in preemployment drug screening and are unsure whether this law applies to them should contact their employment counsel.

### AB 312 – Nevada Mandates Paid Time Off

Also as of January 1, 2020, Nevada will require private employers with 50 or more employees to provide a minimum of 0.01923 hours of paid time off for each hour of work performed. This figure is designed to provide an employee who works 40 hours a week approximately 40 hours of paid time off per year. Employees must be allowed to use paid

time off beginning on the 90th calendar day of the employee's employment, and the law otherwise limits an employer's ability to restrict employees' use of paid time off. An employer can limit an employee to using 40 hours of paid time off per year.

Additionally, an employer may require employees using paid time off to use a minimum increment of paid time off at a time, though that minimum increment may not be longer than four hours.

The bill exempts certain employers who currently operate under a policy for paid time off as well as businesses within the first two years of operation. Employers may (but are not required to) pay out remaining paid time off upon an employee's termination.

Employers are required to provide an accounting of the hours of paid time off available for use by the employee on each payday and adhere to other recordkeeping requirements. Employers



Jason Sifers

who do not currently have paid time off policies that satisfy AB 312 should update their employee handbooks to include compliant policies. Formal written policies have the additional benefits of allowing employers to limit the amount of paid time off an employee may use as well as describe under what conditions, if any, the employer will pay out paid time off upon termination.

### AB 248 – No More Confidential Settlement Agreements in Sex Discrimination Cases

AB 248 already took effect on July 1, 2019. This law now

Continued on page 11





# PRIVACY: IT'S A COMPLICATED MATTER

By Mat Trachok



## ON OCTOBER 1, 2019, NEVADA'S PRIVACY LAWS CHANGED TO

require every website "operator" to (1) establish a designated email address, toll-free telephone number, or website through which each user of the operator's website can submit a "verified request" directing the operator not to make any "sale" of any "covered information" the operator has collected, or will collect, about the user, (2) respond to any such request within 60 days after receipt thereof (which period can be extended by up to 30 days if the operator determines that the extension is reasonably necessary and notifies the user of the extension), and (3) refrain from selling any covered information about any user who has submitted such a request to the operator.

This article will answer several frequently asked questions about the new law.

### Do I have to abide by the law?

You are an "operator,"

and, therefore, must abide by the law if:

(a) you meet all of the following requirements:

(i) you own or operate a website or online service for commercial purposes;

(ii) you collect and maintain "covered information" from consumers who reside in Nevada and use or visit the website or online service; and

(iii) you have a sufficient connection with Nevada, as defined in more detail in the statute (Nevada residents and companies organized or doing business in Nevada will always meet requirement (iii)); and

(b) you are not: (i) a third party that (A) operates, hosts, or manages a website or online service on behalf of the owner of the website or online service or (B) processes information on behalf of the owner of a website or online service;

(ii) a financial institution or an affiliate of a financial institution that is subject to the provisions of the Gramm-Leach-Bliley

Act codified at 15 U.S.C. § 6801 et seq.;

(iii) an entity that is subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA); or

(iv) a manufacturer of a motor vehicle or a person who repairs or services a motor vehicle who collects, generates, records, or stores information that is (A) retrieved from a motor vehicle in connection with a technology or service related to the motor vehicle; or (B) provided by a consumer in connection with a subscription or registration for a technology or service related to the motor vehicle.

### What is "covered information"?

"Covered information" means any of the following information, to the extent collected by an operator through a website or online service and maintained by the operator in an accessible form:

(a) First and last name;



Mat Trachok

(b) A home or other physical address that includes the name of a street and the name of a city or town;

(c) An email address;

(d) A telephone number;

(e) A social security number;

(f) An identifier that allows a specific person to be contacted either physically or online; and

(g) Any other information concerning a person collected from the person through a website or online service and maintained in combination with an identifier in a form that makes the information personally identifiable.

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## 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.*

- Atevan Home Health Care LLC dba All About You Home Care**
- Douglas Dawson dba High Desert Internet Services**
- Hoover Dam Café LLC**
- Jewel's Floral Studio LLC**
- Lick and Stick Pop Pouts LLC**
- Medical Arts Dental Lab, Inc**
- O'Aces Decatur LLC**
- ODINV Inc dba Stateline Liquor**
- Par123 Construction Services LLC dba Agile Builders**
- Sarah Storm dba Fallon Veterinary Clinic**
- Studio K Blow Dry Bar**
- Sunset Pain Surgery Center LLC**
- Tahoe Equine Rehabilitation & Conditioning LLC**
- Top Tier Reality**

## 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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(800) 480-1846 or (702) 740-4380

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557 W. Silver Street, #206, Elko, NV 89801  
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**MEMBERSHIP INFORMATION:** Find out more about RAN's self insured group. Call Pro Group, **800-859-3177**,

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**.



# NEW LAWS

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prohibits employers from including most kinds of confidentiality provisions in settlement agreements related to (1) conduct that would constitute a felony sexual offense if prosecuted under Nevada law, (2) discrimination on the basis of sex, and (3) retaliation against the plaintiff for reporting discrimination on the basis of sex. "Discrimination on the basis of sex" includes discrimination when it comes to any aspect of

employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment, as well as sexual harassment. The law applies both to claims brought in lawsuits as well as in administrative actions, such as before the Nevada Equal Rights Commission or the Equal Employment Opportunity Commission. Confidentiality provisions in any settlement

agreements entered into on or after July 1, 2020 that violate this law are void and unenforceable. Employers may still make the amount of the settlement confidential. Further, unless a government agency or public officer is a party to the settlement agreement, the claimant or plaintiff may demand a provision that prohibits the disclosure of the claimant's or plaintiff's identity as well as facts related to

the action that could lead to the disclosure of the claimant's or plaintiff's identity. ■ Jason Sifers is an associate in the Employment & Labor Law and the Commercial & Complex Litigation Groups with McDonald Carano. Jason focuses his practice on employment issues facing a variety of industries, including hospitality, manufacturing, and construction. This article is not intended to provide legal advice. Please consult with a Nevada attorney if you have specific questions on how any laws referenced in this article apply to your particular situation.

# PRIVACY

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## I have received a request from someone asking me not to sell their covered information? Is it a "verified request"?

A request qualifies as a "verified request" under the law if you can reasonably verify the authenticity of the request and the identity of the requesting consumer using commercially reasonable means.

## I received a verified request from one of my website's users. What am I no longer allowed to do?

Once you have received a verified request from a consumer, you must ensure that you never again exchange

any of that consumer's covered information, for monetary consideration, to a person for that person to license or sell the covered information to additional persons. However, even after you have received a verified request from a consumer, you will not be prohibited from disclosing that consumer's covered information: (a) to a person who processes the covered information on your behalf; (b) to a person with whom the consumer has a direct relationship for the purposes of providing a product or service requested by the consumer; (c) to a person

for purposes that are consistent with the reasonable expectations of a consumer considering the context in which the consumer provided the covered information to you; (d) to any of your affiliates (defined as any company that controls, is controlled by, or is under common control with you); or (e) to a person as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the person assumes control of all or part of your assets. There is no private right of action against operators that fail to comply with these obligations. However, the

Attorney General is tasked with enforcing these provisions, and operators that fail to comply with these obligations may incur civil penalties of up to \$5,000 per violation and may be subject to temporary or permanent injunctions. ■ Mat Trachok is an associate in the Business Entities & Transactions Group with McDonald Carano. He has advised clients from established to emerging companies on technology-centered transactions within the biotechnology, pharmaceutical, medical device, hardware, software, Internet, and service industries. Mr. Trachok also has litigation and appellate experience. This article is not intended to provide legal advice. Please consult with a Nevada attorney if you have specific questions on how any laws referenced in this article apply to your particular situation.



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# NRF PREDICTS HOLIDAY SALES GROWTH

## NRF FORECASTS THAT 2019 HOLIDAY

sales will grow between 3.8 percent and 4.2 percent over 2018, to between \$727.9 billion and \$730.7 billion. NRF Chief Economist Jack Kleinhenz joined the Retail Gets Real podcast team shortly after the forecast announcement to discuss what's behind those numbers and the state of the economy heading into the holidays.

Kleinhenz describes today's environment as uncharted territory

for which there are few precedents. Though uncertainties and distractions ranging from trade negotiations to political rhetoric make predictions difficult, Kleinhenz says the consumer is in a good place, citing job and wage growth among many other factors.

November and December sales account for about 20 percent of a retailer's annual sales, making the holiday season a critical time. During the holidays, Kleinhenz says around 20 percent of sales occur online.

NRF expects retailers to hire between 530,000 and 590,000 temporary workers during the holiday season. As retail business models evolve, tracking seasonal job growth becomes more complicated. The Bureau of Labor Statistics does not count employees who work outside of a store as "retail" employees. "Unfortunately, we're not able to capture the jobs that are actually being offered by retailers who are running warehouses, distributions and transportation capabilities," Kleinhenz said. ■

**NRF 2020  
 VISION:  
 RETAIL'S  
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