



RETAILERS ASSOCIATION
of MASSACHUSETTS
The Voice of Retailing

The Retail Review

THE OFFICIAL NEWSLETTER OF THE
RETAILERS ASSOCIATION OF MASSACHUSETTS

September/October 2008 ISSUE



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The Retail Review

September/October 2008

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A Letter from the President

Dear RAM Member:

Our industry has entered the all important 4th quarter, and more so than any year since perhaps 1990, we are hearing from members that a difficult year could get even worse. There are certainly many dark clouds out there that are keeping consumer confidence low, and may drive the levels even lower.

From high energy and heating bills, to higher food costs, to sharp declines in home values and credit availability, to the drops in the value of our 401(k)'s, Massachusetts consumers have taken a beating. Their pessimism has to date been particularly aimed at the current conditions; but should unemployment start rising, that pessimism will also grow to concern for their futures. Low consumer confidence in the present is bad, but lower consumer confidence for six months down the line is even worse.

Politically that pessimism could have an impact with voters on election day, certainly on the candidates they choose, but also on the questions they face. Hopefully an overreaction on the economy doesn't result in unfortunate results at the ballot box. In the opinion of many of us, Question 1 on the November 4 ballot, which would repeal our state income tax, is a misguided and too aggressive proposal that puts important state and local services in jeopardy. And, unlike the sales tax, which is regressive and disproportionately hurts low and middle income families, the Massachusetts income tax is actually progressive and fair.

To tell the difference between the sales and income taxes, one only has to look at our competition north of the border, on the Internet, and at the annual success of the Massachusetts Sales Tax Holiday. After five outstanding years of Sales Tax Holiday results, we know that consumers and sellers alike appreciate that break and economic incentive, as it annually brings hundreds of millions of dollars worth of consumer purchases back to Massachusetts from New Hampshire or the Internet. RAM certainly appreciates the support of the legislators listed in this newsletter who supported the 2008 Sales Tax Holiday, which was needed this year given the current economic environment.

After the election comes the holiday season, which for so many of our members dictates a profitable or unprofitable year. You should have received our annual holiday sales projection survey. It is important that we receive feedback from all of you as to your sales year to date versus last year, your plans for inventory, seasonal help, and your anticipated results for the upcoming season. This information is extremely helpful to your association as we represent you in public forums.

We in the retail sector feel the results of consumer confidence well before any other industry. Here's hoping for continued energy price declines, a stabilization of the local housing markets, a rebound in the credit and stock markets, and growth in the job markets, all of which will mean stronger consumer confidence as we enter the final quarter of 2008.

Best wishes for improved results!

Sincerely,

Jon Hurst

President

Another Successful Sales Tax Holiday

RAM again would like to thank Governor Deval Patrick, Senate President Therese Murray, Speaker Salvatore DiMasi and the members of the Legislature for their continued support of the Sales Tax Holiday. This year's event was another success and proved to be vitally important to Massachusetts consumers and retailers struggling to endure in a difficult economy. We appreciatively recognize below, all of those legislators who voted in favor of legislation to establish this year's Sales Tax Holiday.

SENATORS:

Antonioni, Robert A.	Chandler, Harriette L.	Hart, Jack	Morrissey, Michael W.	Tarr, Bruce E.
Baddour, Steven A.	Creedon, Robert S., Jr.	Joyce, Brian A.	O'Leary, Robert A.	Timilty, James E.
Berry, Frederick E.	Creem, Cynthia Stone	Knapik, Michael R.	Panagiotakos, Steven C.	Tisei, Richard R.
Brewer, Stephen M.	Downing, Benjamin B.	McGee, Thomas M.	Petrucelli, Anthony	Tolman, Steven A.
Brown, Scott P.	Fargo, Susan C.	Menard, Joan M.	Rosenberg, Stanley C.	Tucker, Susan C.
Buoniconti, Stephen J.	Galluccio, Anthony D.	Montigny, Mark C.	Spilka, Karen E.	Wilkerson, Dianne
Candaras, Gale D.				

(The Senate President traditionally does not vote on matters unless there is a tie. It should be noted however that throughout the process, President Murray remained a vocal supporter of the Sales Tax Holiday and key to its ultimate passage.)

REPRESENTATIVES:

Aguiar, Kevin	DiNatale, Stephen	Honan, Kevin G.	Natale, Patrick M.	Sciortino, Carl
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Allen, Willie Mae	Donelan, Christopher J.	Hynes, Frank M.	O'Day, James J.	Smola, Todd M.
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Basile, Carlo P.	Fagan, James H.	Kaufman, Jay R.	Peisch, Alice H.	Spiliotis, Joyce A.
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Bosley, Daniel E.	Fennell, Robert F.	Kennedy, Thomas P.	Peterson, George N., Jr.	Stanley, Harriett L.
Bradley, Garrett J.	Fernandes, John	Kocot, Peter V.	Petrolati, Thomas M.	Stanley, Thomas M.
Brownsberger, William	Finegold, Barry R.	Koczera, Robert M.	Pignatelli, William	Straus, William M.
Cabral, Antonio F. D.	Flanagan, Jennifer L.	Koutoujian, Peter J.	Smitty	Sullivan, David B.
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Casey, Paul C.	Garry, Colleen M.	L'Italien, Barbara A.	Rice, Robert L, Jr.	Turkington, Eric
Clark, Katherine	Gifford, Susan W.	Loscocco, Paul J.	Richardson, Pam	Turner, Cleon H.
Coakley-Rivera, Cheryl	Gobi, Anne M.	Malia, Elizabeth A.	Rodrigues, Michael J.	Vallee, James E.
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Costello, Michael A.	Greene, William G., Jr.	McMurtry, Paul	Rogers, John H.	Wagner, Joseph F.
Creedon, Geraldine	Guyer, Denis E.	Miceli, James R.	Ross, Richard J.	Wallace, Brian P.
Curran, Sean	Haddad, Patricia A.	Moran, Michael	Rush, Michael F.	Walrath, Patricia A.
DeLeo, Robert A.	Hall, Geoffrey D.	Murphy, Charles A.	Sánchez, Jeffrey	Walsh, Steven M.
deMacedo, Viriato	Hargraves, Robert S.	Murphy, James M.	Sandlin, Rosemary	Walz, Martha M.
Dempsey, Brian S.	Harkins, Lida E.	Murphy, Kevin J.	Sannicandro, Tom	Webster, Daniel K.
DiMasi, Salvatore F.	Hill, Bradford	Nangle, David M.	Scibak, John W.	Welch, James T.
				Wolf, Alice K.

Onerous Data Breach Regulations To Be Effective on January 1, 2009



In 2007, the Legislature passed a comprehensive ID theft bill that has had implications for the retail community. A majority of the law's provisions took effect on October 31, 2007. Additional provisions of the law that govern the disposition and destruction of records became effective on February 3, 2008.

The ID Theft statute directed the Office of Consumer Affairs and Business Regulation (OCABR) to promulgate data breach regulations. OCABR filed a data breach regulation with the Secretary of State's Office on Friday, September 19th. The effective date of the regulation is January 1, 2009. This unprecedented regulation will affect any business with employees or customers in Massachusetts when the business collects and retains personal information—including names in combination with social security numbers, driver's license numbers, or financial account numbers, including

credit or debit card numbers. The regulation may have severe compliance implications for stores, restaurants and others taking credit or debit card transactions if those transactions are in anyway retained on computer systems without protection, and if the data is transmitted without encryption. It also has implications for any employer which may share employee information with outside accountants, payroll firms, etc.

The regulation sets forth requirements which may be costly to businesses in this tough economic environment including but not limited to: the creation of an internal security plan and program to protect personal data of employees and customers; the encryption of computers and wireless networks holding or sharing personal information along with specific system identification and password procedures; allowing companies to collect only the minimum amount of personal information necessary and retain such informa-

tion for the minimum time necessary; the identification of all paper, electronic and other records, computing systems, and storage media to determine which records contain personal information; and the verification and certification that third party service providers with access to personal information are also in compliance with the regulation.

RAM recently met with OCABR to advocate for a later effective date. We are asking members to carefully review the Regulation and let us know if there are specific sections that will be difficult to implement within the next couple of months. Please visit the RAM website for a copy of the law, regulation and updates. We will also be providing additional compliance guidance to our members soon, if the effective date is not delayed. If you have any questions, please feel free to call Erin Trabucco, RAM General Counsel, at 617-523-1900.

New Law Protects Industry From Litigation Over Credit Card Expiration Dates On Receipts



On June 3, 2008, President Bush signed the Credit and Debit Receipt Clarification Act. The Act offers relief to hundreds of businesses across the nation facing class action litigation for technical violations of the Fair and Accurate Credit Transactions Act (FACTA) amendments to the Fair Credit Reporting Act (FCRA).

FACTA intended to prevent credit card fraud by prohibiting merchants from printing more than the last five digits of a credit or debit card number or the card's expiration date on receipts printed after December 4, 2006. Many merchants interpreted the law to mean that they could either truncate the credit card number or leave off the expiration date, but that they were not required to do both. Numerous class action lawsuits have been filed against businesses that failed to remove both the credit or debit card number in addition to the expiration date.

The Credit and Debit Receipt Clarification Act states that businesses that printed an expiration date on receipts over the last 18 months cannot be found in violation of the FCRA as long as the merchant printed no more than the last five digits of customers' credit or debit card numbers on receipts and complied with all other requirements of the FCRA. Merchants are required to both truncate the card numbers and leave off the expiration date going forward.

member profile



RETAILERS ASSOCIATION
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23 New Members

Auntie Anne's
North Easton

Chapin Specialities Co, Inc.
Springfield

Consolidated Truck & Equipment, Inc.
Rehoboth

Cottman Transmission
Northampton

Gerard's
Dorchester

Honey Dew Donuts F.R.
Fall River

John Quill Automotive
Ludlow

Ken's Auto Service
Billerica

Maple Road Service Station, Inc.
Longmeadow

Mattakeese Wharf
Barnstable

Milton Gas, Inc.
Milton

Periwinkle's & Gigorio's Italian Pub
North Oxford

Pleasant Street General Store
Weymouth

Precision Tune
Tyngsboro

Regal House Classic Furniture Galleries
New Bedford

South Shore Car Wash, Inc.
Quincy

Terrazza Home & Garden
Franklin

The Vin Bin
Marlborough

Viga
Boston

Village Furniture
East Wareham

Westwood Automotive Autoworks
Norwood

White Hen 9501-6
Norwood

Zinno's Auto Repair LLC
Millville



Rockport IGA: Built from the Ground up by Hildonen Family

Five generations of the Hildonden family have spent over 98 years in the food service industry, with the past three generations calling the Rockport IGA home. In the 1960's Kenneth H. Hildonden, Sr. was running Kenney's Market in Lanesville, which had been handed down from his father and mother. By the end of the decade the opportunity to build his own grocery store presented itself on the land next to what is now the last stop on the MBTA Rockport Commuter Rail Line. "Mr. H", as he was fondly referred to by those who worked and shopped at the IGA, lured his son Kenneth Jr. from his job working on cars at Ford to join him.

After ground was broken in 1970 and construction begun, all things looked on track for the Grand Opening in 1971. But as most business people who have built a brick and mortar business from the ground up knows, you are lucky if there are no regulatory or legal challenges along the way that change your timetable or even jeopardize the viability of the whole project. The Rockport IGA is next to the commuter rail station, which was built near the former commercial railroad lines. Even though these tracks had long been abandoned the legal issues surrounding their removal was a year long process that brought construction to a stand still. Undeterred, Kenneth Sr. and Kenneth Jr. went to work for others to sustain themselves until they could get back to the goal of building their own grocery store.

Side by side, father and son (now referred to as JR) worked to layout a store that, 35 years later, still has the same practical layout that is as inviting to its new customers as it is to those who are regular shoppers. One long time customer who visited after moving from the area was thrilled to find that he still knew just where to find the items he needed. JR's amazing knowledge and passion for machines affords the IGA the ability to maintain and repair the stores original equipment, down to the grocery carts, which are the original old style carts. Each year JR welds and paints each cart to look like new.

JR epitomizes a true "do it yourselfer" who works through the night to make sure his store is ready when the employees and customers arrive in the morning. If he isn't working on a piece of equipment, you might find him setting the weekly schedule, assisting a shopper or cutting meat. JR has two female meat cutters and can take great pride in knowing they were the first female meat cutters in the state, both have remained loyal for more than 20 years.

While much has changed over the past 35 years; JR now works alongside sons, Chris and Corey ~ the quality and attention to detail that the Hildonen's bring to the IGA are lasting traits that make this business a valuable part of the Rockport community.

The Rockport IGA is located at 45 Railroad Avenue, Rockport, MA (978~546~2844)

New England

ORGANIZED RETAIL CRIME SYMPOSIUM & TRADESHOW

On Wednesday, September 10, 2008, the New England state retail associations jointly hosted the 2nd Annual New England Organized Retail Crime Trade Show & Symposium at the DCU Center in Worcester, MA. Kevin Plante, Manager of US Retail Loss Prevention Operations for Staples and RAM LP Committee Chair, led the symposium as Master of Ceremonies.

Building off of a successful event last year, it was our intention to update audience members on recent ORC studies, state and federal legislation, and lessons learned from industry leaders after another year of fighting this criminal activity. The purpose of the event is not only to educate retailers and law enforcement on ORC but to provide a networking opportunity so that we can build strong and lasting relationships that will allow us to present a unity front against this growing problem.

Once again, we were fortunate to have Joe LaRocca, Vice President of Loss Prevention for the National Retail Federation (NRF), kick off the event with an informative presentation that detailed the trends in ORC over the last year along with a description of updated tools, including the Law Enforcement Partnership Network (LERPnet), to fight this type of criminal activity.

A law enforcement panel spoke to attendees on the best ways to communicate with law enforcement and present a case for trial. Sean Ford, Detective from the Concord NH Police Department, spoke about his efforts to get retailers and law enforcement to share vital information on ORC. Sean has put together a small working group of retailers and law enforcement that meets once a month and shares

information on ORC. One thing we have all learned over the past several years is that there has been a disconnect between retailers and law enforcement. There has also been a lack of communication among different law enforcement jurisdictions. At Sean's meetings, retailers bring photos and discuss different incidences. From this core idea has sprung the Law Enforcement & Retail Alliance of New England (LERANE) – spreading out the information sharing from just Concord NH, to all New England, and in some instances, nationwide. Jack Nulty gave attendees a description of the New England State Police Information Network (NESPIN) and information on Regional Information Sharing Systems (RISS Net). FBI Special Agent Gary Cacace concluded the panel's presentations with case examples and a discussion on the FBI's efforts in battling ORC.

Attendees also heard from a policy panel consisting of Frank Muscato from Walgreens and Maine's Attorney General Steve Rowe. Frank's presentation focused on recent state legislative trends and the need to advocate and lobby for adequate state laws on ORC. Attorney General Rowe vowed to audience members that he would send a letter to his fellow attorneys general on the importance of combating ORC and announced his intention to form a task force in Maine to examine the problem and find solutions. Less than a month later, Attorney General Rowe has already followed through on his commitments which will hopefully serve as an example to other states.

While this event attracted many loss prevention professionals, small retailers that do not have internal loss prevention departments were able to meet retail

experts and law enforcement and learn about best practices in protecting their merchandise and ensuring the safety of their customers and employees. Additionally, the exhibitors at the trade show displayed many tools that are useful and often necessary in preventing loss. Retailers learned that, regardless of size, there are basic steps that can be taken to protect your business against criminal activity.

Finally, attendees heard from an expert retail panel consisting of Bill Suthard from Lowe's Companies Inc., Barry Joyce from the Marmaxx National Task Force, and Charles Delgado from BJ's Wholesale Clubs. The panel was moderated by Paul Jones from the Retail Industry Leaders Association (RILA). Each member of the retail panel highlighted cases and discussed the methods used in their investigations, advised attendees on how to handle organized crime cases, and stressed the importance of working collaboratively with law enforcement and as well as others in the retail industry.

In addition to the knowledge they were able to gain at the symposium, retailers and law enforcement were able to network and build invaluable connections and relationships that will be essential in fighting ORC. Learning from each other and having an open line of communication will greatly benefit those working towards combating this escalating problem. Utilizing tools such as LERPnet, RISS Net and LERANE will greatly increase our odds in this battle.

RAM would like to thank the other New England state retail associations for co-hosting the event, the 16 exhibitors that participated in the trade show, and all of our speakers and attendees for making

continued>>>



Barry Joyce, Marmaxx National Task Force and Joe LaRocca, Vice President of Loss Prevention, National Retail Federation



Attendees listen to speaker presentations at New England Organized Retail Crime Symposium & Trade Show



Law Enforcement Panel: Sean Ford, Concord NH Police Department, Jack Nulty, New England State Police Information Network and Gary Cacace, FBI (Left to Right)

this a successful event. Additionally, RAM would like to thank Kevin Plante (Staples), Brendan Fitzgerald (Target), Tom Nelson (Ocean State Job Lot) and Paul Jaeckle (Wal-Mart) for being a part of our LP Committee Board and helping us put this event together. Lastly, this event would not have happened without the support of our sponsors – Target, GAP, TJX Companies, CVS, RILA, Macy's, Wal-Mart and NRE.

We welcome all comments from attendees and vendors as we look to build on the success of this event. If you would like to be a part of the RAM Loss Prevention Committee please contact Erin Trabucco, RAM General Counsel, at 617-523-1900 or etrabucco@retailersma.org. For information on joining LERANE, please contact Nancy Kyle, President of the Retail Merchants of New Hampshire, at (603) 225-9748 or rmanh@rmanh.com.



Maine Merchants Association Executive Director Curtis Picard and Maine Attorney General Steven Rowe



Kevin Plante, Master of Ceremonies, RAM Loss Prevention Committee Chairman and manager of US Retail Loss Prevention Operations for Staples and Frank Muscato of Walgreens



Attendees visiting a tradeshow exhibitor at the New England Organized Retail Crime Symposium & Tradeshow

Reminder: Health Care Reform Changes Affecting Employers

All RAM members should have received a Bulletin earlier this month outlining new changes to the Employer Fair Share Contribution (FSC) program. To recap, the MA Division of Health Care Finance and Policy (DHCFP) recently adopted amended regulations governing the FSC. This regulation determines whether an employer makes a “fair and reasonable” premium contribution to the health insurance costs of its employees. Employers that make a “fair and reasonable” contribution are exempt from the \$295 per employee FSC. A copy of the regulation is available on RAM’s website.

Only employers of 11 or more full-time equivalent employees (FTEs) are subject to the FSC and required to take the applicable tests. In addition to the changes described below, employers will now be required to report and file quarterly, rather than annually as they had previously. The change to quarterly reporting means that the new threshold for determining if you are an employer of 11 or more FTEs is 5500 payroll hours per quarter.

Under the new system, the treatment of employers of 11-50 FTEs remains the same. An employer of this size will continue to be exempt from the FSC if:

1. at least 25% of the employer’s full time employees are enrolled in the employer’s group health plan, OR
2. the employer makes a 33% or greater premium contribution to the health plan for all full time employees no more than 90 days after the date of hire.

Larger employers, however, will face a new standard. Effective January 1, 2009, employers of more than 50 FTEs must meet BOTH previous tests, or may satisfy a new test. An employer of this size is exempt from the FSC if:

1. at least 25% of the employer’s full time employees are enrolled in the employer’s group health plan AND the employer makes a 33% or greater premium contribution to the health plan for all full time employees no more than 90 days after the date of hire; OR
2. 75% of the employer’s full time employees are enrolled in the employer’s group health plan.

Also, as this newsletter went to print, the state’s Health Connector was weighing changes to the Minimum Creditable Coverage standards that affect all MA residents under the Individual Mandate. Please visit our website for important updates on these issues.

If you have any questions or comments with regard to these health care issues please contact RAM’s Vice President, Bill Rennie, at brennie@retailersma.org or (617) 523-1900.

Tracy Mullin, NRF President & CEO to Give Keynote Address at RAMAES

Please join us on **Thursday, November 20, 2008**, for the RAM Annual Meeting and 11th Annual RAMAES. The Board of Directors Meeting (which is open to all RAM members) will begin at 8:30 a.m. Registration for the luncheon will start at 11:30 a.m. with the program beginning at 12:00 p.m. This year's events will be held in the La Cava Building at the Conference Center at Bentley College in Waltham.

National Retail Federation (NRF) President & CEO Tracy Mullin will deliver the keynote address at the RAMAES luncheon. Rick Segel, retail expert and long-time master of ceremonies of the RAMAES will present the awards.

An official invitation by mail is forthcoming. You can register by mail or online at www.retailersma.org. We hope to see you there!

RAMAES Categories:

Retailer of the Year, Restaurant of the Year, Rookie of the Year, Community Service, Creative Display, Creative Concepts in Retailing, and Advertising & Promotion



RAMAES

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