

2017 NWGA Legislative Report: Washington, Oregon and Idaho



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2017 NWGA Legislative Highlights

In Washington, in spite of a \$3.5 billion shortfall, the final budget agreement included only an expansion of the state sales tax to bottled water – keeping an increase in the state B&O tax rate for drug wholesalers, a capital gains tax, a \$.02 per ounce tax on sweetened beverages, an end to the out-of-state sales tax exemption for those visiting Washington, and a 95% tax on vapor products off the table. In addition, we were able to simplify the retail liquor license for those that qualify for tastings and other programs. Members will no longer be required to receive multiple endorsements to a liquor license, simplifying the licensure process, and comes at a time when the WA Liquor and Cannabis Board is reprogramming its computer system to provide a better application process on their end. And while we continue to have significant cost and implementation concerns for a statewide paid family leave program, NWGA was at the negotiating table this year to help craft a statewide paid family leave proposal that worked for WA business and labor and included statewide preemption.

In Oregon, we were able to stop a gross receipts tax on all Oregon sales over \$3 million at the proposed rate of .35% for retail trade and .48% for all manufacturing sales. Estimated to raise upwards of \$1.3M by 2023, this tax was a scaled back version of BM 97 defeated in November by voters. NWGA was also a key negotiator on all the major labor and employment laws debated this session. Wins included securing a key fix to the overtime laws allowing our manufacturer members to calculate overtime on a daily and weekly basis and pay the greater of the two (not both!) and a predictable scheduling law that included preemption, a voluntary standby list and cut out much of the regulatory burdens we've seen in Seattle and San Francisco laws. In addition, NWGA worked with our beer and soda colleagues to pass a Bottle Bill transition, allowing manufacturers to change their labels as soon as practicable, not immediately, and allows retailers to collect the dime refund regardless of the label on the product – easing confusion at the counter.

In Idaho, NWGA supported the expansion of retail pharmacist's authority to prescribe low-risk drugs to grocery customers, supported the establishment of a dedicated account for underground storage tanks fees to ensure grocers' fees go only to the underground storage tank program. In addition, attempts to raise the statewide minimum wage did not advance.

Washington

Governor: Jay Inslee (D-Seattle)

Legislative Majorities:

Senate 25-24 Majority Coalition Caucus majority (24 Republicans, 1 Democrat)

House 50-48 Democrat Majority

Senate Majority Leader Mark Schoesler (R-SE Washington)

Senate Democratic Leader Sharon Nelson (D-Maury Island)

Speaker of the House Frank Chopp (D-Seattle)

House Majority Leader Chair Pat Sullivan (D-Covington)

House Minority Leader Dan Kristiansen (R-Snohomish)

Washington 2017 Session Overview

January 9, 2017 – July 21, 2017 – The Washington Legislature met for 195 days, including one regular session and three special sessions. This is a new state record for the number of days for a session.

SB 5883 – Budget/New Taxes

NWGA Position: No position taken

Status: Signed by the Governor; varying effective dates

Summary: The final budget agreement included a tax on bottled water, effective August 1, 2017. In 2012, the Washington State Supreme Court ruled that the Legislature had failed in its obligations to fully fund education as is constitutionally required. This is commonly referred to as the McCleary decision. The Legislature has struggled to find new funding to cover this gap. The Supreme Court gave the Legislature until the 2017-2019 budget to find this funding, and has declared them in contempt of court until this funding is identified.

The budget also included a complex funding solution to the McCleary decision. The agreement included a restructuring of the state and local levy system and how property taxes are assigned within school districts. Because the state restructured the property tax base to reflect the changes to the levies, most school districts and cities saw a reduction in their property taxes. This will impact our store locations and other property owned by retailers, and likely lower the tax obligations for store sites and warehouse facilities.

Impact to Industry: NWGA members began collecting a sales tax on bottled water sold in Washington State on August 1. This tax includes water sold in a safety-sealed container or package and that is calorie free and does not contain sweeteners, but does not include ice or water that is dispensed from a self-service dispenser. For individuals on SNAP, are from out-of-state, or are not allowed to drink their own, local water for a public health reason, a rebate program is established by the Washington State Department of Revenue for consumers to get their taxes paid back.

Wage and Hour Laws

HB 1143 – Local Scheduling Laws

NWGA Position: No position taken

Status: Died in House

Summary: This legislation would have prohibited local ordinances from creating separate standards for represented and nonrepresented workers for workplace scheduling requirements.

Impact to Industry: NWGA worked during the interim in Seattle to develop the predicative scheduling ordinance. That ordinance did include a proviso to allow represented workers to negotiate with their employers to waive from the ordinance if they'd reached mutual agreement to address this issue within a CBA. There are lawmakers who do not agree with allowing CBAs to be waived from state laws or local ordinances; this bill would prohibit that waiver within Seattle.

HB 1298/SB 5312 – Background Checks

NWGA Position: NWGA supported the final draft, but opposed the removal of the local government preemption language.

Status: Died in the House Rules Committee.

Summary: Negotiations have been ongoing on this issue for years. There is agreement on the language of the bill, which includes a prohibition on employers from asking about criminal background at the initial application. The agreement also included language that preempted local governments from passing local ordinances on the issue. The preemption language was stripped from the bill in the House Labor Committee. Because the preemption language was removed, NWGA opposed the bill and the bill died in the House before a vote.

SB 5822 – Workers Compensation

NWGA Position: Support

Status: Did not pass the Senate.

Summary: This legislation lowered the age of final settlement agreements to age 18, required that occupational disease claims be related directly to the work place, allows self-insured employers to give orders on claims, and fixes a couple of Washington State BIIA decisions that have affected claim decisions. The bill did not have enough votes in the Senate for passage, in spite of heavy efforts by the business community to move this bill.

Impact to Industry: This legislation would fix a number of issues that have been raised by the business community for decades on workers' compensation. The cost savings to employers, including those that are self-insured, would be significant. Unfortunately, without the support of the Senate, the bill cannot move forward.

HB 1796/SB 5835 – Workplace Accommodations for Pregnant Women

NWGA Position: Neutral on the final bill language

Status: Signed by the Governor. Bill is effective July 23, 2017

Summary: Upon request, employers are now required to provide to their pregnant employees:

- more frequent, longer, or flexible restroom breaks;

- modify a no food or drink policy;
- job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;
- seating or allowing the employee to sit more frequently if the job requires standing; provide a temporary transfer to a less strenuous or hazardous position;
- assistance with manual labor and limits on lifting;
- schedule flexibility for prenatal visits; and
- any further accommodation an employee may request, and to which an employer must give reasonable consideration to in consultation with information provided by the Department of Labor and Industries or the attending health care provider.

Impact to Industry: The final legislation provides a clear structure for what would be required of employers if a pregnant employee requests these accommodations. There were no additional requirements beyond what NWGA members already provided so NWGA did not oppose the final bill as passed.

SB 5975 – Paid Family Leave

NWGA Final Position: Support

Status: SB 5975 passed the Legislature, and was signed by the Governor.

Summary: This is comprehensive legislation establishing a new, paid leave program in Washington State for pregnancy, birth or placement of a child, and illness not related to the work place. Below reflects the primary constructs of the new policy. The payroll tax on workers will begin January 1, 2019 and employees will be eligible for payment of benefits January 1, 2020.

Who is Covered and How Much?

- All employees are in the program, including represented workers and executive staff
- All employees will pay for the program at a tax rate established by the Employment Security Department
- All employers with over 50 workers company-wide will pay a tax rate established by the Employment Security Department
- The law does NOT affect workers that are based in other states, even if they deliver in Washington State.
- Two “pots” of money are created – a disability pot, and a family leave pot
 - The disability pot is for illness of the worker himself; the family leave pot is for birth/placement of a child, or care of a family member (Family members are defined the same as under the Washington sick and safe leave law)
 - For disability leave, premiums will be split: 55% by the employer, 45% by the worker
 - For family leave, premiums will be paid 100% by workers
- Total premium share is 37% for employers, 63% for workers

Allowed Use:

- Disability – up to 12 weeks annually, or up to 14 weeks for complications of pregnancy

- Family – up to 12 weeks annually
- Annual cap – a total of 16 weeks total may be used from the buckets; or up to 18 weeks for an individual with pregnancy complications

Amount of Wage Replacement:

- The amount paid will be scaled based on a statutory formula
- The lower the wage the higher the wage replacement, up to 90% for the lowest wage worker
- The law expressly prohibits a worker from earning more on the program than his or her working wage
- Benefits are capped at \$1000 per week, and are calculated based on the 2 highest earning quarters of the last four

Types of Leave Allowed:

- Family– what is currently allowed under the Washington State sick and safe leave law
- Disability – what is currently covered under FMLA

Notice Required:

- Workers are required to provide 30-day notice when practicable before taking leave.

Preemption:

- Local governments are preempted from creating a separate leave law, requiring a higher benefit payment, or adding additional weeks of leave.

Waiver Program for Employers:

- Individual employers may choose to run their own program under a waiver program.
- An employer must provide the same minimum requirements as is provided under the state program, and cannot cost the workers more than what they would pay on the state program.

Collective Bargaining Agreements:

- Workers covered under a closed CBA as of October 19, 2017, will not be required to participate in the program. This includes the payment of premiums into the funds. When contracts open or are renegotiated, the law would apply.

Impact to Industry: For nonrepresented workers, payments from employees and employers will begin in January 1, 2019. Those payments will remain flat for two years, then be adjusted by the Employment Security Department annually for stability of the fund. For employers with a closed CBA agreement as of August 2, 2017 will not start paying into the fund until the agreement expires. Employers will be able to apply for a waiver, and be allowed to run their own program. The waiver program must follow the minimum requirements of the paid family leave program established by the state.

Retail Grocery

HB 1880 – Sales tax exemption for feminine hygiene products

NWGA Position: Oppose

Status: Died in the House Finance Committee

Summary: The bill would require that feminine hygiene products be tax exempt for those on public assistance.

Impact to Industry: The legislation would provide for a tax exemption not currently provided in the electronic POS for feminine hygiene products. The Committee was told by NWGA that they would be willing to discuss the issue further during the session, but the bill was not brought up again.

HB 1537 / SB 5397 – Disclosure for petition signatures

NWGA Position: Support

Status: Died in the Senate State Government Committee

Summary: The bill would establish a program similar to Oregon's, and require training and disclosure for those who pay signature gatherers.

Impact to Industry: The bill would require those who hire signature gatherers to disclose to the state information about the business hiring these signature gatherers, including how much they are paid per signature, the names of the individuals employed to collect signatures, and other information. There would also be training, as required in Oregon. There was a productive hearing on this bill, with retailers testifying about their challenges with signature gatherers. Unfortunately, the bill was miscatergorized again by Tim Eyman, who claimed that the bill would destroy the initiative process. The Chair of the Committee chose not to move the bill forward.

SB 5897 – Prohibiting the purchase of certain foods - SNAP

NWGA Position: Oppose

Status: Died in the Senate Ways and Means Committee

Summary: The legislation would have prohibited the purchase of sweetened beverages, desserts and candy for SNAP and WIC recipients. The bill did not require that these definitions use the Streamline Sales Tax Agreement definitions which would leave retailers having to work with the agency to determine what would not fall into these three categories.

Impact to Industry: NWGA testified with concerns that this bill would require retailers to determine which individuals on public assistance could and could not purchase certain items. Additionally, because of the clear definitions of what would be considered desserts and candy, there would be much interpretation of what would be prohibited.

Pharmacy

SB 5744 – Prescription coverage & Mail order service

NWGA Position: Support

Status: Died in Senate Rules Committee

Summary: The original bill would have required that patients have the ability to opt in to mail order for each individual prescription covered under a health plan. The amended bill would have allowed patients to opt in to mail order annually for all prescriptions, or use their local pharmacist.

Impact to Industry: For retail pharmacies, this legislation would have given patients the ability to choose between mail order and their retail pharmacy sites for their prescriptions. Our pharmacies do see individuals who receive incorrect prescriptions from mail order, or prescriptions that are in conflict with other prescriptions being received through a pharmacy. NWGA will continue to support legislation giving patients the option of utilizing mail order, or utilizing a mail order program.

HB 1164 – Public education for tax-free prescriptions

NWGA Position: Concerns

Status: Bill died in House Finance

Summary: The legislation would require pharmacies to post signs that over-the-counter medications could be available tax-free if they are prescribed.

Impact to Industry: NWGA had several concerns with this bill. While prescriptions are tax-free, and over-the-counter medications are taxable, there are over-the-counter medications that are still cheaper overall for a patient than a prescription can be. Additionally, there may be copays and other costs that are required for an individual to visit their doctor to receive a prescription that can drive up costs. NWGA and the pharmacy community met with the bill's sponsor to discuss alternative ways that patients can be made aware of the tax-free option of prescribed medications, and will continue to work with her on a non-legislative strategy to help consumers.

SB 5883 – Budget Bill – PBM's

NWGA Position: Support Section 213

Status: Language included in the final budget agreement; Signed by Governor

Summary: The final budget agreement required that the State Health Care Authority move agencies to one preferred drug list. Additionally, within Section 213, they require that the pharmacy benefit manager that provides drug services through that preferred drug list be fully transparent with the Health Care Authority, including in its drug purchasing and charging to the state for drug costs, and rebates it receives. While the data itself is not subject to public disclosure, there is a report due back to the Legislature in November, 2018, and again in November, 2019, detailing the costs to the state using the previous system and the new system, including a focus on the 25 most prescribed medications.

Impact to Industry: NWGA has worked for years with the pharmacy community to bring transparency to drug pricing for the state. This budget provision will provide transparency for the state that utilizes pharmacy benefit managers to run their drug purchasing programs. By studying the PBMs including their acquisition costs and costs to the state, we hope there will be clarity on how much the PBM earns buying and selling prescriptions for the state insurance plans.

Liquor

HB 1762 / SB 5549 – Personal services by members of the liquor industry to retailers

NWGA Position: Support

Status: Bills died in committee

Summary: The bills would have allowed spirits manufacturers, importers, and distributors to provide services to retailers and customers in certain, specific circumstances.

Impact to Industry: We have seen this bill for the last several years, as spirits manufacturers and distributors try to find parody with other parts of the liquor industry. Currently, in certain circumstances, portions of the beer and wine industry are allowed to provide services for retailers. Aspects of the spirits industry would like to do the same. There is significant resistance to this by the beer industry, which opposes portions of the bill. There are also lawmakers that believe that this would lead to an expansion of liquor in retail stores, even though much of what they are concerned would occur is already available in grocery stores under current law. NWGA will continue to partner with various portions of industry to see if a version of this bill can move forward.

HB 1351 / SB 5194 – Endorsements/Privileges for off-premise consumption

NWGA Position: Support

Status: Signed by the Governor. The bill is effective July 23, 2017

Summary: The bill creates bridges among the current endorsements and privileges available to off-premise retail licensees, allowing for one singular license for entities over 10,000 square feet.

Impact to Industry: This legislation was developed in partnership with the Washington Food Industry Association, the Washington Retail Association, and the Washington State Liquor and Cannabis Board. The bill combines all of the endorsements and privileges available to off-premise retailers into one license, streamlining the licensure process. This is in conjunction with the redevelopment of the website and computer system of the Washington Liquor and Cannabis Board, so that their system can reflect a one-license system. The bill does not expand spirits sale privileges to entities that cannot currently sell spirits.

HB 1119 / SB 5145 / HB 2000 – Private Labels

NWGA Position: Support

Status: The Senate passed SB 5145, and the bill made it to the floor of the House before the bill died. The House had the opportunity to vote on HB 2000, but did not move the bill forward.

Summary: The bills would have allowed all levels of the tiers, from distiller to manufacturer to retailer to restaurant to have a private brand label available.

Impact to Industry: Retailers have had private labels at stores since spirits were sold privately in Washington State in 2012. In December 2016, a retail association asked the Washington Liquor and Cannabis Board whether a spirits entity could produce private label spirits for their stores; they were told, “no.” This association then pointed out that other retailers were already selling private label spirits. This spurred a long discussion for several months with the WA LCB and others about whether retailers could sell private label spirits. The WA LCB partnered with retailers to try and move legislation forward to clarify the issue; that bill was opposed by the

beer community. In the end, the legislation failed to pass. The WA LCB is now working with retailers to determine whether there might be options within state law to still allow private label spirits in Washington.

Environmental Issues

HB 1744 – Perfluorinated chemicals in food packaging

NWGA Position: Oppose

Status: Bill died in House Environment Committee

Summary: Beginning July 1, 2018, manufacturers and wholesalers would have been restricted from selling, offering for sale, or distributing food packaging to which perfluoroalkyl and polyfluoroalkyl chemicals (PFAS) have been intentionally added. Food packaging is defined as a package or package component for marketing, protecting, or handling a product used for food contact, or used to store food and foodstuffs.

Impact to Industry: This legislation would have impacted retailers in a couple of ways. First, establishing a state-only prohibition on packaging would make distribution of product over statewide lines a problem. Additionally, the new law would require manufacturers – including store brands – to produce a certification that the packaging wouldn't contain PFAS. This puts an additional responsibility on retailers just for one state. It is possible we will see this bill in future sessions.

SB 5415 – Tax on plastic shopping bags

NWGA Position: Oppose

Status: The bill was introduced but there was no hearing

Summary: Beginning October 1, 2017, a tax of \$.02 would have been required on all plastic bags distributed in Washington State. The tax would be returned to the state, and not kept by the retailer.

Impact to Industry: We have seen this legislation repeatedly over the past several years. The bill taxes plastic bags but not paper, and the tax is remitted to the state and not kept by the retailer as a fee.

HB 1047 – Disposal of unwanted medications

NWGA Position: Support as amended

Status: Died in the House

Summary: Drug manufacturers would be required to fund drug take-back programs in Washington State. Retailers would only be required to provide information about local take-back programs in a local area, but would not be required to actually have take-back bins in stores sites.

Impact to Industry: This legislation would create an effective, statewide drug take-back program. The bill required funding by drug manufacturers, and gave retailers the opportunity to provide information to customers about where they could return unused medications without having to locate bins in their individual store sites. The bill also preempts the development of local drug take-back programs, which is important to retailers.

Oregon

Governor: Kate Brown (D-Portland)

Legislative Majorities:

Senate 17-13 Democrat control

House 35-25 Democrat control

Senate President Peter Courtney (D-Salem)

Senate Majority Leader Ginny Burdick (D-Portland)

Senate Minority Leader Ted Ferrioli (R-John Day)

Speaker of the House Tina Kotek (D-Portland)

House Majority Leader Jennifer Williamson (D-Portland)

House Minority Leader Mike McLane (R-Powell Butte)

Oregon 2017 Session Overview

The Oregon legislature convened for a regular session on February 6, 2017 and adjourned on July 07, 2017—just 3 days before the 160-day Constitutional deadline of July 10th.

This session followed a historic 2016 election with the surprise victory of President Trump and the defeat of Measure 97, where the business community spent \$23.6 million; winning 60/40 against imposing a 2.5 percent gross receipts tax. As for state legislative races, only one net change occurred in the make-up with the Senate gaining a Republican seat to a 17-13 Democrat majority and the House remaining at the 35-25 Democrat majority. Democrats are shy 1 vote in both chambers of the required 36 and 18 votes for one party to raise taxes.

This session will be remembered by the distinction between the two chambers with the House of Representatives being progressive and partisan while the Senate postured itself as the moderate, bipartisan chamber. Upon sine die, Senate President Courtney stressed the bipartisan cooperation in his press release – *“In the Senate, we had some remarkable successes. Democrats and Republicans worked together on almost every issue. We talked to each other. We listened to each other. We sought consensus. On three key policy bills, we brought employees and employers together on what were once divisive issues. Our new pay equity law means women and minorities have a fair shot at being paid the same as their co-workers. Overtime rules have been clearly spelled out. Our statewide predictive scheduling law is the first the nation. None of these advancements would have been possible without unprecedented bipartisan cooperation.”*

Gross receipts tax, transportation funding and solving a \$1.4 billion budget shortfall were the top three legislative priorities in 2017 and the legislature was successful on two out of the three. Gross receipts tax was heavily debated in the newly formed joint tax reform committee with a tumultuous debate over the need for increased revenue when Oregon’s economy is strong. Democrats desired more revenue and Republicans demanded cost containment

resulting in a stalemate on both this session. The highly publicized Transportation package passed, becoming the largest transportation investment in Oregon's history. The budget was filled with a \$550 million provider tax on hospitals and health insurers, the elimination of existing tax credits and budget reductions.

Over 2,829 bills were introduced during the 2017 Legislative Session. Of those, fewer than 640, or 23%, have been signed by the Governor. Each proposed bill was read and analyzed through the lens of how it could or would impact the grocery business. The NWGA lobby team tracked over 500 bills this Legislative Session. Many bills presented real threats to the way you operate your business resulting in costly new regulations and mandates. On the contrary, some bills created opportunities for NWGA to craft good public policy, which benefited the grocery industry. The following is a compilation of the good, the bad and the ugly, which NWGA worked on this session on your behalf.

Budget

The Oregon Legislature adopted a 2017-19 budget comprised of planned expenditures of \$19.859 billion General Fund, \$1.071 billion Lottery Funds, \$31.710 billion Other Funds, and \$21.792 billion Federal Funds. The total adopted state budget for the 2017-19 biennium of \$74.432 billion is a 3.7% increase from the 2015-17 legislatively approved budget. The combined General Fund and Lottery Funds adopted budget for the 2017-19 biennium is up by 10.3% over the 2015-17 legislatively approved level, but is down by 3.6% from the 2017-19 current service level.

NWGA Sponsored Legislation

HB 2746 – Bottle Bill Transition Fix

NWGA Position: Support

Status: Passed legislature, signed by Governor

Effective Date: 5/28/17

Summary: In 2011, HB 3145 set a trigger that bottle recycling deposits would increase from 5 cents to 10 cents if the recycling rate falls below 80 percent for two consecutive years, but not before 2017. Because the redemption rates for 2014 and 2015 were below 80%, ORS 459A.705 required the refund value to increase to 10 cents. The OLCC has calculated the statewide redemption rate for 2012 at 70.95%, for 2013 at 70.97%, 2014 at 68.26%, and 2015 at 64.45%. HB 2746 requires payment of the 10-cent refund for covered beverage containers, beginning on April 1st, 2017, regardless of the refund value indicated on the container. Beverage containers that indicate a 5-cent deposit may continue to be sold until September 30th, 2018. On January 1st, 2018, additional beverage containers will be added to the Bottle Bill as required by ORS 459A.702. This expansion covers any beverage intended for human consumption except distilled spirits, wine, milk and infant formula. HB 2746 was met with wide spread support in both the House and Senate. It became one of the first bills to be signed by the governor this legislative session and the law went into effect on March 28th, 2017.

Impact to Industry: HB 2746 smooths out the transition considerably for retailers and grocers, by helping them have consistency in how to implement the new deposit without wasting product or creating confusion.

HB 3458– Overtime

NWGA Position: Opposed as originally drafted, Support as amended

Status: Passed legislature, awaiting signature by Governor

Effective Date: Upon passage.

Summary: During the interim, the business community became aware that the Bureau of Labor and Industries (BOLI) was interpreting a rule that was passed several years ago to say that manufacturing employers must pay employees on both the day and the week overtime hours they work. There were two bills introduced to help fix the problem – HB 3034 and its companion bill SB 984. The bill that gained the most traction was SB 984 which clarifies that an employer calculates either daily or weekly overtime and pays whichever is greater. The bill passed out of the Senate unanimously. However, everything that was negotiated between the stakeholders could not fit into the relating clause of SB 984A so a new bill, HB 3458, was introduced in House Rules in late May. HB 3458 includes a private right of action for employees compelled to work more than 13 hours per day and right to rest provisions. It also includes an undue hardship provision which allows shifts to exceed 60 hours for 120 days for perishable products.

Impact to Industry: Grocery and retail establishments with manufacturing facilities will calculate either daily or weekly overtime and pay whichever is greater but will not be required to pay both daily and weekly overtime. In addition, manufacturing facilities employees will be capped at 55 hours of work a week, with the ability to consent up to 60-hours.

Labor

SB 828 – Predictive Scheduling

NWGA Position: Opposed as originally drafted, Support as amended

Status: Passed legislature, signed by Governor

Effective date: Operative Date: July 1, 2018 (7-day notice)

Enforcement Operative Date: January 1, 2019

Operative Date 14-day notice: July 1, 2020

Summary: The House and Senate both introduced bills this session on predictive scheduling, SB 828 and its companion bill HB 2193. HB 2193 included many employee benefits that did not have input from the business community. Meanwhile, SB 828 moved forward as the vehicle for a lengthy negotiation between organized labor and Oregon businesses. With this bill, Oregon becomes the first state to implement a new approach to scheduling regulations for employers and employees. The bill places a permanent local preemption on predictable/flex scheduling that prevents Portland and other cities from enacting local ordinances. Below is a detailed summary.

Covered Employees: SB 828 only applies to employers of 500+ employees (worldwide) if the employees are in the retail, food service or hospitality business AND the employees perform the type of services relating to retail, hospitality and food service. Chains or franchise are only

covered if an individual or entity shares ownership of the chain/franchise AND they have 500+ employees.

Estimate of Schedule: Employers required to provide employees, only at the time of hire, with a "good faith estimate" of the median number of hours the employee can expect to work.

Advance notice of work schedule: July of 2018-July of 2020: 7-day in advance
July 2020 14-days in advance

Penalty for employer requested changes to work schedule: An employer must pay 1-hour of penalty pay for adding 30+ minutes to a shift, changing the start/end time of a shift with no loss of hours, or scheduling an additional shift or on-call shift within the advance notice window. An employer must pay half of the employee's regular rate of pay for each scheduled hour that the employer subtracts hours from the shift, changes the date/start or end time that results in loss of hours, cancels the shift, or when an employee is not called in when scheduled for an on-call shift.

Right to Input: Employees have the right to provide input and request changes to their work schedules at any time, however employers are not obligated to honor those requests.

Right to Rest: Employers must allow a rest period of at least 10-hours between employee shifts.

Voluntary Standby List: Employees may request or consent to join a voluntary standby list. Employers may use the Voluntary Standby List to address unanticipated customer needs or unexpected employee absence without penalty pay.

Enforcement: The bill will be enforced by Bureau of Labor and Industries (BOLI) with a narrow private right of action for retaliation.

Statewide Preemption: SB 828 provides a permanent, statewide preemption of all local government scheduling mandates.

HB 2005 – Pay Equity

NWGA Position: Opposed as originally drafted, Support as amended

Status: Passed legislature, signed by Governor

Effective Date: 10/6/17

Summary: This session, passing pay equity legislation became a top priority for both Senate and House Democrats. The bill passed off the House floor after a nearly three hour heated debate between Democrats and Republicans. Representative Ann Lininger (D-Lake Oswego) sponsored the bill and said, "this is an abiding problem that we face and we need better tools to help address the problem." Meanwhile, Representative Jodi Hack (R-Salem) submitted a Minority Report that addressed many of the same issues, though claiming to work with the business community, rather than against it. The Minority Report failed by two votes and HB 2005 passed off the House floor with a 36-24 vote with only one Republican, Representative Rich Vial (R-Sherwood) voting for it.

As the bill moved to the Senate, stakeholders worked on a number of amendments. The negotiations resulted in additional employee protection from pay discrimination, while giving businesses a leg in court if they can prove that they made a good-faith effort to eliminate pay discrepancies and keep detailed, up-to-date records on findings of their Equal Pay Analysis. Despite heated negotiations, HB 2005B became a major bipartisan victory as it passed unanimously off the Senate floor and was signed into Oregon law by Governor Brown.

The final bill creates a new unlawful employment practice for discriminating in the payment of wages or other compensation on basis of a protected class: including race, color, religion, sex, sexual orientation, national origin, marital status, disability, age, and veteran status. An employer may pay employees for equivalent work at different compensation levels if entire difference in compensation levels is based on:

- Merit
- Seniority
- quantity or quality of production (piece rate)
- workplace locations
- travel
- education
- training
- experience

The bill prohibits an employer from asking prior salary history prior to extending an employment offer (effective October 6, 2017), but allows the use of salary history for internal hires and transfers. Remedies for pay equity violations and retaliation for wage inquires include the right to compensatory and punitive damages and a jury trial. Provides an employer an opportunity to file a motion to limit damages (bar to compensatory beyond 2-years of back pay and punitive damages) if the employer completes an "Equal Pay Analysis" that:

- Is completed within 3-years prior to the complaint;
- Is reasonable in detail and scope given size of employer;
- Related to the protected class alleged;
- Shows the employer has made "reasonable and substantial progress towards eliminating wage differentials"

Impact to Industry: HB 2005 encourages companies, large and small, to determine if they have a problem, and then gives them a tool to solve that problem without the costly exercise of going to court. Employers want to do the right thing and HB 2005B allows a company to perform an "Equal Pay Analysis" to review their pay practices— allowing the employer to identify the problem (if they have one) before they are sued, not waiting till they are in a courtroom to learn they have a problem.

SB 1040 – Preempt Local Right to Work

NWGA Position: Neutral

Status: Passed legislature, signed by Governor

Effective Date: 6/14/17

Summary: In 1935, the National Labor Relation Act (NLRA) became the primary law governing relations between unions and employers in the private sector. The NLRA allows employees and unions to enter a union security agreement that requires employees in a bargaining unit to become a union member and pay member dues. Prior to SB 1040, Oregon law did not preempt a local government from precluding an employer from making an agreement with a labor organization to require employee membership in a union as a condition of employment. SB 1040 clarifies Oregon law to preempt local right to work. The bill moved through the Senate

primarily on party line votes. The bill then sat on the house agenda and was carried over eleven times before reaching a vote on the House floor. The bill passed with a 41-17 vote where the Republican caucus showed a split in support for the bill.

Impact to Industry: Local governments have not adopted local right to work ordinances so the bill has no current impact to the industry. However, right to work is likely to be determined at a federal level by the U.S. Supreme Court in the next 3 years.

HB 2856 – BOLI Outreach

NWGA Position: Oppose

Status: Dead

Summary: HB 2856 would have created a grant program similar to the City of Seattle to target labor law education and outreach to specified populations; including low-wage workers, women, immigrant and refugee workers, LGBTQ workers, youth workers, workers with a disability and workers of color. Additionally, HB 2856 allows an award of compensatory damages against an employer who takes adverse action against an employee for inquiring about, discussing or disclosing their wage or the wage of another employee.

Impact to Industry: HB 2856 would have been another tool by labor organizations and trial lawyers to increase workplace litigation on Oregon businesses.

HB 3087 – Paid Family Leave

NWGA Position: Oppose

Status: Dead

Summary: HB 3087 would create a family and medical leave insurance benefit program to provide a portion of existing wages to employees on qualified leave. Employees and employers would pay up to 0.5 percent of the employees' wages into a fund. The bill would permit up to 12 weeks of benefits per year and offer an additional six weeks of benefits for parental leave. Employees would need to provide a 30-day notice to the employer for commencing leave and would be restored to their former position upon returning to work. The employee would maintain healthcare benefits. Employers would be prohibited from retaliatory and discriminatory action, required to display and provide notice of employee rights. Additionally, the bill would create penalties for false statements or claims and a remedy for erroneous payments.

Impact to Industry: Increased benefit costs to Oregon businesses. Oregon will look to the negotiated agreement in Washington as a basis for discussion in the interim.

HB 3279 – Property Service Contractors

NWGA Position: Neutral

Status: Passed legislature, awaiting signature by Governor

Effective Date: January 1, 2018

Summary: HB 3279 adds in a new category of labor contractors required to be licensed and tested by BOLI: property service contractors (janitorial companies). The measure provides training requirements for contractors and exempts particular entities. The measure provides BOLI with rule making authority and directs training on prevention of harassment, assault, and discrimination in the workplace. The bill does not apply to in-house janitorial services.

Impact to Industry: Increased regulation by BOLI on labor contractors who supply janitorial or security services.

SB 301 – Eliminating Drug Free Workplace

NWGA Position: Oppose

Status: Dead

Summary: In Oregon, it is considered an unlawful employment practice for any employer to condition employment on refraining from using lawful tobacco products during nonworking hours. There is an exception when the restriction relates to a bona fide occupational requirement or an applicable collective bargaining agreement that prohibits the off-duty use of tobacco products. SB 301 would modify this law to prohibit an employer from conditioning employment on refraining from using any substance that is lawful in Oregon during nonworking hours. SB 301 also adds an exception for restrictions on the use of lawful substances in nonworking hours when related to the performance of work while impaired.

Impact to Industry: SB 301 protects employee use of marijuana in situations where employers would otherwise be allowed to prohibit it for a safe work environment. The bill is preempted by the US Constitution, conflicts with federal and state laws, and would be almost impossible for employers to reconcile with their obligations to maintain safe workplaces that do not endanger other employees, the public or the customers they serve.

HB 2567 – Notice for Layoffs

NWGA Position: Neutral

Status: Dead

Summary: HB 2567-A mirrors the federal Worker Adjustment and Retraining Notification Act (WARN) in many respects, except that it counts employees affected by mass layoff regardless of full-time or part-time status. The measure requires 60-days' notice for layoffs, terminations or relocations that affect, in aggregate, 50 or more employees during any 30-day period. Notice must also be provided if at least 50 employees, in aggregate, are affected over a 90-day period, unless the employer can demonstrate that the job losses were the result of separate and distinct actions and causes and were not an attempt to avoid the notice requirement. Written notice must be given to affected employees, the Oregon Employment Department, the Office of Community Colleges and Workforce Development, the local workforce development board, and the chief elected official of each city and county in which the mass layoff, relocation or terminations will occur. The measure provides a private right of action for the recovery of back pay and benefits.

SB 398 – Notice for Earned Income Tax Credits

NWGA Position: Neutral

Status: Passed legislature, signed by Governor

Effective Date: 10/6/17

Summary: SB 398 requires employers to provide annual, written notice to employees about earned income tax credits, including website addresses for Internal Revenue Service and the Department of Revenue. The notice must be provided in English and employee's primary language with employee's federal form W-2. The bill requires the Bureau of Labor and

Industries (BOLI) to provide notice to employees on state minimum wage posters about earned income tax credits.

Impact to Industry: Additional notification requirements to employees with W-2.

HB 2167/SB 292 – Workplace Bullying

NWGA Position: Neutral

Status: Dead

Summary: Oregon's workplace safety and health law, known as the Oregon Safe Employment Act, was passed in 1973, three years after the federal Occupational Safety and Health Act (OSHA) was signed into law. Oregon has an agreement with the federal government to administer its own program as long as federal standards for worker protections are met. Oregon OSHA is responsible for enforcing the broad statute (ORS 654.015) prohibiting an employer from constructing or maintaining any place of employment that is unsafe or detrimental to health. HB 2167 defines, in effect, a place that is unsafe or detrimental to health to include an abusive work environment that an employer knew or should have known existed and failed to take prompt and appropriate correction action. The measure also provides a private right of action for violations of the Act.

Impact to Industry: Additional private right of action for abusive work environment.

HB 2335 and HB 2338 – Workers Compensation

NWGA Position: Support

Status: Approved by MLAC, passed legislature, signed by Governor

Effective Date: 1/1/18

Summary: HB 2335 gives the Director of the Department of Consumer and Business Services discretion to appoint two or three physicians to a medical arbiter panel, based on criteria the Director sets in administrative rules. Current law requires the appointment of three physicians. Testimony in a public hearing demonstrated the challenge of appointing three physicians in rural parts of the state. HB 2338 simplifies the criteria for death benefits, making the system easier to understand and administer, and producing benefit levels that are predictable for families. The measure allows a child or dependent to receive benefits until the age of 19, and specifies that the benefit level is the same regardless of the child's dependence on the worker's surviving spouse or age at the time of the worker's death. Benefits will be paid for up to 48 months when the child is in a post-secondary education or training program through age 26.

Impact to Industry: Makes medical arbiter panel more efficient, especially in rural Oregon.

Retail Grocery

SB 113 – Unused Gift Cards

NWGA Position: Oppose

Status: Dead

Summary: SB 113 provides that unused gift cards become unclaimed property if the gift card goes without use for a period of 5 years. The balance would then be transferred to the Department of State Lands unclaimed property division. Customers who wish to claim gift-card

balances after the 5-year period would need to provide evidence of ownership to claim the property. In 2007, NWGA helped craft the existing law with no fees and no expiration date. **Impact to Industry:** SB 113 would have created a burdensome process to turn over gift card values to the State and would cause harm to our customers trying to redeem gift cards beyond the 5-year “de facto” expiration date.

HB 2581– Security Breaches

NWGA Position: Oppose

Status: Dead

Summary: HB 2581 would be the first State law in the nation to impose liability on a business if it suffered a breach involving financial account information. Current law requires person who own or license personal information to provide notice in the event that personal information is subject to a breach of security. HB 2581 would expand this requirement to all who possess or have access to personal information as a consequence of consumer transactions, and create a private right of action allowing financial institutions to recover security breach-related costs from those that have access to personal information from consumer transactions. The right of action would entitle a financial institution to broad cost recovery, including costs of canceling/reissuing credit/debit cards, and stopping payments.

Impact to Industry: HB 2581 could have a serious impact on any business that processes credit/debit cards or stores credit/debit card information. The bill would create a financially burdensome process and expose businesses to a private right of action without a leg to stand on in court.

HB 2615 – Return Theft/Shoplifting

NWGA Position: Oppose

Status: Dead

Summary: HB 2615 decriminalizes the act of return theft and makes the penalty for theft committed by returning stolen merchandise dependent on the merchandise's value. If the value is \$1,000 or more, it is Theft in the First Degree; if the value is under a \$1,000, but over \$100, it is Theft in the Second Degree; and if the value is \$100 or less, it is Theft in the Third Degree. NWGA argued that return theft/fraud shows a great deal of planning or forethought to the crime and in most cases, suspects either pre-purchase the item, and then shoplift another to return for cash back or find a sales receipt on the ground and then match the product to the receipt. Return theft is a more serious crime than shoplifting because of the pre-planning and therefore should be treated that way by the courts.

Impact to Industry: HB 2615 would have lessened the crime of return theft, which gives the shoplifter 100% of the retail value of the product, resulting in the loss of cash compared to a shoplift, which the retailer is out the cost value of the product. With the passage of this bill, retail would experience the increase use of return theft—which is already driving theft losses to the record high it is today.

SB 997 – Low Income Health Care

NWGA Position: Oppose

Status: Dead

Summary: In an effort to raise health care money for low income Oregonians, Senator Steiner Hayward (D-Beaverton) introduced SB 997, which penalizes private employers with 50+ employees who have employees who work at least 30 hours per week and are on the Oregon Health Plan. According to Sen. Steiner Hayward, this is a \$60 million tax on business that only requires a simple majority vote to pass.

Impact to Industry: SB 997 will tax businesses and organizations that already provide employees with quality jobs and benefits, including health coverage. In doing so, it threatens jobs in almost every industry in the state. SB 997 does nothing to reduce the rising health care costs, but rather imposes another costly requirement on Oregon businesses and discourages employers from hiring for flexible part-time shifts that employees are seeking. SB 997 adds one more burden to businesses trying to figure out how to afford increasing mandates of higher minimum wage, expanded paid benefits and health insurance coverage.

SB 743 – Cough Syrup ID Bill

NWGA Position: Neutral

Status: Passed legislature, signed by Governor

Effective Date: 1/1/18

Summary: SB 743 creates a violation for retail sale of dextromethorphan to individuals under the age of 18 without a prescription from a health care professional. Dextromethorphan is a common ingredient in many over-the-counter cold and cough medications. The bill would require businesses and their employees to verify whether an individual attempting to purchase dextromethorphan is 18 years of age or older. Businesses can be subject to a fine for selling dextromethorphan to an individual younger than 17 years old. SB 743 prohibits local municipalities from enacting ordinances regulating retail products that contain dextromethorphan beyond the regulations created in this bill. NWGA negotiated the bill with cough syrup manufactures to mirror the law passed in the State of Washington, which also includes a local preemption.

Impact to Industry: Additional ID requirement for businesses to verify that customers purchasing dextromethorphan are 18 years of age or older. Selling a product with this ingredient to a person younger than 17 years old will subject the business to a fine. Retailers will need to train employees and update cash registers with list of dextromethorphan-containing products, which can be found directly from the Federal Drug Administration (FDA). All drugs must be listed with the FDA under the Drug Listing Act and must have an NDC number. The link below provides the NDC list for dextromethorphan-containing products:

http://www.accessdata.fda.gov/scripts/cder/ndc/dsp_searchresult.cfm

SB 836 – Toxics

NWGA Position: Support

Status: Dead

Summary: In 2015, the Legislature established the “Toxic-Free Kids Act” requiring the Oregon Health Authority (OHA) to establish and maintain on its website a list of designated high priority chemicals of concern for children’s health used in children’s products and to periodically review and revise the list. This session, opponents of the 2015 bill wanted to see some clarification in the act. SB 836 would create an exemption from specified provisions of Toxic-free Kids Act for any component of children's product that is inaccessible and would not under reasonably foreseeable use or abuse come into direct contact with the skin or mouth of a child under 12 years of age. Additionally, the bill would require legislative ratification of chemicals in certain children's products that the OHA determines should be removed and substituted.

Impact to Industry: Ease some of the burdensome reporting requirement of the Toxic-Free Kids Act which passed in 2015.

HB 2215 – Right to Rest

NWGA Position: Oppose

Status: Dead

Summary: HB 2215 would establish the Oregon Right to Rest Act. The Act would guarantee people in Oregon experiencing homelessness the ability to utilize housing accommodations of their choice, without discrimination. Individuals would be entitled to seek protection from adverse weather conditions that are unsuitable for human exposure in a manner that does not obstruct human or vehicular traffic, and to occupy a motor vehicle or recreational vehicle that legally parked on public property or private property with permission of the private property owner. The act creates an affirmative defense available to a person experiencing homelessness, and subjects any violator of the aforementioned act to civil remedies and penalties. The bill failed to make progress this session, dying in the Judiciary committee without a public hearing.

Impact to Industry: The Oregon Right to Rest Act could expose businesses to civil remedies and penalties for preventing an individual experiencing homelessness from resting in public areas, provided that the area does not impede human or vehicular traffic.

SB 1028/ HB 2268 – Storage Tanks

NWGA Position: Support

Status: Passed legislature, signed by Governor

Effective Date: 10/6/17

Summary: Federal and state laws regulate underground storage tanks used to store petroleum and other hazardous substances. Compliance with these regulations is intended to prevent leaks that can contaminate air, groundwater and soil. Oregon's Underground Storage Tank Program (UST) handles issues related to tank registration and operating certificates; installation, operation and removal of USTs; cleanup of soil and groundwater contamination from petroleum leaks; training of system operators; financial liability protection for future leaks, licensing of contractors working on USTs and enforcement of state UST rules. The UST per

tank fee was last increased in 2007 from \$85 to \$135. HB 2268A would increase UST fees from \$135 to \$325 over four years.

Impact to Industry: NWGA negotiated the fee increase prior to session to minimize financial impact of the agency was initially proposing.

HB 2482 – Gas Self-Service Dispensing

NWGA Position: Neutral

Status: Passed legislature, signed by Governor

Effective Date: 1/1/18

Summary: Oregon is one of two states (with New Jersey) that require a third party to dispense gasoline and other Class 1 liquids at retail locations. HB 2482 allows self-service at retail locations 24 hours per day in rural counties with fewer than 40,000 certified residents, which includes Clatsop, Malheur, Union, Wasco, Tillamook, Hood River, Curry, Jefferson, Crook, Baker, Morrow, Lake, Grant, Harney, Wallowa, Gilliam, Sherman, and Wheeler counties. Because these counties are sparsely populated, proponents of the measure assert that it is impractical to staff a retail facility for fueling 24 hours per day. This could create a situation in which a traveler may be without the ability to refuel in a remote location late at night. Currently, a traveler caught under these circumstances would need to call the State Police, who would bring a nominal amount of fuel and phone the operator of the nearest retail fuel location to open the location to provide fuel to the traveler. Dispensaries that also sell retail goods and services at the same location must provide an employee to dispense Class 1 liquids between the hours of 6 a.m. and 6 p.m.

Impact to Industry: Ability to save labor costs in rural counties for gas self-serve.

SB 199 – Product Stewardship

NWGA Position: Oppose

Status: Dead

Summary: The legislature introduced two bills on product stewardship this legislative session. Product stewardship programs require manufacturers to share in the financial and physical responsibility for collecting and recycling products at the end of their useful lives. HB 3020 would require the Department of Environmental Quality to conduct a study on product stewardship programs in other states. Meanwhile, SB 199 would create a product stewardship program for household hazardous waste. The bill would prohibit a manufacturer or retailer from selling or offering for sale any covered product in Oregon unless the product is labeled with a brand and the brand is included in a product stewardship plan approved by the Oregon Department of Environmental Quality (DEQ).

Impact to Industry: Potential retail cost impact if product stewardship program included products within grocery outlets. NWGA defeated prior product stewardship bills in the past for batteries and mercury contained light bulbs.

Pharmacy

HB 2388 – Pharmacy Benefit Manager Compliance

NWGA Position: Support

Status: Passed legislature, signed by the Governor

Effective Date: 5/17/17

Summary: HB 2388 strengthens Oregon’s PBM registration law and ensures a fair and transparent medication delivery marketplace. NWGA joined the support led by the Oregon State Pharmacy Coalition to strengthen the implementation of a 2013 law, ensuring compliance by Pharmacy Benefit Managers and enabling pharmacists to better serve Oregonians. In 2013 the legislature unanimously passed HB 2123, which required pharmacy benefit managers to register with Department of Consumer and Business Services and include clearly defined oversight and enforcement powers for the Insurance Division. HB 2388 seeks to demand compliance with that legislation and underscores statutory requirements and lays out potential penalties for failing to comply. It provides standard regulatory and compliance tools used with other registration programs in Oregon, ensuring that bad actors can no longer avoid complying with current health care laws.

Gives the Oregon Insurance Division the tools they need to appropriately enforce the law:

- The ability to adjust the \$50.00 cap on registration fees to cover the cost of administration;
- Standardizes enforcement provisions upon receipt of a complaint or upon the Division’s own action.
- Compliance tools include civil fines up to \$10,000 for violations, registration suspension or revocation for more serious or repeated violations.
- Standardizes investigative authority for the purposes of enforcing the registration program.
- Expands customer service and accountability channels on DCBS website in order to best facilitate appeals and any validated investigations.
- Clarifies that the protective provisions of the Oregon law applies to both the PBM/Pharmacy contracting relationship but also the pharmacy/contracting entity.

Impact to Industry: HB 2388 simply gives DCBS the compliance tools to enforce the current PBM law, which passed in 2013.

HB 2114 – Opioid Abuse

NWGA Position: Neutral

Status: Passed legislature, signed by Governor

Effective Date: 10/6/17

Summary: Oregon has one of the highest rates of prescription opioid abuse in the country, with an average of three Oregonians dying each week. In 2016, the Oregon Opioid Prescribing Guidelines Task Force convened to develop statewide prescribing guidelines for clinicians and health care organizations. The goal was to address the epidemic of opioid use, misuse and overdose by providing a consistent framework for care and improving patient safety at the local and regional level. This legislative session, two bills were introduced to address Oregon's opioid

epidemic. In the Senate, SB 270 would prohibit issuing initial prescriptions for opiates to adults for outpatient use over a 7-day supply. With mixed testimony at a public hearing, the bill died in committee. Meanwhile, HB 2114 was introduced to give Oregon reasonable opioid prescribing guidelines by directing three health care licensing boards to provide licensees with opioid and opiate prescribing guidelines. The guidelines were created to address the abundance of opioids that are overprescribed each year, by limiting prescriptions to 7-day supplies. The committees and stakeholders were careful to ensure that prescription limitation exceptions remained for those who suffer from end of life care, and cancer treatment.

Impact to Industry: Limiting initial prescriptions for opioids for outpatient use to a 7-day supply.

HB 2518 – Dispensing Naloxone

NWGA Position: Neutral

Status: Dead

Summary: HB 2518 is another bill introduced this session to address the opioid epidemic in Oregon. This bill makes numerous changes to the Prescription Drug Monitoring Program (PDMP) at the Oregon Health Authority. These changes include requiring prescription drug dispensers to report patient phone number and method of payment to the PDMP; allowing OHA to require a person requesting PDMP information to enter into a data user agreement; requiring OHA to develop criteria annually by which a practitioner may be required to receive education or training on prescribing opioids or opiates; and requiring OHA to coordinate with health professional regulatory boards to make resources available to practitioners regarding the best methods to change prescribing practices with respect to opioids and opiates and to incorporate alternative pain management options. The bill gained unanimous support in the House Committee on Healthcare, but died in Ways and Means.

HB 2387 – Prescription Drug Pricing

NWGA Position: Neutral

Status: Dead

Summary: HB 2387 – the contentious drug-pricing bill, imposed artificial price caps on pharmaceuticals. The bill moved out of the Health Care Committee on a party-line vote and died in Ways and Means. Representative Nosse, the sponsor of the bill, has stated that as long as he holds office, he will continue to work towards affordable drug pricing.

Impact to Industry: Potential impact would have been on drug manufacturers and their inability to invest in new biologic pharmaceuticals in Oregon because of the uncertainty of being able to recoup their costs.

HB 2527– Hormonal Injectable Contraceptives

NWGA Position: Neutral

Status: Passed legislature, signed by Governor

Effective Date: 6/14/17

Summary: In 2015, the Legislative Assembly enacted HB 2879, which permits Oregon pharmacists to prescribe and dispense hormonal contraceptive patches and self-administered oral hormonal contraceptives to women who are at least 18 years of age. HB 2527 expands the

existing law to allow Oregon pharmacists the ability to prescribe and administer injectable contraceptives approved by the federal Food and Drug Administration. The bill specifies that pharmacist consultations are to be a covered benefit in prescription drug benefit plans.

Impact to Industry: Further access to contraceptives through the pharmacy.

HB 2645 – Drug Take Back

NWGA Position: Originally Opposed, Neutral after amended

Status: Dead

Summary: This session, there were three bills introduced to address drug take back programs – HB 2645, HB 2386, HB 3315. HB 2386 and HB 3315 died early in the session. The bill that gained the most traction was HB 2645, introduced by freshman legislator, Rep. Malstrom (D-Beaverton). As introduced, the bill would direct manufacturers of prescription drugs sold in Oregon to develop and implement a drug-take-back program for the purpose of collecting these drugs for disposal. After a series of stakeholder meetings, several amendments were proposed – addressing which industry would pay, who regulates the programs and what the design of the program would actually look like. The bill, as amended, clarifies the requirement of the manufacturer of certain drugs to participate in the program, makes the Department of Environmental Quality (DEQ) the regulating agency, and requires the Oregon Board of Pharmacy (BOP) to inspect take-back stations during the Board’s routine inspection of pharmacy outlets. The bill also included voluntary pharmacy participation and a preemption from local governments establishing their own programs which would create a patchwork of different ordinances across the state. The bill passed out of committee on a party-line vote and died in Ways and Means likely due to the bill’s large fiscal. We expect to see similar legislation in upcoming legislative sessions.

Impact to Industry: Statewide take-back program in HB 2645 (as amended) will have far less impact on the industry than if Multnomah County or other Counties adopt their own programs.

HB 2397 – Formulary Bill

NWGA Position: Neutral

Status: Passed legislature, signed by Governor

Effective Date: 5/18/17

Summary: HB 2397 changes the name of the Public Health Advisory Committee to the Public Health and Pharmacy Formulary Advisory Committee. Additionally, the bill would revise the inter-professional Public Health Advisory Committee’s authority, allowing it to advise the State Board of Pharmacy on the approval of rules to guide pharmacist prescribing in specific circumstances; allow for the approval ‘by rule’ of pharmacist prescribing for a specific list of drugs, devices, and laboratory tests necessary to address public health needs or post-diagnostic disease management.

Impact to Industry: Increase patient access to non-diagnostic therapies important to public health and pharmacist management of post-diagnostic disease management in all areas of the State.

SB 272 – Prescription Drug Formulary

NWGA Position: Neutral

Status: Dead

Summary: Drug formulary is a list of medications available in a health plan and is used by health care insurers as a method to manage utilization of prescription drugs. States have enacted consumer-related laws to create transparency and coverage notification requirements among health insurers for prescription drug benefits including changes to formularies. State regulations are designed to help individuals compare covered benefits among health plans and require insurers to notify affected members when changes are made to a prescription drug formulary in a specified period. SB 272 creates a new requirement for insurance carriers regulated by Oregon Department of Consumer and Business Services (DCBS) to provide a complete list of drugs covered by each health plan if the plan reimburses a member for prescription drug costs. Additionally, the bill would require carriers to make information on prescription drug formulary publicly available in an electronically searchable format and a toll-free number; require carriers to notify members of any changes to a formulary and to indicate the average cost-sharing for an individual; and prohibits a carriers' ability to change a health plan's formulary more than once in a 12-month period. The bill failed to gain the necessary traction to move forward this legislative session, but will likely reappear in future sessions as drug pricing bills are considered.

HB 2128 – Pseudoephedrine Deregulation

NWGA Position: Neutral

Status: Dead

Summary: HB 2128 removes the requirement that pseudoephedrine be classified as a Scheduled III controlled substance and requires the State Board of Pharmacy to adopt rules consistent with the Federal Controlled Substance Act for dispensing. This bill would have downgraded pseudoephedrine's classification to allow for easier access to the substance. Supporters of HB 2128 detailed their struggles with allergies and having to stock up on the drug across state lines to meet their allergy needs. Opponents testified about protecting our communities at all costs from meth labs. HB 2128 failed to be scheduled for a work session before the deadline and died early in the 2017 Legislative Session.

HB 2395 – Drug Labels

NWGA Position: Oppose

Status: Dead

Summary: HB 2395 would direct the Oregon Board of Pharmacy to adopt rules to allow a practitioner who prescribes a drug to a patient to request that the pharmacist who dispenses the drug to the patient write the purpose for which the drug was prescribed on the label of the container in which the drug is dispensed to the patient. After a public hearing, the bill failed to make it to a work session and died early in the legislative session.

Impact to Industry: Would have added further mandates to what is included on the label when the pharmacist dispenses a drug.

Tobacco

SB 754 – Tobacco 21

NWGA Position: Neutral

Status: Passed legislature, awaiting signature by the Governor

Effective Date: Upon passage.

Summary: SB 754 was introduced to the legislature as a top priority bill for Senator Steiner Hayward. The bill raises the age to purchase tobacco products in Oregon from 18 to 21 years old. The bill started in the Senate Health Care Committee and had several legislators and advocacy groups testify in support. The bill was then scheduled for a work session coincidentally on the same day that Lane County passed an ordinance with similar provisions to this bill. Lane County Ordinance 17-10, which also raised the smoking purchase and possession age to 21+ also had a grandfather clause for individuals who are 18 as of April 13, 2017. NWGA was successful in convincing Lane County to remove the grandfather clause from the ordinance upon its passage. NWGA argued that the grandfather clause would create confusion for tobacco purchasers and implementation and compliance issues for retailers. Retailers do not have a process to easily identify or handle a type of transaction that includes multiple variables for age restrictions for the purchase of tobacco products. Similar age 18 grandfather clause language were proposed in SB 754 but were not adopted. On the Senate Floor, the bill was met with opposition and in the end—it passed off the floor with a 16-14 vote. The House Committee on Healthcare held a public hearing on the bill and was greeted with amendments. The bill sponsor didn't want additional amendments, so they moved the bill out of committee without amendments on a 6-2 vote. For over two weeks, SB 754 remained in a long list of bills in the house that were waiting for a vote. The bill was then moved back to the House Rules committee and was amended to allow possession for youth under 21 because of concerns of racial profiling by law enforcement and ultimately passed the House and concurred in the Senate.

Impact to Industry: Clerks will have to be trained to card for tobacco just like they card for alcohol.

SB 235 – Tobacco Retail Licensing

NWGA Position: Oppose, Neutral as amended without tobacco licensing

Status: Passed legislature, signed by Governor

Effective Date: January 1, 2018

Summary: Following the 2015 legislative session and failure to adopt a statewide tobacco license, Multnomah County moved ahead with their own license affecting 46 NWGA member retail locations. Multnomah County adopted the ordinance but waited to implement and adopt rules until after the 2016 session to see if a statewide system could be passed. NWGA worked with Senator Monnes Anderson and Senator Steiner Hayward to craft legislation similar to Multnomah County's ordinance with reasonable preemption language that protected our stores from local governments prohibiting license to business within 1,000 feet of a school and prohibiting licenses issued to pharmacies that sell tobacco and nicotine products. This session, SB 235 was introduced by the Oregon Nurses Association (ONA) and did NOT contain preemption language that was agreeable to NWGA. In fact, SB 235 not only created a statewide tobacco licensing program, it explicitly allowed local government to have their own

tobacco regulatory programs on top of the state's program. The bill was gut and stuffed in the Senate Health Care Committee with another issue relating to smoking porches and passed to the House where the ONA amended their language back into the bill in the House Health Care Committee. The bill passed out of committee on a partisan vote and was then referred to Ways and Means where it was eventually amended to take out the tobacco licensing provision altogether before it passed the House and the Senate concurred.

Impact to Industry: If passed in ONA's version, industry would face a potential patchwork of local tobacco licenses. NWGA will continue to work with Senator Steiner Hayward, Senator Monnes Anderson and the Governor's office this interim to create a bill that has reasonable preemption provisions.

Alcohol

HB 2032– Privatization of Liquor

NWGA Position: Neutral

Status: Dead

Summary: HB 2032 establishes a taskforce to identify and develop proposals for privatization of the sale and distribution of liquors. The Taskforce would convene and report back to the 2019 legislature. The bill failed to gain traction in the 2017 legislative session and died without a public hearing.

Impact to Industry: Although NWGA supports privatization, a task force would not have been productive in this political environment.

Transportation

HB 2017– Transportation Package/Employee Payroll Tax

NWGA Position: Support

Status: Passed legislature, signed by Governor

Summary: Oregon last enacted a transportation funding package in 2009 with the passage of HB 2001, the Jobs and Transportation Act. Since that time, Oregon, like many other states, has experienced the effects of a growing gap between the cost of maintaining and improving the state's transportation infrastructure and the revenue streams that are used to fund maintenance and improvements. Lack of federal transportation funding has placed increased pressure on states to independently address the issue. Oregon continues to struggle with identifying ways to provide stable, reliable funding for non-roadway infrastructure, multimodal transportation infrastructure, and public transportation operations. At the end of the 2016 Session, the Legislative Assembly created the Joint Committee on Transportation Preservation and Modernization to develop a transportation policy and funding package for introduction during the 2017 session. The committee spent five months holding hearings across the state to take testimony from the public and local elected officials and to tour transportation facilities in preparation for assembling the legislation. Once the 2017 session began, the committee created five work groups to develop recommendations for highway preservation, traffic congestion, public transit, public safety, multimodal transportation, and accountability. Those concepts have been assembled into the -10 amendments to HB 2017. The bill is the largest transportation investment in Oregon's history, creating a 7-year, \$5.3 billion package.

The package includes an employee paid payroll tax:

- 1/10th of 1% of wages, deducted by employer from payment to employee. An employee earning minimum wage will pay 39 cents each week, totaling about \$20.28 each year. This revenue is dedicated to public transit.

Taxes

HB 2830 – Gross Receipts Tax

NWGA Position: Oppose

Status: Dead

Summary: In 2016, Oregon voters were presented at the ballot with Measure 97 imposing a 2.5 percent gross receipts tax. The campaign surrounding Measure 97 engaged in the most expensive ballot measure battle in state history. The measure would have transformed the structure of the minimum tax on sales, raising revenue for the state. Additionally, measure 97 would increase taxes \$600 per year per capita- creating the largest tax increase in state history. Measure 97 was rejected by Oregon voters, with 59% voting in opposition. This legislative session, gross receipts taxes and solving the \$1.4 billion budget shortfall was amongst the top priorities for Democrats. HB 2830 became known by opponents as the "Son of Measure 97". HB 2830 went through several iterations before it died but the last amendment is outlined below:

Commercial activity tax applies to all entity types:

- Filing threshold \$150,000 in receipts
- \$250 minimum for receipts less than \$3 million
- Rates applied to receipts above \$3 million:
 - .75% rate for services
 - **.35% rate for retail trade (Grocery)**
 - .25% rate for wholesale
 - Ag & natural resources exempt
 - .48% rate for all other
- 50% cat credit for pass through entities in 2019/25% starting in 2020
- New personal income tax rate structure: (2019 tax year):
 - 4.0%, 6.75%, 8.8% for taxable income <\$25k (s), <\$50 k(j), 9.0%, 9.9% increase earned income tax credit to 10% of federal credit (1-1-19)
 - Increase corporate tax rates to 8 & 9% (1-1-17)
 - Eliminate corporate income tax (2019 corporate tax year)

Impact to Industry: The grocery industry is the most heavily impacted by a gross receipts tax because of our low margins and high volume of sales.

HB 2019 – Corporate Tax Disclosure

NWGA Position: Oppose

Status: Dead

Summary: Under current law, all tax return information is considered confidential and may not

be disclosed to the public. Oregon does contain certain exceptions. HB 2019 requires the Department of Revenue to submit certain tax return information to the Legislative Revenue Officer each year by December 1. By March 1 of the following year, the Legislative Revenue Officer is required to produce a public report containing that tax return information. The required information is limited to C-corporations that operate in more than one state and claim a certain amount (currently blank) of tax expenditures in a given year. The report is to provide four lists that rank corporations according to Oregon sales, Oregon taxable income, tax expenditures claimed, tax liability. Each listing is to include the taxpayer name, Oregon sales, Oregon taxable income, amount of tax expenditures claimed, Oregon tax liability, and Oregon property taxes. This provision does not allow the disclosure of federal data considered to be confidential. The initial report would pertain to tax year 2015, provided to the Legislative Revenue Officer by December 1, 2017. The initial public report would be available by January 1, 2018.

Impact to Industry: The bill is designed to shame businesses with the Our Oregon mantra that “corporations don’t pay their fair share.” Our Oregon is the union political arm and they have been trying to pass this bill for several sessions so they can use the information as a political tool to raise taxes in Oregon.

HB 2060 – Small Business Pass Through Entity Tax Rate

NWGA Position: Oppose use of simple majority vote to raise Revenue

Status: Passed House, Died in the Senate

Summary: HB 2060 eliminates the small business tax cut passed in 2013 and raises taxes on businesses with fewer than 10 employees. HB 2060 seeks to restrict the use of the small business Pass-Through Entity (PTE) tax rates to certain industry sector businesses – and to further limit the number of eligible businesses by the number of workers they employ.

Impact to Industry: The precedent of raising revenue with a simple majority vote is dangerous to the industry in the future.

IDAHO

Governor: C.L. “Butch” Otter (R)

Legislative Majorities:

Senate 29 - 6	Republican Majority
House 59 - 11	Republican Majority

Senate President Pro Tem: Brent Hill (R - Rexburg)

Senate Majority Leader: Bart Davis (R - Idaho Falls)

Senate Minority Leader: Michelle Stennett (D - Ketchum)

Speaker of the House: Scott Bedke (R - Oakley)

House Majority Leader: Mike Moyle (R - Star)

House Minority Leader: Mat Erpelding (D - Boise)

Idaho 2017 Session Overview

The Idaho Legislature adjourned 80 days after convening and saw over 780 pieces of legislation prepared with 330 signed into law and 7 becoming law without a signature. The Governor vetoed 8 bills, including the bill to remove Idaho's sales tax from groceries.

Taxes

H0067aaSaaS - Grocery Tax Repeal (Originally Income Tax Bill)

NWGA Position: Monitor

Status: Vetoed

Effective Date: 01/01/18

Summary: The original contents of this bill included legislation that reduced income tax rates and brackets. It was amended by the Senate removing all income tax rate reduction provisions and inserted a repeal of the sales tax on groceries, phased out over two years. HB67 also would have adjusted the percentage of sales taxes that the state provides to local governments through revenue-sharing, to ensure that cities and counties don't lose funding because of the change. The first year's fiscal impact would have been \$18.6 million, the second year \$26.1 million.

H0117 – Property Tax Exemptions

NWGA Position: Support

Status: Died in committee

Summary: This bill would have increased the personal property tax exemption cap from \$100,000 to \$250,000. A business would no longer have to pay a tax for furniture, equipment, shelving, etc. unless the aggregate value exceeded \$250,000. A business with multiple stores in a single county will still be subject to a single aggregate \$250,000 total value. A company with stores in multiple counties will be allowed up to \$250,000 exemption per county.

Liquor & Tobacco

S1106 – Tobacco Age

NWGA Position: Monitor

Status: Died in committee

Summary: This bill would raise the legal age to purchase tobacco from 18 to 21.

H0255 – Liquor Licenses

NWGA Position: Monitor

Status: Died in Committee

Summary: This bill proposed to balance the value current liquor license holders have in their state-issued licenses. It proposed to create a new tier of liquor licenses that counties and cities would sell to restaurants with full kitchens.

Environment

S1028 – Underground Storage Tanks

NWGA Position: Monitor

Status: Signed into law

Effective Date: 07/01/17

Summary: This bill will establish a dedicated fund for underground storage tank fees to provide for better accountability and transparency of vendor fees. The fees will not exceed \$100, and may decrease in future years after initial program set-up. A fee expenditure report will be provided to the owners by February 1st each year. There is a potential for interest earned.

Impact to Industry: This ensures all money collected from stores for underground storage tank inspection is spent only on the inspection program and not something else possibly requiring additional revenue.

Labor

H0072 – Minimum Wage Increase

NWGA Position: Monitor

Status: Died in Committee

Summary: The legislation would have increased the minimum wage from the current federal minimum wage of \$7.25 per hour to \$8.75 per hour on July 1, 2017, and to \$10.50 on July 1, 2018, and \$12.00 per hour on July 1, 2019. Wages for tipped employees will increase from \$3.35 per hour to \$4.35 per hour for employment commencing July 1, 2017, \$5.85 per hour for employment commencing on July 1, 2018, and \$7.35 per hour for employment commencing July 1, 2019. Beginning September 30, 2020, and on each succeeding September 30, the director of the department of commerce shall calculate an adjusted minimum wage rate in direct proportion to an increase or decrease in the United States department of labor's consumer price index for urban wage earners and clerical workers (CIP-W) or a successor index, for the period of July 1 of the previous calendar year to June 30 of the current calendar year.

Impact to Industry: Would have resulted in overall operations cost increase and increased minimum wage for all store employees.

S1202 – Wage Garnishment

NWGA Position: Monitor

Status: Signed into law

Effective Date: 07/01/17

Summary: This proposal amends existing law regarding wage garnishment and associated court, service, collection and enforcement procedures. Requires county commissioners to adopt a fee for the delivery of a wage garnishment court order and writ by a county sheriff, and to post the sheriff fee's methodology on the county website and submit it to the Supreme Court for posting on the state website.

Impact to Industry: This provides a one-time \$10 fee for employers to help defray cost associated with withholding employee wages and turning them over to the sheriff.

S1195a – Unemployment Insurance

NWGA Position: Monitor

Status: Died in Senate

Summary: This bill would reduce the tax multiplier in unemployment insurance from 1.5% to 1.3%. It is part of the overall tax package this session. It would have reduced the taxable wage rate used for determining employers' unemployment insurance taxes by adjusting the unemployment fund size multiplier downward. This bill will result in a substantial net tax savings to Idaho's covered employers. The amended version of the unemployment insurance rate bill that now has a \$27.9 million income tax cut added into it.

Pharmacy

H0002 – Qualifications for Licensure by Reciprocity

NWGA Position: Monitor

Status: Signed into law.

Effective Date: 07/01/17

Summary: This bill amends the Board of Pharmacy's qualifications for licensure by reciprocity. Specifically, this bill clarifies that an applicant is not eligible for license transfer if they are under active discipline in another state in a manner that prevents the applicant from practicing pharmacy. This bill is in compliance with the intent of the model act of the National Association of Boards of Pharmacy (NABP), the association that facilitates license transfer requests from pharmacists on behalf of Boards of Pharmacy.

Impact to Industry: This bill ensures that stores are aware of an applicant's status before considering employment.

H0003 – Tuberculin Protein Products

NWGA Position: Monitor

Status: Signed into law

Effective Date: 07/01/17

Summary: This bill allows pharmacies to perform tuberculosis skin testing. This is a service that has become routine in other states. Pharmacists will take a sample and then people will return within two to three days to have it identified as negative or positive. If the test is positive they will refer them to a physician

Impact to Industry: Will allow for increased pharmacy services.

H0004 – Tobacco Cessation Products

NWGA Position: Monitor

Status: Signed into law

Effective Date: 07/01/17

Summary: This bill amends the definition of the practice of pharmacy to increase patient access to tobacco cessation products in certain scenarios, and to provide that a pharmacist who prescribes tobacco cessation products must obtain advanced training on tobacco cessation, screen patients for appropriateness, refer high risk patients as necessary, documents the

services provided, develop a follow-up care plan, and notify the patient's primary care provider of medications initiated.

Impact to Industry: Will allow for increased pharmacy services.

H0191 – Pharmacy, Prescription Authorization

NWGA Position: Support

Status: Signed into law

Effective Date: 07/01/17

Summary: HB191 authorizes the Board of Pharmacy to prescribe and administer low risk conditions that don't require a diagnosis, are self-limiting, and are short term. It restricts the BOP from including controlled substances and compound composites and would only add authority for low risk conditions.

Impact to Industry: Will potentially allow for increased pharmacy services.

S1191 – Dieticians Definitions

NWGA Position: Monitor

Status: Signed into law

Effective Date: 07/01/17

Summary: This is a replacement bill for H129. After concerns were brought up during the floor debate it was resolved that the bill would fare better after removing the language regarding punishments for licensee violations. Specifically, it strikes out the violation for a DUI and removes the language regarding punishments. The final bill updates the Dietetic Practice Act (licensure and scope of practice act); specifically, it updates the occupation related definitions, clarifies dietetic practice, and sets out specific requirements for advance licensure by endorsement.

Impact to Industry: This recodification may protect grocery store dieticians from undo punishment and legal expense for non-work-related activity impacting their ability to work as a dietician.

Transportation

S1107 – Driver's Licenses Fees

NWGA Position: Monitor

Status: Signed into law

Effective Date: 07/01/17

Summary: This legislation would allow the free market to determine instruction prices for the Commercial Driver's License skills testing organizations with a cap at \$190. The Idaho Transportation Dept. will continue to receive \$10 for administrative purposes; the total maximum fee allowable is \$200 (previously it was \$70).

Impact to Industry: This legislation could increase the cost of CDL skills testing for sponsored drivers.

SCR116 – Transportation Vehicle Fees Committee

NWGA Position: Monitor

Status: Adopted, Signed into law

Effective Date: 07/01/17

Summary: In 2015, the Idaho Legislature passed HB 312 with the intent to study the legislature imposing all commercial vehicles and farm equipment exceeding 60,000 pounds with an annual registration fee; in addition, imposing a quarterly operating fee based on weight class for all miles driven on Idaho roadways. This Concurrent Resolution authorizes the Legislative Council to appoint an interim-committee to undertake and complete that study. This interim committee meets in August 2018 for the first time to begin the discussion.

S1206 – Omnibus Transportation Funding Package

NWGA Position: Monitor

Status: Signed into law

Effective Date: 07/01/17

Summary: This legislation approves bonding authority to issue highway transportation bonds up to \$300 million; it extends for 2 years the surplus eliminator in 2015's H312aaSaaS, now splitting the funds 60% for state and 40% for local units of government. The 40% local split would be put in a newly created fund called local strategic initiatives fund. LHTAC will work with local units of government to select projects. This legislation redirects the unallocated portion of the cigarette tax to the Transportation Expansion and Congestion Mitigation Fund to target road construction and improvements.