



CAPITAL RETAIL REPORT

May 8, 2009

THIS WEEK'S LEGISLATIVE ISSUES

- Sales Tax, Inventory Tax Bills Signed By Governor
- Governor Still Undecided on Jobs Act of 2009
- Bills Passed
- Bills Awaiting Gubernatorial Action

QUOTE TO PONDER

Governor Signs Sales Tax Holidays and Inventory Tax Bills

On Monday, May 4, Georgia Governor Sonny Perdue signed the 2009 Sales Tax Holidays into law. This provides an exemption from sales tax on articles of clothing and footwear with a sales price of \$100.00 or less; personal computers and personal computer related accessories with a sales price of \$1,500 or less; and general school supplies with a sales price of \$20.00 per item including pens, pencils, notebooks, paper, book bags, dictionaries, calculators and thesauruses from at 12:01 A.M. July 30, 2009, and concluding at 12:00 midnight on August 2, 2009.

It also provides a sales tax holiday on the purchase of energy efficient products and water efficient products with a sales price of \$1,500.00 or less per product purchased for noncommercial home or personal use from 12:01 A.M. on October 1, 2009, and concluding at 12:00 midnight on October 4, 2009.

Inventory tax - The legislation which would abolish the state portion of the inventory tax was also signed. Since this will require an amendment to the Georgia constitution, this is just the first step. The act calls for a referendum during the statewide general elections to be held in November of 2010. The voters will ultimately decide on this issue.

Three thousand calls, hundreds of letters and Emails sent to the Governor on the 2009 Jobs Act.

In spite of three thousand phone calls, hundreds of emails and letters received on HB 481, Governor Sonny Perdue still hasn't signed the Jobs Act of 2009. Since state revenue collections continue to fall, a veto now seems likely.

Please Help – if you haven't called the governor, please do so now at 404-656-1776 or fax him at 404-657-7332 and urge him to sign HB 481.

BILLS SIGNED INTO LAW

SB 31 - Georgia Nuclear Energy Financing Act, allows a utility to recover from its customers the costs of financing associated with the construction of a nuclear generating plant in advance of the final construction.

Status: Signed into law by the governor on April 21, 2009; effective date 4/21/09

HB 57 – Establishing Rules for Common Carriers, sets rules for common freight carriers operating in Georgia.

Status: Signed into law by the governor on May 4, 2009; effective date 5/4/09



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HB 59 - Sales Tax Exclusion for Some Controlled Substances, exempts from sales and use taxes those controlled substances and dangerous drugs, which are either sold or are distributed without charge to physicians, dentists, clinics, hospitals, or any other person or entity located in Georgia by a pharmaceutical manufacturer or distributor; and would exempt from sales and use taxes controlled substances which are lawfully dispensed without charge for the purposes of a clinical trial approved by an institutional review board which has been accredited by the Association for the Accreditation of Human Research Protection Programs.

Status: Signed into law by the governor on April 21, 2009; effective date 7/1/09

HB 74 – Defining Revenue and Taxation, provides definitions of revenue and taxation.

Status: Signed into law by the governor on April 8, 2009; effective date 1/1/09

HB 80 – Redefining Group for Insurance Purposes, redefines group insurance contracts or contracts to cover as those that cover two rather than 100 employees. This bill was passed by the House on February 5th and by the Senate on March 18th.

Status: Signed into law by the governor on May 4, 2009; effective date /1/09

SB 80 - Food Standards, Labeling, and Adulteration, provides requirements for the testing of samples or specimens of foods by food sales establishments for the presence of poisonous or deleterious substances.

Status: Signed into law by the governor on May 1, 2009; effective date 5/1/09

HB 120 – Sales Tax Holiday, provides an exemption from sales tax on articles of clothing and footwear with a sales price of \$100.00 or less; personal computers and personal computer related accessories with a sales price of \$1,500 or less; and general school supplies with a sales price of \$20.00 per item including pens, pencils, notebooks, paper, book bags, dictionaries, calculators and thesauruses from at 12:01 A.M. July 30, 2009, and concluding at 12:00 midnight on August 2, 2009.

It also provides a sales tax holiday on the purchase of energy efficient products and water efficient products with a sales price of \$1,500.00 or less per product purchased for noncommercial home or personal use from 12:01 A.M. on October 1, 2009, and concluding at 12:00 midnight on October 4, 2009.

Status: Signed into law by the governor on May 4, 2009; effective date 5/4/09

HB 173 – Illegal and Void Contracts, Restraint of Trade, defines certain legal means of providing for restraint of trade in work contracts, restrictive covenants, and more.

Status: Signed into law by the governor on April 29, 2009; effective date 4/29/09

HB 217 – Provision of Flu Shots, establishes the protocol for providing flu shots in retail establishments and other locations.

Status: Signed into law by the governor on April 27, 2009; effective date 4/27/09

HB 233 – Freeze on Property Taxes, provides for a two-year moratorium on increasing the assessed value of real estate, including commercial real estate.

Status: Signed into law by the governor on May 6, 2009; effective date 5/6/09

HB 302 - Charging A Customer For Any Third Party Service Provided By A Telecommunications Company, requires any telecommunications company that charges a customer for a service which is



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provided to the customer by a nonaffiliated third party must provide to such customer the ability to block the nonaffiliated third-party service and any charges associated with such service.

Status: Signed into law by the governor on April 30, 2009; effective date 1/1/2010

HB 308 - Defining Liability for Limited Liability Companies, redefines liability for a LLC.

Status: Signed into law by the governor on April 21, 2009; effective 4/21/09

House Bill 330 - Relating To Workers' Compensation, clarifies the address of record for the plaintiff, defines notice, set appeal timeline, and provides for a waiver of the employee's medical history confidentiality, was passed by the House on March 4th and out of the Senate Insurance and Labor Committee on March 18, 2009.

Status: Signed into law by the governor on April 21, 2009; effective 4/21/09

HB 334 – Lowering the Threshold for Electronic Payment of Sales Taxes, lowers the threshold for requiring electronic funds transfer of sales tax revenue to the Department of Revenue from \$5,000 per month to \$1,000 on January 1, 2010 and \$500 per month on January 1, 2011.

Status: Signed into law by the governor on May 4, 2009; effective 1/1/2010

HR 334 - Urging Resolution on the Employee Free Choice Act, urges Georgia's congressional delegation to vote against the Employee Free Choice Act (introduced in both houses of Congress), passed in the Georgia House 92 to 55 on March 18th.

Status: Passed by the House, this resolution required neither Senate nor gubernatorial approval

HB 368 – Annual Bill for Schedule II, III, and IV Controlled Substances, amends Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, so as to change certain provisions relating to Schedule II, III, and IV controlled substances.

Status: Signed into law by the governor on April 21, 2009; effective 4/21/09

HB 427 – Redefining an Enterprise Zone, defines a poverty zone for the identification of an enterprise zone as parcels within or adjacent to a census block group where the ratio of income to poverty level for at least 15 percent of the residents shall be less than 1.0.

Status: Signed into law by the governor on April 21, 2009; effective 4/21/09

HB 439 – Income Tax Credits for Employee Re-Training, provides income tax credits for retraining employees.

Status: Signed into law by the governor on May 4, 2009; effective 5/4/09

HB 482 – Removing The Tax On Business Inventory, exempts all the inventory of a business from state ad valorem taxation. A referendum needs to been held on this bill to enact the legislation.

Status: Signed into law by the governor on May 4, 2009; effective 7/1/09

HB 529 – Preventing Local Regulation Of Regulating Farm Products, precludes any municipality or other political subdivision from adopting or continuing any ordinance, rule, or regulation, which would regulate the production of agricultural or farm products on any parcel of land five acres in size or greater.

Status: Signed into law by the governor on May 1, 2009; effective 5/1/09

HB 581 – Job Creation Act, provides incentives to employers for complying with the Employment Security Law and establishes a credit to employers for hiring unemployment claimants.



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Status: Signed into law by the governor on April 21, 2009; effective 4/21/09

BILLS AWAITING GUBERNATORIAL ACTION

SB 123 – Defining and Licensing Pharmacy Benefit Managers, sponsored by Lee Hawkins, (R) 49th, Jack Murphy, (R) 27th, Ralph Hudgens, (R) 47th, Don Thomas, (R) 54th and Tommie Williams, (R) 19th, would define and provide for the regulation and licensure of pharmacy benefits managers by the Commissioner of Insurance.

HB 126 - Electronic Contracts and Signatures, sponsored by representatives Ed Lindsey, (R) 54th and Wendell Willard, (R) 49th, would legitimize electronic contracts and signatures as legal devices.

HB 186 – Teleworking Tax Credits, sponsored by representatives Chuck Martin, (R) 47th, Karla Drenner, (D) 86th and Clay Cox, (R) 102nd, would allow tax credits for teleworking arrangements.

HB 379 – Disallowing Income Tax Expenses Paid For Real Estate Investment Trusts, sponsored by Representative Larry O’Neal, (R) 146th, would disallow the shielding of income received through a real estate investment trust.

HB 438 - Income Tax Credits For Qualified Jobs And Projects, sponsored by representatives Larry O’Neal, (R) 146th and Ron Stephens, (R) 164th, would have excluded retailers from receiving job-retraining tax credits; would eliminate the existing headquarters tax credit and in its place would establish a tax credit for any job created that pays a higher wage than the average wage in the county in which the job is created and finally, provide a Mega Tax Credit for qualifying companies that agree to create a minimum of 1,800 jobs and either invests a minimum of \$450 million in a project *or* brings an annual payroll of \$150 million to the state.

Over the objections of the Governor’s Office of Economic Development, GRA was successful in having language inserted that specifically included retailers.

HB 441 – Filing for Sales Tax Refunds, sponsored by Representative Larry O` Neal, (R) 146th, would require a taxpayer who wishes to expedite the payment of a sales and use tax claim for refund to file a bond with Department of Revenue Commissioner. The commissioner, in turn, must issue the refund within 30 days of the date of the posting of the approved bond. Any assessment of tax, interest, penalties, fees, or costs related to the payment of such refund claim shall be made within three years after the date that such refund was paid by the commissioner.

HB 481 – The Jobs Act of 2009, sponsored by representatives Tom Graves, (R) 12th, Mark Burkhalter, (R) 50th, Jerry Keen, (R) 179th, Earl Ehrhart, (R) 36th, Tom Rice, (R) 51st, and Tim Bearden, (R) 68th, would:

- **Create a quarterly tax credit towards the unemployment insurance tax for each eligible employee hired.** This credit would be applied towards the employer’s future unemployment insurance contributions for the hiring of someone who is receiving state unemployment benefits.
- **Create a \$2,400 income tax credit for each eligible employee hired.** This credit will be available to those who hire an employee that has been unemployed for at least 4 weeks and remains employed for at least 24 weeks. To receive the credit, the employee’s initial hire must be prior to July 2010.



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- **Start a “New Business Tax Holiday.”** Under this legislation, the \$100 fee will be waived for all new businesses formed over the next year. This component would create a 1 year “holiday” on new filings for LLC’s, Limited Partnerships, and For Profit Companies.
- **Phase out of the Sales Tax Deposit.** This section of the Act phases out an outdated tax on Georgia business capital. This is a fee charged to all Georgia businesses which have \$5,000 or more in sales tax collections each month. Taking the average sales tax collection amount each month, the DOR requires the business to forward fund a deposit of working capital. This deposit is held for perpetuity or until the business fails, whichever comes first. Phasing out this deposit will put much needed capital back into Georgia’s businesses.
- **Abolish the Net Worth Tax.** This tax was originated in 1931 and charged to all businesses based on their net worth. It’s a deterrent to savings and investment in assets. Currently, even businesses that have a negative net worth are taxed.
- **Cut the Capital Gains Tax in half.** This tax is charged to all individuals and businesses that save and invest in assets, whether its stocks, certificate of deposits, savings accounts, collectibles or real estate. This provision would provide a deduction of 50% of all Long Term Capital Gains from an individual’s taxable income.

HB 485 – Jobs Tax Credit for Retailers Increasing Port Traffic, sponsored by Representative Larry O’Neal, (R) 146th, would grant any business enterprise located in a tier two or tier three county which has a distribution facility of greater than 650,000 square feet, and which was in operation in this state prior to December 31, 2008; and which distributes product to retail stores owned by the same legal entity or its subsidiaries as such distribution facility; and has a minimum of 8 retail stores in this state in the first year of operations; and has increased its port traffic of products during the previous 12 month period by more than 10 percent above its base year port traffic is qualified to claim a job tax credit for jobs created before January 1, 2015.

This Year the Georgia Retail Association tracked nearly 140 bills that would, if enacted into law, have some impact on the retail sector. Please remember, bills introduced in 2009 remain alive for the 2010 session. For details on these bills please link to:

http://www.georgiaretail.org/governmentaffairs/documents/17CRRDetail_May_8_2009.pdf

QUOTE TO PONDER

“And to preserve their independence, we must not let our rulers load us with perpetual debt. We must make our elections between economy and liberty, or profusion and servitude.” **Thomas Jefferson** (Letter to Samuel Kercheval, July 12, 1812)

Thank you,

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About GRA: The Georgia Retail Association, with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, and grocery stores has been serving the state's business community since 1961. The Georgia Retail Association represents an industry with more than 71,300 retail establishments, and more than 715,000 employees - about one in five of Georgia's workers – with annual sales of more than \$115 billion.