



# Your Neighborhood Store

FALL 2009

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**More information about 2009 ONSA Legislative activity is available at [www.onsa.net](http://www.onsa.net)**

## **2009 Session Highlights – And What’s ahead for 2010**

Lawmakers were forced to deal with budget issues throughout the 2009 Legislative Session; first, with the \$800 million shortfall in the 2007-2009 biennium and culminating in the development of the \$15 billion 2009-2011 budget. In order to finally balance the 2009-2011 budget, lawmakers approved increases in both corporate and personal income taxes, estimated to bring in \$733 million.

A signature-gathering campaign is currently underway to refer both tax increase measures to the voters at a special election set for Jan. 26, 2010. If either of the two tax increases should be defeated by the voters, the 2009-2011 budget would be thrown into complete disarray and lawmakers would be forced once again to address budget balancing.

For reference, the bill containing the corporate tax increase (HB 3405) would generate approximately \$261 million for the 2009-2011 biennium by increasing the minimum tax for a C-corporation from \$10 to an amount that ranges from a low of \$150 for a corporation with less than \$500,000 in Oregon sales up to \$100,000 for a corporation with more than \$100 million in Oregon sales. In addition, HB 3405 creates a second marginal corporate tax rate of 7.9% that is applied to taxable income greater than \$250,000 for tax years 2009 and 2010; reduces the rate to 7.6% for tax years 2011 and 2012, then applies the top tax rate of 7.6% to net income greater than \$10 million for tax years after 2012. HB 3405 also increases the minimum tax on S-corporations to \$150, and imposes increases on business filing fees, Uniform Commercial Code financing statements, and notary public fees paid to the Secretary of State.

The other tax bill (HB 2649) imposes a personal income tax increase on “high-income” households, namely single-filers earning \$150,000 or more and joint filers earning \$250,000 or more. HB 2649 is expected to generate an estimated \$472 million during the 2009-2011 biennium.

With the referral effort still underway, it is unclear whether the Jan. 26, 2010 special election will take place. However, one thing is clear for Oregon convenience store owners; if voters reject one or both of the tax increases, lawmakers will return for the previously scheduled February 2010 “special session” needing to make drastic cuts in spending or find new and politically palatable

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# 2009 Oregon Legislative Session

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sources of alternate revenue in order to keep the 2009-2011 budget in balance. Obviously, the two most likely alternate revenue sources are “sin-taxes” — specifically tobacco and alcohol. Under these circumstances, any tax increase imposed on tobacco products, malt-beverages, or other alcoholic products would need to be substantial in order to address the severe revenue shortfall the State would face without the tax increases.

At this point in time, it is impossible to know whether opponents will succeed in referring one or both of the tax increases or to know how voters will respond. What is certain is that defeat of these two tax measures will make the neighborhood store industry and its suppliers the next tax target.

## Local Taxation

One of ONSA’s most important victories during the 2009 Legislative Session was the defeat of HB 2616. This measure, if enacted, would have allowed cities, counties, and

other municipalities to tax tobacco products.

The effect of HB 2616 on small retailers would have been enormous. Right now, the State of Oregon taxes tobacco

products. Two percent of the revenue collected by the state goes to cities, counties, and public transit districts, which are prohibited from separately imposing their own tobacco taxes. Though the state imposed tobacco tax is high, the state tax at least has the benefit of ensuring that all tobacco products are taxed uniformly.

Allowing local governments to adopt their own tobacco taxes would completely disrupt the marketplace for tobacco products. Retailers in cities with low cigarette taxes would have an arbitrary advantage over retailers selling the identical product in different cities with higher tobacco taxes. Distributors and/or retailers would be burdened with the difficulty and expense of appropriately labeling tobacco products and remitting the appropriate amount of tax to each separate jurisdiction. Enforcement of the local taxes would become a practical nightmare.

The devastating consequences of local tobacco taxes on the tobacco marketplace made it imperative for ONSA to defeat HB 2616, but this was no easy task. Democrat lawmakers in the Oregon House of Representatives

strongly supported the legislation. These lawmakers believed that authorizing local governments to tax tobacco would provide local governments with an easy source of additional revenue. For the most part, these lawmakers were unconcerned with the effect such legislation would have on tobacco retailers. Thus, the Oregon House of Representatives, on a close 32-27 vote, ultimately approved HB 2616.

Passage of HB 2616 in the Oregon House made ONSA’s task of defeating the legislation in the Senate extremely difficult, and in many ways, unlikely. Nevertheless, ONSA persisted in opposing the measure by speaking with lawmakers directly and providing letters of opposition from storeowners. In addition to arguments regarding the effect on retailers and distributors, ONSA argued that it did not make sense from the State of Oregon’s perspective for local governments to be able to tax tobacco products. For example, ONSA argued that granting local governments taxing authority would cause the State of Oregon to lose control over its own tobacco tax revenues. Upon passage of HB 2616, the effective tobacco tax rate in Oregon would be determined by the independent actions of several hundred political subdivisions within the state, not the State itself.

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Increasing the price of tobacco products reduces demand and/or causes consumers to seek less costly alternatives through gray or black market sources, such as the Internet. If Oregon's numerous political subdivisions substantially increased tobacco taxes, demand for Oregon cigarettes would be diminished, as would the net tobacco revenue to the State. The State of Oregon would then be powerless to control its own tax revenues because the amount of revenue the State of Oregon is able to generate from cigarette taxes would be dependent upon the independent actions of hundreds of local governments.

ONSA's arguments and aggressive informational efforts ultimately persuaded key lawmakers in the Oregon Senate not to move forward with HB 2616. While an important victory for small storeowners across the state, it remains to be seen how long this victory will last. The strong support for local tobacco taxes in the Oregon House of Representatives will cause the lawmakers who introduced HB 2616 to reintroduce a similar proposal in the Special Session scheduled for February of 2010 and/or the next regular Legislative Session commencing in January 2011. ONSA must remain vigilant in its opposition to such legislation and will be working throughout the interim period to dissuade lawmakers from supporting local government taxes on tobacco or alcohol.

## Oregon's Bottle Bill

Oregon's Bottle Bill has been a focal point of ONSA's legislative efforts since the organization's inception more than ten years ago. During the past several sessions, lawmakers have been intent on "modernizing" the bottle bill to address criticisms that it does not cover a sufficiently expansive list of containers and does not impose a high enough deposit. During the 2007 Legislative Session, lawmakers did expand the list of covered containers to include bottled water. Lawmakers were not successful, however, in their efforts to increase the deposit. To ensure that expanding the container list did not overwhelm small stores, ONSA persuaded lawmakers to incorporate language into the 2007 legislation that limits the number of returned containers a small store must accept to 50 containers per customer per day.

In 2009, lawmakers and recycling advocates pressed hard to adopt legislation that would increase Oregon's container deposit from 5 cents to 10 cents and further expand the list of covered containers to include juice and other containers not presently subject to the act. Expanding the list of covered containers would cause small stores to be inundated with more containers

than they can reasonably handle under the present system. Increasing the deposit amount from 5 cents to 10 cents would produce a similar effect.

ONSA played a key role in preventing this legislation from moving forward in 2009. One of the more compelling arguments ONSA used was that it remains to be seen how expanding the bottle bill to include water will affect the recycling system. Until that effect is known, it is premature to expand the list of covered containers further or increase the deposit amount. Though preventing changes to the bottle bill in 2009 was a major legislative accomplishment, advocates for expanding the list of containers covered by the bottle bill and increasing the deposit will inevitably continue their efforts to secure legislation to make these changes. Thus, ONSA and other retail organizations will inevitably be facing this issue again in upcoming legislative sessions. •







## **BOLI offers Fall Employment Seminars**

This Fall, the Oregon Bureau of Labor and Industries' Technical Assistance Program will be offering a selection of full-day instructional programs designed to assist individuals and businesses with questions about employment law and compliance. Registration fee is \$165 per person. Dates and locations for upcoming programs are listed in the left-hand column. Further information is available online: [http://www.oregon.gov/BOLI/TA/T\\_SEM\\_Taseminar.shtml](http://www.oregon.gov/BOLI/TA/T_SEM_Taseminar.shtml).

### **Wage & Hour Laws**

Covers meal/break periods, exempt/non-exempt employees, deductions, minimum wage, travel and training time, final paychecks and volunteers.

### **Payroll Issues**

Covers child support orders, deductions, final paychecks, garnishments, recordkeeping.

### **Effective Supervisory Practices**

Provides supervisors and managers with practical tips and advice that promote efficiency and compliance with state and federal employment laws. Covers at-will employment, job interviews and legal hiring; coaching/motivating employees, writing effective warnings, documentations and discipline and termination/exit interviews.

### **Leave Laws in Oregon**

Covers Oregon Family Leave Act and federal Family and Medical Leave Act. •



## **Seattle voters defeat bag tax**

In August, Seattle voters defeated a plan that would have imposed a 20-cent fee on every paper or plastic bag provided by grocery stores, drug stores or convenience stores. Voters rejected the City Council plan by 58 to 42 percent. The proposal would have added the per bag fee to each consumer's total purchase. Small stores would have kept the entire 20-cent fee, while stores with gross sales of more than \$1 million a year would keep only 5 cents, with the rest going back to the City for recycling and environmental education programs. The City was expecting to receive about \$10 million annually in new revenue.

Currently there are no statewide bans on plastic bags, but there are some city-wide bans in place. Four states, i.e. California, New York, Rhode Island and Delaware, have enacted mandatory plastic bag recycling laws, where grocers and retailers that provide bags are required to provide recycling bins for customers to return the plastic bags.

Failure of the bag fee proposal in Seattle is expected to make it harder to implement similar proposals elsewhere. •

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### **Wage & Hour Laws**

*Sept. 29 in Coos Bay  
Oct 6 in Portland  
Nov. 17 in Salem  
Dec 15 in Portland*

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### **Payroll Issues**

*Sept. 16 in Salem  
Oct. 29 in Portland*

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### **Effective Supervisory Practices**

*Sept. 9 in Eugene  
Oct. 1 in Tillamook  
Oct. 15 in Pendleton*

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### **Leave Laws in Oregon**

*Sept. 15 in Portland  
Oct. 8 in Eugene  
Oct. 14 in Baker City  
Nov. 5 in Portland*

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# 12 Year Nationwide Drop in Tobacco Sales to Minors Continues

The Substance Abuse & Mental Health Services Administration (SAMHSA) recently released the 2008 federal fiscal year Synar Report on Youth Tobacco Sales for all 50 states and the District of Columbia. Under the regulations implementing the Synar Amendment, States and other jurisdictions must report annually to SAMHSA on their retailer violation rates, which represent the percentage of inspected retail outlets that sold tobacco products to a customer under the age of 18. The amendment requires that retailer violation rates not exceed 20 percent. States and jurisdictions measure their progress through random, unannounced inspections of tobacco retailers, and SAMHSA provides technical assistance to help states comply.

Major findings of the report:

- National weighted average rate of tobacco sales to minors (retailer violation rate) dropped to 9.9 percent for FFY 2008, the lowest RVR in Synar's 12-year history. In 1997, the weighted average rate was 40.1 percent.
- FFY 2008 is the third year in Synar history that no State was out of compliance with the Synar Regulation.
- In FFY 2008, 46 of the 51 (50 States and District of Columbia) achieved retailer violation rates below 15 percent and 26 of the 51 achieved RVR below 10 percent. Oregon's reported RVR was 15.6 percent. •



To read the full report: <http://prevention.samhsa.gov/tobacco/synarreportfy2008.pdf>

## Results of OLCC Minor Decoy Compliance Checks

The Oregon Liquor Control Commission, in cooperation with local law enforcement, conducts about 1,800 compliance checks on licensed premises each year. Results of the July/August "sting" operations are shown below.

For interested licensees, OLCC offers a free training course on how to check and identify false ID and the laws regulating minors and alcohol. Call your local OLCC office for information. •

*OLCC News, Aug. 27, 2009*

Statewide average compliance rate for 2008 was 78%.

<u>Location</u>	<u>Compliance</u>
<b>Klamath-Lake counties</b>	79%
<b>Philomath</b>	90%
<b>Portland</b>	58%
<b>Grants Pass/Medford</b>	92%
<b>Burns</b>	100%
<b>Vale/Huntington/Adrian</b>	82%
<b>Yamhill-Linn counties</b>	59%
<b>Coos County</b>	83%
<b>Lincoln City</b>	78%
<b>Lake Oswego</b>	100%
<b>Hood River</b>	100%



**OREGON NEIGHBORHOOD STORE ASSOCIATION**  
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 E-mail: contact@onsa.net

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## ONSA Needs you as a member – Join Now!

**RETAIL MEMBERS:**

Owners or Franchisees of one or more Neighborhood Stores  
 Each Store ..... \$100.

**ASSOCIATE MEMBERS:**

Businesses that provide goods and services to Neighborhood Stores  
 Platinum ..... \$5,000.  
 Gold ..... \$2,500.  
 Silver ..... \$1,000.  
 Basic ..... \$500.

Business Name \_\_\_\_\_

Owner/Manager Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

\_\_\_\_\_ *City, State, Zip*

Phone \_\_\_\_\_

E-mail address \_\_\_\_\_



Make Checks Payable to  
 Oregon Neighborhood Store Assn.  
 1270 Chemeketa Street NE  
 Salem, OR 97301  
 Phone: 503-316-9638  
 Fax: 503-585-1921  
 contact@onsa.net

RETAIL MEMBER \_\_\_\_\_ Number of Stores\*\* Stores Dues = \$ \_\_\_\_\_

- Sole Proprietor       Convenience Store only
- Franchisee             Convenience Store/gas

ASSOCIATE MEMBER

Designate Level:  Platinum     Gold     Silver     Basic    \$ \_\_\_\_\_

Total Dues: \$ \_\_\_\_\_

\*\* For each individual store, please include the contact information:  
 Owner/Manager's name, Mailing address, Phone, Fax, e-mail address.