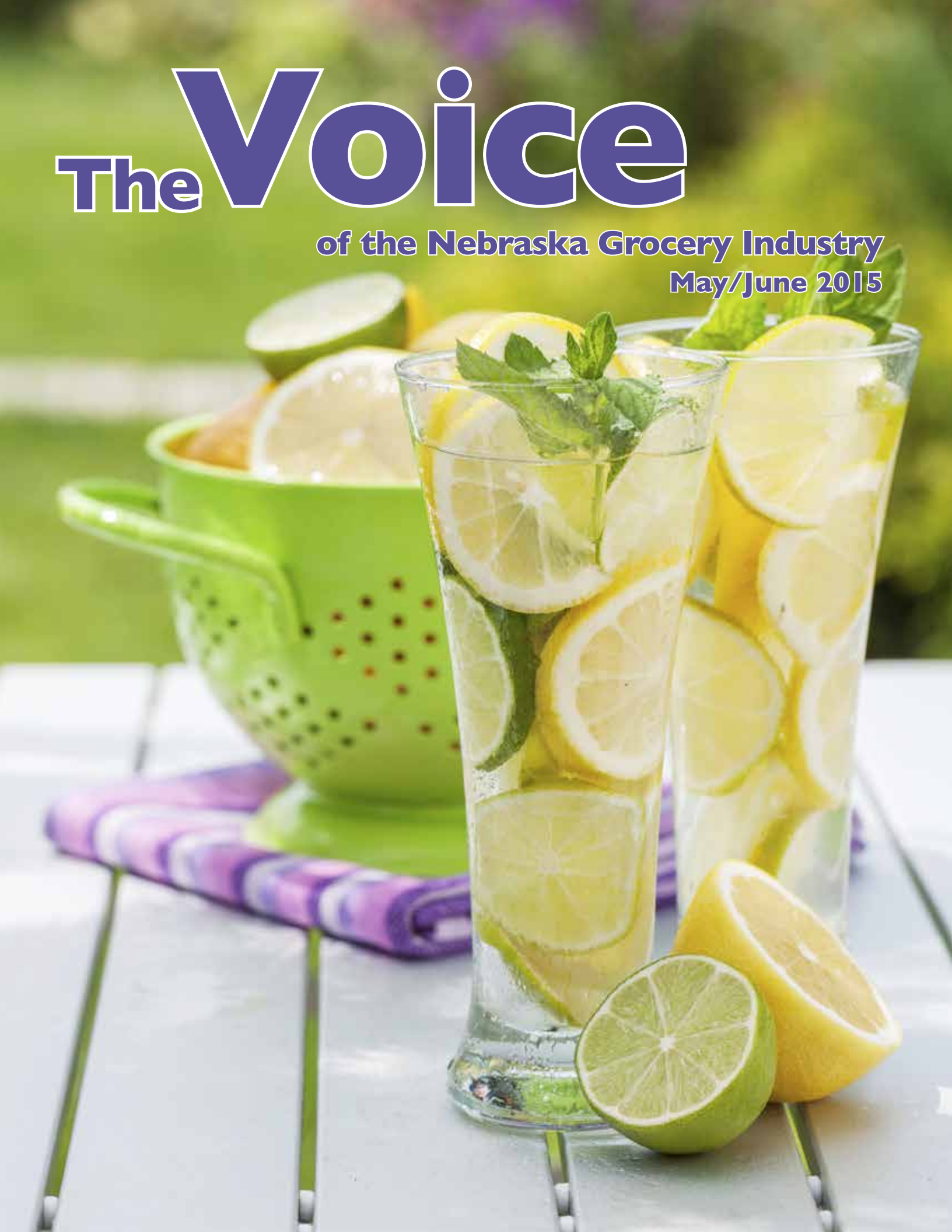


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May/June 2015



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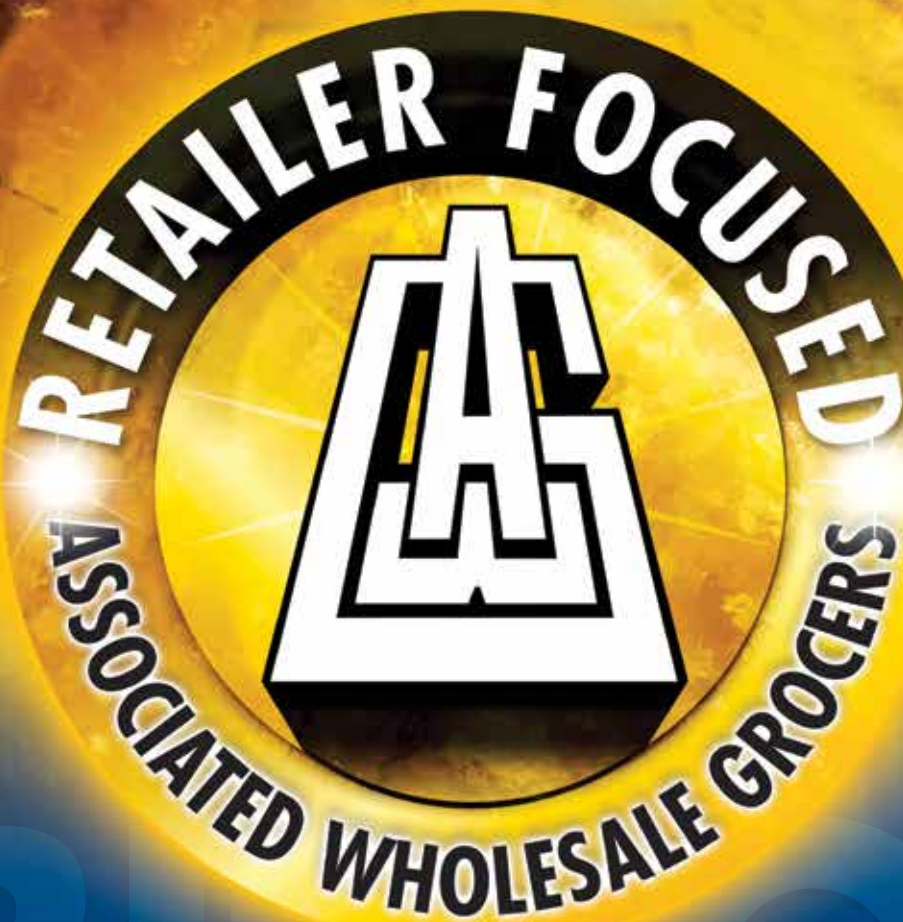
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Executive Director's Corner



By Kathy Siefken

The 2015 Legislative Session was a new experience. It appeared to be a very conservative body. Now that the 2015 Legislative Session is over and we have time to review the outcome, it is apparent that we have elected individuals who do

not vote based on party, but do vote based on personal convictions. With a new Governor, Lt. Governor and 18 new State Senators, in addition to a large number of new Department Heads, it was easy to assume that this would be a very conservative legislative session. In the end that assumption was wrong and it proved impossible to assume how any one person would vote on any given issue.

Thirty-five members were registered Republicans; 13 were registered Democrats; and one Senator was registered as an independent. This legislative body, with a vast majority of Republicans, over rode the Governor's veto on not one, but three separate issues: an increase in gas tax, driver licenses for dreamers, and repeal of the death penalty.

A number of senators made it clear during debate on override motions that Gov. Ricketts was not the issue. Even senators who are registered Democrats continued to say that their relationships with the governor were collaborative, positive, and friendly.

This appears to be the new normal in Nebraska. In 2015 political parties did not control the process and they did not determine the outcome – independent-

thinking State Senators did. The 2016 Legislative Session will most likely bring more of the same. We do not have gridlock in Nebraska, even though it appeared so at times during heated debate. The 2015 Legislature accomplished what they set out to do – pass a balanced budget and make this a better place for all of the citizens of this state.

NGIA was deeply involved in the debate regarding a lower minimum wage for inexperienced, untrained children who were 18 years of age or younger. Our message was that we take inexperience and turn it into a skill, giving kids an opportunity to gain knowledge while working a job. We fell short on final reading because due to the fact that minimum wage was addressed in 2014 by a ballot initiative, a supermajority of 33 votes is required to change the minimum wage laws in the State of Nebraska. On final reading the official vote was 29 in favor of the bill, but that didn't count those who were absent or those who did not vote because they knew the two absences would bring it short of the required 33. At the end of debate we still had 32 strong supporters – only one vote short. 2016 might bring a different outcome.

The Midwest Brings Home FMI Awards

Brian Hayes Wins FMI Store Manager Award for Category A



Brian Hayes, a store manager for Super Saver in Lincoln, Nebraska was awarded the FMI Store Manager Award for stores with 1-49 locations. Back in 2013, Brian was charged with opening a new 61,000 square foot large volume store. Brian is described as a “down to earth” leader and is known for constantly engaging with his associates and shoppers. He regularly shares innovative ideas that help not only his store, but the overall company. His guidance has helped his store have the second lowest employee turnover in the Super Saver Group and helped his store win the company’s 18 store annual Mystery Shopper ACE Race award in 2014 as the best overall service store in the company with a 95.13% overall score. Through partnerships with several local community organizations and regular store events including Red Hot Patio Parties, car shows and even food fights, Brian has helped establish his store as a strong community member. His store maintains exceptional shopping conditions and customer service. The new store has quickly become the fifth-ranked Super Saver in the state and store sales increased by more than 13% in 2014.

Brian Wilken Wins FMI Store Manager Award for Category C



Brian Wilken, store manager for Hy-Vee, Inc. in Charles City, Iowa was awarded the FMI Store Manager Award for stores with 100+ locations. Brian’s goal is to challenge his employees to make his store the friendliest store in Northeast Iowa. On any given day you will find Brian on the sales floor working with employees and greeting customers. Under Brian’s leadership, the store has developed a more comprehensive training program that includes new incentive program to recognize employees for exemplary customer service. Brian’s store also creatively showcases talent by hosting cooking demos in the aisles and events throughout the year – even a Valentine’s Day candlelit dinner with a string quartet. From local school events to charity events, including Relay for Life, Brian’s store is always giving back to the community. Brian combines strong leadership skills with a vision for the future that has resulted in a six percent sales increase and a 94% profit increase fiscal year 2014.



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NGIA Holds Reunion for Past and Current Board Members

On May 8 the Nebraska Grocery Industry Association held a “Board Reunion”, celebrating the volunteers who have served on the NGIA Board of Directors since 1985. More than 80 individuals have served on the board, guiding the industry to its current success. There were several who have passed away and several that we were not able to locate.

Deceased include Daryl Arneson, Norman Stehlik, Rudy Stoysich, Larry McCord, Jack Murphy, Randy Harlan, Al Middleton, Norman Plotkin, Bill Lancaster, Bus Hansen, Oscar Diamond and George Tilley.

Those we were unable to locate include: Robert McKenney, Kirk Nelson, Bud Larsen, John Hansen, Kyle Quasebarth, Ken Hayner, Kirby Poppert, Dennis Johnston, Dave Bixby, Dave McKelvy, Larry Bussow, Scott Braden and Mike Fast. Anyone knowing how we may contact these individuals is encouraged to contact the NGIA office!

The Reunion was held at Cubby’s Corporate Office in Omaha where we were guests of Phil Morrison and DeLone Wilson. It was a great time to catch up with old friends and touch base with those we have not seen for years. Our thanks go out to all who have served on the NGIA Board of Directors – you have made NGIA what it is today! A special thanks to Cubby’s and Anheuser Busch for their support of this event.





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LB 627 Provides Protections To Pregnant and Nursing Mothers

*By Jack Shultz and Adam J. Prochaska
O'Neill, Heinrich, Damkroger, Bergmeyer & Shultz, P.C.,
L.L.O.
Lincoln, Nebraska*

On April 7, 2015, the Nebraska Unicameral passed LB 627 by a vote of 45-0-4. Governor Ricketts signed the law on April 13, 2015. LB 627 amends the Nebraska Fair Employment Practice Act, NEB. REV. STAT. 48-1101, et seq. ("FEPA"), and was intended to "clarify and solidify workplace protections for pregnant workers," "define reasonable accommodations for pregnant workers," and "to provide discrimination protections for pregnant workers similar to those already provided to workers with disabilities."

Generally, most employers with 15 or more employees (some City Ordinances set a different threshold number of employees), state and local governments, and labor organizations must comply with FEPA. Under FEPA, Nebraska employers are prohibited from discriminating on the basis of race, color, national origin, religion, sex (including pregnancy), disability, and marital status. LB 627 expands this list by providing that it is an unlawful employment practice to:

Discriminate against an individual who is pregnant, who has given birth, or who has a related medical condition in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

LB 627 further provides that discrimination includes not making "reasonable accommodations" for and "taking adverse actions against" an employee for using a reasonable accommodation. Significantly, "reasonable accommodation" includes: (1) the acquisition of equipment for sitting, (2)

more frequent or longer breaks, (3) periodic rest, (4) assistance with manual labor, (5) job restructuring, (6) light-duty assignments, (7) modified work schedules, (8) temporary transfers to less strenuous or hazardous work, (9) time off to recover from childbirth, or (10) break time and appropriate facilities for breast-feeding or expressing breast milk." An employer is required to provide these accommodations unless it can demonstrate that the accommodation would impose an "undue hardship on the operation of the business of the covered entity."

By defining reasonable accommodation to include both break time and facilities for expressing breast milk, LB 627 provides employees with more protection than the Fair Labor Standards Act (FLSA) and the Pregnancy Discrimination Act (PDA). A plain reading of the law suggests both exempt (salaried) and non-exempt (hourly) workers are entitled to break time and space. Further, breastfeeding moms are now a protected class similar to race and disability.

LB 627 includes additional protections and provisions covering individuals who are pregnant, who have given birth, or who have a related medical condition. You should consult with your employment law attorney to explore how this new law affects you.

Editor's Note: This article is not intended to provide legal advice to our readers. The authors of this article, Adam J. Prochaska and Jack Shultz, can be contacted at (402) 434-3000 or at O'Neill, Heinrich, Damkroger, Bergmeyer, & Shultz, P.C., L.L.O., P.O. Box 82028, Lincoln, NE 68501-2028, or at aprochaska@ohdbslaw.com and jshultz@ohdbslaw.com.

Nebraska Legislature Revises Worker's Compensation

For the first time in 20 years, the Nebraska Legislature revised Worker Compensation statutes during the 2015 legislative session. The bill passed Final Reading on a 46-0 vote.

The new law provides the following:

1. Worker Compensation benefits will be denied if an employee knowingly and willfully makes a false statement regarding his or her physical or medical condition by acknowledging that he or she is able to perform the essential functions of a job based on the employer's job description.
2. Clarifies that employees are not responsible for any finance charges or late penalty payments as a result of medical services rendered by a provider.
3. Sets the interest rate applicable to an award of workers compensation benefits in which an attorney's fee is permitted by changing the rate from 14% to a rate calculation of 6 percentage points above the bond investment yield, as published by the US Secretary of the Treasury. This substantially reduces the interest rate.
4. Expands the authority to invest funds held in an irrevocable worker compensation trust to allow for investments in the same manner that insurer's are allowed to invest funds reserved to pay claims under the Insurer's Investment Act.

Changes to Nebraska Liquor Laws Provide Relief to Retailers

Changes were made to our liquor laws that have a positive impact on retailers. LB 330 was signed by the Governor and will go into effect immediately due to an emergency clause, with the exception of the portion that deals with hard cider. Hard cider becomes effective July 1.

New statutes allow for the following:

1. Allow for the sale of draught beer to patrons of an establishment holding a Class C liquor license, commonly known as "Growlers";
2. Allow liquor licensees 30 days for a late renewal;
3. Removes a mandatory hearing regarding a license application within 150' of a church if the church approves the license;
4. Define hard cider as beer instead of wine;
5. Prohibit the distribution and sale of powdered alcohol in Nebraska

Veterans Preference

Nebraska Governor Pete Ricketts signed legislation (L.B. 272) allowing private employers to adopt a voluntary veterans preference employment policy. Voluntary veterans preference employment policy means a private employer's voluntary preference for hiring and promoting a veteran over another equally qualified applicant or employee. The policy must be in writing and applied uniformly to decisions regarding hiring and promotion. The law goes into effect 90 days after the end of the Legislative Session, or on September 3, 2015.

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NGIA Sand Bagger Golf Outing at Iron Horse

On June 4 members met at Iron Horse Golf Club in Ashland to play 18 holes of golf in the NGIA Sand Bagger Golf Outing. We almost got in 18 holes between the storms. Morning hours brought rain, then cloudy skies which made for perfect play. Unfortunately the tournament was called in the later afternoon due to lightning strikes in the immediate vicinity. However, most teams were able to get 16 or 17 holes in before it was called. We thank our volunteers: Dave Green, Broken Bow Grocery Kart, and Jeff Mueller, Hy-Vee. Texas Hold 'Em was won by Todd Walton of Fareway, both as best hand coming off the course and best hand in the play-off. First Flight was won by Luke Lionberger, Shawn Albert, Alex Svehla and Pete Bunting. Second Flight was won by Lonnie Eggers, Brian Hytrek, Calvin McWilliams and Steve Klich and the Third Flight was won by Jeff Holling, Sally Rehmeier, and Dave Keitges.





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Dysfunctional Customer Experiences Risk Billions in Retail Losses

More than Eight in Ten Shoppers Don't Give Retailers the Chance to Fix a Poor Customer Experience

It may seem counterintuitive, but retailers should welcome the irate shopper who vents her frustration in an animated scene on the sales floor. That's because it's the mistreated customer who walks out the door in a silent huff who places the most revenue at risk, according to a collaborative study of dysfunctional retail touchpoints conducted by LoyaltyOne and Verde Group with Professor of Marketing and Psychology, Dr. Deborah Small, at the Wharton School of the University of Pennsylvania.

The March 2015 survey shows that approximately half of 2,500 U.S. consumers polled reported experiencing a problem on their last shopping trip. Of those customers, 81% decided not to contact the retailer about the issue. Among these silent shoppers, 32% said they were unlikely to recommend the retailer to friends and family, putting these shoppers at-risk of decreasing their spend with the retailer.

By comparison, the study shows that shoppers who did notify retailers of their poor experience and had their problem completely resolved were 84% less likely than silent shoppers to be at risk of decreasing their spend.

"The results are a resounding confirmation that poor customer experiences have a considerable negative impact on shopper spend and attrition which can run into the billions," says Dennis Armbruster, LoyaltyOne Consulting Vice President and Managing Partner. "We're ushering in a new era of customer experience measurement vital to retailers looking to make even more informed decisions."

Building on its leading behavioral analytics solution, LoyaltyOne Consulting has partnered with Verde Group, a leading customer experience research consultancy. Verde's proprietary Revenue@Risk analysis will use experience impact modeling to identify the specific customer

experiences most damaging to customer loyalty behaviors and prioritize them according to impact on revenue and market share.

Retailers should take note of the importance in identifying specific customer experiences most damaging to customer loyalty as billions of dollars are at risk. Below is the ranking per category:

- Mass merchandisers are putting 25% of potential revenue at risk
- Apparel retailers are putting 16% of potential revenue at risk
- Department stores are putting 15% of potential revenue at risk
- Drugstores are putting 12% of potential revenue at risk
- Grocers are putting 11% of potential revenue at risk

"Our methodology precisely measures the impact of ineffective customer touch points. Insight around the effects of poor customer touch points can help retailers reduce the risk of negative customer experiences, while also enabling them to proactively design experiences that positively influence spend, visit frequency and basket size," says Paula Courtney, President of Verde Group.

The survey also revealed that big spenders within a category disproportionately experience certain problems:

- Mass Retail "Check Out" Risk: Shoppers frustrated by check out wait times reported spending 23% more than the average mass retail customer (\$545 vs. \$446 a quarter)
- Department Stores "Not-My-Department" Staff Attitude: Shoppers troubled by an associate's not-my-department attitude reported spending twice as much as the average department

store customer (\$543 vs. \$261 a quarter)

- Apparel Retailers "Ship Date": Particularly in their online channel, customers who cited their inability to obtain a specific date or time to receive an online order reported spending 66% more in the category (\$416 vs. \$250 a quarter)

"In a very robust platform, these partners have taken the psychology of shopping and married it with the economics of shopping. Insights around the impact of the silent customer could prove to be valuable tools for retailers looking to minimize the risk of attrition created from weak customer experiences," says Dr. Deborah Small, from The Wharton School of the University of Pennsylvania.

LoyaltyOne Consulting Managing Partner Dennis Armbruster, Verde Group President Paula Courtney, and noted academic Dr. Deborah Small are all available to provide expert insights on the research results and discuss how retailers can design touch points that most impact customer spend. Armbruster is in Chicago this week to attend Customer Relationship Management Conference 2015, taking place June 3-5.


The survey results are based on an online survey in March 2015 of 2,500 American respondents. The survey's margin of error is +/- 1.96 at 95% confidence level.

About LoyaltyOne

LoyaltyOne is a global leader in the design and implementation of coalition loyalty programs, customer analytics and loyalty services for Fortune 1000 clients around the world. LoyaltyOne is an Alliance Data company. For more information, visit www.loyalty.com


About Verde Group

The Verde Group is a research consultancy that specializes in helping global organizations measure the cost of customer dissatisfaction, prioritize the issues based on ROI, and quickly fix them for improved retention and profitability. For more information, visit www.verdegroupp.com




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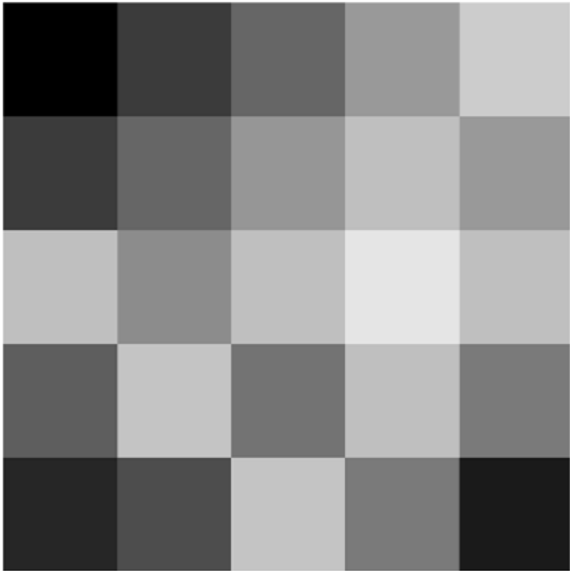


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Things You Need to Know

Q: I have a customer whose husband passed away recently. He had a wine cellar with about 10 cases of wine in it and she doesn't drink. She is inquiring about returning the wine to the store to receive a cash refund. Is this legal? I want to help her out but I want to make sure we are doing what's right.

A: If the wine was purchased in Nebraska, then it has entered the system through our 3-tier system and Nebraska taxes have been paid. In this instance the customer can return the wine to you, as a license holder, and you can provide a refund.

If the wine was purchased outside the State of Nebraska it did not enter through the 3-tier system and Nebraska taxes were not paid. Nebraska residents are allowed to bring a limited number of bottles into the state that do not go through the 3-tier system. Wine purchased outside the state and brought into the state by a resident cannot be returned by a customer to a liquor license holder for a refund.

Q: We have an employee who meets all of the guidelines for a salaried employee. This employee is an exceptional employee and takes pride in his work ethic and his responsibilities to the point where he simply does not leave the store. When we calculate his actual hours worked, including the hours that exceed 40 hours per week that he voluntarily puts in, his actual hourly wage is below minimum wage. Are we required to increase his salary so that his hourly wage, after including the overtime hours he works, is above the State minimum wage?

A: Under Nebraska Revised Statute §48-1202(3) (c) employees who are employed in a bona fide executive, administrative, or professional capacity, or as a superintendent or supervisor are exempt from Nebraska's minimum wage law. A similar exemption exists in Federal law as well. See 29 U.S.C. § 213 (a) (1); and 29 U.S.C. § 213 (a) (17). Federal law defines executive, administrative, and professional employees at 29 CFR Part 541.

See http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=e496f8085d1b5dd9d733c-51c64600047&mc=t-rue&n=pt29.3.541&r=PART&ty=HTML#se29.3.541_1200

If the employee does not meet the definition of either executive, administrative, or professional capacity, or as a superintendent or supervisor, then the employee would need to be paid an hourly wage that meets or exceeds the state minimum wage. If the employee does meet the definitions, you are not required to increase his or her salary.

Q: We have exceptional employees and we would like to offer them incentives when they perform exceptional service, such as catching a shoplifter or offering exceptional customer service to our customers. Are we allowed, on occasion, to reward our employees with products that we sell in our store? Would we be required to include the value of these rewards as part of their wages?

A: Yes, an employer can reward an employee with store products. Under Nebraska Revised Statute §48-1202(5) wages are defined as "all remuneration for personal services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash." Catching a shoplifter or exceptional customer service would be services, so rewarding the employee with products would be considered wages. For a better explanation of what is taxable and what is non-taxable, please refer to the following IRS publication.

<http://www.irs.gov/Government-Entities/Federal,-State-&-Local-Governments/De-Minimis-Fringe-Benefits>

Q: Can you provide me with information on Nebraska jury duty compensation?

A: Nebraska law requires private employers to provide paid time off for an employee who is summoned for jury duty, as long as they receive reasonable notice.

These employees should be excused from their work for any day they are required to serve as a juror. Further, an employer may not dock an employee's paid time off banks for this missed time and may not subject them to any other adverse employment action as a result of their duty. However, they may reduce the employee's pay by the amount of compensation (excluding expenses) the employee receives from the court for jury duty.

Q: When an employee takes FMLA leave, may we require that the employee exhaust all available sick and vacation leave? The intent is to avoid additional vacation requests following a leave or a resignation and therefore cash out of any vacation accrual.

A: Federal Family and Medical Leave Act (FMLA) regulations pertaining to the substitution of paid leave are found at 29 C.F.R. § 825.207. The relevant portions are set forth below.

- a. Generally, FMLA leave is unpaid leave. However, under the circumstances described in this section, FMLA permits an eligible employee to choose to substitute accrued paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employer may require the employee to substitute accrued paid leave for unpaid FMLA leave. The term substitute means that the paid leave provided by the employer, and accrued pursuant to established policies of the employer, will run concurrently with the unpaid FMLA leave. Accordingly, the employee receives pay pursuant to the employer's applicable paid leave policy during the period of otherwise unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy. When an employee chooses, or an employer requires, substitution of accrued paid leave, the employer must inform the employee that the employee must satisfy any procedural requirements of the paid leave policy only in connection with the receipt of such payment. See §825.300(c). If an employee does not comply with the additional requirements in an employer's paid leave policy, the employee is not entitled to substitute accrued paid leave, but the employee remains entitled to take unpaid FMLA leave. Employers may not discriminate against employees on FMLA leave in the administration of their paid leave policies.

- b. If neither the employee nor the employer elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to all the paid leave which is earned or accrued under the terms of the employer's plan.

- c. If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the employee's FMLA leave entitlement. For example, paid sick leave used for a medical condition which is not a serious health condition or serious injury or illness does not count against the employee's FMLA leave entitlement.

- d. Leave taken pursuant to a disability leave plan would be considered FMLA leave for a serious health condition and counted in the leave entitlement permitted under FMLA if it meets the criteria set forth in §825.112 through 825.115. In such cases, the employer may designate the leave as FMLA leave and count the leave against the employee's FMLA leave entitlement. Because leave pursuant to a disability benefit plan is not unpaid, the provision for substitution of the employee's accrued paid leave is inapplicable, and neither the employee nor the employer may require the substitution of paid leave. However, employers and employees may agree, where state law permits, to have paid leave supplement the disability plan benefits, such as in the case where a plan only provides replacement income for two-thirds of an employee's salary.

When examining an employee's need for leave under the FMLA, employers should also do a simultaneous assessment of the employer's obligations, if any, under the Americans with Disabilities Act (ADA). For additional information, see the Equal Employment Opportunity Commission's Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act. Courtesy of THINKHR Workplace, which is a platform of integrated HR solutions supported by live HR experts. HR insights is brought to you by UNICO Group.

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Famous Queso Dip

Ultimate Nachos

Original

The advertisement features a basketball on a wooden floor next to a box of Velveeta Original cheese. To the right, two dishes are shown: 'Famous Queso Dip' in a white bowl and 'Ultimate Nachos' on a plate. The Velveeta logo is in the top left corner, and the text 'put the best starters in your lineup' is in large, bold letters. Below that is the website 'velveeta.com'. A copyright notice '© 2014 Kraft Foods' is in the bottom left. The words 'Original', 'Famous Queso Dip', and 'Ultimate Nachos' are placed near their respective items.

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