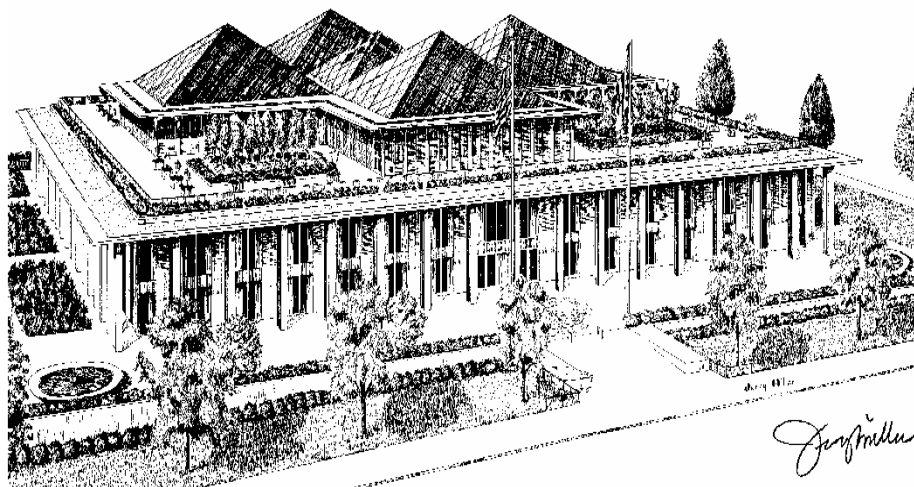


NCRMA
Legislative Summary
for the 2005
Long Session
By Issue Category

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NCRMA Legislative Summary for the 2005 Long Session

By Issue Category

The 2005 Long Session of the North Carolina General Assembly turned out to be quite an interesting and exhaustive affair. The North Carolina Retail Merchants Association was faced with playing defense on a number of issues – some extremely controversial – while also trying to push forward with an aggressive legislative agenda. We ended up having an extremely successful session. Below you will find a summary of issues under section names: **Tax Issues; Alcohol Issues; Labor Issues; Identity Theft Issues; General Retail Issues; Workers' Compensation Issues; Health Insurance Issues; Grocery Issues; Environmental Issues; and Pharmacy Issues.**



TAX ISSUES

Streamlined Sales Tax Changes

SB 622, Senator John Kerr

This legislation implements the remaining required changes for North Carolina to stay in compliance with the Streamlined Sales Tax Agreement. NCRMA has been instrumental in pushing this legislation along to level the playing field between Internet retailers and Bricks and Mortar main-street merchants. **Enacted**

Half-Cent Sales Tax/Tobacco Tax

SB 622, Senators Linda Garrou (D-Forsyth), Kay Hagan (D-Guilford) & Walter Dalton (D-Rutherford)

The Budget (SB 622) also contained two very important tax changes:

- 1) The half-cent local option sales tax enacted in 2001 and extended in 2003 is set to expire June 30, 2005. Senate Bill 622 extends this tax for an additional two years.
- 2) The tobacco tax was increased from the lowest in the country (\$0.05) by \$0.25 per pack effective September 1, 2005 and an additional \$0.05 on July 1, 2006. **Enacted**

State Sales Tax on Candy

SB 622, Senators Linda Garrou (D-Forsyth), Kay Hagan (D-Guilford) & Walter Dalton (D-Rutherford)

The General Assembly made a policy decision to apply the state sales and use tax to candy effective October 1, 2005. Previously, candy had only been subject to the local sales tax. This will mean that candy is now taxed at a rate of 7% (7.5% in Mecklenburg County). **Enacted**

Sales Tax on Service Agreements and Warranties

SB 622, Senators Linda Garrou (D-Forsyth), Kay Hagan (D-Guilford) & Walter Dalton (D-Rutherford)

The initial Senate Budget applied sales and use tax to services agreements and warranties. The House did not include this provision in their version of the Budget. NCRMA met with Senate Leadership and General Assembly staff to explain the economic impact this change in tax policy would have on retailers due to service contracts on things such as computer software, cooling systems and fixtures. The House and Senate decided to not tax service contracts and warranties but instead to require the Revenue Laws Study Committee to analyze the issue and report back to the General Assembly on how this tax should be applied by July 1, 2006.

Revenue Laws Study Committee

Lottery

HB 3, Representative Bill Owens (D-Pasquotank), HB 223, Representative Bernard Allen (D-Wake), HB 493, Representative Hugh Holliman (D-Davidson), HB 1023, Representative Bill Owens, (D-Pasquotank), SB 622, Senators Linda Garrou (D-Forsyth), Kay Hagan (D-Guilford) & Walter Dalton (D-Rutherford)

This perennial legislation would create a state run lottery in North Carolina and would pay retailers 7% per ticket sold. The House passed House Bill 1023 by a vote of 61-59 on April 6, 2005. The Senate then tweaked the bill by placing amendments to House Bill 1023 in the Budget. Many thought the lottery was done for the year when the Senate was unable to muster the votes on August 23, 2005 and adjourned. On Tuesday, August 30, lottery bill HB 1203 passed in North Carolina.

House Bill 1203 establishes the new N.C. State Lottery Commission, which will hire an executive director and approve a contractor to operate the games the commission decides to offer. With the commission's OK, the director can also enter the North Carolina lottery into multistate agreements such as Powerball or Mega Millions.

Advertising spending is capped at 1 percent of annual revenues. At least 50 percent of total annual revenues would be paid out as prizes with at least 35 percent used for education initiatives. Small slices of the remaining revenue would be used for administrative expenses and compensation to the retailers who will actually sell the tickets, with \$1 million set aside annually for gambling education and treatment programs. Retailers will be compensated at the rate of \$0.07 for every ticket \$1.00 sold.

Winners of less than \$600 may redeem their prizes at lottery retail outlets. The Lottery Commission will redeem prizes of \$600 or more.

When the lottery will actually be up and running is anyone's guess at the moment but it appears that "scratch-off" tickets may be available as early as the first of the year with tickets for larger drawings sometime away. Link to Lottery Bill (HB 1023):

<http://www.ncga.state.nc.us/sessions/2005/lottery/fulllotterybill.pdf>

Enacted

Local Sales Tax Option

HB 947, Representative Bill Owens (D-Pasquotank)

This legislation would provide authority to forty-eight counties to hold a referendum as to whether to increase the local sales tax by a half-cent to fund public school construction and community college funding.

Senate Finance

ALCOHOL ISSUES

ABC Permits in State Development Zones

HB 86, Representative Paul Miller (D-Durham)

This legislation would expand onerous record-keeping requirements from 13 cities with urban redevelopment zones to 60 cities with state development zones. NCRMA was successful in stopping this legislation.

Failed Crossover

Local Regulation of Alcohol

HB 808, Representative Bernard Allen (D-Wake)

This legislation would allow local governments to regulate the concentration of alcohol permits through zoning. NCRMA was successful in stopping this legislation.

House ABC Committee



Required Registration for Kegs

HB 855, Representative Verla Insko (D-Orange), HB 892, Representative Martha Alexander (D-Mecklenberg), SB 476, Senator Malcolm Graham (D-Mecklenberg)

House Bill 855 would require the registration of keg purchasers in Orange County (Chapel Hill). House Bill 892 and Senate Bill 476 were brought at the request of the city of Charlotte. House Bill 892 would require retailers that sell kegs to obtain and maintain the name and address of a purchaser, the address of where the keg will be consumed and the keg's identification number. Due to NCRMA's opposition, many of the troublesome provisions have been removed from the bill. At the time of print this bill was slated to be on the House calendar and we expect to have a chance of stopping this legislation next May in the Senate. **House Calendar**

Remove Alcohol Percentage Cap on Malt Beverages

HB 382, Representative Stephen Laroque (R-Greene), SB 735, Senator Tony Rand (D-Cumberland)

House Bill 382 increases the cap on alcohol per volume in malt beverages from 6% to 15%. **Enacted**

Revoke ABC Permits from Bad Actor Permittees

HB 1174, Representative Deborah Ross (D-Wake)

House Bill 1174 is intended to address bad actor "shot houses" that operate in blighted areas of some parts of the state. This legislation allows the ABC Commission to revoke an ABC permit if a permittee has two violations within 12 months of gambling, fighting, prostitution or disorderly conduct. NCRMA worked with Rep. Ross very closely to craft legislation that would address the problems in her district without placing legitimate retailers in a situation where local governments controlled the alcohol permitting process. **Enacted**

Split Case Fees on Wine

HB 1429, Representatives Pryor Gibson (D-Anson) and Jim Harrell (D-Surry)

House Bill 1429 addresses a recent ABC Commission ruling that wine wholesalers were required to charge retailers a fee to split a case of wine which would have cost retailers millions of dollars in fees. For out-of-state wineries, this legislation eliminates North Carolina's \$100 one-time fee to directly ship wine to North Carolina citizens, if the winery that is shipping is located in a state that also does not have a wine-shipper permit fee. This legislation is intended to comply with the recent U.S. Supreme Court case concerning the interstate shipment of wine. **Enacted**

Wine Tasting Changes

HB 1500, Representatives Pryor Gibson (D-Montgomery) and Jim Harrell (D-Surry)

This legislation was introduced at NCRMA's request in response to an ABC Commission opinion letter and would facilitate wine-tastings being held on retail premises. Additionally, NCRMA inserted an amendment at the last moment to allow a retailer to rely on a biometric identification system when selling alcohol or tobacco. **Enacted**

DWI Task Force Recommendations

HB, 1048 Representative Joe Hackney (D-Orange), SB 1068, Senator Tony Rand (Cumberland)

This legislation specifies that the manager of an alcohol permittee is anyone who had direct or indirect power to instruct the management of an establishment and makes it a Class 1 misdemeanor for a person under 21 to consume any alcoholic beverage. Additionally, this legislation requires a purchaser of a keg to obtain a transportation permit from an ABC store prior to the purchase of the keg. House Bill 1048 passed the House and both bills currently reside in the Senate Judiciary I Committee. **Senate Judiciary I**

Study ABC Store Privatization

HB 1292, Representative Paul Miller (D-Durham).

This bill would require the study of whether private individuals rather than just the state could sell spirituous liquor. This issue was included in the Studies Bill and could be studied in the interim. **Enacted as part of the Studies Bill**

Increase Transportation Limits for Alcoholic Beverages

HB Bill 1390, Representatives Pryor Gibson (D-Montgomery) and Jim Harrell (D-Surry)

This legislation increases the amount of wine a person could transport without having a permit from 20 liters to 50 liters. This legislation is meant to help North Carolina wineries by allowing a person who goes to the winery to buy in bulk without having first obtained a permit to transport such a large amount of wine. **Enacted**

LABOR ISSUES

Minimum Wage Increase

HB 330, Representative Alma Adams (D-Guilford)

The bill would raise North Carolina's minimum wage from \$5.15 to \$6.15 on September 1, 2005, to \$7.15 on Labor Day 2006 and \$8.50 on Labor Day 2007. NCRMA President Fran Preston argued before committee that such an increase would not only affect employees that make minimum wage but also those employees who make well-above minimum wage and would believe they too are entitled to an equal increase in pay. Additionally, these increases do not take into account the increased costs to retailers for workers' compensation and FICA taxes that are tied to payroll. Retailers are often in the position of employing a number of part-time employees and increasing the minimum wage could result in a loss of these jobs. This bill was defeated first in the House Commerce Committee and then was resurrected and narrowly defeated in the House Floor. The Minimum Wage Increase was then resurrected again by combining the bill with House Bill 20 – See below. **Defeated on House Floor**



Minimum Wage Increase/ Tax Credits for Small Employer Health Insurance

HB 20, Representatives Alma Adams (D-Guilford) and Hugh Holliman (D-Davidson)

In an effort to garner votes for a minimum wage increase, the House combined a minimum wage increase of \$0.85 per hour to with an \$800 tax credit per employee for employers employing less than twenty-five employees and who pay at least 50% of the health insurance premiums for their employees. While NCRMA supported the health insurance tax credit, the minimum wage increase was just too much to stomach. The bill narrowly passed the House and then stalled in the Senate. The Senate then threatened to pass a minimum wage bill that also contained an increase in the tobacco tax, making the half-cent sales tax optional, reducing the corporate income tax and reducing the personal income tax on high-income wage earners knowing that these were all issues that the House would not agree to and could not pass. **Senate Finance**

Mandatory Lunch Breaks

SB 923, Senator Dan Clodfelter (D-Mecklenberg)

This legislation would require the Department of Labor to adopt rules requiring employers to allow employees to take at least one meal break during an employee's shift. **Failed Crossover**

Eliminate Unemployment Waiting Period

SB 924, Senator Dan Clodfelter (D-Mecklenberg)

This legislation would eliminate the one-week waiting period currently required to receive unemployment benefits. **Failed Crossover**

Garnishment of Wages

HB 684, Representative Tim Moore (R-Cleveland)

This legislation would allow creditors to garnish the wages of debtors. **Failed Crossover**

IDENTITY THEFT ISSUES

Report Hacker or Fraudulent Access to ID Data

SB 783, Senator Jim Forrester (R-Gaston)

This legislation would require a credit bureau to immediately notify individuals of unauthorized access to their personal information. **Senate Judiciary I**

Government Agencies Limit Release of Social Security Numbers

SB 793, Senator Phil Berger (R-Rockingham)

This legislation prohibits social security numbers from appearing on citations and prohibits state or local governments from intentionally disclosing an individual's social security number. **Senate Judiciary I**

Consumer Credit Protection

SB 921, Senator Jim Jacumin (R-Caldwell)

HB 608, Representatives Tim Moore (R-Cleveland), Stephen Laroque (R-Greene) and Bill McGee (R-Forsyth)

This legislation would allow a person to freeze their credit file similar to the current onerous California law.

Senate Judiciary I & House Commerce

No Social Security Numbers on Health ID Cards

SB 935, Senator Linda Garrou (D-Forsyth)

This legislation prohibits health insurers from printing an individual's social security number on health insurance cards or otherwise making public an individual's social security number.

Senate Judiciary I

Personal Information Privacy Study

SB 996, Senator Janet Cowell (D-Wake)

This legislation creates a study committee to study issues related to privacy issues.

Senate Rules

Identity Theft Protection Act of 2005

SB 1048, Senator Dan Clodfelter (D-Mecklenberg), HB 1248, Representative Bruce Goforth (D-Buncombe)

Both bills were introduced at the request of the Attorney General and closely mirror the Public Interest Research Group's model bill. Senate Bill 1048 contains provisions implementing an onerous file freeze provision, limiting the use of credit headers, creating new requirements in the event of security breaches and requiring that any business that has personal information – including information contained on a computer – must destroy this information prior to disposing of the information.

NCRMA and the Consumer Data Industry Association have been able to make several changes to this legislation to make it more business-friendly. Unfortunately, it is still a very onerous bill that could prove problematic to retailers – large and small alike.

Enacted

No Third Party Release of Social Security Number

SB 1098, Senator Julia Boseman (D-New Hanover)

This legislation prohibits state or local governments from releasing a person's social security number without the person's expressed consent.

Judiciary I

Unsolicited Checks and Goods

HB 1408, Representative Jeff Barnhart (R-Cabarrus)

This legislation prohibits unsolicited checks from being sent to North Carolina citizens if the cashing of the check would result in the citizen entering into a contract.

House Commerce

Government Agencies Limit Use of Social Security Numbers

HB 1447, Representative John Blust (R-Guilford)

This legislation would prohibit government agencies from disseminating a person's social security number.

House Judiciary I

Social Security Number Cannot Be Student ID#

House Bill 387, Representative Jeff Barnhart (R-Cabarrus)

This legislation prevents the University System from using a student's social security number as their student identification number. NCRMA inserted an exemption into this legislation to ensure that a University could disclose this information for purposes of reporting the payment or nonpayment of student loans. **Enacted**

Option to Freeze Credit Report

HB 629, Representative Alma Adams (D-Guilford)

This legislation allows a person to freeze their credit report thereby impeding instant credit. The bill was based upon a model recommended by the Public Interest Research Group (PIRG) and will likely not move any further since the Identity Theft package bills seem to be the legislation of choice on this subject matter.

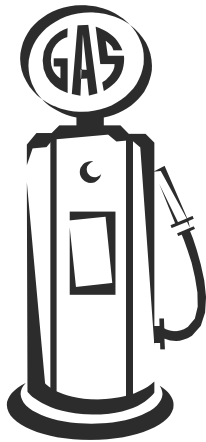
Senate Judiciary I

No Social Security Numbers in Recorded or Filed Documents

HB 1090, Representatives Tim Moore (R-Cleveland) and James Langdon (R-Johnston)

This legislation would prohibit the filing of social security numbers in public documents such as estate filings and deeds. **House Judiciary II**

GENERAL RETAIL ISSUES



Below Cost Gasoline

SB 986, Senator David Hoyle (D-Gaston)

HB 1273, Representative Harold Brubaker (R-Randolph)

This legislation would force gas stations throughout North Carolina to increase their prices due to the potential penalties for selling gasoline "below-cost." With the price of gasoline so high this bill will again have a tough road in the short session.

Senate Commerce & House Commerce

No Violent/Obscene Video Game Sales to Minors

SB 2, Senator Julia Boseman (D-New Hanover)

This legislation would make it a crime for a retailer to sell or offer to sell a "violent" or "obscene" video game to a minor and would require retailers of video games to post signs and distribute literature informing parents of the violent nature of video games. Every similar bill has been struck down as unconstitutional. Additionally, retailers would be required to construct a separate section of their store to display these games. The Senate passed the bill unanimously. The bill then resided in the House Rules Committee from April until late August when the bill unexpectedly received a hearing. The bill was approved by the House Rules Committee and appeared to be heading to the House Floor for a vote on the last day of session. NCRMA was successful in getting the bill sent back to a House Judiciary Committee where at the time of print the bill currently resides. **House Judiciary II**

Amend Indecent Exposure/Flashing Law

SB 776, Senator John Snow (D-Cherokee), HB 1489, Representative Linda Johnson (R-Cabarrus)

This legislation was introduced at the request of NCRMA to address flashing of children in the toy departments of some North Carolina stores. It clarifies that indecent exposure applies whether or not the accused and the victim are of the same sex and creates a new crime when the suspect is over 18 years of age and the victim is under 16 years of age. **Enacted**

Amend Warranty/Service Agreement Company Laws

HB 645, Representative Hugh Holliman (D-Davidson), SB 847, Senator Vernon Malone (D-Wake)

This legislation would require that retailers that sell service agreements and warranties would have to insure the financial backing of these products with specific types of insurers. This would require retailers to obtain a contingent liability policy and would increase the cost of these products to consumers. The bill also creates a study committee to review the legitimacy of warranties and service agreements. **House Appropriations**

Increase the Bad Check Fee

HB 1313, Representatives Thomas Wright (D-Wilmington) and Pryor Gibson (D-Montgomery)

This bill, introduced at NCRMA's request, increases the bad check fee in North Carolina from \$25 to \$30.

House Finance

Habitual Misdemeanor Larceny = Felony

House Bill 423, Representative Tim Moore (R-Cleveland)

This legislation would reclassify the fifth offense of misdemeanor larceny as a Class H felony. Unfortunately, this bill has a large fiscal note due to the amount of state dollars that would have to be spent on incarcerations.

House Appropriations

WORKERS' COMPENSATION ISSUES

Amend Workers' Comp Act

SB 984, Senator David Hoyle (D-Gaston)

This legislation was introduced at the request of a number of business groups including NCRMA and would strike a balance in how workers' comp insurance claims are adjudicated in North Carolina. Included in this bill are provisions shifting the burden of proof to employees when alcohol or drugs are involved in a workplace injury, limiting life-time medical benefits, allowing for additional conversations with physicians of injured employees and redefining what qualifies as suitable employment for purposes of returning an injured employee to work.



Senate Commerce

Amend Workers' Comp Act

HB 99, Senator David Hoyle (D-Gaston)

Due to the fact that SB 984 became radioactive, a compromise agreed to by the Academy of Trial Lawyers and the business community was placed in SB 99 to allow for a slight reform of workers compensation. Of note was a shift in the burden of proof to the employee when the employee is injured and alcohol and drugs are involved.

Enacted

Self-Insured Workers Comp. Financial Security

SB 319, Senator Dan Clodfelter (D-Mecklenberg)

This legislation creates a new funding mechanism for companies and groups that self-insure their workers' compensation to maintain claims reserves. A new funding mechanism is necessary to ensure that companies have reserved enough funds to pay their claims and prevent other self-insureds from paying assessment when adequate reserves are not maintained. NCRMA, as well as a number of its member companies, were supportive of this bill because of the reduced cost to operate the North Carolina Retail Self Insurers Fund (CompCarolina).

Enacted

HEALTH INSURANCE ISSUES

Small Business Health Insurance Credit

HB 20, Representative Hugh Holliman (D-Davidson)

Under this legislation, a business employing no more than 25 employees would be eligible to receive a tax credit of \$400 for each employee that the business paid at least half of the health insurance premiums. See Minimum Wage Bill.

Senate Finance

Study Ways to Assist Small Business with Health Insurance

SB 478, Senator Walter Dalton (D-Rutherford)

This legislation creates a Legislative Research Commission to determine ways to assist small businesses in providing health insurance to their employees. This issue will be studied in the interim due to its inclusion in the Studies Bill.

Enacted

Health Insurance Market/Small Business

SB 739 – Senator Tony Rand (D-Cumberland)

This legislation is similar to the legislation Senator Rand introduced last session at NCRMA's request to open up the small employer health insurance market. It will likely serve as a placeholder if a solution is found.

Senate Commerce

Mental Health Parity

SB 1100, Senator Martin Nesbitt (D-Buncombe)

This legislation would require health insurers to pay for coverage of mental health.

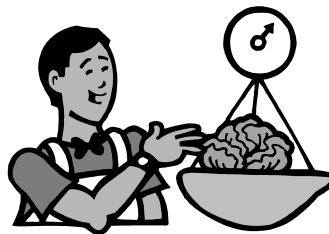
Failed Crossover

Mandatory Health Care for All

HB 1358, Representatives Verla Insko (D-Orange)

This legislation would place a constitutional amendment on the ballot in November 2006 to guarantee a constitutional right to health care and require the General Assembly to enact a plan to ensure such access by July 1, 2011.

Failed Crossover



GROCERY ISSUES

Restaurants Provide Information of Use of Peanuts

SB 1020, Senator Malcolm Graham (D-Mecklenberg), HB 920, Representative Martha Alexander (D-Mecklenberg)

This legislation authorizes the Commission of Health Services to adopt rules requiring restaurants – including delis located in groceries – to post information about nut allergies and include similar information on menus. The legislation was introduced as the result of a teenager who was allergic to peanuts and ingested food cook with peanut oil from a mall food court in Charlotte and later died. The issue will be studied in the interim because of its inclusion in the Studies Bill.

Senate Commerce & House Health

Ban Flavored Cigarettes

SB 1116, Senator Charlie Albertson (D-Duplin)

This legislation would ban flavored cigarettes other than menthol flavored cigarettes.

Failed Crossover

Change Restaurant Inspection Schedules

SB 1132, Senator Charlie Albertson (D-Duplin)

This legislation would allow the Commission for Health Services to modify the inspection schedule for establishments that prepare or serve food or drink to the public such as grocery delis.

Failed Crossover

Dairy Farmer Stabilization Fund

SB 1156, Senator Charlie Albertson (D-Duplin)

This legislation creates the North Carolina Dairy Stabilization and Growth Fund as a non-reverting account in the Department of Agriculture and Consumer Services. The Fund will receive its funding from appropriations, grants, donations, and other sources and the Board of Agriculture will actively seek funding.

On July 1st of each year, the Board of Agriculture would be required to set a milk support baseline price. The baseline price per hundredweight of milk would be the average United States Department of Agriculture Federal Milk Market Order Class I price mover for the previous 10 years less fifty cents (50¢).

Each month the Board of Agriculture would be required to determine whether the monthly announced United States Department of Agriculture Federal Milk Market Order Class I price mover has dropped below the baseline price set for the year. If the monthly announced Class I price mover is lower than the baseline price, then each producer who meet certain requirements would be eligible for a distribution from the Fund.

Enacted

Civil Actions Regarding Food Products

HB 1245, Representatives Dewey Hill (D-Columbus) & Pryor Gibson (D-Montgomery)

This bill would prevent frivolous lawsuits against manufacturers, packers, distributors, carriers, holders, sellers, marketers, or advertisers of food products. **Failed Crossover**

Meth. Restrictions

HB 1345, Representatives Lorene Coates (D-Rowan) and Phil Haire (D-Jackson)

This legislation was introduced at NCRMA's request as a reasonable compromise on the Methamphetamine Issue. It would place single active ingredient products with 30 mg. or greater of pseudoephedrine behind a counter, implement a three-pack limit, provide a safe harbor for retailers who have conducted training of their employees, preempt local ordinances, make it a felony to steal more than three packs of cold medicine containing pseudoephedrine and prohibit the sale of cold medicine and infant formula by flea markets. **House Judiciary III**

Meth. Restrictions

SB 686, Senator Walter Dalton (D-Rutherford), HB 248

This legislation supported by the Attorney General would reclassify cold medicine products containing pseudoephedrine as a Schedule V Controlled Substance meaning these products could only be sold from behind the counter of a pharmacy by a pharmacist. This would remove these products from the shelves of most grocery stores, convenience stores and mass merchants resulting in limited consumer access to the necessary medicines. The HB 248 version of the bill passed on Thursday, September 1. Therefore, effective January 15, 2006:

- 1) Cold medicine containing pseudoephedrine as the single active ingredient or in combination with other ingredients in a tablet and caplet has the following restrictions:
 - a) Can only be sold behind the pharmacy counter
 - b) Are subject to a two-package/6 gram limit per transaction
 - c) Customers must sign a log and show an ID to purchase – the log may be in an electronic format
 - d) A purchaser must be at least 18 years of age
 - e) Customers may not purchase more than three packages or nine grams in a 30-day period
 - f) Pharmacies must train employees involved directly in the sale of these products
 - g) Pharmacies are subject to criminal and civil penalties when the pharmacy knowingly and willfully violates the law
 - h) Pharmacies must post a sign notifying consumers of North Carolina's law
- 2) Gel caps, liquids and pediatric products will remain on the shelves of all retailers without restriction just as these products are currently sold. The Commission on Mental Health, Substance Abuse and Controlled Substances has the authority to place restrictions on these products in the event there is substantial evidence that these products would be used in the production of methamphetamine in North Carolina.
- 3) Wholesalers of cold medicine containing pseudoephedrine must provide electronic reports of their sales to retailers.
- 4) Those charged with manufacturing methamphetamines can be denied bail.
- 5) Products containing pseudoephedrine and other OTC products can no longer be sold at flea markets.
- 6) There are increased penalties for manufacturing methamphetamines in a multi-person dwelling. **Enacted**

ENVIRONMENTAL ISSUES



Advance Disposal Fees on TVs and Computers

SB 1030, Senator Janet Cowell (D-Wake), HB 1765, Representative Joe Hackney (D-Orange)

This legislation would impose a 1% excise tax on retailers per television or computer sold by the retailer in North Carolina.

Senate Finance & House Environment

Recycling Oyster Shells/Ban from Landfill

HB 1325, Representative Marian McLawhorn (D-Pitt), HB 1521, Representative Danny McComas (D-New Hanover)

HB 1325 would allow a tax credit equal to the fair market value of the oyster shells donated for placement in oyster sanctuaries while HB 1521 would ban oyster shells from landfills.

House Finance

Ban Items from Landfills

HB 1465, Representative Joe Hackney (D-Orange)

This legislation initially would have banned clean wood waste, electronic devices, motor vehicle oil filters, plastic bottles and wooden pallets from landfills by 2009. Electronic devices would include computer central processing units whether sold alone or with accessories, computer monitors, laptop computers and television with a video display that has a viewable area greater than nine inches when measured diagonally. The bill was amended to only ban wooden pallets and oil filters by this date.

Enacted

ABC Licensees to Recycle Beverage Containers

HB 1518, Representative Joe Hackney (D-Orange)

This legislation requires the ABC Commission to develop a model recycling program for businesses holding an on-premises permit to sale alcohol. Permittees would be required to adopt a recycling program meeting the minimum standards of the Commission's model. Containers that are subject to this recycling law would be banned from landfills effective October 1, 2007.

Enacted

Mercury Reduction and Education

HB 1531, Representative Pricey Harrison (D-Guilford)

This legislation would prohibit retailers from selling novelty items, thermometers and batteries containing mercury.

House Environment

PHARMACY ISSUES



State Health Plan/Medicare Drug Co-Payments

SB 750, Senator Tony Rand (D-Cumberland)

This legislation would provide supplemental money to pay for co-payments for prescription drugs for dual eligible individuals.

Committee on State Health Plan

Hemophilia Drugs/Remove Sunset on Prior Authorization

SB 830, Senator Keith Presnell (R - Mitchell)

This legislation permanently removes drugs used to treat hemophilia from the list of drugs that can be placed on a prior authorization list by Medicaid.

Enacted

Strengthen Laws on Compounding Pharmacies

SB 1028, Senator Janet Cowell (D-Wake), HB 1481, Representative Winkie Wilkins (D-Person)

SB 1028 is a blank bill that will eventually be amended to contain provisions to increase the regulations on pharmacies that compound medications.

HB 1481 was also introduced at the request of the Board of Pharmacy through the North Carolina Association of Pharmacists. We will see something on compounding pharmacies this year due to the recent death of a college student who received a compounded prescription from a spa. This issue has been in the news for weeks.

This legislation requires a compounding pharmacy to obtain a separate permit to operate at a cost of up to \$500. A "compounding pharmacy" would include any pharmacy that compounds 1) capsules, suppositories, or other dosage forms from bulk active ingredients supplied in commercial quantities from chemical distributors; 2)

reconstitution or mixing of manufactured sterile components, compounded products containing cytotoxic ingredients, hormones or other hazardous ingredients; and 3) sterile compounded products.

Senate Health & House Finance

Medicaid Consolidation

SB 1068, Senator Tony Rand (D-Cumberland)

This is a blank bill which would consolidate expenses for Medicaid.

Senate Rules

No Prior Authorization for Certain Drugs

SB 1128, Senator Walter Dalton (D-Rutherford)

This legislation prohibits North Carolina Medicaid from requiring prior authorization on drugs that are used to treat Chronic Obstructive Pulmonary Disease or stroke.

Enacted

Pedigree Papers for Prescription Drugs

Pfizer has been seeking legislation throughout the United States requiring retailers to track prescription drugs from the manufacturer to the customer. Most of the technology necessary for this system is not yet available making it impossible for pharmacies and wholesalers to comply with the requirements. NCRMA was able to halt this legislation in 2005, but we will likely see it again in 2006 as it is a legislative priority for Pfizer.

Patient Safety Study Act

HB 1334, Representatives Ray Rapp (D-Madison), Lucy Allen (D-Franklin) and Bob England (D-Rutherford)

This legislation establishes a Study Committee to look at patient safety. Currently, there are slots on the Commission for the Association of Community Pharmacists and the North Carolina Association of Pharmacists. We will try and get a chain representative as a designated slot.

House Health

Abolish Health Care Discovery Prohibitions

HB 1339, Representative Bill Faison (D-Orange)

This legislation removes the prohibition against discovery in matters concerning various peer review committees for impaired health care providers including the Board of Pharmacy's Peer Review Program for Impaired Pharmacists.

House Judiciary III

Healthcare Prompt Pay Correction

HB 1343, Representative Edd Nye (D-Bladen)

This legislation would include a new provision in North Carolina's Prompt Pay law that would prohibit health care providers (including pharmacists) from contracting away their rights to prompt payment from health insurers.

Enacted

Raise Pharmacy/Pharmacist Fees

HB 1349, Representative Winkie Wilkins (D-Person)

This legislation was introduced at the request of the Board of Pharmacy through the North Carolina Association of Pharmacists. NCRMA at the request of its members reached a compromise with the Board of Pharmacy on this issue and reduced the total amount of fees that would be raised from \$1.4 million to roughly \$500,000.

Enacted

Pharmacy Benefits Manager (PBM) Regulation Act

HB 1374, Representative Bill Culpepper (D-Chowan)

This is an all-encompassing throw-in-the-kitchen-sink PBM bill. It establishes licensing of PBMs with the Department of Insurance, requires transparency of rebates, and prohibits certain trade practices currently being utilized by PBMs. This issue will be studied in the interim as part of the Studies Bill and will be a major issue for NCRMA next session.

House Finance

Pharmacist Conscience Protection

HB 1407, Representative Jeff Barnhart (R-Cabarrus)

This legislation would allow a physician, nurse or pharmacist to refuse to dispense a drug or device resulting in an abortion. No disciplinary action could be taken against the physician, nurse or pharmacist for refusing to dispense the drug or device. **Failed Crossover**

Pharmacist Reporting of Controlled Substances Dispensed

HB 1483, Representative Bill Culpepper (D-Chowan)

This legislation would implement a controlled substances monitoring program. We have been in negotiations with the Department of Health and Human Services about this program for a couple of weeks. We have held out until the independents felt comfortable with the bill and until we could gain something from the Department for not fighting the bill. NCRMA was able to tweak to make it livable and used this compromise as a way to maintain the current Medicaid reimbursement. **Enacted**

Pharmacy Quality Assurance Protection Act

HB 1493, Representative Nelson Cole (D-Rockingham)

This legislation was introduced at the request of NCRMA and the Independents to implement the recommendation of the Quality Assurance Task Force to address the issues of medication error reporting by pharmacists. **Enacted**

Medicaid Management through PDA

HB 1564, Representative Edd Nye (D-Bladen)

This legislation would appropriate money for North Carolina Medicaid to implement the Gold Standard PDA program. This program saved Florida Medicaid \$8 million in the first year of the program. NCRMA was instrumental in getting this program before legislators and North Carolina Medicaid. **Enacted**

Budget Provisions

SB 622, Senators Linda Garrou (D-Forsyth), Kay Hagan (D-Guilford) & Walter Dalton (D-Rutherford)

Despite enormous budgetary pressure, NCRMA, working with the Association of Community Pharmacists, was able to maintain its current Medicaid reimbursement for the fourth consecutive year. The Senate Budget had initially proposed reducing Medicaid reimbursement to pharmacists from AWP-10% to AWP-14% costing pharmacists \$34 million in 2005-2006. This reduction was pared down to AWP-11%. The House then approved their form of the Budget without a reimbursement reduction. When the final conference report was unveiled and subsequently enacted, Medicaid reimbursement remained at AWP-10%.

Co-payments for generic drugs would increase from \$1 to \$3 along with a number of other co-payments for health care services provided by Medicaid. The total amount of revenue raised from all of the different co-payment increases is \$6 million in 2005-2006 and \$6 million in 2006-2007.