



2016

P|F|M|A
Pennsylvania Food Merchants Association

Legislative Review



2016 Legislative Report

P|F|MA
Pennsylvania Food Merchants Association

The Pennsylvania Food Merchants Association represents nearly 800 food retailers, wholesalers and affiliated businesses throughout Pennsylvania. Our retail members operate nearly 3,200 stores and employ more than 150,000 Pennsylvanians.



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The mission of the Pennsylvania Food Merchants Association is to improve the public image, effectiveness and profitability of companies providing products and services in agriculture production, consumer education, consumer packaged goods, food retailing and wholesale food distribution.



The 2016 Legislative Session

Federal, state and local government kept PFMA and its members on high alert in 2016. Overall it was a difficult and active year. Thank you for all your help and support, it is essential to our success.

LEGISLATION SUCCESSFULLY BLOCKED (as of January 1, 2017):

State Issues:

Online Lottery Expansion — PFMA through public testimony opposed the creation of an online lottery which would have undercut lottery sales and other product sales by its members. This issue was discussed in a joint hearing by the House Finance and House Gaming Oversight Committees. PFMA also educated members in both the House and Senate on the problems associated with establishing an online lottery.

Property Tax Reform/Shifting — The legislature introduced several proposals this session to reduce or eliminate property taxes. Unfortunately, these proposals included shifting the tax burden to employers and working families in the form of increased and expanded sales taxes and higher personal income taxes. PFMA successfully prevented the ultimate passage of these proposals.

PLCB Modernization Only Legislation (SB 15) — PFMA helped block passage of legislation that would have looked to solely modernize the PLCB, and not provide additional privileges and benefits to retailers and their customers.

Minimum Wage Increases — We prevented

passage of various bills on the state and federal levels which would increase the state minimum wage from the \$7.25 per hour to anywhere from \$9 to \$15 per hour. Some of these bills would have included automatic increases to the minimum wage tied to inflation/Consumer Price Index.

State GMO Labeling Legislation — PFMA and our members prevented passage of legislation which sought to require labeling of all products with genetically modified ingredients.

State Menu Labeling Legislation — The association helped prevent passage of legislation which would have enacted a state menu labeling law. This type of legislation had been introduced in past legislative sessions.

State Sales Tax Rate Increase and Expansion — PFMA successfully blocked efforts in 2016 to raise the sales and use tax and expand the base of products to which it can be applied.

Personal Income Tax Increase — PFMA helped block efforts in 2016 to raise the personal income tax rate.

Philadelphia Issues:

Philadelphia Non-Reusable Beverage Container Tax — PFMA successfully blocked passage of a 15-cents per non-reusable beverage container tax in city council. Taxable items would have included any soft drink, including sodas, carbonated water, natural or spring water, or flavored water; natural or artificial ready-to-drink tea; natural or artificial ready-to-drink coffee; or artificial vegetable juice and energy drinks.

Grocery Store Restrictive Covenant Legislation — PFMA and its Philadelphia members successfully blocked passage of legislation sponsored by Councilwoman Cindy Bass, which would restrict grocery stores with more than 15,000 square feet of space, located in a food desert, from restricting another grocery store from buying during transition of sale, and refuse a commercial license for any grocery store that had a restrictive covenant in its lease. This issue will come up again for action in 2017.

Pittsburgh Issues:

Enactment of Pittsburgh Paid Leave Ordinance — The association opposed this legislation

and worked with our allies to support a lawsuit which prevented the implementation of the Pittsburgh City Council Paid Leave Ordinance.

State Issues:

Alcohol Modernization/Wine Privatization, HB 1690 (Turzai) — PFMA successfully helped secure passage of HB 1690, which allows Restaurant License holders to sell up to four bottles of wine for off-premise consumption. The legislation codifies a court decision allowing license-holders, who also sell gasoline, to continue to operate as long as the two operations are separate.

HB 1690 also provides the PLCB with the ability to reissue restaurant licenses that haven't been renewed or revoked via an auction. Up to 50 licenses can be auctioned per county, per year pending approval by the municipality in which the license is transferred.

This historic legislation is remarkable progress for PFMA members, their customers and the Commonwealth.

***Check Cashing/Nationwide Multi-State Licensing System and Registry (NMLS) Legislation, SB 489 (Yaw)** — PFMA secured passage of SB 489, which lowers the fees customers pay for cashing government and government assistance checks, and clarifies that retail food stores are not required by the Department of Banking and Securities to register with the NMLS.

Alcohol Modernization/Wine Privatization, HB 1196 (ACT 39 Fix-It Legislation) — PFMA helped amend and pass HB 1196, which made a number of changes and corrections to HB 1690 (Act 39). One of the major changes in the bill allows beer distributors the ability to sell down to one bottle of beer. Another major change gives wine-expanded permit holders the ability to submit for a credit on the sales tax they pay to the PLCB, instead of having to go through the process of applying for a refund. Third, the bill addresses the staffing of the register for wine and beer sales and allows the register to be staffed when there are patrons in the licensed premises and does not require it be staffed at all times. Fourth, the bill changes the interlocking business standard by increasing the financial interest threshold from 5% to 10%. Finally, the bill removes an unofficial Pennsylvania Liquor Control Board (PLCB) requirement for license-holders to have a separate entrance for their license premises.



Top, Speaker Mike Turzai unveils supermarket wine sales with Giant Eagle. Above, Governor Tom Wolf and Speaker Turzai toast wine sales at Wegmans' Harrisburg area supermarket.

PFMA helped push for many of these changes included in the bill which will correct errors contained in the liquor code and Act 39.

***Pharmacy Audit Legislation, HB 946 (Baker)** — PFMA assisted in the passage of HB 946, which standardizes procedures for pharmacy audits. HB 946 also requires PBM's to register and comply with the Department of Insurance, and places restrictions on PBM's placing of drugs on the multiple-source generics list. This legislation, another member priority, took nearly five years to pass.

***Cigarette Minimum Pricing Legislation, HB 1605/SB 591** — Language contained in SB 691 (Bob Mensch) was amended into HB 1605, the budget fiscal code vehicle. The legislation increases the minimum presumptive price for cigarettes for the retailer from six percent to seven percent. It also provides for retention of records and for violations and penalties and providing for preemption.

** Denotes PFMA priority legislation*

Federal Issues:

Menu Labeling Rule Delay — PFMA helped secure a second delay in the FDA's menu labeling requirements. Pending changes from Congress or the new Presidential administration, the FDA will begin enforcement on May 5, 2017.

Federal GMO labeling/state preemption compromise legislation, S.764 — PFMA worked with its national partners to secure

passage of the Federal GMO (genetically modified organisms) labeling law. This law requires GMO labeling, but also includes strong federal pre-emption of states trying to enact their own labeling laws.

The GMO disclosure is allowed in a number of forms, including on the package, symbol or QR codes for larger companies, and 800 numbers and websites for smaller companies. This was a big win for PFMA and the food industry.

Philadelphia Issues:

Philadelphia Healthy Beverage Tax Credit — New legislation, which provides a tax credit for certain stores to provide healthy beverage options, passed through the efforts of PFMA.

Eligible stores are defined by NAICS numbers,

and include small format stores, specialty stores, convenience stores, and limited-service restaurants. Healthy beverages are defined as any non-sweetened beverage. The maximum tax credit allowed is \$2,000. The maximum payout by the city is \$1 million, and applications are accepted on a first-come, first-served basis.

PROGRESS MADE ON PRIORITY ISSUES (as of January 1, 2017):

Convenience Store Permits (HB 1733) — PFMA secured the introduction of HB 1733, which would create a convenience store permit for off-premises sales of malt and brewed beverages. This legislation will enhance the choice, convenience and selection of products Pennsylvania residents are demanding from companies and elected officials.

Changes to the SNAP Disbursement Schedule (SB 1364, Argall and HB 2404, Toohil) —

PFMA worked on legislation to adjust the SNAP disbursement schedule to allow for a staggered approach in providing benefits



to recipients across the Commonwealth. Currently recipients receive their benefits in the first ten days of the month. Through the association's urging, the Senate Majority Policy Committee held a hearing on the issue. Also, PFMA helped get SB 1364 and HB 2404 introduced to address this issue. The legislation is awaiting action in the Senate Public Health and Welfare Committee and House Health Committee. These actions helped bring attention to the issue and spurred interest from the Wolf Administration to help find a solution.

Paid Leave Preemption — PFMA and its allies helped advance paid leave preemption in the form of SB 333. The bill would prohibit local municipalities from passing paid and unpaid leave ordinances. The legislation successfully passed the Senate with a wide bi-partisan vote.

Patent Reform Legislation — PFMA, working with its allies, was successful in having legislation introduced on the state level to help address the issue of patent trolls.

Underground Storage Tank Indemnification Board Legislation (USTIB), HB 1895 (Metzgar) — PFMA helped secure House passage of HB 1895, amending the Storage Tank and Spill Prevention Act by requiring the USTIB to remove the disbanded Middle Atlantic Truck Stop Operators from the board and add a PFMA representative. Both the House and Senate are expected to pass this PFMA priority legislation in the next session.



FoodPAC

Below are the year-end totals for each of PFMA's three Political Action Committees (PACs). Thank you to all of our members who supported these efforts in 2016. It will be crucial that we continue to build these resources for important state, federal and local elections in 2017. If you have not already contributed, please consider giving to one or all of our PACs.

<https://pennsylvaniafoodpaassoc.wliinc20.com/PAC/PAC-donation.aspx>

State: \$7,416.21
Fed: \$2,258.48
Philadelphia: \$2,803.27



PFMA Awarded its Top FoodPAC Supporters during the Fall Legislative Conference in October.

FoodPAC Support Awards *Top Individual Supporter*

Bill Bracey, ShopRites of Daleville & Mt. Pocono

Top Company Supporter

Sheetz PAC



Louie Sheetz, center, accepts the Top Company Supporter award for Sheetz, Inc.

Our thanks to the following Top 2016 FoodPAC Contributors.

Pennsylvania Distributors Association TACPAC

GE PAC

Wawa, Inc. PAC

Pat Burns

Andrew Forsyth

Thomas & Deborah Jamieson

Scott Karns

Dylan Lissette

Coleen Malony

Louie Sheetz

Sandra Keough, Christopher Vadino, Francis Vadino



Grassroots Leadership

Jeff Brown, Brown's Super Stores, Inc.

Scott Hartman, Rutter's Farm Stores

PFMA members honored Scott Hartman, left, Rutter's Farm Stores, for his grassroots work last year. He, along with Alex Baloga, right, welcomed Senator Scott Wagner at the Fall Legislative Conference in October.



PFMA's Alex Baloga, left, presents the Top Individual FoodPAC supporter recognition to Bill Bracey, Bill's ShopRites.



Alex Baloga, left, and PFMA Chairman Paul Rankin, Country Fair, right, present Jeff Brown, Brown's ShopRites, with an award for his grassroots support.

2017 PFMA STATE LEGISLATIVE & REGULATORY PRIORITIES

PFMA Supports:

1. Alcohol Wholesale and Retail Sales Reform

— We will work to update state alcohol sales and distribution laws to allow our members to sell adult beverages (beer, wine and spirits) in any quantity, at their stores. Also, work towards the creation of new licenses for interested retailers. Finally, create a competitive market based wholesale distribution system for delivery and purchase of products by retailers.

2. Change/Extend SNAP Distribution Schedule

— PFMA supports legislation which would adjust the SNAP distribution schedule to allow for a longer distribution period during which recipients would receive their monthly benefits. Currently recipients receive their benefits in the first ten days of the month.

3. Increase Retailer Incentives and Commission for Lottery Sales

— PFMA will work with the Pennsylvania Department of Revenue, the Pennsylvania Lottery and legislators to increase the commission or change the commission structure for retailers selling lottery tickets. Currently retailers receive a 5% commission on every ticket sold.

4. Vape/E-cigarette formula change

— PFMA supports legislation to establish a five cent per fluid millimeter tax on consumable vapor products. This is a change from the current 40% tax on these products.

5. Elimination of the additional Philadelphia \$2 per pack tobacco tax

— PFMA supports eliminating the \$2 per pack tobacco tax imposed on merchants/retailers in the city/county of Philadelphia.

6. Underground Storage Tank Indemnification Board (USTIB) Reform Legislation

— PFMA supports reforming the USTIB to provide for a change in the board composition which would add the association (PFMA) as a voting member.

PFMA Opposes:

1. Increasing the State Cigarette Tax or Instituting New/Additional Taxes on OTP or E-Cigarettes

— We will work to prevent any proposed increases to the state cigarette tax as well as the implementation of new taxes on e-cigarettes and other tobacco products. These taxes were increased in 2016.

2. State Sales Tax Rate Increase & Base Expansion

— The association plans to halt attempts to raise the state sales tax from 6% and expand the base to additional products.

3. Online Lottery

— PFMA opposes the creation of an online lottery which would undercut current lottery and general retail sales by brick and mortar merchants. We will work with the Department of Revenue, Lottery and the legislature to improve sales in a responsible way inside the store, and provide more resources to the Commonwealth and Senior Citizens, who benefit most from the program.

4. Mandatory statewide paid and unpaid leave

— PFMA opposes a government mandated statewide paid and unpaid leave ordinances.

5. Property tax elimination/tax shift

— PFMA opposes the elimination of property taxes which would require a dramatic increase in the personal income tax and sales tax.

2017 PFMA FEDERAL LEGISLATIVE & REGULATORY PRIORITIES

PFMA Supports:

1. Delay or repeal of Department of Labor Overtime Rule — We support the phasing-in, or the complete elimination of the newly proposed Department of Labor overtime rule.

2. Repeal or reform of menu labeling (Common Sense Nutrition Disclosure Act) — PFMA supports efforts to further delay, simplify or eliminate the menu labeling rule contained in the Affordable Care Act. PFMA also supports the Common Sense Nutrition Disclosure Act, which would help address some of the issues related to the menu labeling rule.

3. Tax reform — The association supports comprehensive tax reform for individuals as well as small and large businesses. However, we have concerns with eliminating the LIFO account method as it would hurt many of our members.

4. Patent Reform — PFMA supports legislation aimed at addressing the issue of baseless patent suits brought on by so-called “patent trolls.”

5. Healthy Food Financing Initiative (HFFI) — PFMA supports efforts to improve and increase access and funding for the HFFI. This

is a national program modeled off the very successful program in Pennsylvania, which helps provide support and investment for food merchants looking to address the issue of food deserts.

PFMA Opposes:

1. “New” Government Mandated paid and unpaid leave ordinances — PFMA opposes new mandated paid and unpaid leave policies by the federal government. We believe our members are best equipped to make decisions regarding leave policies for their companies and employees.

2. National Sugar-sweetened beverage/ soda tax — PFMA opposes any attempt at levying a federal/national soda or sugar-sweetened beverage tax.

3. New taxes on tobacco and other tobacco products — PFMA opposes additional taxes on cigarettes and new taxes on other tobacco products imposed by the Federal government.

4. Financial Choice Act/Debit Reform Elimination — PFMA opposes the Financial Choice Act and any efforts that would weaken or eliminate the debit/swipe fee reforms contained in the “Durbin Amendment” to Dodd-Frank.



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