



## **Legislative Wrap-Up 2010**

*The 2010 Maryland General Assembly session adjourned on April 12<sup>th</sup>. Of the 2,721 bills introduced this year, RAM tracked or lobbied 140 bills on behalf of the industry. Of the bills RAM opposed, 85 percent were defeated or favorably amended. Of the bills RAM supported, 64 percent passed.*

*Thanks to all RAM members who contributed to our success this year by contacting legislators about important industry issues. Our victories would not have been possible without the help of our members. We also sincerely appreciate the time and hard work of RAM's Government Affairs Committee, which thoroughly reviewed legislation and industry issues to determine the Association's position.*

*If you have questions about these or other issues, call Melvin or Kesa in the RAM office at 410-290-6800. To get more detailed information about the legislative session, visit the Maryland General Assembly website at <http://mlis.state.md.us>.*

*To view local liquor law changes by county, visit [http://www.marylandrestaurants.com/laws/wrap\\_up/documents/2010\\_general\\_assembly\\_alcohol\\_bills.pdf](http://www.marylandrestaurants.com/laws/wrap_up/documents/2010_general_assembly_alcohol_bills.pdf)*

*The following information is a detailed summary and final outcome of our priority issues during this year's legislative session:*

### **HOUSE BILL 91/SENATE BILL 107, Unemployment Insurance Tax/Benefits PASSED**

This legislation expands unemployment insurance benefit eligibility, at a cost of about \$20 million per year, to qualify Maryland for \$126 million in one-time federal incentive funds. This legislation was introduced at the Governor's request.

While RAM originally opposed this legislation because of the associated long-term cost, we ultimately withdrew our opposition after the Governor agreed to offset the additional cost with \$20 million in annual benefit reductions. RAM worked closely with a coalition of business interests to insure that any benefit expansion was cost neutral. We also played a leadership role in working with the Governor's office and other business groups to structure flexible payment plans with reduced interest penalties for businesses that have trouble making unemployment insurance tax payments.

For more information about unemployment insurance tax rates and payment plans, visit <http://www.dllr.state.md.us/employment/uitrustfundpoints.shtml>.

*Senate Bill 107 passed the Senate on 3/9/10 by a vote of 46 to 0. The House passed the measure on 3/21/10 by a vote of 101 to 33. The legislation was signed into law by the Governor on 3/25/10 and became effective upon enactment.*

### **HOUSE BILL 92/SENATE BILL 106, *Job Creation and Recovery Tax Credit***

#### ***PASSED***

This legislation, introduced at the request of the Governor, provides Maryland businesses with a state income tax credit of \$5,000 per worker for employers who hire individuals who are currently receiving unemployment insurance benefits or have exhausted their benefits within the last 12 months. The employee must be unemployed at the time of hire. An employer can claim up to a maximum of \$250,000 in total tax credits.

RAM strongly supported this legislation. While we recognize that \$5,000 offsets only a fraction of an employee's annual wages and benefits, the business community welcomes any type of tax break we can get during this period of economic recovery.

*Senate Bill 106 passed the House on 3/22/10 by a vote of 134 to 6. The Senate passed the measure on 3/25/10 by a vote of 45 to 0. The legislation was signed into law by the Governor on 3/25/10 and became effective upon enactment.*

For more information about eligibility criteria or to apply for the tax credit, visit <http://www.dllr.state.md.us/taxcredit/jrctcflyer.pdf>.

### **HOUSE BILL 244, *Tax Compliance and Administration Act of 2010***

#### ***FAILED***

Among other things, this legislation would have eliminated the sales tax vendor timely filing credit. This legislation was introduced by Delegate Sheila Hixson (D-20, Montgomery). RAM strongly opposed this bill.

Proper calculation, collection and monthly reporting of sales tax consume administrative resources that could otherwise be used in other areas of a business. The purpose of the current vendor credit is to partially compensate businesses for performing the job of collecting and remitting sales tax for the state. If this credit was eliminated, retail businesses would receive no compensation for the roles we play as sales tax collection agents for the state. Moreover, because sales tax is included in the total purchase amount of credit card transactions, it contributes to the service fee that business owners pay to credit card processing companies. With the current 1.2 percent vendor credit, most retail businesses are already losing money through the collection of sales tax. If anything, the vendor credit should be increased.

*This legislation died in committee without a vote.*

### **HOUSE BILL 421, *Department of Agriculture - Advertising Agricultural Products as Locally Grown - Regulatory Authority***

#### ***PASSED***

This legislation, sponsored by the Maryland Department of Agriculture, regulates the use of the terms "locally-grown" or "local" to advertise or identify an agricultural product.

Many RAM members and their chefs highlight locally-grown products directly on menus. Several restaurants have discovered a niche market by selling only locally-sourced foods. RAM successfully amended this bill to require the Secretary of Agriculture to convene and consult with a group of farmers, distributors, restaurants and retailers before determining standards to regulate the use of the terms “locally-grown” or “local.”

*This legislation passed the House on 4/1/10 by a vote of 138 to 0. It passed the Senate on 4/2/10 by a vote of 47 to 0. It was signed into law by the Governor on 5/4/10 and takes effect on October 1, 2010.*

For more information about this bill, visit  
<http://mlis.state.md.us/2010rs/billfile/hb0421.htm>

### **HOUSE BILL 561, Prince George’s County Fast Food Restaurant Moratorium** **FAILED**

This legislation would have prohibited the issuance of any new licenses for fast food-style restaurants in areas of Prince George’s County with a high index of health disparities (hypertension, cardiovascular disease, diabetes, etc). This legislation was introduced by Senator David Harrington (D-47, Prince George’s). RAM strongly opposed this bill.

This legislation is simply the wrong approach to encourage healthier eating habits. Banning new fast food restaurants will not solve the obesity problem. Obesity is caused by many factors, including a lack of adequate physical activity and over-consumption of energy-dense foods (more calories per ounce). Energy-dense foods are sold in all types of retail food establishments, including sit-down restaurants, and grocery and convenience stores. It is unfair and ineffective to target fast food restaurants.

*With no committee support for this legislation, it was ultimately withdrawn by the sponsor.*

### **HOUSE BILL 727, Trans Fat Ban** **FAILED**

This legislation would have banned the use of artificial trans fat (margarine, shortening or hydrogenated oil) in Maryland foodservice facilities. This legislation was sponsored by Delegate James Hubbard (D-23A, Prince George’s). Originally, RAM opposed this legislation because it exempted packaged foods and allowed local jurisdictions to enact more stringent trans fat ordinances. RAM worked with the sponsor to amend the bill to remove the exemption for packaged foods and to preempt local trans fat ordinances.

Most restaurants have already eliminated trans fat from frying oil and have nearly completed the transition to trans fat-free alternatives for baked goods, prepared batter and other products. RAM ultimately supported this bill because it would have created a statewide standard and it did not require restaurants to do much more than we have done already.

*With little committee support for this legislation, it was ultimately withdrawn by the sponsor.*

**HOUSE BILL 758/SENATE BILL 539, Public Health - Chain Restaurants - Nutrition Information Labeling**

***FAILED***

This legislation would have mandated the disclosure of nutrition information at the point of sale for chain restaurants with 20 or more locations nationwide. The bills were sponsored by Delegate Doyle Niemann (D-47, Prince George's) and Senator David Harrington (D-47, Prince George's). RAM strongly opposed this legislation because we support a federal approach that ensures nationwide uniformity. Industry-supported menu labeling language was part of federal health care reform legislation that has now been signed into law (please note that the industry did not support other provisions of the health care reform legislation).

*The Senate Finance Committee rejected Senate Bill 539 on 3/1/10 by a vote of 2 to 9. As a result, House Bill 758 was withdrawn on 3/16/10.*

**HOUSE BILL 832/SENATE BILL 717, Lorraine Sheehan – Alcohol Tax Increase**

***FAILED***

This legislation would have significantly increased alcohol taxes to benefit health and community service programs. RAM strongly opposed this legislation. These bills were sponsored by Delegate William Bronrott (D-16, Montgomery) and Senator Verna Jones (D-44, Baltimore City).

The proposal would have raised alcohol tax rates from \$1.50 to \$10.03 per gallon for distilled spirits, from 40 cents to \$2.96 per gallon for wine, and from 9 cents to \$1.16 per gallon for beer. The significant increase in alcohol taxes, as proposed by this legislation, would have forced restaurant/bar owners to pass the cost of this increase onto customers. With the poor economy and decreased customer traffic, higher alcohol taxes would undoubtedly result in a decline in alcohol sales, especially for restaurants/bars located near our state borders.

*This legislation died in committee without a vote.*

**HOUSE BILL 944, Recycling - Bars and Restaurants - Beverage Containers**

***FAILED***

This legislation would have required bars and restaurants (located in counties with a population greater than 150,000) to separate and recycle beverage containers (glass, aluminum, plastic). This legislation was sponsored by Delegate Doyle Niemann (D-47, Prince George's). RAM strongly opposed this bill.

The bill would have required bars and restaurants to work with beverage distributors to facilitate the collection of used beverage containers, or arrange for collection and recycling through contract haulers. Such a mandate would have placed an unfair and expensive burden on restaurants, bars and our suppliers.

If local municipalities and counties were required to incorporate bar and restaurant recycling into their existing residential collection programs (underwritten by the property taxes that businesses already pay), we would reconsider our position on this issue.

*This legislation died in committee without a vote.*

**SENATE BILL 383, Public Health - Frederick County - Dogs in Outdoor Dining Areas**

**PASSED**

This legislation, sponsored by Senator Alex Mooney (R-3, Frederick, Washington), allows the Frederick County Commissioners to pass a local ordinance to allow dogs in outdoor dining areas of foodservice facilities. RAM and the Maryland Department of Health and Mental Hygiene opposed this bill because it conflicts with statewide health regulations that prohibit dogs (other than disability service animals) in dining areas. This legislation passed because of a long-standing General Assembly policy known as "local courtesy." This policy guarantees passage of a county-specific bill if the County Delegation supports it. Without the "local courtesy" policy, this legislation never would have passed.

*This legislation passed the House on 3/28/10 by a vote of 125 to 8. It passed the Senate on 3/16/10 by a vote of 45 to 1. It was signed into law by the Governor on 5/20/10 and takes effect on October 1, 2010. Note that the Frederick County Commissioners will not be able to pass a local ordinance to allow dogs in outdoor dining areas until after October 1<sup>st</sup>. Contact the Commissioners for more information about when the local ordinance will be adopted.*

For more information about this legislation, visit  
<http://mlis.state.md.us/2010rs/billfile/sb0383.htm>

**HOUSE BILL 1186, Sales and Use Tax - Taxable Price - Mandatory Gratuity**

**FAILED**

This legislation would have excluded mandatory gratuities and service charges from sales tax. This bill was sponsored by Delegate Kumar Barve (D-17, Montgomery). RAM strongly supported this bill.

Current law requires that sales tax be applied to all mandatory gratuities or service charges, in the nature of a tip, for serving food or beverages on the premises of the vendor for parties of more than 10 persons. This little-known area of sales tax law is often a surprise to customers, restaurateurs and point-of-sale system vendors who program software to apply sales tax to retail transactions.

Despite our support and the Committee's favorable comments during the hearing, this bill was doomed this year because it would have reduced state revenue by approximately \$800,000 per year.

*This legislation died in committee without a vote.*

**HOUSE BILL 1299/SENATE BILL 789, Mandatory Shift Breaks**

**PASSED**

RAM had strongly opposed this bill for the past several years because it would be difficult for our industry to comply with such a mandate while maintaining good customer service, especially on busy weekends and holidays. We were also concerned because a similar law in California had resulted in a significant increase in the number of wage/hour class-action lawsuits. This year, RAM convinced the bill's proponents to

amend the legislation to specifically exempt restaurants. Wholesalers are also exempted. As a result, we withdrew our opposition to the bill.

This legislation requires a mandatory 15-minute break for retail employees who work more than four hours and a 30-minute break for retail employees who work more than six hours. Only retail establishments are required to comply with this mandate. "Retail establishment" means a place of business with the primary purpose of selling goods to a consumer who is present at the place of business at the time of sale. The legislation was sponsored by Delegate Dereck Davis (D-25, Prince George's) and Senator Robert Garagiola (D-15, Montgomery). Retail establishments with fewer than 50 employees are exempted.

*House Bill 1299 passed the House on 4/3/10 by a vote of 96 to 44. The Senate passed the measure on 4/5/10 by a vote of 28 to 16. This legislation was signed into law by the Governor on 5/20/10 and becomes effective on March 1, 2011.*

For more information about this legislation, visit <http://mlis.state.md.us/2010rs/billfile/hb1299.htm>.

**HOUSE BILL 1339, Business Regulation - Restaurants - Prohibition on Automatic Gratuity**  
**FAILED**

This legislation would have prohibited restaurants from adding an automatic gratuity or service charge to a customer check for parties of fewer than 10 persons. This legislation was sponsored by Delegate Cheryl Glenn (D-45, Baltimore City). RAM strongly opposed this bill.

This legislation interferes, unnecessarily, with the gratuity policies of individual restaurants. In our business, mandatory gratuities are used to insure that servers are appropriately compensated for larger parties that require more service. Larger parties often require more than one server, food runner or busser to guarantee an adequate level of service and timing. The arbitrary threshold of 10 established by this legislation assumes that one size fits all, and does not recognize that restaurants should retain the flexibility to set their own policies based on their individual service standards, dining room size and kitchen capabilities.

*The House Economic Matters Committee rejected House Bill 1339 on 3/27/10 by a vote of 8 to 15.*

**HOUSE BILL 1501/SENATE BILL 68, Human Relations - Closed-Captioning Activation Required**  
**PASSED**

This legislation, sponsored by the Maryland Office of the Deaf and Hard of Hearing, requires places of public accommodation to display closed-captioning on televisions that are capable of such a feature. It does not require the purchase of closed-captioning televisions for businesses that do not have such devices.

During the debate, RAM expressed concern about customers who complain that closed-captioning obstructs television viewing of sporting events. It seems pointless to obstruct viewing during times when there are no customers who would benefit from the use of

closed-captioning. This legislation was successfully amended to require the display of closed-captioning only upon customer request.

*The amended version of this legislation passed the House on 3/25/10 by a vote of 138 to 0. It passed the Senate on 4/5/10 by a vote of 46 to 0. It was signed into law by the Governor on 5/4/10 and takes effect on October 1, 2010.*

For more information about this legislation, visit

<http://mlis.state.md.us/2010rs/billfile/hb1501.htm>

<http://mlis.state.md.us/2010rs/billfile/sb0068.htm>