

The Voice

of the Nebraska Grocery Industry
April / May / June 2020



GOLF UPDATE - See Page 15

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Not all independent grocers are going out of business.
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Executive Director's Corner



Kathy Siefken
Executive Director

It's been more than interesting for our industry over the last few months. Changes that we didn't fully anticipate were brought about by an epidemic that slammed into our industry with a force that we've not experienced in the past. Over the years many of our members have participated in emergency planning that has been conducted by various entities ranging from Homeland Security to state agencies in Nebraska, down to the community

level. I'm proud to say that we were all paying attention. Without the insight provided by these training sessions I'm not sure we would have weathered the storm as well as we have and continue to do.

As your state association we have read, researched and determined what information was necessary at what time, and we have provided that as the COVID-19 epidemic evolved. An emergency task force was established, which represents all facets of the food industry. The task force has worked with the Governor's office and other State Agencies to identify needs and find solutions as new challenges arose. We shared and listened to other states as we all navigated the various stages of the pandemic. Some of the solutions worked and some did not – experience has taught us a lot. Just when we thought we had the appropriate guidance it changed, setting us in a new direction. Just when it felt like things were somewhat under control, the evolution of the pandemic roared back and we adjusted and made changes to protect the food supply, our associates and our customers. Our industry has continued to be engaged, focused and nimble in making necessary adjustments. As I write this, we continue to work on ways to decrease liability for our members who were and are on the front lines of the pandemic ensuring that the supply chain maintained its structure and ability to continue to provide food for thousands. Our website is updated regularly with new insights and guidance. Please feel free to visit www.nebgrocery.com for the latest information.

Each year members of the Nebraska Grocery Industry join the Food Marketing Institute, National Grocers Association and Food Industry Association Executives for a "Day in Washington" where we visit with our delegates regarding

issues of importance to members of our industry. This year's trip was cancelled due to the pandemic. We are now in the process of setting up Zoom Conferences with our representatives. This allows us to visit with lawmakers regarding issues that impact our businesses. Zoom has changed the way we do business and it may become the next best tool to help us become more proficient and efficient.

2020 is an election year and many members of the Nebraska State Senate are up for re-election or are term limited out. There are six open seats (senators were term limited) and 19 incumbents who are up for re-election. Two of those up for re-election were appointed to their seats by the Governor. Generally, we interview the top two candidates that win the primary. Interviews are set up in June, and it appears that they will be conducted via Zoom. We will review the elections and visit with our members from those districts who have a senate seat up for election this year.

Until next time,

A handwritten signature in cursive that reads "Kathy".

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Legislative Update

The pandemic has also impacted the Nebraska Legislature. Speaker Jim Scheer adjourned the legislature until further notice when there were 20 legislative days left in the session. It became clear that additional funding would be needed to fight the spread of COVID-19 so the legislature reconvened, held a hearing, and passed a bill that was signed by the Governor that would provide the necessary funding to fight the virus. And they did all of this in 3 days, leaving a total of up to 17 days in the 2020 session. Amazing. Focused. Doing what needs to be done regardless of political party or positions. Speaker Scheer adjourned the legislature again, until further notice. Speaker Scheer recently announced that the Nebraska Legislature will reconvene on July 20 through Aug. 13. We will be lobbying our state senators on issues important to our industry in a whole new way!

Regarding legislation and the status of the legislative issues on which NGIA has been working, at the time of the adjournment we were in very good shape. This is a short session so the legislature is scheduled to meet for no more than 60 days. Passing legislation in a short session is a challenge during a normal year and with the interruption caused by the pandemic it is even more challenging. Once the legislature gets near the half-way point senators and committee chairs must designate which bills will be prioritized. Each senator can prioritize one bill and each committee is allowed two priorities. The Speaker is allowed to name 25 bills as his priority. This limits the bills that are set for debate, which basically leaves non-prioritized bills sitting in limbo with very little chance of passage. We assisted in having five bills introduced for the 2020 session and we suggested amendments to the “Tobacco 21” bill that were incorporated into the original draft.

Litter Recycling and Reduction Act was originally introduced as LB 367 by Sen. Dan Hughes. The bill extends the Act until 2025 at which time it sunsets. A new provision in the bill is that the cash funds cannot be moved out of the Litter Recycling and Reduction fund by the legislature. This bill has been amended into **LB 858** which has been designated as a Committee Priority bill and is sitting on Final Reading. Once the bill passes this stage it will be sent on to the Governor for his signature. We have every reason to believe that this bill will pass in 2020.

Definition of a Cigar was originally introduced in LB 1013 by Sen. Lou Ann Linehan. The bill has been amended into **LB 1074** which is a Committee Priority bill. The bill changes the definition of a cigar to mirror federal language. This will solve the problem that was brought about as a result of a bill that passed in 2019 that changed the definition of a little cigar to allow the NE Dept. of Revenue to interpret little

cigars as cigarettes. Cigarettes require that the product be in fire-safe paper, that the odd shaped packages of cigars have a tax stamp on the package, and that the manufacturer be on the registry (which pulls those manufacturers into the Master Settlement Agreement for tobacco). The bill sits on General File and once the legislature reconvenes it is in line for full floor debate.

Age 21 to Purchase Tobacco and Vape Products was introduced in **LB 1064** by Sen. Tom Briese. The bill moves the age to purchase tobacco and vape products from 19 to 21 years of age as of June 1, 2020. The bill has been designated as a Committee Priority bill and currently sits on General File awaiting floor debate. This is an unusual circumstance because the Food & Drug Administration (FDA) passed new rules and regulations that moved the age to purchase these products to age 21, while at the same time, Nebraska’s statute setting the age at 19 went into effect. The NE Attorney General ruled that Nebraska law stands and all Nebraska law enforcement and county attorneys were instructed to follow the AG’s ruling. As a result there will not be enforcement of age 21 restrictions by any local or state law enforcement. FDA passed the rules & regs, which makes it a federal law, but it takes time for them to publish the new regs. FDA cannot enforce the regs until they are published. We determined that due to posting requirements, at the very earliest, it would be mid-June before that could happen. Once FDA publishes the new regs they are able to enforce and penalize retailers who sell to anyone under the age of 21. In order to avoid possible penalties from FDA, retailers **must move the age to purchase to age 21 by June 1 or risk the chance of failing a compliance check conducted by FDA** – which can be very expensive and time consuming.

Uniform Merchandise Containers was originally introduced as LB 861 by Sen. Dan Hughes. The bill prohibits local entities from passing local ordinances that ban containers that carry merchandise. The bill has been amended into **LB 632** which is a Committee Priority bill and is sitting on General File, directly behind the property tax bill. Once the legislature reconvenes it is in line for full floor debate.

Pure Food Act was introduced in **LB 835** by Sen. Steve Halloran. The bill updates the FDA Food Code by adopting changes that are appropriate for Nebraska. Additions require all food establishments to have a clean-up kit (in the event of an illness on site) and also requires hand washing signage. Passage of this updated language will place NGIA members in a position where additional changes to the Pure Food Act will not be necessary for 4-5 years. The changes brought about by the bill are common practices to which retailers

currently adhere. The bill is a Committee Priority bill and is on Final Reading. Once it passes Final Reading it will be sent to the Governor for his signature. There was no opposition and we have every reason to believe that this bill will pass in 2020.

Garnishment Deadline Changes were introduced in LB 1006 by Sen. Matt Hansen. The bill changed the number of days in which an employer must respond from the current 10-day requirement to 30 days. We respectfully negotiated a change with collection agencies that would limit the change to payroll only and moved from 30 days to 20 days. Opposition softened but not enough to move the bill in 2020. The revised bill will be reintroduced in 2021.

Budget and Property Tax were two of the main issues that have taken up time during the 2020 legislative session. And then along came the Coronavirus pandemic and flipped everything upside down. Senators will study the economical impact of the virus, which appears to have eaten into the additional funds that were to be used for property tax reform. Since the legislature will reconvene after the income tax filing deadline of July 15, senators will have a clearer idea of the impact COVID-19 has had on state revenue.

Once the legislature reconvenes, then adjourns for the year after 17 days, NGIA will publish a summary of bills we worked on behalf of the industry. There were many bills that were introduced and defeated and that list will be made available later this year.



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Ballot Initiatives on the 2020 General Election Ballot

People are now out collecting signatures for ballot initiatives in an effort to get these issues on the November ballot. In some instances, they will be attempting to gather signatures outside your store(s). Please be aware that if you have a parking lot in front of your store, the parking lot and the sidewalk in front of your store is considered private property. You can prohibit the gathering of signatures on your private property. The sidewalk next to the street is considered a public sidewalk. You cannot prohibit signature gathering on the public sidewalk next to the street. If you ask a signature gatherer to leave your property and they refuse, law enforcement can be contacted and they will ask the individual(s) to vacate the area.

In Nebraska, the number of signatures required to qualify an initiated constitutional amendment for the ballot is equal to 10 percent of registered voters as of the deadline for filing signatures. Because of the unique signature requirement based on registered voters, Nebraska is also the only state where petition sponsors cannot know the exact number of signatures required until they are submitted. Nebraska law also features a distribution requirement mandating that petitions contain signatures from 5 percent of the registered voters in each of two-fifths (38) of Nebraska's 93 counties.

Signatures must be submitted at least four months prior to the next general election. Signatures do not roll over and become invalid after the next general election at least four months after the initial initiative application filing. Depending on when the initiative application is filed, petitioners can have up to just under two years to circulate petitions.

The requirements to get an initiated constitutional amendment certified for the 2020 ballot:

- Signatures: Signatures determined based on voter registration at time of signature filing.
- Deadline: The deadline to submit signatures is July 2, 2020.

Signatures are submitted to the Secretary of State. The Secretary of State sends the appropriate signature petitions to each county, where county election officials verify the signatures. Upon receiving the signatures back from county officials, the secretary of state determines whether or not the requirements were met.

Two Issues that will be on the ballot:

A vote for LR1CA would repeal language allowing slavery or involuntary servitude as criminal punishments

A vote for LR14CA would allow TIOF for 20 years for extreme blight (currently set at 15 years)

Potential measures (depends on the number of signatures gathered)

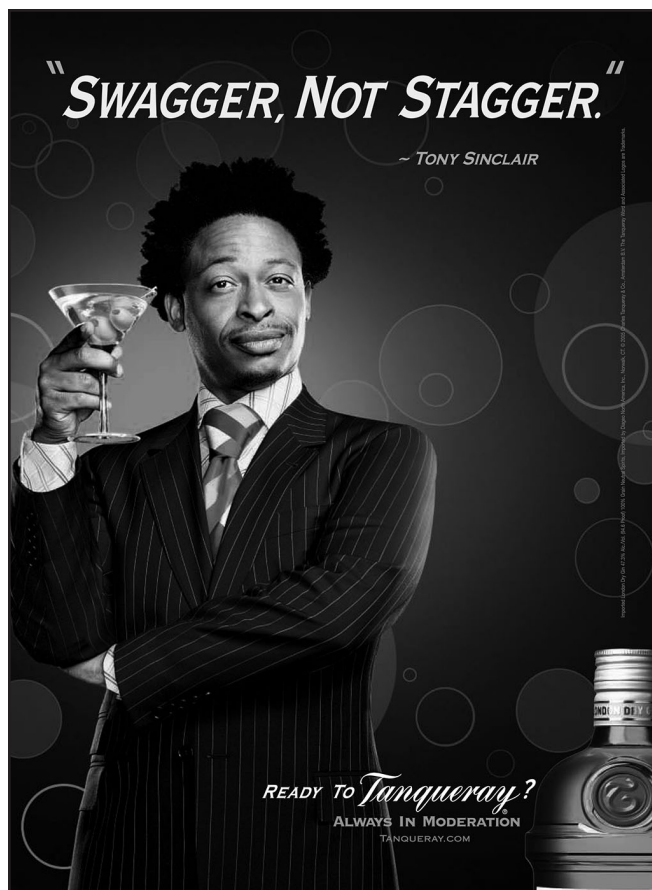
Property Tax Reform: One of the driving forces behind the legislature's efforts to reduce property tax was a ballot initiative that would have allowed tax payers to take an income tax credit equal to 35% of property taxes paid. This would leave a huge hole in the state budget that the legislature would be forced to fill. On April 13, 2020, TRUE Nebraskans announced that it was suspending its signature gathering efforts. TRUE Nebraskans said, "With public gatherings and even personal contact limited, there is no reasonable expectation that we can finish the task, without needless risk to the health and safety of our circulator network and to Nebraskans, in general." [10]

Payday Lending Petition is an effort to reduce the amount that delayed deposit services (Payday lenders) can charge to a maximum annual percentage rate of 36% and to prohibit payday lenders from collecting more by voiding any transaction made in violation of the rate cap. Explanation: The payday lending industry doesn't intend for their loans to be long term, but rather short-term for about 2 weeks or so, to get people through to the next payday. The customer base does not have access to loans due to credit scores and low-to-no assets so this is their only recourse when they need additional funds. The fees payday lenders charge are a percentage of the loan plus origination fees. When calculating the percentage charged, the fees are included as a percentage making it appear that the interest rates are astronomical. Passage of this initiative will drive the industry out of the State of Nebraska thereby removing this resource for additional funds.

Medical Marijuana Initiative – legalizes the use of marijuana for medical purposes. On February 5, 2019, Sen. Adam Morfeld (D-46), Sen. Anna Wishart (D-27), and the campaign Nebraskans for Sensible Marijuana Laws filed the ballot initiative. On March 1, 2019, the state department approved the petition's language, which allowed proponents to begin collecting signatures. On March 19, 2020, Nebraskans for Medical Marijuana officially suspended volunteer and paid signature gathering efforts. In the announcement, the campaign said, "Out of an abundance of caution and following the wider recommendations from public health officials, we are going to pause our volunteer and paid signature-gathering efforts within local community gathering places until the state indicates it is responsible to continue."

Cannabis Legalization Initiative – creates a constitutional right to allow any person in the State of Nebraska the right to use plants or any part of the plant in the genus Cannabis.

Gaming at Racetracks Initiative – enacts a state law allowing all games of chance to be conducted by authorized gaming operators within licensed racetrack enclosures in



Nebraska and establishes a Nebraska Gaming Commission to regulate such gaming in Nebraska.

Allow Laws Authorizing Gaming at Racetracks Initiative – amends the Nebraska Constitution to state that laws may be enacted allowing for the licensing, authorization, taxation and regulation of all forms of games of chance to be conducted by authorized gaming operators within licensed racetrack enclosures in the state.

Tax on Gaming at Racetracks Initiative – enacts a statute establishing an annual tax on gross gaming revenue generated by authorized gaming operators of games of chance within licensed racetrack enclosures and directs the collection, enforcement and distribution of revenue from such gaming.

Redistricting Commission Initiative – amends the Nebraska Constitution to require that the legislature appoint a commission of nine registered voters to draw the maps of election districts. Election districts would be required to be drawn in public in a manner that is transparent, not to intentionally favor any incumbent or political party, and not to unduly favor or disfavor any political party when viewed on a statewide basis. Subject to other provisions of the Constitution, election districts would be required to be equal in population and contiguous, to be non-discriminatory, and to track county, municipal and neighborhood boundaries wherever possible.



Pan-O-Gold Baking Company

Bakers of Quality Bakery Items



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Nebraska Food News...People... Places... Things...

Foodbanks have been hit with greater need during this coronavirus pandemic and it is amazing the generosity shown by the grocery industry and their partners. Some stores have donated thousands of dollars, others have provided water, food, and meals to volunteers, others have established a "round up" program so customers can each give a little that adds up and makes a big difference for local foodbanks.

We know there are many more who just want to do what they can, move on, and feel good about their donations without taking any credit. We are so proud to represent this industry – one that continues to give back. Below are just a few examples of giving to food banks that were recognized.

Want to Help Local Food Banks?



FoodBank for the Heartland serves 77 counties in Nebraska and 16 counties in western Iowa.

CEO, Brian Barks Phone: 402-331-1213

Email: bbarks@foodbankheartland.org



The Food Bank of Lincoln serves 16 counties in Southeast Nebraska.

Executive Director, Scott Young

Phone: 402-466-8170 Extension 105

Email: scottyoung@lincolnfoodbank.org

Hy-Vee, Inc. has a set goal to raise \$1 million to help local food banks, across its eight-state region, restock their shelves during the coronavirus (COVID-19) outbreak. For every dollar raised, Hy-Vee will match it dollar for dollar, up to \$500,000. Also, Hy-Vee and vendor Sol Group donated 2,000 watermelons to the Food Bank of Lincoln.

Supersaver & HyVee in Columbus, Lindsay Market, and Mainstreet Market in Humphrey all made nonperishable food donations to the Platte County Food Pantry.

Terrys Family Foods in Syracuse received a thank you from the Syracuse Area Churches Food Pantry for continuing to help them keep their shelves stocked.

Shurfine Food Center in Burwell helps F.B. Timberline, power line construction company, donate \$1850 worth of food to Burwell Food Pantry.

Tecumseh Central Market has been delivering bouquets of flowers every two weeks to the residents and staff at Belle



Terrace and Ridgeview Towers as part of flower program they are associated with. I can't imagine not being able to see your families during this shut down because of the coronavirus outbreak. We hope the residents and staff enjoy the flowers and that the flowers make them smile, said Joy Wheeler, manager of the Tecumseh Central Market.

Hometown Market in Red Cloud, was recently involved with program from AWG called Apples for Students. The APPLES for Students program began in September 2019 when Danny Bengé and Hometown Market began saving customers purchase receipts and continued up to March 1. Points were awarded for each dollar of the total of those receipts. Bengé also contributed 1% of that dollar total of receipts toward the total points earned.

Albertsons Companies (Safeway) announced that Juliette Pryor has been named Executive Vice President and General Counsel and will join the company's Senior Leadership Team, effective June 15, 2020. Also Dan Dosenbach, currently Vice President of Human Resources and Labor Relations in the company's ACME Markets division, has been appointed to the newly-created role of Senior Vice President of Labor Relations.

Dairy Farmers of America purchase of Dean Foods - Dairy Farmers of America (DFA) have closed on a deal to buy 44 properties in a \$433 million acquisition of Dean Foods properties, which handle fluid and frozen dairy products. DFA is the nation's largest dairy cooperative with 13,500 farmer members. DFA announced that the purchase will secure milk markets for its members and will save nearly 11,000 jobs. Dean has been the nation's largest milk processor.



Bringing Dairy to Life!

Summary- Week Ending April 19

Dairy at retail continues to be positive for 2020 year-to-date. The large surge experienced during the early weeks of the coronavirus pandemic pushed all dairy retail volume up, turning products such as milk, cheese, yogurt and ice cream to positive growth in 2020, reversing a previous loss trend occurring earlier in the year. The dairy aisle continues to experience higher growth than total store sales. *Total store dollar sales are up +5.3% compared to a year ago and dairy aisle dollar sales are up +14.6% compared to a year ago.*

After experiencing significant increases, in the most recent week **butter** had a notable decline in volume sales dropping from **+59.6%** to **+0.9%**. Even with this slowdown, butter year-to-date volume sales are up **+26.1%**.

Dairy Aisle Update

Fluid milk sales are up **+7.4%** (volume sales) and **+12.9%** (dollar sales). In the previous week sales were up +15.6% (volume) and +20.6% (dollar). The plains region, which includes many of our Midwest states, is up **+5.1%** (volume sales) and **+10.7%** (dollar sales).

Butter sales are up **+0.9%** (volume) and **+15.0%** (dollar). In the previous week, butter sales were up +59.6% (volume) and +64.0% (dollar).

Cheese sales are up **+11.0%** (volume) and **+21.2%** (dollar). In the previous week, cheese sales were up +35.1% (volume) and +41.5% (dollar).

Yogurt sales are down **-2.0%** (volume) and **-1.3%** (dollar). In the previous week, yogurt sales were down ~4% in both volume and dollar sales.

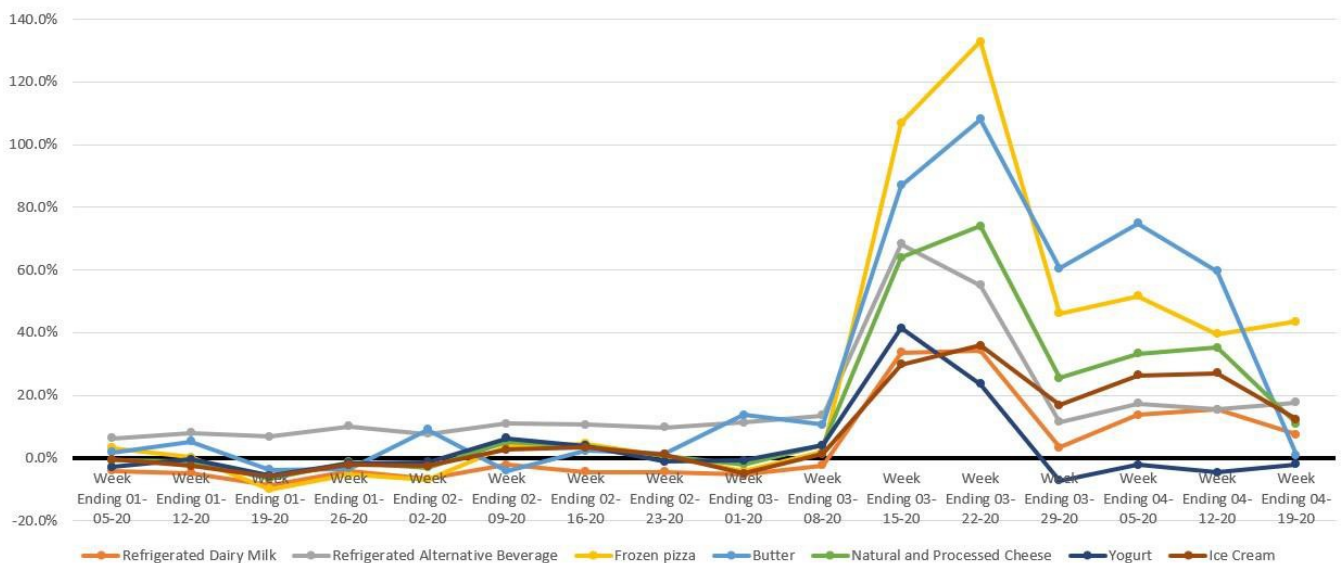
Pizza sales are up **+43.4%** (volume) and **+49.9%** (dollar). In the previous week, they were up +39.6% (volume) and +45.9% (dollar).

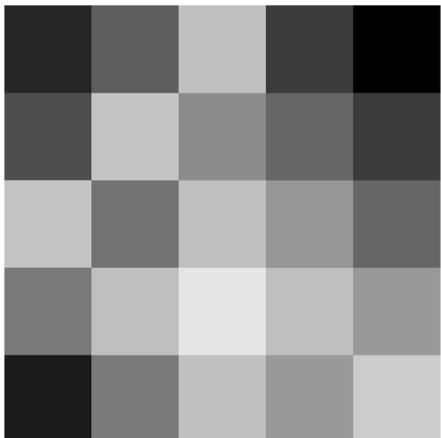
Ice cream sales are up **+12.3%** (volume) and **+26.0%** (dollar). In the previous week, they were up +27.5% (volume) and +33.2% (dollar).

Refrigerated alternative beverages are up **+17.6%** (volume) and **+22.5%** (dollar) compared to +15.4% (volume) and 19.8% (dollar) in the previous week.

As a reference point, fresh **bread** sales are up **+12.8%** (volume) and **+16.2%** (dollar) vs. the previous growth of +20.3% (volume) and +24.4% (dollar).

Volume Sales % Change from Same Period a Year Ago





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*SOURCE: MSA Data - Latest 52 Weeks Ending 01-20-2018; Top Ten Brand Families

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*Nebraska Grocery Industry Association
Presents a Combined Fall Event*

*Due to COVID-19,
The NGIA Annual Conference &
“Sand Baggers” Golf Outing
will be **CANCELLED** & combined with
the
“Hackers & Snackers Annual Golf Extravaganza”*



*This combined event will be Tuesday October 6, 2020 at
Quarry Oaks Golf Course*



10:00 a.m. Shotgun Start
3:00 p.m. Speaker
3:30 p.m. General Membership Meeting & Elections
4:00 p.m. Meal

ADVANCED REGISTRATION & PAYMENT IS REQUIRED

10:00 a.m. shotgun start. The tournament is a Texas Scramble format. Three flights will be established after scores are turned in. Prizes include a \$50 Pro Shop Gift Certificate for each Flag Prize Winner and each Flight Winner. Fees include the driving range, green fees, cart fees, 2 beverages on the course, box lunch and dinner. Hole-In-One contest for a set of clubs. Each team sets their own foursome. Those players without a full group will be combined with other players.

Annual Sponsors - This tournament will honor all golf entries included in the sponsorship package for both golf events.

For example, an Annual Silver Sponsorship receives two golf entries to the spring golf and one for the fall golf, they will receive three entries for this golf event.

Sponsorships are still available for the October event:

- ❖ Hole Sponsorship – Includes one golfer registration, pre-event publicity and recognition in *The Voice* \$500
- ❖ Hole-In-One Contest Sponsorship – Signage on tee box, pre-event publicity and recognition in *The Voice* \$300
 - Win a set of custom golf irons!
- ❖ Donating goodie bag items or raffle prizes:
 - Please deliver 144 of each goodie bag item to the NGIA office no later than Sept. 25, 2020

**NO GOLF EVENT IN
JUNE AT IRON HORSE**

Golf or Sponsorship Questions?

Contact Rich Otto by phone at (402) 423-5533 or email at rich@nebgrocery.com

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Federal & State Labor Law Compliance Posters


Federal All-In-One Posters purchased through NGIA in the last three years are still in compliance. However, employers with fewer than 500 employees do need to add the Families First Coronavirus Response Act (FFCRA) poster. Each covered employer must post in a conspicuous place on its premises a notice of FFCRA requirements. These provisions will apply from April 1, 2020, through December 31, 2020. The poster can be printed at <https://www.dol.gov/general/topics/posters> it is the first one listed on the page and is named "Employee Rights: Paid Sick Leave and Expanded Family and Medical Leave under The Families First Coronavirus Response Act".

If you ordered your **State of Nebraska 3-In-One** poster through our office, **you do NOT** need to replace it! **The current Nebraska 3-In-One poster is up to date.** Businesses are required to post 3 State Posters. Required posters include, Minimum Wage, EEOC, and Unemployment Insurance Benefit Rights.

***We have been informed that business owners are getting mailings putting them on notice to upgrade posters. Again, the only new requirement in the last three years is the FFCRA poster.**

Contact NGIA if you need current posters or have questions about requirements.

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Nebraska Child Labor Law Issues

Child Labor Law: Employment Certificate Required

48-302. Children under sixteen; employment certificate required; enforcement of section.

No child under sixteen years of age shall be employed or permitted or suffered to work in any employment as defined in section 48-301 within this state unless the person or corporation employing the child procures and keeps on file, accessible to the attendance officers and to the Department of Labor and its assistants and employees, an employment certificate as prescribed in section 48-304 and keeps two complete lists of all such children employed in the building, one on file and one conspicuously posted near the principal entrance of the building in which such children are employed.

Upon the termination of the employment of a child so registered whose certificate is so filed, such certificate shall be transmitted by the employer to the person authorizing the certificate pursuant to section 48-303 and shall be turned over to the child named upon demand.

Any attendance officer or the Department of Labor or its assistants and employees may demand that any employer in whose place of business a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this section, either furnish within ten days satisfactory evidence that such child is in fact over sixteen years of age or cease to employ or permit or suffer such child to work in such place of business.

The same evidence of the age of such child may be required from such employer as is required on the issuance of an employment certificate as provided in section 48-304, and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child.

In case such employer fails to produce and deliver to the attendance officer or the Commissioner of Labor within ten days after demand such evidence of the age of any child as may be required under the provisions of section 48-304 and continues to employ such child or permit or suffer such child to work in such place of business, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this section that such child is under sixteen years

of age and is unlawfully employed.

16 & 17 Years of Age

Sixteen- and 17-year-olds may be employed for unlimited hours in any occupation other than those declared hazardous by the Secretary of Labor. Examples of equipment declared hazardous in food service establishments include:

Power-driven meat and poultry processing machines (meat slicers, meat saws, patty forming machines, meat grinders, and meat choppers), commercial mixers and certain power-driven bakery machines. Employees under 18 years of age are not permitted to operate, feed, setup, adjust, repair, or clean any of these machines or their disassembled parts.

Balers and Compactors. Minors under 18 years of age may not load, operate, or unload balers or compactors. Sixteen- and 17-year-olds may load, but not operate or unload, certain scrap paper balers and paper box compactors under certain specific circumstances.

Motor Vehicles. Generally, no employee under 18 years of age may drive on the job or serve as an outside helper on a motor vehicle on a public road, but 17-year-olds who meet certain specific requirements may drive automobiles and trucks that do not exceed 6,000 pounds gross vehicle weight for limited amounts of time as part of their job. Such minors are, however, prohibited from making time sensitive deliveries (such as pizza deliveries or other trips where time is of the essence) and from driving at night.

14 & 15 Years of Age

Fourteen- and 15- year-olds may be employed in restaurants and quick-service establishments outside school hours in a variety of jobs for limited periods of time and under specified conditions. Child Labor Regulations No. 3, 29 C.F.R. 570, Subpart C, limits both the time of day and number of hours this age group may be employed as well as the types of jobs they may perform. In non-agricultural occupations covered by the FLSA, including food service establishments. Permissible employment for such children is limited to work that is exempt from the FLSA (such as delivering newspapers to the consumer and acting). Children may also perform work not covered by the FLSA such as completing minor chores around private homes or casual babysitting.

Hours and times of day standards for the employment of 14- and 15-year-olds:

- outside school hours; school hours are determined by the local public school in the area the minor is residing while employed;
- no more than 3 hours on a school day, including Fridays;
- no more than 8 hours on a non-school day;
- no more than 18 hours during a week when school is in session;
- no more than 40 hours during a week when school is not in session;
- between 7 a.m. and 7 p.m.- except between June 1 and Labor Day when the evening hour is extended to 9 p.m.

Occupation standards for the employment of 14- and 15-year-olds:

They may perform cashiering, shelf stocking, and the bagging and carrying out of customer orders.

They may perform clean-up work, including the use of vacuum cleaners and floor waxers.

They may perform limited cooking duties involving electric or gas grills that do not entail cooking over an open flame. They may also cook with deep fat fryers that are equipped

with and utilize devices that automatically raise and lower the “baskets” into and out of the hot grease of oil. They may not operate NEICO broilers, rotisseries, pressure cookers, fryolators, high-speed ovens, or rapid toasters.

They may not perform any baking activities.

They may not work in warehousing or load or unload goods to or from trucks or conveyors.

They may not operate, clean, set up, adjust, repair or oil power driven machines including food slicers, grinders, processors, or mixers.

They may clean kitchen surfaces and non-power-driven equipment, and filter, transport and dispose of cooking oil, but only when the temperature of the surface and oils do not exceed 100° F.

They may not operate power-driven lawn mowers or cutters, or load or unload goods to or from trucks or conveyors.

They may not work in freezers or meat coolers, but they may occasionally enter a freezer momentarily to retrieve items.

They are prohibited from working in any of the Hazardous Orders (discussed above for 16- and 17-year-olds).

Children under 14 years of age may not be employed.

Nebraska Grocery Industry Association Calendar

2020

July 20	Nebraska Legislature Reconvenes
Aug. 4-6	AWG - VMC Fall Show, Overland Park Conv. Ctr.
Aug. 13	Tentative Adjournment for Nebraska Legislature
Aug. 18-19	AWG Springfield Holiday Food Show, Branson Conv. Ctr.
Aug. 19	AWG Kansas City Holiday Food Show, KCI Expo Ctr.
Aug. 19-20	SpartanNash Fresh/GFD West Expo in Minneapolis
Sept. 13-16	FMI Annual Business Conference, Chicago, IL
Sept. 17-19	AWG Nebraska Holiday Food Show, Omaha
Sept. 29	B&R Stores Golf Outing (tentative)
Oct. 6	NGIA General Membership Meeting, Quarry Oaks
Oct. 6	NGIA Sandbaggers & Hackers & Snackers Golf Extravaganza, Quarry Oaks



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New I-9 Policy Due to COVID-19

The Department of Homeland Security (DHS) has issued a temporary policy to allow employers to accept expired List B documents when completing the Form, I-9 beginning May 1. This policy is intended to account for the fact that many people are unable to renew their driver's licenses or state ID cards at this time due to stay-at-home orders. While some states have extended the expiration of drivers' licenses and state identification cards, which are common List B documents, others have not. The temporary policy addresses both situations.

Temporary Extension for Expired List B Documents That Have *Not* Been Extended

List B documents that expire on or after March 1, 2020 and have not been extended by the state may be treated the same as if the employee presented a valid receipt for an acceptable document for Form I-9 purposes.

If an employee presents their driver's license that expired on or after March 1 and it was not extended by the state, employers should:

- Record the documentation information in Section 2 under List B, as applicable; and
- Enter the word "COVID-19" in the Additional Information field.

When the DHS ends this temporary policy, employers must require the employee to provide a valid unexpired document within 90 days. (The replacement for the expired document is preferred, but employees may choose to present a different document or documents to satisfy the I-9 requirements.) At that time, in the Section 2 Additional Information field, employers must:

- Record the number and other required document information from the actual document presented; and
- Initial and date the change.

Procedure for List B Documents That Have Been Extended

If the employee's List B identity document expired on or after March 1, 2020, and the issuing authority has extended the document expiration date because of COVID-19, the document is acceptable as a List B document for Form I-9 (not as a receipt) during the extension timeframe specified by the issuing authority. In that case, the employer must:

- Enter the document's expiration date in Section 2; and
- Enter "COVID-19 EXT" in the Additional Information field.

Employers may also attach a copy of a webpage or other notice indicating that the issuing authority has extended the documents. Employers can confirm that their state has auto-extended the expiration date of state IDs and driver's licenses by checking the state Motor Vehicle Administration or Department of Motor Vehicles website.

The employee is *not* required to present a valid unexpired List B document later.

E-Verify

Employers participating in E-Verify should use the employee's expired List B document number from Section 2 of the Form I-9 to create an E-Verify case as usual within three days of the date of hire. Even if a state has automatically extended the employee's driver's license because of COVID-19, employers should enter the expiration date as printed on the employee's document when creating the E-Verify case.

Reminders

Employers are required to complete an employee's Form I-9 within three days of their first day of work. The HR Support Center has various resources regarding I-9 requirements, including the revised Form I-9 (dated 10/21/19), which became mandatory on May 1.

Families First Coronavirus Response Act Paid Sick Leave Provisions

Chris Hoyme Answers Your Employment Law Questions

Courtesy of Chris Hoyme - Jackson Lewis & South Dakota Retailers Association

FMLA EXPANSION FOR COVID-19

The Act amends the FMLA to allow an employee who is unable to work (or telework) to take leave due to a need to care for the employee's son or daughter (generally, under 18 years of age) if the child's elementary or secondary school or place of care has been closed, or the childcare provider is unavailable whether by order of a federal, state or local authority or at the decision of the school or child care provider for reasons related to COVID-19.

Unlike the original bill, the closure of the child's school or childcare is the only reason allowed under the added FMLA provisions, and the only reason allowed for paid leave under the FMLA. The expanded FMLA only applies to employers with less than 500 employees.

PAID SICK LEAVE FOR COVID-19

The act also adds a paid sick leave obligation. Employers with fewer than 500 employees must immediately make available 80 hours of paid sick leave for full-time employees (or the equivalent of the hours that an employee is normally scheduled to work over two weeks for part-time employees). If an employee does not have regular schedule, there is a different calculation that must be done which goes beyond the scope of this article. The paid leave allowed for the following reasons:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis from a health care provider.
4. The employee is caring for an individual who is subject to an order as described in paragraph (1) or has been advised as described in paragraph (2).
5. The employee is caring for their son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of the son or daughter is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

AMOUNT OF PAY

If the employee used paid sick leave due to school or day care closure, and then uses expanded FMLA, the first two weeks of the expanded FMLA would be the paid time used under the paid sick leave law. The other weeks of paid sick leave would run concurrently with the expanded FMLA.

Under the FMLA provisions, when leave is needed due to school or day care closure and the employee is not using paid sick leave for the first two weeks, the employer can provide the first 10 days of leave unpaid, then subsequent absences for this reason must be paid at 2/3 the employee's regular rate of pay. The Act includes a cap of \$200 a day and \$10,000 aggregate. If the first 10 days are unpaid, an employee may elect to substitute any accrued vacation leave, personal leave, or medical/sick leave for the unpaid leave. The employer may also require the use of such leave.

Paid sick leave is paid at the employee's regular rate for a use described in paragraph (1), (2), or (3); and 2/3 of an employee's regular rate for a use described in paragraph (4), (5), or (6). Paid sick leave also is capped: \$511 per day and \$5,110 in the aggregate for a use described in paragraph (1), (2), or (3); and \$200 per day and \$2,000 in the aggregate for a use described in paragraph (4), (5), or (6).

EFFECTIVE DATE

Both the FMLA changes and the paid sick leave took effect on April 1, 2020 and will remain in effect until December 31, 2020.

IS LEAVE JOB PROTECTED?

Yes, the Act offers job protection. However, the FMLA's requirement that an employee be restored to the same or equivalent position after leave does not apply to an employer with fewer than 25 employees if the employee's position no longer exists due to economic conditions or other changes in the employer's operation that affect employment and are caused by a public health emergency during the period of leave.

The employer must make reasonable efforts to restore the employee to the same or an equivalent position, and if the reasonable efforts fail, the employer must make efforts to contact the employee and reinstate the employee if an equivalent position becomes available within a one year period beginning on the earlier of (a) the date on which the qualifying need related to a public health emergency concludes, or (b) the date that is 12 weeks after the date the employee's leave started.

WHO PAYS FOR THE SICK TIME OR LEAVE?

Employers must pay the benefits, but will receive a tax credit for doing so.

IS THE PAID SICK LEAVE IN ADDITION TO CURRENT LEAVE PROVIDED BY THE EMPLOYER?

An employer may not require an employee to use other paid leave provided by the employer before the employee uses the paid sick leave available under the Act.



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