



### WV Wholesalers Association Announces Officers for 2015 - 2016

The West Virginia Wholesalers Association (WVWA) has announced the recent leadership elections of their executive board. The elections were held during the organization's annual board meeting last month. The new slate of WVWA executive board officers, who will serve a two year term, include:

President

**Jim Cunningham**  
**Goldsmi-Sydnor, Inc.**  
**Huntington, WV**

Second Vice President

**Zach Weir**  
**Goldsmi-Sydnor, Inc.**  
**Huntington, WV**

Chairman of the Board

**S. Randall Emanuelson**  
**Team Sledd**  
**Wheeling, WV**

First Vice President

**Bill Munday**  
**VP Distributors**  
**Williamstown, WV**

Secretary/Treasurer

**Jan Vineyard**

A full slate of directors is included on Page Two of this publication.

Pictured above from left to right: Second Vice President Zach Weir, First Vice President Bill Munday, Chairman of the Board Randy Emanuelson and President Jim Cunningham

# From the Director

year to focus on legislative issues. When we reflect on our businesses and the issues that have the potential to impact them, legislation is always at the top of the list. Often times I feel like we spend the time putting out fires but don't take the time to focus and plan on the future. This conference walks us through that process. Rob and the panel did an excellent job placing before us our greatest opportunities and risks. I hope you enjoy the highlights and photos of the MALC contained in this issues.

The Mid-Atlantic Legislative Conference was a huge success! Thank you to all who attended, sponsored and participated. It is great that we take this time every



Another great legislative function is the CDA Day on the Hill. Rob Sincavich, Randy Emanuelson and I attended this event in DC in May. It was great to meet with our legislative leaders regarding our industry. I would like to encourage you to join us next year. We will be sure to get the dates to you ASAP so that you can add them to your calendar.

On the legislative front here in West Virginia, we are paying special attention to the Joint Committee on Tax Reform. Also, believe it or not, as early as it is, we are focusing a great deal on the 2016 elections. We realize how important it is to support and help get candidates elected who understand our industry and think like we do.

Please join me in thanking Randy Emanuelson for his leadership of WVWA during the past two years. Randy has done a yeoman's job in leading our Association through the transition since the passing of John Hodges. Strategic planning, bylaws changes and dues changes are among the many things that Randy initiated to make us stronger. Jim Cunningham has been with Randy through all of these steps and will continue to lead WVWA in the right direction forward. Congratulations Jim, Bill and Zach on your election!

*Jan*

## WV Wholesalers Slate of Directors

### Wholesaler

Reno Ramella	McDowell Supply Company
Dean Bryant	Anchor Tobacco Company
Andy Krutko	Bell's Wholesale Grocery
Mike Brown	SUPERVALU
Rob Sincavich	Team Sledd
Zach Weir	Goldsmith-Sydnor, Inc.
Jim Glockner*	H. T. Hackney - Ashland Division
Eric Mann*	Sterling Grocery Company
Lee Bowers*	Merchants Distributors, Inc.
David Ramella	McDowell Supply Company
Gary McGuirk, Jr.	Liberty USA
Steve Barnisky	Team Sledd
Garrett Cunningham	Goldsmith-Sydnor, Inc.

### Associate

Eric Fitzer	Intra-State Insurance
John Zona	Swisher International
Stuart Newbrough	Commonwealth Altadis Inc.
John Rainey	Altria Client Services
Mike Doman	R. J. Reynolds Tobacco Co.
Lee Mooney	Liggett Vector Brands LLC
Danny Calhoun	National Tobacco
Eric Heiberg*	Premier Manufacturing Inc.
Jeff Linskie*	The Hershey Company
Mike Konopka*	JT International
Kit Francis	Bowles Rice
Joe Comyn	Swedish Match
Bill Beitler	W. J. Beitler Co.
Adam Stopka	Lorillard Tobacco Company

*We would like to thank all of our officers and board members for their service to the Association.*

*\*Indicates new board member*

## **Tomblin Orders \$39 Million Spending Cut by June 30**

Gov. Earl Ray Tomblin signed an executive order on June 9th calling for a \$38.9 million reduction in state spending by June 30 in order to maintain a balanced state budget.

State Revenue Secretary Bob Kiss said the budget cut will be joined with other steps to make up a projected \$70 million revenue shortfall.

"The State has seen some revenue challenges this year in terms of weaker-than-anticipated tax collections, but we've planned for this scenario since the start of the fiscal year beginning with Governor Tomblin's insight to continue the hiring freeze," Kiss said in a statement released late on June 9th. "Beyond that, we set aside funds to help close our anticipated gap and we will utilize them to minimize this reduction in expenditures. Given the economy, we are right in the middle of where we estimated we'd end up and it's important to keep in mind that \$70 million out of a \$4.25 billion general revenue budget is a small number by comparison."

Kiss said other steps previously taken include an allocation of \$12.6 million in appropriated general revenue funds, \$7.5 million transferred in a bill passed by state lawmakers and \$11 million from the Personal Income Tax Revenue Fund.

Kiss said he doesn't anticipate state agencies having any problems coming up with nearly \$39 million in spending cuts between now and June 30.

"Agency leaders have been in the loop since the start of the fiscal year and are well aware of the challenges as well as the critical role of their departments and programs in helping balance the budget," Kiss said. "We know they all have a plan to identify areas in which to make cuts."

## **Nonpartisan Election of Judges Becomes Law in WV**

A bill removing the partisan election of judges went into effect June 8.

The law requires the election for all levels of judicial officers be selected on a nonpartisan basis.

"After decades of promoting this much needed reform, I am pleased nonpartisan election of judicial officers is finally a reality in West Virginia," said WV House Speaker Tim Armstead, R-Kanawha. "This is one of many steps we've taken to better ensure fairness within our state's court system, and to bring us in line with the majority of states across the country."

The law applies to judicial officers in West Virginia including Justices of the Supreme Court of Appeals, Circuit Court Judges, Family Court Judges and Magistrates. Judicial officers will be required to run in a designated division. The bill saw little resistance through the Legislature last session.

The elections of these judicial officers, as with the current process for electing school board members will take place during the May Primary. The next primary election in West Virginia is slated for May 10, 2016.

## **Tax Reform Committee Launches Website, Seeks Input & Will "Live Stream" Meetings**

The newly formed West Virginia Legislative Joint Committee on Tax Reform has launched a public information website for interested state residents. To view the website, visit <http://www.legis.state.wv.us/committees/interims/committee.cfm?abb=tax>.

The site currently contains links to state tax studies from 1999 - 2015. The committee meetings will be "live streamed" on the Legislature's website. Meetings were held in May and June. We are closely monitoring these meetings on this very important issue.

## **W.Va. Tort Reform Package Starting to Take Effect**

The overhaul of West Virginia's legal system is moving from an idea to reality, as many of the tort reform measures passed by the new GOP-led Legislature officially take effect.

From limiting an employee's ability to sue for workplace injuries to protecting property owners from lawsuits when a trespasser is injured on his or her property, proponents hope the changes will allow West Virginia to shed the "judicial hellhole" label that has followed it for many years – which made it, they say, a less attractive place to do business.

One of the more controversial items in the tort reform package goes into effect Friday. Known as the "deliberate intent" bill, the measure prevents employees or their families from suing their employers for on-the-job injuries for which they're already collecting workers' compensation benefits – unless the plaintiff can prove his or her employer deliberately acted to cause the injury.

Many Democrats who opposed the bill argued the law would keep companies from being held accountable for safety violations, but supporters countered by saying the workers' compensation system is sufficient to protect employees without the need for additional litigation.

Another measure which amends the state's Wage Payment and Collection Act goes into effect Thursday, and requires employers to issue departed employees their final paychecks by the payday on which they would have been paid regularly. Previously, employers had to follow different guidelines for issuing an employee's final paycheck based on whether the worker was fired or quit with or without notice.

Two tort reform measures went into effect Monday, including one that caps punitive damages for civil lawsuits at \$500,000 or four times the amount of compensatory damages awarded, whichever is greater. Klee said this will prevent outrageous, multi-million dollar verdicts for which the state had become notorious, while still maintaining a higher cap than many of its neighbors. Pennsylvania and Virginia, for example, limit punitive damages to two and three times the amount of compensatory damages, respectively.

Some of the Legislature's tort reform initiatives have already been in effect for months. The "premises liability" bill, which protects property owners from being sued for injuries sustained by a trespasser, passed both houses unanimously and has been in effect since April 29.

Another new law took effect immediately upon passage Feb. 18, preventing property owners from lawsuits related to "open and obvious" hazards that a reasonable person should have been able to avoid simply by paying attention.



## **Governor Tomblin Appoints Steven Shaffer to Represent The 52nd District in the West Virginia House of Delegates**

Gov. Earl Ray Tomblin announces the appointment of Steven Shaffer to represent the citizens of the 52nd District in the West Virginia House of Delegates. Shaffer's appointment fills the vacancy created by the resignation of Larry Williams. Shaffer's appointment is effective immediately. A former coal miner, Shaffer was elected as the mayor of Tunnelton in 1980. He was later elected to the Preston County Board of Education in 1996, serving a total of four years.

Delegate Williams retired after 22 years in the West Virginia Legislature to accept a job with the West Virginia Department of Agriculture. He will oversee a new agribusiness venture that involves deer farms and using state-owned land to grow vegetables and livestock.

## **Federal Update**

### **Legislation Introduced To Counter NLRB Ambush Elections Rulemaking**

Senate Health, Education, Labor and Pensions Committee Chairman Lamar Alexander (R-TN) and House Education and Workforce Committee Chairman John Kline (R-MN) recently introduced legislation (S. 933 and H.R. 1768) that would preserve long-standing union election procedures by safeguarding the rights of workers to make informed decisions about union representation and ensuring that employers will have adequate time to communicate with their employees about the pros and cons of joining a union.

The legislation, the Workforce Democracy and Fairness Protection Act would do the following:

- ◆ Ensure workers have enough time to make an informed decision in a union election by prohibiting any election from taking place in less than 35 days.
- ◆ Provide employers at least 14 days to prepare their case to present before a NLRB election officer and protect the right to raise additional concerns throughout the pre-election hearing.
- ◆ Reassert the Board's responsibility to address critical issues before certifying a union, including voter eligibility and the appropriate unit of employees that will form a union.
- ◆ Empower workers to control their personal information by allowing each employee to determine which type of personal contact information that would be provided to union organizers.

The two bills are in response to the NLRB's "ambush election" final rule that became effective on April 14, 2015 and dramatically shortens the timeframe for a union election from the current average of 38-days down to as little as 10 days. The Board's rulemaking also undermines worker privacy by requiring employers to disclose the names, home addresses, phone numbers and e-mail addresses of workers as well as other sensitive personal information to union officials prior to an election.

In separate action, Rep. Phil Roe (R-TN), Chairman of the House Health, Employment, Labor and Pensions Subcommittee introduced a bill (H.R. 1767) to give employees greater control over the disclosure of their personal information and help modernize an outdated union election process. The Roe measure is entitled, the Employee Privacy Protection Act. Under H.R. 1767, employers would have seven days in which to provide a list of employee names to union officials and one additional piece of personal contact information chosen by each employee.

Finally, there is still no decision from either the U.S. District Court for the District of Columbia or the U.S. District Court in the Western District of Texas in their respective legal challenges to overturn the NLRB's election rule. The D.C Court, however, did refuse to enjoin the implementation of the Board's final rule while its lawsuit is pending.

## **FDA Issues Guidance on Retail No-Tobacco-Sales Order**

Recently, the U.S. Food and Drug Administration's Center for Tobacco Products issued a guidance document titled "Determination of the Period Covered by a No-Tobacco-Sale Order and Compliance with an Order".

Under the Family Smoking Prevention and Tobacco Control Act (the federal law that granted the FDA the authority to regulate tobacco products), the FDA was authorized to conduct retail compliance inspections and impose fines for violations culminating in a "no-tobacco-sales" order for repeated violations of the federal tobacco regulations. A no-tobacco-sales order is an order issued by the FDA to a specific retail location prohibiting the sale of tobacco products for a specified period of time or an indefinite period of time.

Prior to the issuance of the new guidance document, the FDA had not determined the length of time that a retailer would be prohibited from selling all tobacco products if the same retail location had repeated violations of federal tobacco regulations, such as not requesting identification of a customer that appears to be under the age of 27 or selling tobacco products to a minor. The guidance document explains the FDA's current thinking with respect to imposing a no-tobacco-sales order and includes the factors that the FDA will consider in determining the length of time an order will be in effect.

In the guidance document, the FDA is proposing to seek the following time periods for issuing no-tobacco-sale orders:

- ◆ First No-Tobacco-Sales Order: 30 day prohibition on selling tobacco products
- ◆ Second No-Tobacco Sales Order: 6 month prohibition on selling tobacco products
- ◆ Third or More No-Tobacco-Sales Orders: Permanent prohibition on selling tobacco products

Before a retailer is faced with a no-tobacco-sales order situation, the FDA uses the following fine schedule for violations of federal tobacco regulations:

- ◆ First violation, no fine, but a warning letter to the retailer
- ◆ Second violation within a 12-month period, \$250
- ◆ Third violation within a 24-month period, \$500
- ◆ Fourth violation within a 24-month period, \$2,000
- ◆ Fifth violation within a 36-month period, \$5,000
- ◆ Sixth violation within a 48-month period, \$11,000

While the guidance document states that the FDA intends to seek the maximum time period for a no-tobacco sales order after a sixth violation, the FDA may reduce the time period that tobacco sales are prohibited by taking into consideration the nature, circumstances, extent and gravity of prior violations and, with respect to the specific retailer, the effect an order would have on the ability of the retailer to continue to do business, any history of similar violations, and the degree of culpability on the part of the retailer.

In addition, in determining whether to reduce the no-tobacco-sale order time period, the FDA will consider whether a retailer has taken effective steps to prevent the sale of tobacco products to underage youth including adopting and enforcing a written policy against sales to minors, informing its employees of all applicable laws, establishing disciplinary sanctions for employee non-compliance, and requiring employees to verify legal age through photo identification or electronic scanning device. The FDA is allowing a 45-day period for interested parties to submit comments to the draft guidance document.

Over the past five years, the U.S. Food and Drug Administration (FDA) has conducted more than 400,000 retail compliance inspections in all fifty states, and retailers have passed the compliance inspections approximately 95% of the time.

According to the FDA's website, the agency has funded contracts to conduct retail compliance checks with state agencies or private firms in all 50 states. The total dollar amount of these funded contracts is \$137,196,388.



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to the

WVWA  
WHOLE  
PAC

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the State  
Capitol*

Send your personal check today!



### **New Member**

We would like to welcome the following new member:

**Yeager Insurance & Financial Services**

3786 Teays Valley Rd.

Hurricane, WV 25526

Phone: 304-757-3900

Fax: 304-760-6111

Email: [glenn@yeagerinsurance.net](mailto:glenn@yeagerinsurance.net)

Website: [www.yeagerinsurance.net](http://www.yeagerinsurance.net)

**Contact: Glenn Yeager, Owner**

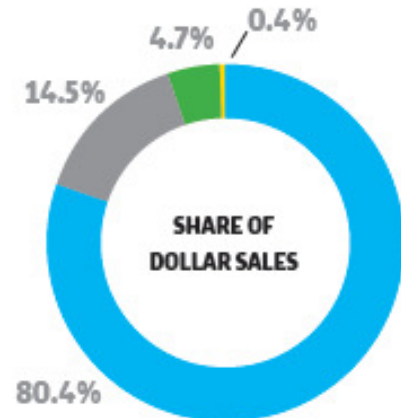
## SOI Data: Cigarettes

Cigarette dollar sales were flat in c-stores in 2014, according to NACS State of the Industry data. In this first in a series, see where the growth was and how much the average c-store sold.

### Subcategory Sales Breakdown

More than 80% of c-store cigarette sales came from premium brands in 2014, according to Nielsen.

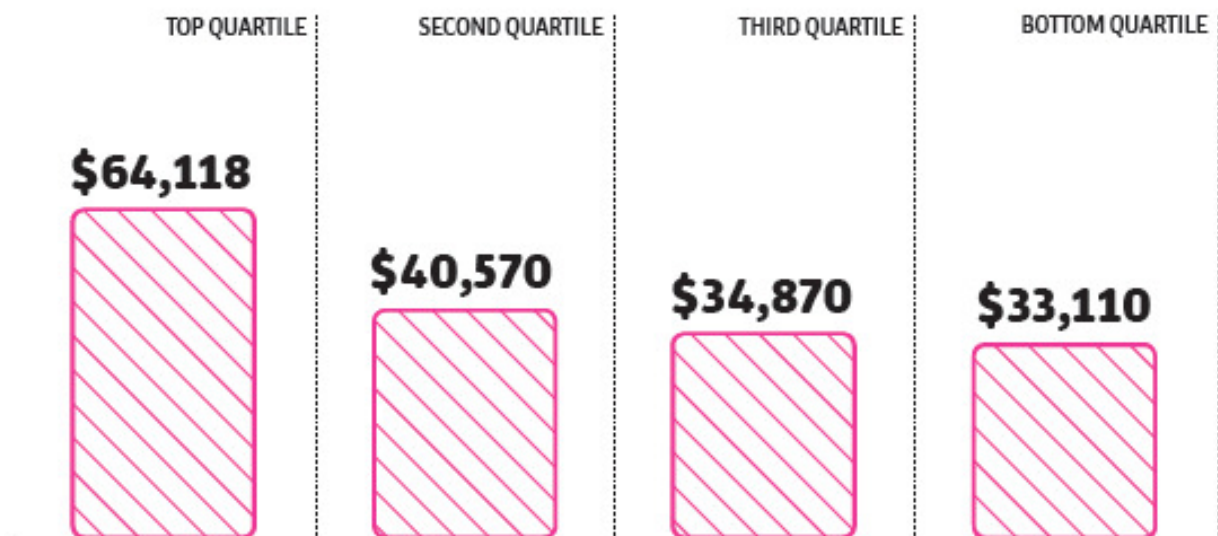
SUBCATEGORY	PCYA**
Premium	0.4%
Branded discount	0.0%
Subgeneric/private	(2.7%)
Fourth-tier	(4.5%)



Source: The Nielsen Co.

### Sales by Quartile\*

The top quartile of retailers generated nearly double the cigarette sales of those in the bottom quartile.



### Gross Profits by Subcategory

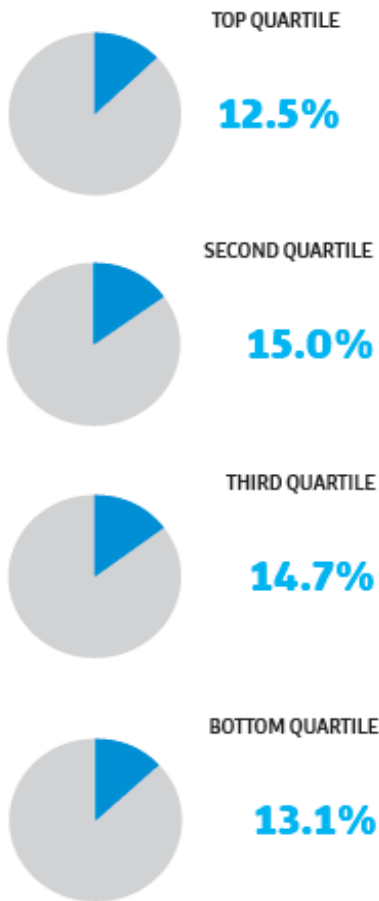
Cigarette monthly gross-profit dollars fell 2.6% in 2014.

SUBCATEGORY	AVERAGE MARGIN DOLLARS*	GROSS MARGIN %
Premium	\$5,227	14.7%
Branded discount	\$951	14.7%
Subgeneric/private label	\$308	13.8%
Fourth-tier	\$26	14.6%
<b>Total</b>	<b>\$6,562</b>	<b>13.9%</b>



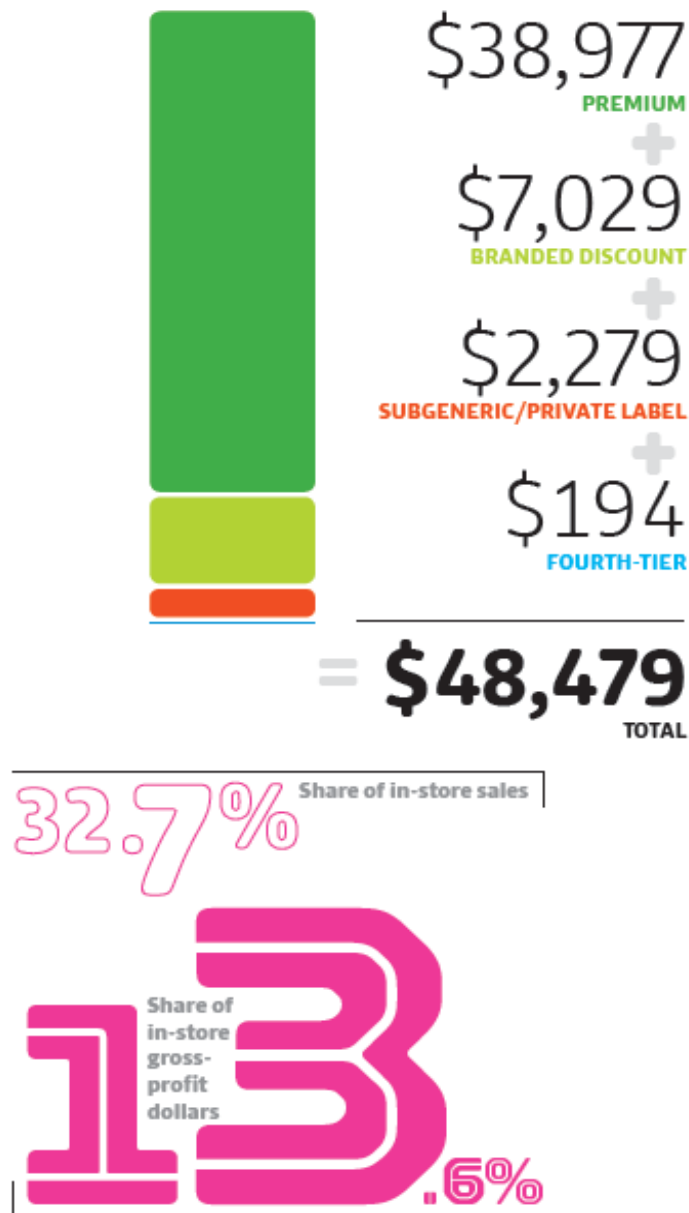
## Gross Margins by Quartile\*

The second and third quartiles saw the largest cigarette gross margins in 2014.



## Sales by Subcategory

Cigarette dollar sales per store per month rose 0.1% in 2014.



Source unless cited above: NACS; preliminary data. Final data to appear in the NACS® State of the Industry Report of 2014 Data. | \* Per store per month | \*\* Percent change from a year ago

Source unless cited above: NACS; preliminary data. Final data to appear in the NACS® State of the Industry Report of 2014 Data.

## Tobacco Firms Sue FDA on Packaging Rules

Altria, Lorillard and Reynolds-American are challenging the authority of the U.S. Food and Drug Administration (FDA) over tobacco packaging regulations, the Wall Street Journal reports. The lawsuit, filed in federal court on Tuesday, claims that the 2009 Tobacco Control Act doesn't provide the agency with the power to rewrite packaging rules.

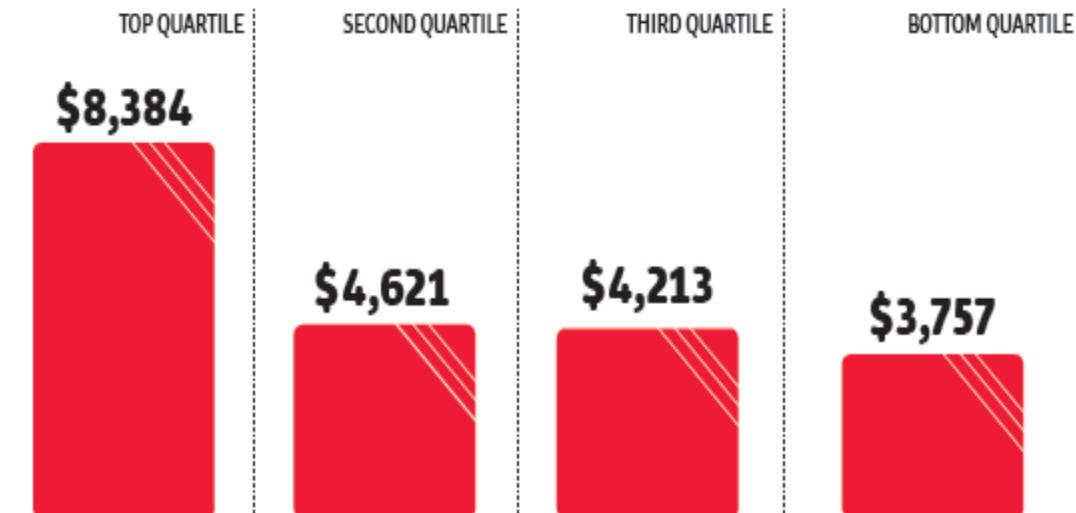
In April, an update from the FDA related to new tobacco products stated that any change in background color, logo or additional words to current tobacco products would constitute making such products "new" and thus subject to agency okay. The cigarette companies allege that the agency is restricted from pre-approving tobacco labels, which should mean the firms could change the look or color without FDA approval.

## SOI Data: Salty Snacks

Ready-to-eat popcorn is trending as fastest-growing segment, while potato and tortilla chips maintain share lead.

### Sales by Quartile\*

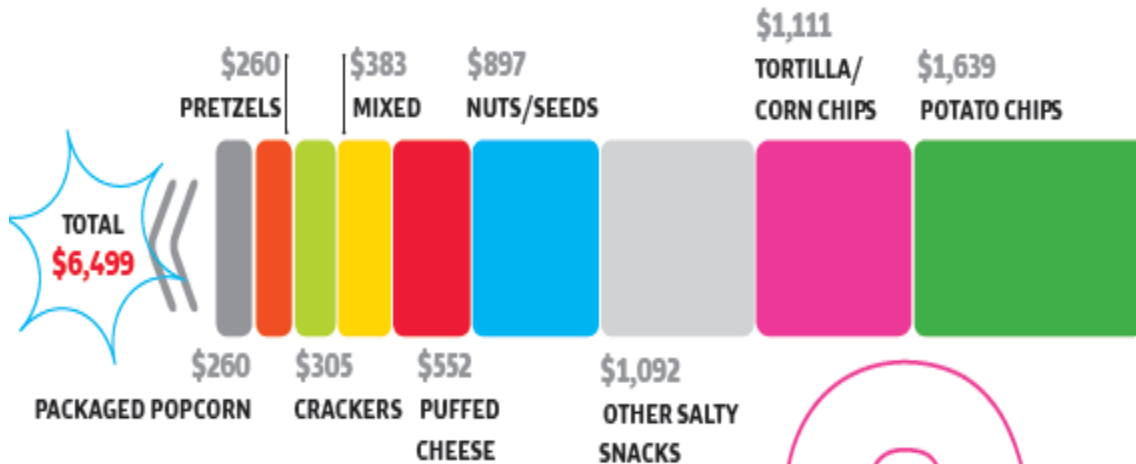
Top-quartile retailers enjoyed about double the salty-snack sales of other quartiles in 2014.



### Sales by Subcategory

Salty-snack sales among the same-firm operators rose 8.5% in 2014.

AVERAGE DOLLAR SALES\*



**4.5%**  
Share of in-store gross-profit dollars

**3.9%**  
Share of in-store sales

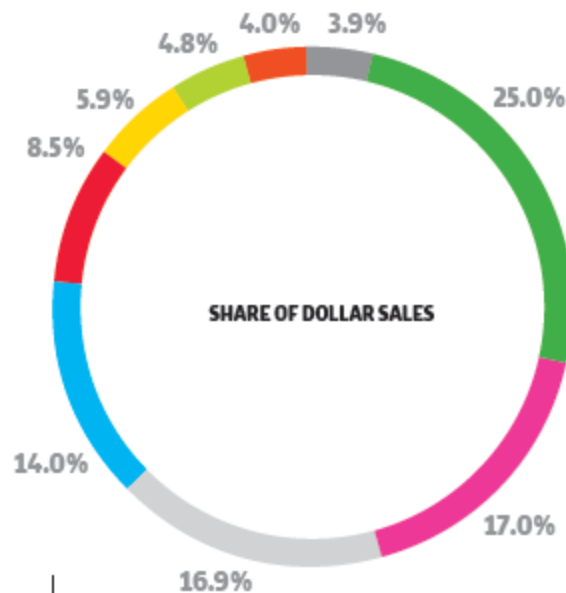
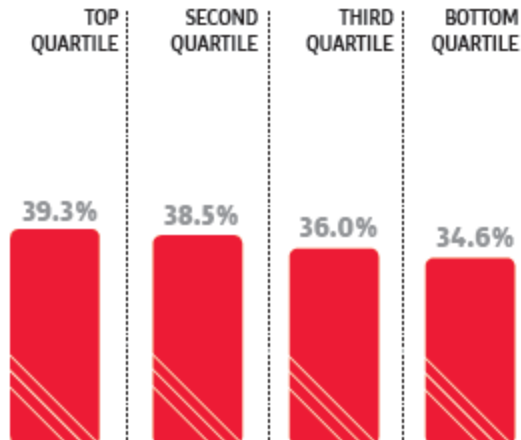
## Subcategory Sales Breakdown

Most of the salty-snack segments saw strong c-store dollar sales growth in 2014, according to Nielsen.

SUBCATEGORY	PCYA**
Potato chips	6.6%
Tortilla/corn chips	9.2%
Other salty snacks	6.1%
Nuts/seeds	6.2%
Puffed cheese	5.9%
Mixed	0.9%
Crackers	(0.5%)
RTE popcorn	12.0%
Pretzels	(0.8%)

## Gross Margins by Quartile\*

The top two quartiles enjoyed the greatest salty-snack gross margins in 2014.



Source: The Nielsen Co.

## Gross Profit by Subcategory

Salty-snack gross-profit dollars rose 11.2% in 2014 for retailers in the same-firm sample.

SUBCATEGORY	AVERAGE MARGIN DOLLARS*	GROSS MARGIN %
Potato chips	\$637	37.9%
Tortilla corn chips	\$432	36.8%
Other salty snacks	\$425	38.0%
Nuts/seeds	\$349	42.4%
Puffed cheese	\$215	38.3%
Mixed	\$149	33.5%
Crackers	\$119	41.0%
Pretzels	\$101	38.3%
Packaged popcorn	\$101	37.0%
<b>Total</b>	<b>\$2,528</b>	<b>38.6%</b>

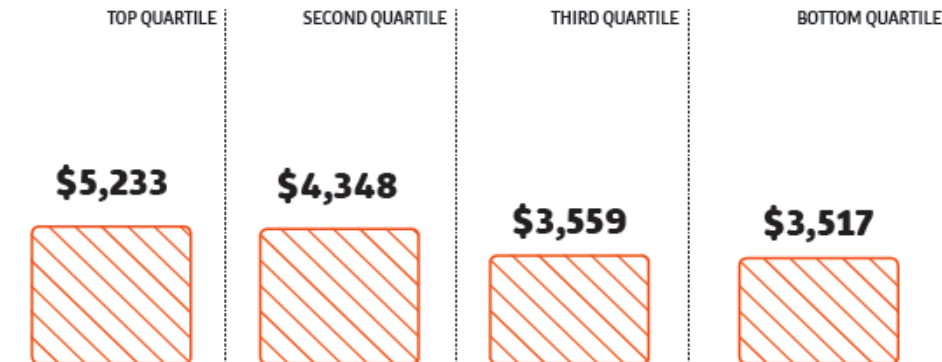


## SOI Data: Candy

In a slow year for candy sales in c-stores, bagged candy provide to be the winner, growing by double digits in 2014.

### Sales by Quartile\*

Top-quartile operators saw about \$1,700 more in candy sales per store per month in 2014 than those in the two lowest quartiles.



### Sales by Subcategory

Candy sales rose 4.0% in 2014 for retailers in the same-firm sample.

AVERAGE DOLLAR SALES\*



### Gross Profit by Subcategory

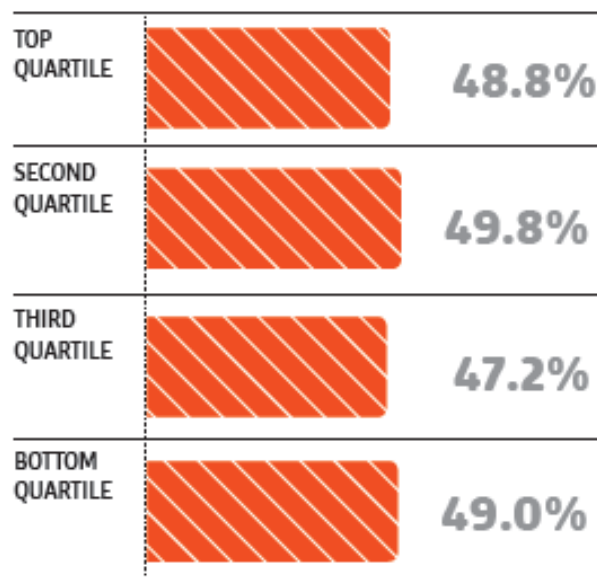
Candy monthly gross-profit dollars rose 7.1% in 2014.

SUBCATEGORY	AVERAGE MARGIN DOLLARS*	GROSS MARGIN %
Chocolate bars/packs	\$763	50.4%
Bagged or repackaged peg candy	\$613	50.0%
Gum	\$407	44.0%
Novelties/seasonal	\$243	54.0%
Nonchocolate bars	\$155	44.1%
Candy rolls, mints, drops	\$134	45.1%
<b>Total</b>	<b>\$2,315</b>	<b>47.9%</b>



## Gross Margins by Quartile\*

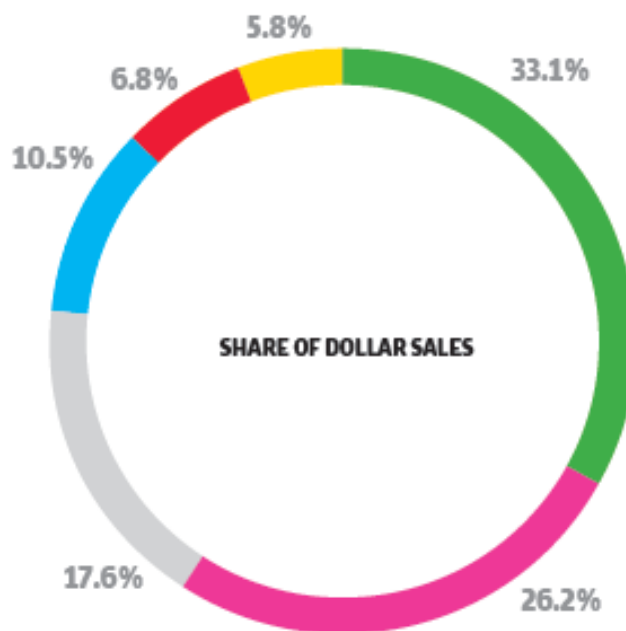
Candy gross margins varied modestly among the quartiles in 2014.



## Subcategory Sales Breakdown

Bagged or repackaged candy enjoyed strong c-store dollar sales growth in 2014, according to Nielsen.

SUBCATEGORY	PCYA**
Chocolate bars/packs	(2.9%)
Bagged or repackaged peg candy	16.6%
Gum	(2.6%)
Novelties/seasonal	(8.5%)
Nonchocolate bars	(4.1%)
Candy rolls, mints, drops	(1.0%)



Source: The Nielsen Co.

Source unless cited above: NACS; preliminary data. Final data to appear in the NACS® State of the Industry Report of 2014 Data.



# Have some good news to share?

Let WVWA know and you could be featured in our next newsletter!

## **E-Cigarette Use by Teenagers Soars, Even as Smoking Drops**

A new report released recently by the Centers for Disease (CDC) showed that 13% of middle- and high school students used electronic cigarettes in 2014 – triple the number from the year before. At the same time, the share of high school students who smoked traditional cigarettes declined substantially, to 9% in 2014 from 16 in 2011, along with use of cigars and pipes as well.

The numbers seemed to come as a surprise to many and reignited the conversation regarding FDA regulation of e-cigarettes, which began last spring when the agency introduced its proposed rules on e-cigarettes. A month prior to the FDA's announcement in April, NACS issued its own position on the sale of e-cigarettes. The statement read, in part:

- ♦ Retailers should, as a best practice, follow the same applicable federal, state and local laws for verifying the age of purchasers of tobacco and apply these standards for the sale of e-cigarettes.
- ♦ NACS will promote effective procedures for retailers to verify sales of age-restricted products and will encourage retailers to utilize these procedures and training tools.
- ♦ NACS will work with all appropriate federal organizations to ensure that convenience stores continue to play a leadership role in establishing guidelines that take into account current research related to the age-restricted products.

Because the CDC data shows an increase in e-cigarette use coinciding with a decline in traditional tobacco use, some have suggested that teens may be using e-cigarettes as a means of tobacco cessation, or are simply not taking up the traditional tobacco habit at all, preferring the increasingly popular “vaping.”

“The CDC should really be jumping for joy at the fact that smoking rates are declining. This is a huge success,” Michael Siegel, a professor and tobacco control specialist at Boston University's School of Public Health, told the Washington Post.

Despite the possible silver linings, there remains the significant problem of minors gaining access to age-restricted tobacco products. The proliferation of so-called vape shops and equipment for sale online has made access easy, and teenagers have told news outlets that they simply clicked a button to indicate they were over 18 to be able to order an e-cigarette starter kit. As always, and per NACS' policy on e-cigarette use, we are continuing to work closely with We Card and our community of retailers to insure that e-cigarette sales continue to be conducted the same as any other age-restricted product.

## **Cigarette Sales Fell, Smokeless Sales Rose in 2012**

*Published in CSP Daily News*

The number of cigarettes sold to wholesalers and retailers in the United States declined from 273.6 billion in 2011 to 267.7 billion in 2012, according to the most recent Federal Trade Commission (FTC) Cigarette Report.

The amount spent on cigarette advertising and promotion by the largest cigarette companies in the United States rose from \$8.37 billion in 2011 to \$9.17 billion in 2012, due mainly to an increase in spending on price discounts (discounts paid to cigarette retailers or wholesalers in order to reduce the price of cigarettes to consumers). Spending on price discounts increased from \$7 billion in 2011 to \$7.8 billion in 2012.

The price discounts category was the largest expenditure category in 2012, as it has been each year since 2002; in 2012, it accounted for 85.1% of industry spending.

According to the 2012 Smokeless Tobacco Report, spending on advertising and promotion by the major manufacturers of smokeless tobacco products in the United States, which had risen from \$444.2 million in 2010 to \$451.7 million in 2011, declined to \$435.7 billion in 2012. As with cigarettes, price discounts made up the largest spending category, totaling \$212.1 million, or 48.7 percent of all spending in 2012.

Smokeless tobacco sales rose from 122.7 million pounds in 2011 to 125.5 million pounds in 2012. The total value of those sales increased from \$2.94 billion in 2011 to \$3.08 billion in 2012.



# Other State News

## Smokers, Pony up or Kick the Habit as Tennessee Law Will Boost Cigarette Prices over Three Years

Tennessee smokers will begin paying more for cigarettes on July 1 under a bill signed into law recently by Gov. Bill Haslam. The 15 cents-per-pack increase is the first of three that will total 35 cents by July 1, 2017. The change is technically not a tax hike. What lawmakers have done is increase the minimum price mark-up over retailers' "cost of doing business" for buying and selling a 20-cigarette pack.

The minimum now is 8 percent, or 41 cents per pack. That minimum will rise in three steps to 15 percent, or 76 cents per pack, over two years, according to a legislative fiscal analysis. It's an 85 percent increase in the minimum mark-up and its expected to sweeten retailers' bottom lines by \$129.22 million in year three, according to the analysis by the General Assembly's Fiscal Review Committee.

This is the first change in 65 years to Tennessee's Unfair Cigarette Sales Law. Twenty-five states have such laws, passed largely in the 1940s to 1960s in the name of protecting smaller retailers from unfair competition by chains and large discount stores. In this case, convenience and grocery stores, including chains, lobbied for the increase, saying major tobacco manufacturers were pressuring them to keep prices at or near the minimum mark-up.

## OH Senate Proposing 40 Cent Cigarette Tax Increase and OTP Increase to 22.5%

Ohio Senate President Keith Faber held a press conference this morning to release an overview of the Senate re-write of the state budget bill. The Senate goal for tax policy is a 6.3% across the board income tax cut; exempt small businesses from paying taxes on the first \$250,000 of income and have a small business 3% flat tax on income over \$250,000; and reinstate the income tax exemption for social security income. The Senate's bill will include:

- 40-cent increase in the cigarette tax
- Increase in the OTP tax from 17% to 22.5%

The cigarette tax increase is projected to produce \$406 million in the first year with \$8 million of that allocated to tobacco cessation programs and the remaining amount supporting the Senate's income tax policy changes. A revenue projection wasn't noted for the OTP tax increase.

## State Minimum Age and Flavor Ban Bill Update

Currently, 46 states have a minimum age of 18 to purchase tobacco products, while Alabama, Alaska, New Jersey and Utah require an individual to be 19 years old to buy tobacco products. This year, the following states have considered bills to raise the legal age for tobacco purchases:

Regarding a ban or restriction on the sale of flavored tobacco products, the following states have considered such legislation:

- California: Age 21; bill pending.
- Hawaii: Age 21; passed legislature and sent to Governor Ige who has not signed or vetoed the bill yet.
- Iowa: Age 19; bill pending.
- Massachusetts: Age 21; bill pending.
- New Jersey: Age 21; bill pending.
- New York: Age 21; bill pending.
- Oregon: Age 21; bill pending.
- Rhode Island: Age 21; bill pending.
- Texas: Age 19; bill pending.
- Utah: Age 21; bill failed.
- Vermont: Age 21; bill pending.
- Washington: Originally age 21; amended to age 18.
- New York: Prohibits the sale of flavored tobacco products (excluding the flavors of tobacco, menthol, mint or wintergreen); bill pending.
- Oregon: Prohibits the sale of flavored tobacco products; bill pending.
- Vermont: Prohibits the sale of liquid nicotine in any flavor except menthol; bill pending.

# Mid-Atlantic Legislative Conference

*We would like to thank the sponsors who graciously sponsored the Mid-Atlantic Legislative Conference at The Greenbrier:*

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*Our panels were moderated by **MALC Chairman Rob Sincavich**. We would like to thank the following members who participated in this panel discussions: **David Riser** of **R. J. Reynolds Tobacco Company**, **Bhavani Parameswar** of **King Maker Marketing Inc.**, **Brittani Cushman** of **National Tobacco**, **John Ostronic** of **Commonwealth –Altadis, Inc.**, **Christopher Greer** of **JT International**, **Eric Heiberg** of **Premier Manufacturing, Inc.**, **Kerry Paulson** of **Altria Client Services** and **Everett Gee** of **S&M Brands**.*





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Murray and Louise Jones and Nancy B. and Kit Francis of R. J. Reynolds tobacco Co.



Brittani Cushman of National Tobacco, Christopher Greer of JT International and Bhavani Parameswar of King Maker Marketing



Traci Nelson of WVWA, Dave Riser of R. J. Reynolds Tobacco Co. and Jan Vineyard of WVWA



Sheri & Mike Doman of R. J. Reynolds Tobacco Co.



Eric Heiberg of Premier Manufacturing





MALC Chairman Rob Sincavich and wife Dianne  
from Team Sledd



Stephanie Simon of Swedish Match, Renae and Keith Harkins of Liberty USA  
and Joe Comyn of Swedish Match



B.G. and Bill Beitler of W. J. Beither Co.



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Kristen Freiburger and Aaron Smith of  
Altria Group Distribution



John Ostronic of  
Commonwealth-Altadis



Vicki Howell and Charlie Casper  
of Hardec's



Dirk Smith of Convenience  
Distribution Association



David Spross of R. J. Reynolds Tobacco Co.

*Thanks to everyone who attended the  
2015 Mid-Atlantic Legislative  
Conference!*

*We will have dates soon for 2016  
so you can mark your calendar!*



Dianne Sincavich, CDA Chairman Rob Sincavich, Senator Shelley Moore Capito and WVWA Executive Director Jan Vineyard during CDA Day on the Hill

## CDA Chairman Welcomes Members to 2015 Day on the Hill

CDA Chairman Rob Sincavich welcomed member distributors to the association's annual Day on the Hill lobbying event during a kick-off dinner sponsored by Altria Group Distribution Co.

Sincavich emphasized the importance of major changes taking place at the association, including changing the name from the American Wholesale Marketers Association to the Convenience Distribution Association.

"I'm passionate about this association, and this new name reflects the changes we've made that are designed to bring us to a whole new level of representing and working for our distributor members," said Sincavich, president of Team Sledd,

Wheeling, WV, who introduced the evening's guest speaker, Sen. Shelley Moore Capito (R-WV). Elected by the largest margin of any Republican in her state's history, Capito is the first woman from West Virginia ever to serve in the U.S. Senate.

## Sen. Capito Expresses Hope for Broad Federal Tax Reform

Sen. Shelley Moore Capito (R-WV) told CDA members at Day on the Hill kickoff dinner that she hopes Congress can come together and enact broad federal tax reform.

Noting that CDA members advocate elimination of the federal estate tax, Capito said it is unlikely the legislation, passed by the House of Representatives, could pass the Senate on its own.

"I voted for full repeal of the death tax in the House five or six times," said Capito, "but the hopes of full repeal lies in overall tax reform." She noted that 60 votes would be required to bring the legislation to a Senate vote, and Republicans have only 54 votes.

She said Republicans in the Senate are working through the appropriations process to dismantle components of the Affordable Care Act (Obamacare), pointing out that the law has failed on its promise to keep people from turning to high-cost emergency rooms for their care and that many hospitals are struggling because so many people have policies with high cost deductibles, which they cannot afford.

"Have faith," she said. "We're getting things done in a bipartisan way. We're plugging away at some of these issues that are so important to you."

Anne Holloway, CDA's vice president of government affairs, thanked Sen. Capito for speaking to the CDA contingent. "That was terrific," she said, also expressing appreciation to Sincavich and Jan Vineyard, executive director, West Virginia Wholesalers Association, for inviting the senator.

**WVWA President Randy Emanuelson also attended the CDA Day on the Hill.**

We encourage all members to participate in this great event next year!

**West Virginia Wholesalers  
Association**



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