



**National Retail Federation**<sup>®</sup>  
*The Voice of Retail Worldwide*

# Health Care Reform

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## A Retail Perspective

**Retail Merchants Association**

September 10, 2010

Richmond, Virginia

# “Affordable” Care Act

## Patient Protection and Affordable Care Act of 2010 (PPACA) - March 23, 2010

- This was not the reform NRF sought – consequently, we strongly opposed the bills in Congress.
- NRF is now squarely focused on implementation issues.

# Three Key Problems

- **The mandate on employers is both punitive and anti-employment.**
- **Efforts to reduce the cost of medical care – the primary driver of insurance premiums – are tentative and insufficient.** Entitlements??
- **\$1 trillion cost will strain business and governmental budgets:** mandate penalties, new taxes, Medicare payroll taxes, many others, including a burdensome requirement to issue 1099 forms for many transactions.

# Effective Now

## Grandfathered Plan Status

- Employer plans can avoid the essential benefits package and other provisions – provided that virtually no changes are made to the plan since March 23, 2010.
- For example, eliminating a benefit or changing insurance carriers will end Grandfathered Plan status. Must declare status and keep records.

# Effective Now

## Small Business Tax Credit

- For eligible small businesses until 2012.
- Small employers with less than 25 employees may be eligible for a tax credit on a sliding scale based on number of employees and average payroll, of up to 50% of premiums for up to 2 years if the employer contributes at least 50% of the total premium cost.
- Average salary must be \$50,000 or less.

High Risk Pool funding – state application

# Effective Later 2010

- Plan years beginning after September 23, 2010
- **Lifetime limits** prohibited in all groups (fully or self-insured).
- **Annual limits** subject to severe limitations and prohibited by 2014. **Limited benefit plans** (e.g. for part-time EE's) can apply for waiver.
- **Nondiscrimination rules** [IRS 105(h) – cannot discriminate in favor of highly compensated individuals] apply to all group plans.

# Effective Later 2010

## Adult Child Dependents

- All group plans must cover adult dependents up to age 26.
  - Dependents can be married and eligible for other coverage.
  - Grandfathered plans must only cover dependents without access to other employer-sponsored coverage until 2015.

# Effective Later 2010

- **Preexisting condition exclusions for children 19 and under** are prohibited. Applies to all group plans.
- **Mandatory coverage of preventative services without cost-sharing.**
- **Emergency services** must be covered as in-network regardless of provider.

# 2014 – A Key Year to Watch

- **Employer, individual mandates** become effective.
- **Limits on waiting periods (90 days)** become effective.
- **Auto-enrollment** for 200 or more employees becomes effective.
- **Massive insurance market reform** in all markets becomes effective.

# Mandates – 2014

- **Every American citizen** and legal resident **must purchase** qualified coverage.
- **Employers must provide coverage** to full time employees or pay penalties. Employers are also subject to penalties if their coverage is **deemed unaffordable** for certain employees and they receive subsidized coverage.
- **Employees must accept coverage** but can opt out in designated low income categories.

# Coverage Threshold

- Applies to employers with **50 or more full-time employees or full-time equivalents.**
- Full-time employee is defined as working an **average of 30 hours per week** per month.
- Part-time employees count toward this threshold but not for penalties.
  - Total part-time hours per month divided by 120 = full-time equivalents.
  - Seasonal workers (holidays) are not included in threshold counts **unless** they work more than 120 days in a calendar year. Temporary workers may also count toward threshold.

# Failure to Offer Qualifying Coverage to Full-Time Employees

- Penalized for the 31<sup>st</sup> uncovered full-time employee (first 30 are exempt) @ \$2,000 per if *one* covered employee is *eligible by income* (more than 9.5% of family income) for *and receives* an exchange subsidy.
  - Penalty is monthly – charge for employees 31 to X is \$166.67 per uncovered full-time employee.
  - Penalty is not tax deductible.

# Failure to Offer Affordable Coverage to Full-Time Employees

- Full-time employees whose premium cost exceeds 9.5% of their family income can opt out of their employer's plan and receive subsidized coverage in the Exchange.
- Employers are penalized the lesser of \$3,000 per actual subsidy-recipient employee or \$2,000 times every full-time employee minus the first 30.
  - Penalty is monthly -- \$250 per subsidy-eligible employee per month. Penalty is not tax deductible.





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## Health Mandate Cost Calculator


Health Care Reform (Patient Protection and Affordable Care Act of 2010 – PPACA) is now the law of the land. One key issue affecting all employers – but especially the retail and restaurant industries – is the employer mandate, seen here as employer mandate penalties for failure to offer or an offer of unaffordable coverage.

These financial penalties apply to employers with more than 50 full-time or full-time-equivalent employees who either do not offer coverage to full time employees (and one full-time employee receives a tax subsidy) or offers coverage to full-time employees and the cost exceeds a threshold of a full-time employee's income and the employee receives a tax subsidy. The employer mandate penalties begin in 2014.

Sounds complicated?  
The National Retail Federation has created a special Health Mandate Cost Calculator to help you better understand your potential mandate penalty exposure. Your actual status could change in a given month in response to a surge in part-time hours or as your business grows. You should review your health plans and changing obligations under the law with competent benefit advisers. NRF provides this Health Mandate Cost Calculator as a service to its members and the public to provide general information and it is not nor is it intended to provide legal advice.

Follow the "Let's Start" link to review your potential mandate penalty liabilities.

[Let's Start](#)



Emergency Preparedness  
American Red Cross

Tip #1:  
Putting together a personal emergency supply kit.

Are You Ready?  
National Preparedness Month

National Retail Federation

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# NRF Health Care Mandate Cost Calculator

[www.nrf.com/healthcare](http://www.nrf.com/healthcare)

# Key Future Considerations

- The retail and restaurant industries are particularly vulnerable to the new reform law – e.g., mandates, waiting periods, etc.
- Will retailers and other businesses opt for the lesser cost of the penalty mandate over providing coverage after 2014?
- What are the employee relations / FICA tax / publicity ramifications of not providing coverage?
- Could failure of the employer-based health care system lead to a future single-payer health system ... perhaps with a VAT tax to fund it?

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