

April 30 - May 1, 2014



Day In Washington

Affordable Care Act (ACA): Full-Time Employee Definition

Supermarket Industry Impact

The Patient Protection and Affordable Care Act (ACA; PL 111-148) is imposing complex challenges for food retailers and wholesalers, who employ 3.5 million full-time, part-time and seasonal workers – many operating under fluctuating work schedules. In addition, the supermarket industry operates at a one-percent margin, on average, so health coverage and compliance costs impact food retailers' and wholesalers' ability to maintain quality employee benefits, a robust workforce and competitive consumer prices. While the Administration has taken steps to provide some flexibility within the regulatory process, there are several outstanding concerns with the law itself that are impacting how operators manage their workforce, adjust work schedules and offer employee benefits well beyond health care.

Position

The supermarket industry has been steadfast in seeking flexibility and ways to minimize new burdens under the ACA in order for food retailers and wholesalers to continue providing quality health coverage that is affordable to both the employee and the employer. While the Administration has taken steps to provide flexibility within the scope of the law's employer "shared responsibility" regulations, there are outstanding concerns within the ACA statute that need to be addressed, such as defining a full-time employee as working 30-hours per week, a mandatory auto-enrollment that will increase administrative costs and cause confusion between employers and employees and the law's fees and insurance market "reforms" that penalize employers who have been offering health coverage long before the ACA. There are also ACA provisions outside of the law's coverage mandates that are negatively impacting grocery stores' retail operations.

Background

The ACA re-defined a "full-time employee" as those averaging 30 hours per week per month and is currently impacting the workforce as employers follow ACA "look-back" rules to be in compliance with enforcement of the law's employer mandates by 2015. A 30-hour per week full-time threshold is impacting how grocery stores hire, structure responsibilities and offer benefits to new hourly employees, and also the quality and affordability of coverage offered to current full-time employees. On April 3, 2014, the House of Representatives passed H.R. 2575 to raise the ACA 30-hour per week "full-time employee" definition to 40-hours per week. FMI and NGA have been engaging the Senate to raise the ACA's 30-hour per week 'full-time employee' definition to practical workforce standards.

There is a growing consensus that the ACA's re-defining a full-time employee as someone who averages 30-hours per week is impacting the American workforce – both in workers' take-home pay and operating a variable-hour business like a supermarket. The Congressional Budget Office (CBO) has noted the impact of the ACA on workers' hours and take-home pay. CBO also estimates that under H.R. 2575 employers will not only continue to offer coverage, but remain the primary sponsor of health coverage by a wide-margin. Indeed, H.R. 2575 provides additional flexibility that allows food retailers and wholesalers to continue offering quality, affordable health coverage to their employees.

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Relevant Legislation

NGA and FMI support the following statutory changes to the ACA that are impacting food retailers' and wholesalers' operations.

- **H.R. 2575/S. 1188** to raise the ACA's 30-hour/week "full-time employee" definition (Sec. 1513 of ACA) to be in-line with current workforce standards, and to increase the relief threshold for small employers.
- **H.R. 1249/S. 1756** to ensure restaurant menu labeling (Sec. 4205 of ACA) is not expanded to grocery stores.
- **H.R. 1254** to repeal mandatory auto-enrollment for health coverage (Sec. 1511 of ACA).
- **H.R. 2835/S. 1647** to restore Flexible Spending Account (FSA) purchases of over-the-counter (OTC) medicine without a prescription (Sec. 9003 of ACA).
- **H.R. 3489** to remove a \$63/enrollee fee to be imposed in 2014 on self-insured plans offered by many supermarkets to fund the ACA transitional reinsurance program (Sec. 1341 of ACA).
- **S. 2253** to delay the collection the ACA transitional reinsurance \$63/enrollee fee to be imposed on self-insured plans offered by many supermarkets until 2018 (Sec. 1341 of ACA).
- **H.R. 763** to repeal ACA fee on health insurance providers (Sec. 9010) that is passed along to individuals, employers who purchase through or use an insurance carrier.
- **S. 2168** to change the definition of a large employer for the purposes of the employer mandate from 50 to 100 full time employees (Sec. 4980H(c) of ACA).
- **S. 2176** to ease employer reporting requirements (Sec. 6055(b)) under ACA.
- **S. 2205** to exempt certain small businesses from the employer mandate and to modify the definition of a full-time employee