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Automotive Parts and Service Association of Illinois Legislative Report

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Costly, Anti-jobs Bills Vetoed by Governor Rauner

Last month, Governor Rauner vetoed a number of anti-jobs legislation. The Governor was faced with a number of issues that expanded government intervention into employer benefit plans and added legal traps for Illinois employers. Individually each measure increased the cost of doing business in our state. Together these bills posed a terrible blow to Illinois being able to compete for high paying jobs with good benefits. We appreciate the Governor's willingness to stand with the Illinois Chamber of Commerce after facing intense pressure to sign these bills from organized labor and interest groups intent on dismantling Illinois' jobs climate. An effort to override any of these vetoes requires 71 votes in the House and 36 votes in the Senate. The makeup of the House is 67 Democrats and 51 Republicans. The Senate has 37 Democrats to 22 Republicans.

The General Assembly also wrapped up its Special Session last month addressing the school funding issue and coming to an agreement with Governor Rauner. The veto session has been scheduled for October 24-26 and November 7-9. Vetoes we will ask lawmakers to sustain include:

SB 81, sponsored by Sen. Kimberly Lightford (D-Chicago)/Rep. Will Guzzardi (D-Chicago), **increases the minimum wage** for an employee who is 18 years of age or older or if under 18 has worked more than 650 hours during any calendar year: to \$9 per hour from January 1, 2018 to December 31, 2018; to \$10 per hour from January 1, 2019 to December 31, 2019; to \$11.25 from January 1, 2020 to December 31, 2020; to \$13 per hour from January 1, 2021 to December 31, 2021; and to \$15 per hour on and after January 1, 2022. For an employee who is under 18 years of age that has not worked more than 650 hours for an employer during any calendar year, the minimum wage shall be: (1) \$8 per hour from January 1, 2018 to December 31, 2018; (2) \$8.50 per hour from January 1, 2019 to December 31, 2019; (3) \$9.25 per hour from January 1, 2020 to December 31, 2020; (4) \$10.50 per hour from January 1, 2021 to December 31, 2021; and (5) \$12 per hour on and after January 1, 2022. The legislation creates a convoluted credit against the withholding tax liability of employers with 50

or fewer employees, calculated based on the increase in the minimum wage. **The Governor vetoed this legislation on August 25th.**

In the Senate, SB 81 received only 30 votes, 6 short of an override. Joining all Senate Republicans in voting against SB 81 were Sen. Scott Bennett (D-Champaign) and Sen. Julie Morrison (D-Deerfield). Sen. Linda Holmes (D-Aurora) voted "present". Senate Democrats "not voting" were Bertino-Tarrant (Shorewood), Haine (Alton), Harris (Flossmoor), and Silverstein (Chicago).

[SB 1720](#) (Sen. Biss /Rep. Lisa Hernandez (D-Chicago) increases criminal penalties for violation of the **Wage Payment & Collection Act**. It also bars contractors for 5 years from bidding on any state procurement by a business violating certain Illinois employment laws, any comparable laws in other states or the federal FLSA. **The Governor vetoed this legislation on August 25th.** SB 1720 also received only 30 Senate votes, far short of the 2/3 needed to override. Sen. Steve Landek (D-Bridgeview) voted "no". Democrats Bertino-Tarrant, Haine, Harris, Hastings (Orland Hills), Morrison and Stadelman (Rockford) all were recorded as "not voting".

[HB 2525](#) sponsored by Rep. Jay Hoffman (D-Swansea)/Sen. Kwame Raoul (D-Chicago), is being promoted by the House & Senate Democrats as **workers' compensation** reform. It is far from it. Codification of current bad case law for "causation" and "traveling employee" merely locks employers into the court-expanded liability. In addition, it prevents employers from being able to achieve a change in the case law from future courts. Some benefit relief is included but is far outweighed by increased regulation and litigation that are contained in the measure. **The Governor vetoed this legislation on August 25th.** No Republicans voted for HB 2525 when it passed the House on May 31. Sixty-Four Democrats supported the bill.

[HB 2462](#) (Rep. Anna Moeller (D-Elgin)/Sen. Daniel Biss (D-Skokie) **Equal Pay - Wage History**: Prohibits an employer from: (i) screening job applicants based on their wage or salary history, (ii) requiring that an applicant's prior wages satisfy minimum or maximum criteria, and (iii) requesting or requiring as a condition of being interviewed or as a condition of continuing to be considered for an offer of employment that an applicant disclose prior wages or salary. Prohibits an employer from seeking the salary, including benefits or other compensation or salary history, of a job applicant from any current or former employer. In addition, the very concerning changes being made by HB 2462 are the undermining of employer defenses along with the expansion of civil penalties, including punitive damages and injunctive relief. The question we ask is this legislation really about limiting what employers can ask of a job applicant or is the bill all about increasing litigation opportunities and judicial awards against employers? **The Governor vetoed this legislation on August 25th.** In his veto message, the Governor recommended that the General Assembly consider the Massachusetts approach. The Illinois Chamber spearheaded an effort to promote the Massachusetts alternative by supporting an amendment introduced by Rep. Norine Hammond (R-Macomb) to **[HB 2094](#)**. A similar amendment was filed in the Senate by Sen. Mike Connelly (R-Lisle).

Sustaining this veto may be the most difficult of bills vetoed as 25 House Republicans joined 66 Democrats to pass the measure back in April. To sustain the veto only 3 Republicans can vote with Democrats to override. If the override should advance to the Senate, it only received 35 votes there. Democrats Bill Haine (Alton); Napoleon Harris (Flossmoor); and Linda Holmes (Aurora) did not vote in support. The lone Republican to vote for the measure was Sam McCann (Carlinville).

[HB 2622](#) (Fine/Biss) This measure uses employer and insurer tax dollars to capitalize the creation of a **state established, mutual insurance company** to compete with the over 300 insurers that already provide workers' compensation coverage. The \$10 million of startup money are tax dollars that currently go to run the operations of the Workers' Compensation Commission. The legislation provides that the funds are a "loan" to be paid back with interest. Given the track record regarding finances of Illinois state government, it is difficult to believe the loan would be paid in a timely fashion. Furthermore, removing resources meant to support the operations of the Commission jeopardizes the entire adjudication of workers' compensation for injured workers as well as employers. **The Governor vetoed this legislation on August 18th.** Again, no Republicans voted for HB 2622. But, all 67 Democrats voted "yes".

APSA of Illinois Issues Signed into Law by Governor Rauner

[HB 3045](#), sponsored by Rep. David Harris (R-Arlington Heights)/Sen. Dan McConchie (R-Hawthorne Woods), requires an **application for a certificate of title or vehicle registration** to include, if available, a person's email address. Allows the Secretary of State to send to owners of randomly selected motor vehicles requests for information about their motor vehicles and liability insurance coverage electronically or via U.S. mail. Public Act 100-145, effective January 1, 2018

[HB 3072](#), sponsored by Rep. Robert Martwick (D-Norridge)/Sen. Michael Hastings (D-Orland Hills), amends the **definition of "vehicle protection product"** by including protective chemicals and substances and excluding fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle and removes provisions regarding warranties and the liability of the warrantor. No vehicle protection products sold or offered for sale in the State shall be subject to the provisions of the Code or the Service Contract Act unless offered as a service contract under the terms of the Service Contract Act. A vehicle protection product warrantor's liabilities under a vehicle protection product warranty must be covered by a warranty reimbursement insurance policy; provides that vehicle protection product warranties are express warranties and not insurance. Under the Service Contract Act, in provisions concerning the definition of "service contract", it makes changes concerning service contract coverage related to protective chemicals, substances, devices, or systems and establishes requirements for refunds of vehicle protection products; adds definitions for "vehicle protection product" and "vehicle protection product warranty"; and makes conforming changes to the treatment of service contracts. Public Act 100-272, effective January 1, 2018.

[HB 3172](#), sponsored by Rep. Nick Sauer (R-Lake Barrington)/Sen. Jil Tracy (R-Quincy), lengthens the required period of time that a truck tractor in combination with a semitrailer is subject to a **safety test** at an official testing station from every 6 months to 12 months.

[SB 675](#), sponsored by Sen. Steve Stadelman (D-Loves Park)/Rep. Marcus Evans (D-Chicago), under the Illinois Vehicle Code, adds to the definition of **"essential parts"** a bed, front bumper, rear bumper, and for motorcycles, fairings, fuel tanks, and forks. Allows the Secretary of State to cancel any license or permit upon determining that the holder has assisted an out-of-state resident in acquiring an Illinois driver's license or identification card by providing or allowing the out-of-state resident to use his/her Illinois address of residence and distributes/forwards the Illinois driver's license or ID card to the out-of-state resident. Operating a driver training school without a license issued by the Secretary of State is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense. An automotive parts recycler, scrap processor, repairer, or rebuilder with a business license issued by a municipality that has been revoked or non-renewed due to fraud or misconduct committed against the municipality within 3 years preceding the effective date of the bill or on or after the effective date of the bill cannot be eligible for a license or license renewal to conduct business as an automotive parts recycler, scrap processor, repairer, or rebuilder under the Code, except in a municipality with 1 million or more inhabitants. An application to conduct business as an automotive parts recycler, scrap processor, repairer, or rebuilder shall include a statement indicating if the applicant has been subject to the revocation or nonrenewal of a business license due to fraud or misconduct committed against the municipality. An automotive parts recycler, scrap processor, repairer, or rebuilder shall be fined \$1,000 for each day it conducts business in this State with a revoked or non-renewed business license. Public Act 100-409, effective date August 25, 2017.

[SB 1556](#), sponsored by Sen. Bill Cunningham (D-Chicago)/Rep. Marcus Evans (D-Chicago), requires that a **certificate of title issues by the Secretary of State** to contain the names and fax numbers or electronic addresses of any lien holders and the certificate's expiration date. Allows the Secretary to issue a certificate of title to an out-of-state resident if the out-of-state resident is a bona fide purchaser of a vehicle or a manufactured home from a dealer licensed in this State and the licensed dealer is no longer operating as a licensed dealer and does not properly transfer the title application to the bona fide purchaser prior to the licensed dealer's business closure. Changes the required bond amount to be deposited with the Secretary for each applicant who intends to act as a remittance agent to be \$20,000. Requires an application for a new vehicle dealer's license or a used vehicle dealer's license to contain a bond or certificate of deposit in the amount of \$50,000. Provides that a licensee that has faithfully and continuously complied with conditions of the bond requirement for new vehicle dealers and used vehicle dealers under the Illinois Vehicle Code for a period of 60 consecutive months after the effective date of the bill shall be exempt from any further bond requirements under those provisions. Public Act 100-450, effective January 1, 2018.

[SB 1694](#), sponsored by Sen. David Koehler (D-Edwards)/Rep. Kelly Cassidy (D-Chicago), requires any **commercial vehicle relocater, private towing services, or any other private towing service providing removal and seeking to impose fees for storing a vehicle** to provide written notice within one business day after the vehicle is removed or towed, by certified mail, return receipt requested, to the lien holder of record, whether there is a lien or not. The notice must include the rate at which fees will be incurred and provide the lien holder an opportunity to inspect the vehicle on the premises where the vehicle is stored within two business days of the lien holder's request. Public Act 100-311, effective November 22, 2017.

[SB 1943](#), sponsored by Sen. Koehler/Rep. Daniel Beiser (D-Alton), under the Environmental Protection Act, removes a provision providing that specified monies in the **Used Tire Management Fund** may be used to assist with the marketing of used tires. Makes changes to provisions concerning the Clean Air Permit Program. Removes a requirement for Clean Air Act Program Permits to include a requirement that all compliance certifications be submitted to the United States Environmental Protection Agency. Public Act 100-103, effective August 11, 2017.

[SB1946](#), sponsored by Sen. John Mulroe (D-Chicago)/Rep. Elaine Nekritz (D-Northbrook), allows a salvage dealer to obtain free of any lien a junking certificate or a salvage certificate by submitting an application to the Secretary of State. Defines "salvage dealer" as "a licensed dealer who primarily sells salvage vehicles on behalf of insurance companies and obtains a "salvage dealer" designation through the used dealer application process" under the Illinois Vehicle Code. A vehicle owner or a lienholder may send notice of dispute of title within 30 days after notice of transfer of title is sent by the insurance company or salvage dealer to the owner or lienholder. No dealer licensed under the Code shall sell a vehicle for which a rebuilt title has been issued from another jurisdiction without first obtaining an Illinois certificate of title with a "REBUILT" notation under the Code. Public Act 100-104, effective November 9, 2017.

[SB1969](#), sponsored by Sen. Scott Bennett (D-Champaign)/Rep. Carol Ammons (D-Urbana), under the Environmental Protection Act, changes provisions prohibiting persons from allowing water to accumulate in used or waste tires by providing an exception for residential households that keep no more than 4 (currently 12) used or waste tires at the site if they are covered and kept dry. Changes the maximum amount of money that may be allocated from the Used Tire Management Fund for specified purposes from \$2,000,000 per fiscal year to \$4,000,000 per fiscal year. Provides that 10% of allocations from the **Used Tire Management Fund** shall be allocated to the University of Illinois for the Prairie Research Institute (rather than to the Department of Natural Resources for the Illinois Natural History Survey) for specified research purposes. Provides that moneys in excess of \$4,000,000 (rather than \$2,000,000) per fiscal year from the Used Tire Management Fund shall be used to provide grants to public universities for vector-related research, disease-related research, and for related laboratory-based equipment and field-based equipment. Provides that \$300,000 from the Emergency Public Health Fund shall be allocated annually to the University of Illinois (rather than the Department of Natural Resources) for specified research purposes. Public Act 100-327, effective August 31, 2017.

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