



1700 N. Moore Street, Suite 2250, Arlington, VA 22209  
Phone: (703) 841-2300 Fax: (703) 841-1184  
Email: [info@rila.org](mailto:info@rila.org) Web: [www.rila.org](http://www.rila.org)

October 27, 2009

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
H-232 Capitol Building  
Washington, DC 20515

The Honorable Harry Reid  
Senate Majority Leader  
United State Senate  
S-221 Capitol Building  
Washington, DC 20510

Dear Speaker Pelosi and Majority Leader Reid:

I write on behalf of the Retail Industry Leaders Association (RILA), the premiere trade association for the nation's largest and most innovative retailers, to underscore the retail industry's commitment to advancing a responsible health care reform bill that lowers systemic costs and increases access to quality, affordable care. As economic bellwethers and employers responsible for insuring millions of Americans, retailers know the significance of rising health costs for families across the nation. As you continue your discussions to try and merge your chambers' committee-passed bills, we ask that you bear in mind several key principles.

Because of the Employee Retirement and Income Security Act (ERISA), all RILA member companies are able to voluntarily offer health care coverage to their employees. We do so to recruit and retain the best talent and to ensure a healthy, productive workforce. ERISA also ensures that we can offer benefits at the lowest possible price, meaning we are able to hire more workers and keep our economy growing. For these reasons, we have concerns about any health reform measure that may increase costs to our businesses or to our employees or undermine ERISA. We urge you to advance a reform package that preserves ERISA preemption, contains costs, provides for benefit design flexibility, does not ask employers to pay for the coverage of employees who choose not to purchase an employer's plan, and streamlines compliance for employers and employees alike. With these priorities, we can build upon the existing system and make health care more accessible and affordable for our employees.

In addition, there are issues of primary importance for retailers that need to be addressed in health care reform legislation. Addressing these issues will help to ensure that full-time workers continue having access to the care they like at a price they can afford. Specifically:

- **Part-time employees should be exempted from any employer mandate.** Part-time employees are often individuals with access to insurance through a spouse or partner simply working for extra income, students on their parents' health plans, or retirees with access to Medicare. In fact, of service sector employers who currently offer health care benefits to part-time employees, the typical take-up rate is often less than 20 percent. If retailers are forced to offer benefits to employees who work less than 30 hours per week, many will face difficult choices between hiring new workers and decreasing the benefits available to full-time employees who invest their careers with a particular company. In this

economy, Congress must not take steps, no matter how well intentioned, that discourage job growth and creation.

- **A 90-day waiting period is essential for seasonal hires.** Many seasonal workers enter the workforce for just a few weeks or months, with no intention of staying at a company to make a career. One common example is of employees hired for the holiday shopping season in November and December. A 90-day waiting period before employers are required to automatically enroll full-time employees without penalty into health benefit plans is vital to ensure that quality, affordable employer-sponsored benefits are maintained for millions of Americans working in service sector jobs. Without a waiting period, the resources spent to cover seasonal and other short-term hires will drastically increase the cost of benefits available to those who do stay as well as create a “revolving door” effect of employees going between employer-sponsored and exchange-based plans.
- **The definition of “full time” needs clarification.** In service sector industries, it is commonplace for employees to either be temporary or to have schedules that fluctuate over and under 30 hours per week. Clarifying that full-time employment is 390 hours in a quarter (or 30 hours per week for 13 weeks) will eliminate ambiguity about who is considered full-time and assure that employees keep the plans that they have and like instead of ping-ponging back and forth between employer-sponsored coverage and the new health insurance exchange as their schedules fluctuate.

RILA member companies believe that covering the uninsured and lowering the cost of care for everyone is urgently needed. We have engaged in good faith discussions with policymakers on both sides of the political aisle to advance these shared goals and are willing to look at all options to see that more Americans have access to the care they so urgently need. However, we may be placed in a position of urging lawmakers to redraft health care reform legislation if our priorities are not met.

Again, we are committed to meaningful health reform and hope that you and your team will work with us to advance our shared goal.

Sincerely,

A handwritten signature in black ink, appearing to read "John G. Emling". The signature is fluid and cursive, with a large initial "J" and "E".

John G. Emling  
Senior Vice President, Government Affairs