



Keeping Texas Open for Business

New study shows the price of discriminatory legislation

The Texas Association of Business commissioned a study that shows the economic impact of the Texas Legislature passing discriminatory legislation next session.

The study shows Texas could face an \$8.5 billion decline in the state's GDP and lose 185,000 jobs if so-called "bathroom bills" and other legislation considered discriminatory is approved and signed into law.

The study, conducted by St. Edward's University, is part of a newly formed, broad-based, statewide coalition of businesses called "Keep Texas Open for Business." The name of the coalition also is the goal.

"Discriminatory legislation is bad for business. Our economic study points to the dire and far-reaching impact of discriminatory legislation on Texas businesses, our communities, families, jobs and the larger state economy," said Chris Wallace, President of the Texas Association of Business (TAB). "We must Keep Texas Open for Business. We cannot slam the door on the Texas miracle of openness, competitiveness, economic opportunity and innovation."

TAB's economic impact study found that passage of discriminatory legislation could:

- ★ Result in significant economic losses in Texas' GDP, with estimates ranging from \$964 million to \$8.5 billion;
- ★ Lead to significant Texas job losses with estimates as high as 185,000 jobs statewide; and
- ★ Drastically impact Texas' convention and tourism industry, which has a direct



TAB President Chris Wallace speaks at Keep Texas Open for Business news conference.

WORKFORCE Q&A

I am an employer, and I recently heard about the new Defend Trade Secrets Act. What do I need to know/do about the Act?

(see page 2)

UPCOMING EVENTS

**TAB ANNUAL
MEETING AND POLICY
CONFERENCE 2017**

JANUARY 17-18

**SHERATON AUSTIN AT
THE CAPITOL**

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TAB MISSION

*To make the Texas
business climate the
best in the world.*

WORKFORCE Q&A



Jacqueline C. Johnson

I am an employer, and I recently heard about the new Defend Trade Secrets Act. What do I need to know/do about the Act?

The Defend Trade Secrets Act ("DTSA") went into effect on May 11, 2016. It provides a claim that can be brought in federal court for trade secret theft. The ability to sue in federal court over a federal cause of action is a key development because state laws on the theft of trade secrets vary from jurisdiction to jurisdiction. The DTSA:

- ★ Provides uniform definitions for "trade secrets" and "misappropriation" and a uniform set of procedural and evidentiary rules (the federal rules);
- ★ Allows for retrieval (seizure) of trade secrets without notice in extraordinary circumstances;
- ★ Provides for a variety of different remedies including injunctive relief, damages, attorneys' fees and exemplary damages; and
- ★ Does not preempt or eliminate state law claims and remedies related to trade secrets, or modify other federal laws on intellectual property or unauthorized computer access.

The DTSA contains an immunity provision designed to protect whistleblowers. Specifically, it provides that an individual is not criminally or civilly liable for the disclosure of a trade secret that is made "in confidence" to a government official or to an attorney, provided that: it is disclosed "solely for the purpose of" reporting or investigating a suspected violation of law, or is made in a complaint or other document filed in a lawsuit or other proceeding filed under seal so that it is not disclosed to the public.

The law also contains an anti-retaliation provision. Under the DTSA, an individual who files a lawsuit for retaliation stemming from an employer's suspected law violation may disclose the trade secret to his/her attorney and use the trade secret information in the court proceeding, provided the individual files any document containing the trade secret under seal, and does not disclose the trade secret, except pursuant to court order.

The DTSA does require action on the part of employers. Specifically, if an employer wishes to be able to recover punitive damages and/or attorneys' fees under the DTSA, an employer must provide employees (broadly defined under the DTSA to include contractors and consultants) of the whistleblower protection set forth above. Employers can accomplish this by including a notice provision in their confidentiality agreements or by cross-referencing to a confidentiality policy.

Employment Relations questions?

***Don't forget to call TAB's Employment Relations Hotline
for your next HR Question
1.800.856.6721, ext. 164 or e-mail mcollins@txbiz.org.***

TEXAS BUSINESS REPORT

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Staying Smart On Crime

Smart-On-Crime Coalition lays out legislative agenda

The Texas Smart-On-Crime Coalition has an ambitious criminal justice reform agenda for the 85th Texas Legislative Session. The reform priorities include expanding reentry education and job training, expanding treatment alternatives to incarceration for people who are drug-addicted, ending the exclusion of 17-year-olds from Texas' juvenile justice system and eliminating Texas' troubled Driver Responsibility Program.

The Texas Smart-On-Crime Coalition (TSCC) was founded in 2014 by the Texas Association of Business, the Texas Public Policy Foundation, the Texas Criminal Justice Coalition, Goodwill Industries of Central Texas and the American Civil Liberties Union of Texas, specifically in response to Texas' ineffective and costly over-reliance on incarceration. In 2015, TSCC invited the Christian Life Commission and Prison Fellowship to join the Executive Committee.

"We represent groups that do not agree on every item of criminal justice policy that will be brought before the Legislature this session, but we collectively stand behind each of these five items," said Derek Cohen, Deputy Director of the Texas Public Policy Foundation's Center for Effective Justice.

"Despite our progress in recent years, Texas' criminal justice system in Texas

is not as smart as it should be," said Texas Association of Business CEO, Bill Hammond.

Traci Berry, Senior Vice President of Community Engagement and Education with Goodwill Central Texas, announced that the coalition would be working to create a new



reentry vocational pilot program specifically to address the high rate of recidivism in Texas' state jails.

"Improving education and job opportunities has the recognized effects of reducing crime, making our communities safer and reducing barriers to success," said Berry. In lieu of a full term in a state jail, the program would require a minimum of 90 days in a community supervision program that includes rehabilitation, education and career and technical training. By targeting state jail offenders, this program aims to rehabilitate state jail and prison populations with the highest recidivism rates.

Jim Forbes, Communications Director at Prison Fellowship, announced that the coalition would be working to raise the age of criminal responsibility in Texas from 17-to 18-years-old. Texas is one of a handful of states that automatically prosecutes and sentences 17-year-olds as adults. "We

need to end the exclusion of 17-year-olds from the juvenile justice, because it will reduce crime and protect parental rights."

Terri Burke, Executive Director of the ACLU of Texas, announced that the coalition would be working to eliminate Texas' Driver Responsibility Program. She also said the coalition would work to make evidence-based reforms to probation, such as capping the amount of time individuals on

probation and parole would spend back in prison after a technical violation. "It doesn't make any sense to send someone back to jail for years for being tardy to a probation appointment."

Douglas Smith, a policy analyst with the Texas Criminal Justice Coalition, announced that the coalition would be working to expand treatment as an alternative to incarceration for drug addicts. "We can't afford not to treat addiction."

You may view the news conference by [CLICKING HERE](#).

Keeping Texas Open for Business

continued from page one

economic impact of \$69 billion, generates more than \$6 billion in state and local tax revenues, and directly and indirectly supports more than 1.1 million Texas jobs.

The complete economic impact study is available online at

<http://KeepTXOpen.org/Study>.

“Texas needs to continue to strive for excellence in education, infrastructure and health,” said Rep. Sarah Davis (R-Houston). “Those priorities—not divisive issues that won’t move our state forward—deserve our time and attention. We need to protect our tourism industry, attract investment and provide a healthy environment for small businesses to thrive. I stand with the business community in their commitment to safeguarding the economic health of the Lone Star State.”

“As a state, we must remain committed to protecting Texas’ reputation of being economically vibrant and welcoming,” said Duff Stewart, CEO of GSD&M. “Discrimination against anyone will hinder Texas’ business climate and culture—positive traits that especially define Austin’s reputation and attract the diverse talent pool that is critical to our creative city. As a company born and raised here, we recognize the damage division will have on the success of business and denounce the pursuit of discrimination.”

Business and state leaders joined TAB’s Wallace and GSD&M’s Stewart on the steps of the State Capitol to highlight the profoundly negative impact discriminatory legislation could pose to Texas’ ability to attract, recruit and retain top talent, encourage new business relocations, expansions and

investment and maintain our economic competitiveness. You can view the news conference by [CLICKING HERE](#).

“Texas must do all it can to ensure that it remains open to business for all,” said Caroline Joiner, TechNet’s Executive Director for Texas. “We are battling workforce shortages and increasing demands for science and technology talent in Texas and across the U.S. If Texas intends to compete, we need to reject discrimination and embrace state policy that values education, diversity, inclusion and innovation.”

Keep Texas Open for Business strongly opposes any legislation that amends the existing Texas Religious Freedom Restoration Act and opens the law up to broader interpretations and potentially costly litigation, all of which could have lasting economic impacts on our state.

“Together, the Texas Legislature and the business community have worked together to make a strong, more economically vibrant Texas. We need lawmakers to focus on critical issues like public education funding, transportation, child welfare and business and property tax reform. They should oppose divisive, unnecessary discriminatory legislation,” said Wallace.

Texan businesses can learn more about how they can join the coalition and get engaged to Keep Texas Open for Business by visiting www.KeepTXOpen.org.

QUOTES

“Protecting Texas from billions of dollars in losses is simple, don’t pass unnecessary laws that discriminate against Texans and our visitors.”

– TAB President Chris Wallace in the *San Antonio Express-News*

“The biggest disappointment is that we haven’t moved the needle enough on education. So many Latinos don’t graduate ready for college or careers, and they’ll make up a majority of the workforce eventually. We’re not paying enough attention to this.”

– TAB CEO Bill Hammond in the *Dallas Morning News*

“The educational decisions our students make create a ripple effect, influencing far more than simply the student’s future. Their decisions shape the ability of our state to thrive and compete economically for good jobs.”

– TAB CEO Bill Hammond in the *Houston Chronicle*

Banning Ban the Box

TAB Board Members speak in support of proposal



TAB Board Member Mike Coffey and TAB Vice President Cathy DeWitt attend the "ban the box" news conference.

State Rep. Paul Workman (R-Austin) has introduced House Bill 577, which will prohibit local governments from mandating upon private employers any so-called "Ban the Box" and "Fair Chance" hiring ordinances.

Ban the Box regulations prohibit employers from asking about criminal history on a job application and Fair Chance ordinances, such as the one recently adopted by the City of Austin, prohibit employers from running a criminal background check until after an initial job offer has been made.

"When a local government oversteps its bounds in such a profound way, no matter how laudable the goal, there will always be drastic, unintended consequences," said Representative Workman. "I have supported efforts to promote sound policies to reduce recidivism rates in our state. I will continue to support policies that promote reentry and public safety."

"Business owners should be able to make informed hiring decisions, based on facts," said Sen. Joan Huffman (R-Houston). "Overly burdensome regulations hinder the ability of employers to create new jobs and spur the economic growth of Texas."

"Hiring employees is an expensive process," said TAB Board Member Pam Bratton at a news conference on the State Capitol steps. "It costs over \$4,000 to hire an entry level employee and over \$5,000 to hire a manufacturing employee. These costs multiply exponentially when you can't consider their background

or criminal history until after you make an offer. Small businesses are then forced to start over, increasing their cost per hire."

"A statewide patchwork of 'ban the box' laws that varies from city to city will make it difficult for multi-location employers to consistently select safe and productive employees," said TAB Board Member Mike Coffey. "Such rules put all employers at risk of having their hiring decisions second-guessed by government bureaucrats."

"The state is compelled to involve itself when local governments create regulations that restrict the rights and liberties of its citizens, including their private property rights, affect people who are not citizens of that local government, negatively impact the Texas economy and create a variation of ordinances across the state," said Representative Workman. "Fair Chance ordinances, like the one passed by the City of Austin, cause the state to become involved because they violate all four of these principles, most importantly that of restricting the rights and liberties of Texas citizens."

You can view highlights of the news conference by [CLICKING HERE](#).

A promotional poster for the TAB Annual Meeting & Policy Conference 2017. The background features a large image of the Texas State Capitol dome. In the top left corner is the Texas Association of Business logo, which includes a star with the letters 'TAB' and the text 'TEXAS ASSOCIATION OF BUSINESS' and 'THE TEXAS STATE CHAMBER'. The text 'SAVE THE DATE' is prominently displayed in large, white, bold letters. Below it, 'TAB ANNUAL MEETING & POLICY CONFERENCE 2017' is written in red, bold letters. Further down, the dates and location are listed: 'January 17-18 | Sheraton Austin Hotel at the Capitol' and '701 E. 11th St., Austin, TX'. At the bottom, it says 'To Register visit www.txbiz.org' and provides contact information: 'Questions about upcoming events? Contact Paula Romano at (512) 477-6721 ext.113 or promano@txbiz.org'.

TBR Chapter Report

TAB Houston Chapter Holiday Wishes

The Houston Chapter of TAB, with tremendous help from chapter officers Caroline Dwairy of Bestway Oilfield, Inc. and Sally Larrabee of Process Control Outlet, recently held their annual holiday party at the Saint Arnold Brewing Company in Houston. The holiday party consisted of a legislative panel comprised of Rep. Carol Alvarado, Rep. Sarah Davis, Rep.-elect Mary Ann Perez, Rep. Mike Schofield and Rep.-elect Valoree Swanson. The legislators spoke about what they would put on their Christmas “wish list” for the upcoming session. The “wishes” ranged from passing a budget with the forecasted tighter budget with as little negative impact as possible, continuing work on the franchise tax and overhauling the Department of Family and Protective Services to better serve children in Child Protective Services.

The Houston Chapter has made education the signature cause for chapter fundraising, so while guests enjoyed visiting with the legislators, eating local BBQ and sampling Saint Arnold beer, the main purpose of the event was to raise funds for the Texans Can Academies.

The Texans Can Academies, a TAB member, is a non-profit organization whose mission is to provide the highest quality education for all students, especially those who have struggled in a traditional high school setting, in order to ensure their economic independence. Sara Montelongo, the Houston Development Director for Texans Can Academies, addressed the group and expressed the importance of supporting education initiatives aimed at better preparing our students for life after the classroom.

With the help of our guests and sponsors, the Houston Chapter raised over \$1,300 for Texans Can Academies. All the funds will go to the student support fund, which is then divided between Texans Can Academies’



Incoming TAB Board Chairman Gary Gibson addresses the Houston Chapter holiday party.

three Houston campuses. The student support fund helps the schools purchase uniform shirts, pants and belts, pay for student initiatives, like the robotics program, purchase student sports equipment and team uniforms, field trips, graduation ceremonies, buses to take students to get eye exams and in some cases, pay for a few groceries for some of the most impoverished students.

This event was sponsored by some of our amazing members, Highpoint Insurance Group, Process Control Outlet and Brookstreet BBQ.

The Houston Chapter holds meetings for members every other month; be on the lookout for details regarding the next chapter meeting in February. If you have any questions or comments, please do not hesitate to reach out to TAB Regional Executive Director Chelsie Kramer at 713-591-9751 or ckramer@txbiz.org.



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Talk **About** Business

A Farewell Message



Bill Hammond, TAB CEO

Dear Members:

Outside of my family, the greatest honor I've had is the ability to represent the members of the Texas Association of Business before the Legislature, state agencies and Congress.

For many years, I was a small business owner, just like 80 percent of you. What most people don't understand about small business is that every day and every month the owner must sell the products, order the materials, make the products, ship the products and then collect for the services rendered. That's a difficult enough challenge without adding additional burdens from the state and federal government as we've seen too often.

The State of Texas has done a good job of allowing free enterprise to flourish. The federal government, until recently, has done the exact opposite. We face the highest corporate tax rates and face extremely high tax rates for pass-through entities. This has been an enormous strain on the creation of capital by small businesses and large businesses alike, in addition to reducing their ability to compete overseas. More and more of our members, even the smaller ones, are in the export business. The fact that the tax structure discriminates against them and punishes them for success makes it harder

for them to compete. What we want is a healthy, competitive market for all services and goods in Texas. Under that scenario, everyone benefits.

For a long time, we have focused on education. In that area, we take a second-to-none approach in terms of our accountability and productivity. Unfortunately, the system is not producing the results needed, but TAB will continue to work with legislators and administrators to increase productivity and quality of the public education system, both K-12 and postsecondary.

We also have been able to maintain an effort, when possible, to help reduce the cost of health insurance in Texas, prior to the Affordable Care Act. We have opposed any and all mandates that could have led to higher health insurance premiums for Texas' business. Our message to legislators and agencies is the same, do nothing to increase the cost of health insurance. What a lot of members don't realize is small business owners are buying health insurance for themselves at the same time they are buying it for their employees and their employees typically are buying it for their families. It is a very important decision, and obviously, it has been made much more challenging by the negative impacts of the Affordable Care Act.

It is my belief that I leave TAB in a very good position. We have an excellent staff who work very hard every day for all of the members and really all the employers of Texas. Our four lobbyists are all experienced and well-respected by legislators and staffers, and they are ready, willing and able to go do battle on behalf of businesses large and small in Texas. I have great faith in them and know they will continue to do that. We have the best administrative staff of any association who work hard every day to meet your needs and answer your questions. They provide member benefits that are second-to-none and increase the value of your membership. We have a communications staff that secures statewide and national coverage for our issues that, if purchased, would literally cost us millions of dollars.

It is my belief that I leave the organization in a very strong position, poised to be very effective in the future as it has been in the past. As always, our real strength is in our members. The people we represent is why the members of the Legislature, Congress and state agencies listen to us. We represent a wide range of businesses from the largest to the smallest.

It has been an honor to serve you, and I thank you for this opportunity. I know TAB will have a great session next year.