

Friday, March 09, 2007

IN SESSION

Alabama Legislature Convenes 2007 Regular Session

Special Session Yields Unanimous Approval for Economic Development

The Alabama Legislature began its new quadrennium this week on the heels of a five-day special session. Lawmakers last week demonstrated what they can accomplish under a spirit of cooperation with the approval of measures intended to bolster Alabama's economic development.

On June 5, voters will decide whether to up the state's borrowing limit by \$400 million in hopes of luring as many as 12 companies to Alabama and creating thousands of new jobs. Voters also will get the final say on creating two state trust funds to save money for the future health care costs of retired state employees and educators. Creating the trust funds will protect Alabama's bond rating and help get lower interest rates on the bonds the state will issue for the industrial incentive package and an anticipated bond issue for school construction. Both measures received unanimous approval by the Legislature last week in its special session. ARA also supported the economic development measures as economic prosperity benefits retailers.

However, the cooperative legislative spirit, at least in the Senate, may be over. State Sen. Bradley Byrne, R-Fairhope, told association executives and lobbyists Monday that the minority senators plan "to talk until we come to an understanding" on the Senate rules. The Senate is divided 18-17, with 18 Democrats holding a 1-vote majority over a coalition of Republicans and conservative Democrats. The minority disagrees with key rules changes made in the January organizational session.

Senate Minority Leader Jabo Waggoner, R-Birmingham, told the same group Monday that he expects 10 percent of the bills introduced, at most, to pass. "And that's gracious plenty," he said. So far, 449 bills have been

From Montgomery to Washington, ARA is there to benefit you!

CRR EXTRAS

BILLS

- [HB 3](#)
- [HB 80](#)
- [HB 84](#)
- [HB 118](#)
- [HB 120](#)
- [HB 130](#)
- [HB 147](#)
- [HB 158](#)
- [HB 159](#)
- [HB 165](#)
- [HB 166](#)
- [HB 170](#)
- [HB 172](#)
- [HB 174](#)
- [HB 178](#)
- [HB 181](#)
- [HB 191](#)
- [HB 195](#)
- [HB 198](#)
- [HB 200](#)
- [HB 270](#)
- [HB 273](#)
- [HB 277](#)
- [HB 278](#)
- [HB 285](#)
- [SB 43](#)
- [SB 72](#)
- [SB 78](#)
- [SB 95](#)
- [SB 114](#)
- [SB 124](#)
- [SB 128](#)
- [SB 134](#)
- [USHR 800](#)

IN THE NEWS

- [Legislature Gears Up for Contentious, Busy Session](#)
- [Bills Approved to](#)



introduced; Waggoner said he expects 1,500 to be introduced by the session's June 18th end. "I'm glad you are on the scene to monitor these bills," he said.

ARA already has begun monitoring legislation of concern to retailers. The synopsis that follows is what we found most pressing this week.

>> [Read the 2007 ARA State Legislative Agenda](#)

>> Other News

Marsh Introduces Unfair Practices Trade Act

Sen. Del Marsh, R-Anniston, introduced a bill this week in the Alabama Senate to prevent the sale of a product at less than cost (loss leaders).

SB 43 would allow any person or trade association to bring an action to enjoin and restrain any violation of this act. It would further allow for injunctive relief as well as monetary recovery and criminal punishment for violation of this act.

The bill does not apply to goods in a factory closeout sale or to seasonal goods or perishable goods sold to prevent loss to the vendor.

Bill Proposes Retailers Collect Pre-Paid Wireless Phone Fees

Under a bill proposed this week in the Alabama House, E-911 fees required to be paid on wireless phone service would be collected by retailers at the point of sale for pre-paid wireless phones. **HB 3** by Rep. Locy Baker, D-Abbeville, would allow Commercial Mobile Radio Service (CMRS) providers to collect and remit the CMRS service charge by either

- using a formula on the amount of revenue for phones sold; OR
- the CMRS' provider or **other vendor would collect at the point of sale** a service charge from each customer of prepaid wireless telephone service in the amount of one percent of the purchase price of the service.

[Lure Steel Plant](#)

- [Riley Touts Tax-Cut Plan But Faces Foes](#)
- [Taxpayers Could Save \\$375 a Year on \\$50,000 Income](#)
- [Figures Calls for Statewide Smoking Ban](#)
- [House Committee Approves Two Campaign Reform Bills](#)

For more stories concerning legislative action, go to [In the News](#)

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LEGISLATIVE CONTACTS

To contact members of the Alabama Legislature:

WRITE:

Alabama State House
11 South Union Street
Montgomery, AL 36130

CALL:

HOUSE: (334) 242-7600
SENATE: (334) 242-7800

E-MAIL:

Most representatives can be reached through the House e-mail system by using the following format:

[firstname.lastname@alhouse.org](#)

Those without e-mail addresses can be reached through the general e-mail

Bill to Allow Security Freezes for Credit Reports

Under a bill introduced Tuesday by Rep. Steve Clouse, R-Ozark, a consumer can elect to place a security freeze on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. A "security freeze" would prohibit credit reporting agencies from releasing the consumer's credit report or any information from it without the express authorization of the consumer. If a security freeze is in place, information from a consumer's credit report may not be released to a third party without prior express authorization from the consumer.

HB 80 also gives the consumer the right to bring civil action against anyone, including a consumer credit reporting agency, who improperly obtains access to a file, knowingly or willfully misuses file data, or fails to correct inaccurate file data.

TAXES

Bill Would Allow Seniors to Buy Food Tax Free

HB 200 by Rep. Laura Hall, D-Huntsville, would exempt from the state sales and use tax food sold to persons 60 years of age and older on the first Friday of each month and would authorize any county or city, by resolution or ordinance, to exempt food sold to such persons from local sales and use taxes.

Bill Proposes Individual Income Tax Cuts

If a bill proposed by Rep. Jay Love, R-Montgomery, were to pass, it would gradually increase the personal and dependent exemptions and raise the adjusted gross income phase-out of the optional standard deduction over a five-step period to increase the threshold at which the state imposes individual income tax. Currently, the state imposes individual income tax on a family of four beginning at \$12,600 of Alabama adjusted gross income.

Under **HB 277**, the tax cuts would be triggered if growth in the Education Trust Fund equals or exceeds 3 percent annually as certified by the Department of Finance. However, no single person or couple with an adjusted annual gross income of more than \$100,000 would get a tax break.

Love's bill is part of the governor's eight-bill tax-cut plan, which he said would save taxpayers about \$320 million annually in sales and income taxes when phased in over five years. The governor's plan also would allow those with a 401(k), traditional Individual Retirement Account or a similar defined-contribution retirement plan

address:

house3@alhouse.org

There is no general e-mail address for senators. [Click here](#) for a roster of the state senators with their complete contact information.

LINKS GO TO CONTACT INFO:

The link to each lawmaker mentioned in this publication goes to their individual websites, which have contact information. You can also find out whose legislative district you live or work in under [Find Your Lawmaker](#) in the [Political Affairs](#) section of alabamaretail.org.



For committee assignments and clerk contacts for the Alabama Legislature, see [ARA's 2011 Legislative Roster](#).

BENEFIT FROM THE VALUE

Now, Even More Benefits from ARA



Your Business Can Save

to make qualified withdrawals of as much as \$10,000 annually without paying state income taxes on the money. Again, no one who makes more than \$100,000 a year would get that tax break.

Galliher Proposes Income Tax Credit for Adult Education

HB 273 by Rep. Blaine Galliher, R-Gadsden, proposes, as a monetary inducement or incentive for adult workers to seek educational advancement and training for both higher paying and more demanding jobs, an income tax credit for both the employee and the employer based on the costs associated with the additional education and training for these positions.

Bill Encourages Rural Business Growth

To encourage business growth in areas of Alabama where jobs are needed most, **HB 285** by Rep. Benjamin Lewis, R-Dothan, proposes a tax credit for businesses that create jobs in a county or counties identified by the Department of Industrial Relations as being within the 25 Alabama counties with the highest annual unemployment rate for the year the job is created. Such businesses will receive an income tax credit equal to \$500 per new job created in the targeted counties.

SMALL BUSINESS

McDaniel Reintroduces Small Business Economic Impact Bill

Rep. Frank McDaniel, D-Albertville, has again introduced his legislation that mirrors federal provisions requiring that any state agency that proposes a new rule or rule change that affects small business to prepare a small business regulatory flexibility analysis, including a small business economic impact statement. Under **HB 84**, a small business is defined as one that employs fewer than 100 full-time employees or has gross annual sales of less than \$6 million. This legislation also would require a five-year review of all state agency rules to determine their effect on small business. ARA supports this legislation.

Love Introduces Small Business Healthcare Incentives

Another bill by Rep. Jay Love is **HB 278**, legislation to encourage small businesses to provide health insurance coverage for employees. Certain qualifying small businesses will be allowed to deduct enhanced amounts for expenses related to health insurance

Thousands

ARA constantly strives to increase the Value its members received from membership. Many members have been using our low-cost workers' comp program for years, but were asking for more. In January, we announced more savings. ARA members now have access to:

Cost-Saving Credit Card Processing:

Through a partnership with Huntsville-based **CHECKredi**, ARA members get rates normally reserved for only the largest stores.

Discounted Inbound and Outbound Shipping:

Through our arrangement with **PartnerShip** ARA members can save up to 27% on FedEx services and up to 70% on other shipping needs.

Budget Friendly Email Marketing:

Constant Contact brings ARA members cutting edge e-mail marketing technology for as low as \$15 a month; members save up to 25%

[Find Out More Today](#)

IMPORTANT EVENT THIS WEEK

WHAT: **Birmingham Business Leadership Exchange**

WHEN: **6 p.m. Wednesday, April 6**

WHERE: Regions Center Upper Lobby Auditorium, 1900 5th Avenue North

Complimentary parking available at Regions Center deck via 19th St. North

The Speaker's Commission on Job Creation is partnering with the Birmingham Business Alliance to invite business

premiums, if certain conditions are met.

Additionally, in order to encourage employee participation in their employer's health insurance plans, qualifying employees will be allowed to deduct certain amounts they contribute toward their health insurance premiums, if certain conditions are met.

SMOKING/TOBACCO

Numerous Bills Proposed to Regulate Tobacco Use and Sale

Under existing law, when the Alabama Revenue Commissioner removes a brand of tobacco products from sale, the wholesaler or distributor has 30 days from receiving the notice of delisting to sell the brand. [SB 72](#)

by Sen. Wendell Mitchell, D-Luverne, and [HB 181](#) by Rep. John Knight, D-Montgomery, would allow cigarettes to continue to be sold after delisting, but would require the distributor to assure compliance and would allow the Secretary of State to act as agent for any non-participating manufacturer whose cigarettes are sold in Alabama and who has no appointed agent.

[SB 78](#) by Sen. Larry Means, D-Attalla, and [HB 191](#) by Rep. Cam Ward, R-Alabaster, would increase the penalties for purchasing tobacco products on behalf of a minor, would make the use of false identification by a minor to purchase tobacco products unlawful, would increase the penalties for the unlawful possession of contraband tobacco, would prohibit the sale of tobacco products through a self-service display (vending machines), and would require the posting of signs that say the sale of tobacco products to minors is prohibited. It would NOT prevent sales through a vending machine located in an area in which minors are not permitted access or through a vending machine that dispenses tobacco products by use of a device that requires a salesperson to control the dispensation of the product.

Several bills proposed so far would further limit smoking in public places. Under a constitutional amendment proposed in [HB 165](#) by Rep. Demetrius Newton, D-Birmingham, smoking in food service establishments and bars, except private paid membership establishments to which the general public does not have access, would be prohibited. Rep. Newton also has introduced [HB 166](#), contingent upon passage of the constitutional amendment, to further restrict smoking in public places including outdoor seating at restaurants.

Sen. Vivian Figures, D-Mobile, plans to introduce a bill that would ban smoking in public places and businesses statewide, including restaurants and bars. Under the Clean Indoor Air Act of 2003, smoking currently is banned in certain public places, certain areas

owners of companies across the industrial spectrum to attend a "Business Leadership Exchange," and share their ideas about how to improve the business climate in the state. If you have any questions, please **contact the office of House Speaker Mike Hubbard at 334-242-7668**. If you are unable to come to the Birmingham exchange but would like to submit ideas and recommendations, you may [email them to Alabama Jobs Commission](#)

or join the conversation on Facebook at

facebook.com/speakersjobscommission

are designated for smoking and municipalities are allowed to pass stricter laws.

PHARMACY

Bill Would Change Make Up of Pharmacy Board

Under existing law, the Alabama Board of Pharmacy consists of five members, with three appointed by the governor from certain types of pharmacies and nominated by various groups. [HB 170](#) by Rep. Ron Johnson, R-Sylacauga, would provide that the independent pharmacist member of the board would be nominated by the Alabama Independent Drug Store Association. Current law requires members to be licensed pharmacists who have been licensed in this state for a minimum of five years, but this bill would increase that to 10 years and further require them to be full-time Alabama residents actively engaged in the practice of pharmacy or pharmacy administration **in Alabama**, or both.

The legislation would require any board member serving in one of the three designated positions for hospital, independent or chain pharmacy who leaves that designated practice during his or her term to be terminated from the board within 90 days of the date his or her change in practice.

The **Alabama Retail Association Chain Drug Council** voted to oppose this bill on the basis that it is divisive to pharmacy in Alabama.

Bill Proposes Good Faith Immunity for Drug Utilization Review

Under existing law, dentists, chiropractors and physicians who serve on utilization and quality control committees or peer review committees and consultants and employees of the committees are granted a qualified good faith immunity from damages related to their actions, and the committees' files are privileged. [HB 172](#), also by Rep. Johnson, would establish a similar relationship for a committee of licensed pharmacists formed to evaluate the performance of pharmaceutical care or pharmaceutical drug utilization review.

Bill Provides for Outdated Drug Credits

Rep. Johnson's [HB 174](#) would require wholesale drug distributors to provide for the return of outdated prescription drugs sold directly by the wholesale drug distributor under certain conditions for full credit or replacement.

The legislation would require wholesale drug distributors to make

adequate provisions for the return of both full and partial containers of outdated prescription drugs for up to six months after the labeled expiration date for prompt full credit or replacement.

Bill Would Waive Taxes on Over-the-Counter Medications

Current law exempts prescription medications from sales and use taxes.

HB 270 by Rep. Mac Gipson, R-Prattville, would also exempt over-the-counter medications from sales and use taxes. Over-the-counter medications are defined as *“a drug that contains a label that identifies the product as drug. The outside container or wrapper of the retail package, or the immediate container label if there is no outside container or wrapper, shall contain the title, headings, subheadings, and related information.”*

This exemption does not include *“grooming and hygiene products”* or *“dietary supplements.”*

ALCOHOL

Bills Would Limit Who Can Serve Alcohol and Expand What Drinking Establishments Can Serve

Several bills have been introduced so far to change Alabama’s liquor laws.

HB 198 by Rep. Mac Gipson, R-Prattville, would require alcohol servers and lounge patrons to be of legal drinking age. Currently, 19 year olds can serve alcohol and be patrons of drinking establishments, even though the state requires you to be 21 to purchase alcoholic beverages. Gipson’s bill would make everyone in a licensed lounge be 21 years old or older.

HB 147 by Rep. Johnny Mack Morrow, D-Red Bay, and **SB 124** by Sen. E. B. McClain, D-Midfield, would allow fortified wine to be sold by any Alabama Beverage Control Board licensee.

HB 195 by Rep. Thomas Jackson, D-Thomasville, and **SB 128**, which has six senator sponsors, adds malt beverages with higher alcohol content under the definition of *“beer.”* Under the proposed definition, a malt liquor could contain one half of 1 percent or more of alcohol by volume, not to exceed 14.9 percent by volume and still be sold by an ABC Board licensee. The Senate sponsor is Sen. Parker Griffith, D-Huntsville.

ETHICS/CAMPAIGN FINANCE

Campaign/Ethics Reform Among First Issues Lawmakers Consider

Lawmakers jumped right into ethics and campaign finance reform this week. The House Constitution and Elections Committee approved two bills Wednesday related to campaign financial reporting:

- [HB 120](#) by Rep. Jeffrey McLaughlin, D-Guntersville, which would ban the transfer of money from one political action committee to another; and
- [HB 118](#) by Rep. Randy Hinshaw, D-Meridianville, which would require identification of the person, campaign committee or PAC paying for political advertising, including mailouts and calls from a phone bank, within 90 days of an election. Identification would be required on donations of \$1,000 or more to legislative campaigns and \$10,000 or more to statewide campaigns.

Other bills introduced but not yet considered would:

- require lobbyists to report anything of value given to public employees or their relatives. Currently, lobbyists only have to report what they spend in excess of \$250 a day on a public employee or his relative. [HB 130](#) is sponsored by Rep. John Robinson, D-Scottsboro.
- ban PAC-to-PAC transfers with one exception. [HB 158](#) by Rep. Mike Hubbard, R-Auburn, and [SB 95](#) by Sen. Arthur Orr, R-Decatur, would allow a lesser PAC to contribute to a principal campaign committee.
- would require full disclosure of money lobbyists spend to influence the Legislature and the executive branch. [HB 159](#), sponsored by Rep. Steve McMillan, R-Bay Minette, and [SB 134](#), sponsored by Sen. Ben Brooks, R-Mobile, also would require those who lobby the executive branch of government to register with the Alabama Ethics Commission.

PRIVACY

Bill Sets Perimeters for Computer Breach Notification

Sen. Phil Poole, D-Moundville, has introduced a bill ([SB 114](#)) that requires those with computerized data containing personal information about Alabama residents to inform them of any breach of security. Under the bill, businesses must notify Alabama residents of any breach of security within 45 days. Anyone who maintains data on behalf of others had 10 days to notify them once a breach is discovered. If notification involves more than 500,000 people or a cost of \$250,000 or more, the owner of the compromised computerized data must notify the injured parties by e-mail, posting the notice conspicuously on their Web site and by

notifying the major statewide media, instead of providing written notice.

Final Legislative Day

2007 Regular Session to End Next Week

The Alabama House and Senate meet at 10 a.m. Thursday, June 7, 2007, for the 30th and final legislative day of the 2007 regular session.

FEDERAL

U.S. House Approves Card-Check Legislation

ARA joins with the [National Retail Federation](#) in expressing disappointment in the U.S. House's passage of [H.R. 800](#), The Employee Free Choice Act. ARA, NRF and other business groups had urged the House to reject the legislation that would take away the right to secret ballots in union elections, saying the move would subject workers to intimidation.

In last week's [Capitol Retail Report](#), we urged you to contact your representatives in Washington and ask them to oppose the bill. **ARA is grateful to the members of our House delegation who supported Alabama retailers and their employees by voting against the bill: Reps. Robert Aderholt, Spencer Bachus, Jo Bonner, Terry Everett and Mike Rogers.** The bill passed on a vote of 241-185. A timetable on Senate action is still unclear, but Senate Health, Education, Labor and Pensions Committee Chairman Edward Kennedy, D-Mass, has said he plans to introduce the bill soon and will urge quick action.

ARA will continue to work with NRF and other business groups to fight this bill.

The bill, sponsored by Education and Labor Committee Chairman George Miller, D-Calif., would require the National Labor Relations Board to certify a union if presented with signed authorization cards from a majority of employees the union is seeking to organize, eliminating the long-standing National Labor Relations Act requirement for federally supervised secret ballots in union elections. The legislation also includes other anti-employer provisions such as compulsory arbitration of first contracts and enhanced penalties.

"The Alabama Retail Association strongly opposes changing the process used in determining whether workers want union representation. Issues of such importance to employees and their employers should be decided on their merits alone; and the best

way to ensure that is already the law of the land,” ARA President Rick Brown wrote in a [letter](#) sent last week to all of the state’s House delegation members.

The *Capitol Retail Report* is another **Benefit from the Value** of [Alabama Retail Association](#) membership. For more benefits, go to www.alabamaretail.org