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CRR EXTRAS

Friday, April 18, 2008

Onslaught Against Business Continues

Only Eight Legislative Days Remain in 2008 Regular Session

As the Alabama Legislature's 2008 regular session moves into its final month, the onslaught against business continued during a whirlwind three-day legislative week that included movement on bills that would levy massive amounts of new taxes on business.

Only eight legislative days remain in the 2008 regular session, and it is clear that Alabama's retailers and the entire business community must remain vigilant and stand firm against a gale force of anti-business legislation.



Luckily, the Alabama Senate remains in a lockdown on local gambling legislation that began Feb. 26. However, in the legislative days spread out over the next four weeks and one day remaining, the Senate will eventually begin to debate significant legislation or force a special session.

Both budgets did see movement this week and a major unemployment compensation compromise was brokered. Keep reading for all the major legislative events of the week as well as those coming up next week.

>> Other News

TAXES

\$100 Million Tax Increase on House Agenda Tuesday

The first order of business when the Alabama House of Representatives returns Tuesday for the 23rd legislative day is **an almost \$100 million tax increase on business**.

Topping Tuesday's Special Order Calendar is [HB 350](#) by

BILLS

- [SB 431](#)
- [SB 399](#)
- [SB 544](#)
- [SB 620](#)
- [SB 626](#)
- [HB 12](#)
- [HB 40](#)
- [HB 274](#)
- [HB 350](#)
- [HB 427](#)
- [HB 428](#)
- [HB 576](#)
- [HB 577](#)
- [HB 768](#)
- [HB 812](#)
- [HB 816](#)
- [HB 836](#)
- [HB 856](#)
- [HB 859](#)
- [HB 881](#)
- [HB 897](#)
- [USHR 2831](#)
- [USHR 5546](#)

IN THE NEWS

- [Senate remains at standstill](#)
- [General Fund spending for non-education agencies may vary](#)
- [Panel approves lean education budget](#)
- [House votes to remove grocery tax](#)
- [Riley, Folsom split on grocery tax](#)
- [Hinshaw cast votes for some absentees](#)
- [House speaker says](#)

Rep. Richard Lindsey, D-Centre, which among its punitive provisions: disallows a corporate income tax deduction for interest or royalty payments unless doing so would be "unreasonable" based solely on constitutional arguments; requires that management and administrative fees paid to related entities be "added back" as income; and largely repeals a business' ability to challenge or appeal disallowed or disputed deductions.

The 43-member House Republican Caucus voted April 9th to oppose this crippling legislation and their collective efforts could keep it from being debated. However, other forces want this bill passed before the \$6.3 billion state education budget. Without HB 350, that budget, which passed a House committee this week and is set for House consideration Tuesday, will have a gaping hole.

Soaring food and energy prices pushed inflation in March to the second-largest monthly increase in 33 years, and March retail sales were down almost 1 percent compared with last year. **Increasing taxes when our nation is facing this kind of economic challenge flies in the face of common sense and is a blatant slap in business' face.**

Tell your representative NOW that you won't take such abuse and ask them to vote 'No' on HB 350, and, if your representative is a Republican, urge them to continue to stand with business in opposition to this bill.

Lawmakers overestimated revenue growth last year, and this legislation is a teacher-union-inspired attempt to shore up the education budget and make an end-run around the Alabama Supreme Court, which has this particular tax issue before it.

Proponents want to take this legislation back to its original form, which even then would mean \$67 million in new business taxes.

Rep. Mary Sue McClurkin, R-Pelham, presented such legislation, **[HB 836](#)**, to the House Education Appropriation Committee on Wednesday and then asked the committee to carry the bill over because it still contained retroactive taxes. **ARA and the Business Associations' Tax Coalition thanks McClurkin for listening to our concerns about the retroactivity of this legislation.**

McClurkin's bill and the legislation proponents want to see enacted would apply to all "open tax years," which changes the law governing business taxes that already have been paid over the past several years. And it would change the law for business taxpayers beyond those involved in the dispute over the 2001 "add-back" statute.

- [rules enforced fairly during sales tax vote](#)
- [House declines to take up bingo bill](#)

For more stories concerning legislative action and news of interest, 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 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.

In February, the Alabama Court of Civil Appeals ruled VFJ Ventures, a company that makes and markets jeans mainly with the Lee and Wrangler brand names, was required to add back royalty payments made to a related intangibles management company based in Delaware. That case is currently on appeal to the Alabama Supreme Court. At Wednesday's committee meeting, proponents of the "add-back" bill contended it would codify the Civil Appeals court ruling. However, as ARA President Rick Brown told the committee, *"This bill in no way resembles the court case."*

Committee OKs Unitary Combined Corporate Income Tax Reporting

On a voice vote, the House Education Appropriations Committee on Tuesday approved [HB 768](#) by Rep. Jeff McLaughlin, D-Guntersville, which calls for "unitary combined reporting" of corporate income tax at the discretion of the Alabama Revenue Commissioner. When the committee chairman called for the vote, a goodly number of "no" votes were audible and several committee members spoke against the bill during the committee debate, but the chairman ruled the bill received a favorable report.

Despite objections raised during the meeting to this Alabama-teacher-union-inspired bill, McLaughlin asked that the bill be reported out. There was movement to have this bill reach the House floor next week. **ARA thanks Speaker Seth Hammett, D-Andalusia, and Rules Committee Chairman Ken Guin, D-Carbon Hill, for keeping this legislation off the Special Order Calendar.**

Your Alabama Retail Association and the Business Associations' Tax Coalition, a 30 association group that ARA President Rick Brown chairs, vehemently oppose this bill.

This legislation taxes not only companies doing business in Alabama but their affiliated companies doing business anywhere in the United States and in certain foreign countries. It represents a fundamental change to the state's tax law.

This legislation only kicks in if while auditing prior years' tax returns, the Alabama Department of Revenue decides the Alabama portion of a multi-state or international business hasn't paid enough income tax. **No other state uses this arbitrary method of determining which companies file unitary returns.** This legislation would put Alabama way outside the mainstream.

During the committee meeting, Rep. John Rogers, D-Birmingham, questioned the amount of power this legislation

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 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

gives to the Alabama Revenue Commissioner, allowing the commissioner to "*cherry pick*" which corporations would have to report in a unitary manner.

Rep. Mac Gipson, R-Prattville, urged the committee to delay consideration of the bill saying, "*I'm not sure this is the way to go*" and that the legislation raises "*too many unanswered questions*."

Just a decade ago, the Alabama Legislature passed a law prohibiting the corporate tax reporting requirements contained in HB 768. Alabama Code section 40-18-39(i) clearly states: "*Nothing in this section shall be construed as allowing or requiring the filing of a combined income tax return under the unitary business concept*." HB 768 does nothing to repeal that section of the law.

The Alabama Department of Revenue claims no role in helping draft this legislation. It was obvious the bill was written by the Alabama Education Association as the sponsor referred all technical questions to the AEA attorney.

The committee amended the bill so that it would not apply to businesses headquartered outside the United States, if the Alabama portion of the business (based on property, payroll and sales) is less than 20 percent of the company's total business. The AEA attorney said the amendment was added to prevent constitutionality questions and lawsuits from foreign-based corporations.

Education Appropriations Chairman Richard Lindsey, D-Centre, told the committee that if HB 768 passes, all of what he termed as "*loophole issues go away*." Lindsey was referring to the add-back and real-estate investment trust issues covered in HB 350 and HB 836.

House: End Food Sales Tax & Federal Income Tax Paid Deduction

Just the right number of members of the Alabama House of Representatives voted Tuesday for a constitutional amendment to drop the four percent state sales tax on food.

Besides dropping the state sales tax on food items as defined by the federal food stamp program, [**HB 274**](#) by Rep. John Knight, D-Montgomery, also would end the deduction Alabama taxpayers' take for the federal income tax they pay. It also raises the threshold at which individuals start paying state income taxes by raising the standard deduction and personal and dependent exemptions.

The Legislative Fiscal Office estimates the state would lose

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 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**

\$320 million annually by dropping the sales tax on food, but would gain \$345 million annually through the other provisions of the proposed constitutional amendment.

The House approved HB 274 on a vote of 63-38. The 63 votes was exactly the three-fifths majority needed to approve a constitutional amendment. But the proposed amendment has several more hurdles to passage. At least 21 of the 35 state senators also must vote for the plan and voters statewide will make the final decision in the Nov. 4 General Election. The Senate Finance and Taxation-Education already has approved the Senate companion, [**SB 431**](#) by Sen. Hank Sanders, D-Selma. Gov. Bob Riley has said he will work to defeat the constitutional amendment if it reaches the voters. The governor's objection is that the bill increases income taxes paid by about 30 percent of Alabamians by eliminating the state income tax deduction for federal taxes paid.

Beason Introduces Separate Food Sales Tax Ban

Elsewhere this week, Sen. Scott Beason, R-Gardendale, introduced a different bill that would remove the 4 percent state sales and use tax on foods as defined under the federal food stamp program.

[**SB 626**](#) does not couple the tax break on groceries with other significant tax increases. SB 626 simply repeals the grocery tax and prohibits counties and municipalities from raising their tax rates on food beyond what those rates are on the bill's effective date, Oct. 1, 2008. SB 626 awaits action by the Senate Finance and Taxation-Education Committee.

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

UNEMPLOYMENT COMPENSATION

Business/Labor Agree to Up Weekly Unemployment Comp Benefits

Agreement Avoids Additional \$700 Million in Unemployment Taxes

Labor and business emerged from negotiations this week with an agreement that affects the movement of four bills related to unemployment compensation.

The memorandum of agreement signed by the Alabama AFL-CIO, the Alabama Department of Industrial Relations, the Business Council of Alabama, the National Federation of Independent Business in Alabama and Manufacture Alabama allows three pieces of legislation to move through the legislative process and squelches another. The Alabama Retail Association supports the agreement.

Labor had threatened to hold up every piece of business-supported legislation to gain passage of [HB 427](#), a \$30 increase to the maximum weekly unemployment benefit spread over the next two years. Primary among the legislation labor was blocking was [HB 40](#) by Rep. Frank McDaniel, D-



Albertville, which will make a required correction to the 2005 State Unemployment Tax Act. **Failure to approve HB 40 would mean \$700 million in additional taxes to business.** The House already has approved HB 40 and a Senate committee has heard testimony on the bill. With the agreement, the Senate Business and Labor Committee quickly approved the bill Thursday, sending it to the full Senate for a final vote, possibly as soon as next week.

Under the agreement, the weekly unemployment benefit increase will advance. In fact, it received approval Thursday from the House Commerce Committee. Under HB 427 by Rep. Jack Page, D-Gadsden, after July 6, the maximum weekly unemployment benefit would increase from \$235 to \$255. That maximum would increase to \$265 after July 5, 2009. This will mean an additional \$28.3 million cost to employers.

HB 427 also allows the Alabama Department of Industrial Relations to access additional funds from the federal 2002 Reed Act distribution to the states. Reed Act funds are distributed to the states when the balance in Federal Unemployment Tax Act (FUTA) tax accounts exceeds the ceiling set by Congress. The additional amount, not to exceed \$7.9 million, will be used for administration. This is tax money Alabama employers already have paid for the explicit purpose of running the Alabama unemployment programs.

Thursday, the House Commerce Committee also approved [HB 428](#) by Rep. Frank McDaniel, D-Albertville, which provides a small part of the unemployment compensation tax paid by businesses will continue to be set aside to help the unemployed find jobs through the state's career centers. The bill would extend the funding for the career centers for another two years, through Sept. 30, 2010.

For the first time in 30 years, business also was able to negotiate a one-week waiting period without unemployment benefits. For benefit years after July 6, HB 428 inserts one week without benefits after the 13th week of paid benefits. This will help relieve some costs to employers with employees on long-term unemployment. That week also does not count as a week of unemployment. The majority of those on unemployment have stopped receiving

unemployment benefits by the 12th week. Alabama is among only 14 states that do not have a one-week waiting period in the unemployment benefit payment schedule.

The memorandum also states that [HB 856](#) by Rep. Richard Lindsey, D-Centre, or similar legislation that attempts to raid the Unemployment Compensation Trust Fund will be opposed by all the signed parties. This bill would have siphoned off part of the money from the Trust Fund for adult education. Lindsey asked the House Appropriations Committee to carry the bill over Wednesday, citing the opposition to the legislation.

UNNECESSARY MANDATES

Catfish Country of Origin Labeling Back Before House Committee

The **Alabama Restaurant Association** and the **Alabama Catfish Producers** have reworked [HB 576](#) by Rep. A.J. McCampbell, D-Linden, which mandates that food service establishments tell



customers where the catfish they serve was produced. The Alabama Retail Association has not made any agreement on this country-of-origin legislation, which is expected to be presented 9 a.m. Tuesday to the House Agriculture and Forestry Committee.

If you cannot operate under this proposed substitute, please contact the [Alabama Retail Association](#) and your representative NOW.

The proposed substitute specifies sizes for the menu, product and placard labels and outlines a five-tiered enforcement that ranges from a written warning to a \$1,000 fine and revocation of the restaurant or other food service business' food safety permit.

This legislation requires catfish sold in Alabama restaurants, cafeterias, grocery delis and other food service establishments be labeled according to the country of origin. It specifically requires all food service establishments to inform consumers whether catfish is:

- Farm-Raised Catfish;
- River or Lake Catfish; **as well as tell customers**
- the state or country of origin.

The legislation further mandates:

- "*Farm-Raised Catfish, A Product of Alabama*" be placed on a placard, menu **OR** other written material available to the customer if that is the type of catfish you serve to your customer. The placard must identify both the type of catfish and what state or country it originated;
- the same identifying information for any advertisements; and
- all distributors, processors or wholesalers of catfish products to provide information on the origin of the catfish to each person, firm or corporation to whom they distribute or sell catfish products for resale.

The proposed substitute requires that menu labeling be done with the catfish offering in the same font size. It sets the minimum size for any signage at 250 square inches with at least 1-inch tall type, and it specifies that tabletop displays be at least 30 square inches and be placed on each table. Only one method of labeling would be required under this bill. The business can choose whether to include the country of origin on the menu, a sign or a tabletop display. **The Alabama Catfish Producers has agreed to print and provide posters and tabletop displays.**

If the Alabama Commissioner of Agriculture and Industries finds a food service business has mislabeled or failed to comply, it will receive a written warning on first offense, a \$100 fine on second offense, \$250 on the third offense, \$500 on the fourth offense, culminating with a \$1,000 fine on the fifth offense within a two-year period and the possible revocation of its food safety permit.

Federal law already requires the labeling of catfish and other seafood in grocery stores and fish markets, although the labels are different than those required under this proposed law. This legislation adds restaurants to the labeling requirement, but just for catfish.

It is an effort by Alabama catfish producers to save their industry from competition from cheaper imports and distinguish their product from imported goods that have received adverse publicity for containing antibiotics and chemicals. The Senate companion is [SB 399](#) by Sen. Bobby Singleton, D-Greensboro. The Senate bill has not yet received consideration by the Senate Agriculture, Conservation and Forestry Committee.

PRIVACY

[Give Us Thoughts on Computerized Data Breach Notification](#)

Tuesday, the Senate Governmental Affairs Committee carried over a bill that would require those with computerized data containing personal information about Alabama residents to inform them of any breach of security. The Alabama Retail Association and other interested parties will be meeting before the Legislature returns next week to discuss strategy in relation to this legislation as well as any changes to this bill.

If you have any input, please contact Alison Wingate at (334) 263-5757 or awingate@alabamaretail.org.

SB 544 by Sen. Roger Bedford, D-Russellville, is one of several bills introduced on computerized data breaches. The House companion is **HB 816** by Rep. Tammy Irons, D-Florence.

Under this legislation, businesses would have to notify Alabama residents of any breach of security as soon as reasonably possible by mail or e-mail. If notification involves more than 200,000 people or a cost of \$500,000 or more, the owner of the compromised computerized data would have to notify the injured parties by e-mail, post the notice conspicuously on their Web site and notify the major statewide media, instead of providing written notice.

This legislation also **HOLDS A RETAILER LIABLE** to a financial institution for the institution's reasonable costs to protect the personal information and account information of the customer or to continue to provide financial services to the customer, including, but not limited to, any cost incurred as a result of a potential or actual breach of data security in connection with:

- contacting any account holder affected by the breach;
- the cancellation or reissuance of any credit, debit, or other access device issued by any financial institution;
- the closure of any deposit, transaction, or other account and any action to stop payments or block transactions with respect to the account;
- the opening or reopening of any deposit, transaction, or other account for any customer of the financial institution subsequent to action taken as a result of the breach;
- or any refund or credit made to any customer of the financial institution as a result of unauthorized transactions.

This legislation also creates a private cause of action by a financial institution against a retailer responsible for the security breach.

LIMITATIONS ON PRODUCT SALES

Judiciary OKs Lifting Ban on Sale of Sex Toys

Wednesday, the House Judiciary Committee approved [HB 12](#) by Rep. John Rogers, D-Birmingham, which would lift Alabama's ban on selling sexual stimulation devices. Alabama law currently forbids the sale of any device "*designed or marketed as useful primarily for the stimulation of human genital organs.*" Rogers' bill strikes that phrase from the law.

In 2007, the Atlanta-based 11th U.S. Circuit Court of Appeals upheld Alabama's ban as constitutional, saying "*the state's interest in preserving and promoting public morality provides a rational basis for the challenged statute.*" The U.S. Supreme Court refused to hear an appeal of that ruling.

Alabama currently is the only state with a sex toy ban.

The 5th U.S. Circuit Court of Appeals ruled in February that a Texas law making it illegal to sell or promote obscene devices violated the Constitution's 14th Amendment on the right to privacy. Because Mississippi is also in the 5th Circuit, an obscene-device ban in that state fell under the Texas ruling. Before that ruling, Texas, Mississippi, Alabama and Virginia had been the only states with obscene-device bans. But Virginia's law apparently doesn't ban the sale of sex toys.

Alabama law does not ban the possession of sex toys, and it doesn't regulate other items, including condoms or virility drugs. Residents also may legally purchase sex toys out of state for use in Alabama. Alabama law also permits the sale of sexual stimulation devices for "*bona fide medical, scientific, educational, legislative, judicial or law enforcement*" purposes.

Griffith Seeks to Ban Sale of Toys Made with Certain Chemicals

17 Children's Products Excluded from Proposed Ban

This week, Sen. Parker Griffith, D-Huntsville, introduced a bill banning the sale of toys and other children's products - including cosmetics, jewelry and car seats - containing chemicals that are a health risk to children. [SB 620](#) calls for phasing out the use of lead, cadmium, and phthalates in children's toys and other products.

The bill excludes 17 specific products from the definition of children's products, including such items as model rockets and roller skates. The bill also requires the Department of Agriculture and Industries to develop and publish a Web site that provides information on toxic chemicals in children's

products. Griffith's bill has been assigned to the Children, Youth Affairs and Human Resources Committee.

Federal legislation is pending, which would address many of these same issues. The Consumer Product Safety Reform Act currently is in a congressional conference committee. It calls for stricter tests for toys, greater public access to complaints about products and an overhaul of the federal safety agency charged with regulating most items in American homes. It also sets strict limits for lead in children's products. The U.S. Senate version of this legislation has a provision for a public database of product safety complaints.

Bill Would Prohibit Fractional Gas Pricing

Rep. Jeff McLaughlin, D-Guntersville, introduced legislation this week to restrict gasoline and diesel fuel pricing. Currently in Alabama, retailers of gasoline and diesel fuel are allowed the flexibility to break price down into units of less than a cent if they desire. [HB 881](#) would outlaw this type of pricing on retail sales of gasoline and diesel motor fuel, taking away this option for retailers. This bill awaits action in the House Government Appropriations Committee.

PHARMACY

Bill Changes Pharmacy Board Nomination Process

Rep. Ronald Johnson, R-Sylacauga, this week introduced [HB 859](#), which provides a more detailed structure for the Alabama Board of Pharmacy. The changes to the law prescribed in this bill ensure the representation of a diverse group of pharmacists from each of the three major fields of pharmacy; hospital, chain retail and independent retail. It further extends the responsibility for nominations of board members to various pharmacy advocacy groups, including the Alabama Retail Association. This legislation ensures that pharmacists and their employers throughout the state have a strong voice on the direction and the policy of the Board of Pharmacy.

Under the bill, a Pharmacy Board member must have a minimum of 10 years as a licensed pharmacist, and be a full-time Alabama resident actively engaged in the practice or administration of pharmacy.

HB 859 awaits action in the House Government Operations Committee.

MEDICAID

House Rejects Bingo-for-Medicaid

Wednesday, the House twice refused to take up [HB 577](#) by Rep. Marcel Black, D-Tuscumbia, a constitutional amendment to allow electronic bingo games at the dog tracks in Mobile County and Birmingham as a way to help finance the state Medicaid program. While Black said he is not giving up on the bill, House Speaker Seth Hammett said he does not anticipate its resurrection.

Black's bill would tax the games at 20 percent of the gross revenue after paying out winnings.

EMPLOYMENT ISSUES

Hall Introduces Equal Pay Act

Rep. Laura Hall, D-Huntsville, this week again introduced the Equal Pay Remedies and Enforcement Act. [HB 897](#) would create an Equal Pay Commission to study wage disparities and report its findings and recommendations to the Labor Commissioner, who would then bring those recommendations to the governor and Legislature. According to the legislation, the purpose of the bill also is to improve the overall labor environment by correcting and deterring discriminatory wage practices based on sex, race, or national origin; developing reliable data about the extent of such wage discrimination; and providing greater understanding about its causes. **The ultimate result of this legislation could be exposure to regulations and laws broader than those required by the federal government.**

NEXT LEGISLATIVE DAY

2009 Session Begins in February

Another Summer Special Session Possible

Lawmakers will return for the **first legislative meeting day of the 2009 regular session at noon Tuesday, Feb. 3, 2009**.

However, the governor could call lawmakers back for another special session later this summer.

FEDERAL ISSUES

U.S. Senate to Consider Bill That Promotes Frivolous Lawsuits

Ask Senators to Oppose H.R. 2831

In order to encourage victims of discrimination to file claims promptly so that workplace disputes can be resolved effectively, current law requires that pay discrimination claims be filed within 180 days or 300 days, depending on interaction with state laws. In May of 2007, the U.S. Supreme Court ruled that employees cannot sue their employer for a discriminatory pay action that took place outside of the statute of limitations.

Next week, Senate Majority Leader Harry Reid, D-Nev., and Sen. Ted Kennedy, D-Mass., are forcing a vote on [H.R. 2831](#), the "*Lilly Ledbetter Fair Pay Act*," which proponents claim will overturn the Court's ruling. Unfortunately, H.R. 2831 is significantly broader and would allow individuals with potentially full knowledge of discriminatory acts, both intentional and unintentional, to wait years before filing a claim provided they could point to compensation, retirement benefit, or other benefits received, effectively creating an eternal filing period for claims, regardless of their merit.

Under this legislation each paycheck would be considered a separate discriminatory act. The expansive legislation also would allow employees, and potentially their family members, to file claims for discrimination based on paycheck and also pension payments far into the future, even if they were aware of alleged discrimination years earlier and failed to file a charge. By restarting and expanding the filing period each time an individual receives a paycheck or a pension payment, H.R. 2831 abandons the balanced settlement process set forth in current law and creates a lawsuit bonanza for trial lawyers.

The U.S. House of Representatives already has approved this legislation and a vote on the bill is expected in the U.S. Senate next week.

House Judiciary to Take Up Credit Card Fee Act Next Month

The U.S. House Judiciary Committee is expected to consider [H.R. 5546](#), the Credit Card Fair Fee Act, in May. As reported here earlier, this bipartisan legislation was introduced March 6 by House Judiciary Committee Chairman John Conyers, D-Mich., and Rep. Chris Cannon, R-Utah, along with 16 other co-sponsors.

ARA Chairman Darrell Bourne recently visited Alabama's congressional delegation to urge them to support this landmark antitrust legislation , which addresses



hidden MasterCard and Visa fees that cost merchants and their customers more than \$40 billion annually. Bourne and other ARA board members also visited with the congressional delegation last summer about this issue. Bourne pointed out that right after his most recent visit to the U.S. Capitol, representatives of the large credit card companies also visited with our state's representatives in Washington, making it imperative that Alabama retailers make their voice heard.

U.S. Rep. Artur Davis, D-Birmingham, serves on the House Judiciary Committee. **Please contact him and your U.S. representative and ask them to support this legislation that will level the playing field for retailers and other merchants.**

Also contact U.S. Sen. Jeff Sessions, R-Mobile, who serves on the Senate Judiciary Committee, which eventually will hear this legislation as well.

>> [Find out who your congressman is and how to contact him](#)

>> [Read a synopsis of this legislation](#)

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