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CRR EXTRAS

Friday, March 13, 2009

Senate to Debate Higher Unemployment Taxes

Tell Your Senator to Vote 'No' on SB 460

Alabama Senate Minority Leader [J.T. "Jabo" Waggoner, R-Vestavia Hills](#), (pictured) was the lone Senate Business and Labor Committee vote Thursday against **SB 460** by [Senate President Pro Tem Rodger Smitherman, D-Birmingham](#). Smitherman's bill, which will mean higher unemployment taxes for retailers and other businesses and keep Alabama businesses at the highest possible unemployment tax rate schedule longer, now goes to the full Senate for a vote. **Your Alabama Retail Association board of directors voted Tuesday to oppose this tax increase.**



TELL YOUR SENATOR

YOU DO NOT WANT HIGHER UNEMPLOYMENT TAXES ,

especially if your senator is one of the 19 Democrats in the Alabama Senate. Smitherman's legislation is backed by the Senate Democratic Caucus, and Democrats cast all seven of the votes for the bill in Thursday's committee meeting.

Take the opportunity to talk to your senator next week about this legislation while he or she is back in their home district during the Alabama Legislature's spring recess.

Smitherman's bill expands unemployment benefits to about 20,000 more unemployed Alabama workers than the almost 90,000 currently on the unemployment rolls. Beginning with the 2014 calendar year that expansion is expected to cost Alabama businesses \$22 million more annually in unemployment taxes. The bill would make it possible for the state to deposit \$100.5 million in federal stimulus money in the Unemployment Compensation Trust Fund, money to pay for the extended benefits ONLY through 2013. After the federal money runs out, Alabama businesses will foot the bill for the additional benefits. Gov. Bob Riley so far has refused to accept the \$100.5 million in federal stimulus

TOP ISSUES

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BILLS

- [HB 069](#)
- [HB 128](#)
- [HB 175](#)
- [HB 183](#)
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money because of the strings attached that ultimately will cost business. If Smitherman's bill passes, Riley could accept the federal money or, if he declined it, the Legislature could accept it by passing a resolution.

The committee-approved legislation extends benefits to cover workers who have only been in the work force two out of the four most recent quarters, those seeking part-time work (at least 20 hours a week) rather than full-time jobs, people in job-training programs who have exhausted their normal benefits, and workers who leave their jobs because of domestic violence. If it receives full legislative approval, those changes are permanent and would be effective July 1.

Employers already will pay a higher unemployment tax rate next year whether this legislation passes or not.

At the end of last month, the balance in the Alabama Unemployment Compensation Trust Fund was slightly more than \$236 million, according to the Alabama Department of Industrial Relations. **Alabama's jobless rate hit 7.8 percent in January, the highest level in 22 years**. More Alabamians out of work means less money in the fund. The desired fund level based on actuarial calculations is \$700 million. In any year when the fund drops below 70 percent of the desired level by June 30th, employers automatically move to the highest of the state's four unemployment tax rate schedules the following Jan. 1. DIR officials project the fund will be less than \$200 million at the end of June, meaning on Jan. 1, 2010, Alabama employers will automatically move into Schedule D, the highest rate schedule possible. Should Smitherman's legislation become law, beginning in 2014, the money to pay for the extended benefits will have to be drawn from the trust fund, which will keep the fund below the desired level longer and force you to continue to pay taxes based on the higher schedule longer.

Also, unemployed workers will get higher benefits regardless of the outcome of Smitherman's legislation.

Jobless Alabamians began receiving a temporary \$25-a-week increase in unemployment benefits, starting with the week ending Feb. 28 because Alabama accepted \$250 million in federal stimulus funds intended to cover that increase. Consequently, the maximum weekly unemployment compensation benefit increased from **\$255 to \$280**. In July, because of a benefit increase the Legislature approved last year, that maximum weekly benefit will go to **\$290**. In January of next year, the maximum weekly benefit will be **\$265**, once the temporary federally funded \$25 increase ends.

- [SB 100](#)
- [SB 132](#)
- [SB 148](#)
- [SB 194](#)
- [SB 263](#)
- [SB 407](#)
- [SB 460](#)

- [USHR 1409](#)
- [USS 560](#)

IN THE NEWS

- [Bill authorizing \\$100 million in federal aid to jobless Alabamians a step closer passage](#)
- [Legislators can overrule Riley on stimulus](#)
- [States should reject unfunded mandate](#)
- [Alabamians get \\$25 boost in unemployment benefits](#)
- [Legislature approves incentives for movie industry](#)
- [Bills raise the bar to be a judge](#)
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- [States that tax groceries find it's a hard habit to break during recession](#)
- [Retailers oppose introduction of anti-worker union 'card-check' legislation](#)
- [Warren Buffett comes out against labor-backed 'card check' bill](#)
- [Democrats open to compromise on card check](#)
- [Impact of Chapter 11 change on retailers debated](#)
- [National Retailer group asks Congress not to drive up health care costs](#)
- [Congress, CPSC](#)

>> Other News

ARA LEGISLATIVE AGENDA IN ACTION

Movie Industry Incentives Await Governor's Signature

Tuesday, the Alabama Senate unanimously approved the Entertainment Industry Incentive Act of 2009, [HB 69](#) by [Rep. Richard Lindsey, D-Centre](#), making it the **first bill on the Alabama Retail Association's 2009 State Legislative Agenda to receive final approval and be sent to the governor for his signature**. The governor supports giving incentives to expand the film industry in Alabama, but he said he would need to review the final version of the bill before saying if he'd sign it.

"It's an opportunity to become the Hollywood of the South," [Sen. Hank Erwin, R-Montevallo](#), who has two sons who film Christian music videos, told the Senate.

Few movies, commercials or television productions have been filmed in Alabama since 2006 when Alabama's previous film industry incentives expired.

ARA supports this legislation because of the increased sales expected for retailers should Alabama attract more movie and TV productions. Alabama is one of only four states that currently don't offer incentives.

The bill provides for breaks on sales, income and lodging taxes for movie, TV and video productions spending at least \$500,000 and for soundtrack productions spending \$50,000 or more. The breaks are capped at \$5 million this year, \$7.5 million in 2010 and \$10 million annually thereafter.

To pay for the incentives, the bill requires that partnerships and limited liability companies file composite returns on behalf of their nonresident partners/members and remit the income tax that would be owed by the nonresident partner on his/her share of the earnings. The Alabama Department of Revenue estimates this change will generate between \$3 million and \$4 million annually. The Legislative Fiscal Office was unable to determine how much would be taken from the state treasury annually because of the incentives offered in this legislation. The sponsors predict the bill will be revenue neutral.

[Sen. Roger Bedford, D-Russellville](#), had sponsored the Senate companion, [SB 148](#).

>> [ARA's full 2009 Legislative Agenda](#)

[pointing fingers on toy safety bill](#)

For more stories concerning legislative action and news of interest to retailers, go to [In the News](#)

ARA CONTACTS

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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.

LINKS GO TO CONTACT INFO:

Still Chance to Stop Country-of-Origin Bills at Committee

Level

Restaurant and grocery deli owners and managers

still have the opportunity to let Alabama lawmakers know they oppose legislation that would require them to identify the country of origin for seafood. Even though a House subcommittee gave its stamp of approval Tuesday to two bills that would require such labeling for seafood and catfish, the bills still must receive the approval of the full House Agriculture and Forestry Committee.



Also, the Senate Agriculture, Conservation and Forestry Committee failed to get a quorum for its Wednesday meeting, delaying a public hearing on [SB 194](#) by [Sen. Jim Preuitt, D-Talladega](#), which would require food service establishments to inform customers where they get ALL of the fish they serve, at least until the committee's next meeting.

Please call the members of these two committees and urge them to vote "No" on this punitive legislation against Alabama restaurants, cafeterias, grocery delicatessens and other food service establishments.

>> [Senate Agriculture, Conservation and Forestry Committee](#)
member list with links to their contact information

>> [House Agriculture and Forestry Committee](#)
member list with links to their contact information

Your call will make a difference! **For seven years, ARA lobbyists have led the fight to keep country-of-origin labeling legislation from being considered at the state level.** Alabama lawmakers have repeatedly heard the arguments against this legislation from the ARA staff. Hearing from a constituent brings the point home. At least one lawmaker told us earlier this year that he didn't under ARA's position on this legislation until after hearing from a restaurant owner in his district.

ARA's opposition stems from the additional cost to its member businesses as well as the multiplier effect. If mandatory labeling is achieved on one commodity, others WILL follow suit. As part of its 2009 ARA State Legislative Agenda, your association opposes mandatory country-of-origin labeling, or COOL, at the state level on seafood, meat, fruits, vegetables and peanuts.

[SB 194](#) and [HB 435](#) by [Rep. Spencer Collier, R-Irvington](#), would require a food service establishment to place the following disclaimer on its menu or, if the establishment doesn't have a printed menu, prominently display it on a placard: *"Under Alabama law, the consumer has the right to*

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 members now have

know, upon request to the food service establishment, the country of origin of imported farm-raised or wild fish." The Alabama Department of Public Health would administer this legislation. Violators would face a \$1,000 fine.

The more specific legislation, [HB 473](#) by [Rep. A.J. McCampbell](#), [D-Linden](#), also carries a \$1,000 fine for violators, but would be administered by the Alabama Department of Agriculture and Industries. HB 473 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.

Grocers and fish markets already must comply with federal requirements for country-of-origin labeling. If these state bills pass, grocery delis would be subject to three different regulators, two on the state level and one on the federal level.

The final rule for the federal requirements goes into effect this Monday, March 16th. (See FEDERAL section for more information). Restaurants and other food service establishments were excluded from the federal legislation because the logistical nightmare of having to list the country of origin of all the ingredients that go into even one dish served at a restaurant, much less the entire menu.

From the state perspective, **ARA supports more positive, voluntary customer-driven programs** such as the "[Eat Alabama Wild Shrimp Campaign](#)," which promotes domestic shrimp among retailers, wholesalers and consumers. Retailers would rather see positive programs such as this that benefit everyone rather than punitive legislation.

House Committee to Consider Pseudoephedrine Correction ARA Agenda Item among House Judy's March 25 Action Items

An ARA-supported correction to state law regulating the sale of ephedrine or pseudoephedrine is the first item on the House Judiciary Committee agenda when it returns Wednesday, March 25, after the legislative spring break. **This legislation is a part of the ARA 2009 State Legislative Agenda.**

Both chambers of the Alabama Legislature have approved versions of the legislation. The House committee's consideration of [SB 47](#) by [Sen. Lowell Barron, D-Fyffe](#), puts it another step closer to final passage. The House already approved [HB 183](#) by [Rep. Frank McDaniel, D-Albertville](#), which awaits consideration by the Senate Judiciary Committee. Both bills delete a prohibition in current law against the sale of any product containing ephedrine or pseudoephedrine unless the

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 at 334-242-7668**. If you

product is manufactured so that those active ingredients cannot be extracted to be used in the production of methamphetamine. When the law was written, it was thought the technology would exist by the Oct. 1 effective date to prevent the extraction of the ingredients used in methamphetamine production. Such technology has not yet been developed.

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

WORKPLACE POLICIES

Trial Lawyers Push New Cause of Action

Bill Bans No-Guns-in-Parking-Lots Policies

A bill the Senate Judiciary Committee approved Wednesday would create a new cause of action, opening up retailers and other businesses to additional lawsuits. [SB 407](#) by [Sen. Roger Bedford, D-Russellville](#), would prohibit an employer from establishing any policy that restricts employees and customers who lawfully possess a firearm from storing their guns in his or her vehicle in a public or private parking area, including any employee parking lot or facility. Nine states have adopted this National Rifle Association-backed legislation in recent years, including bordering states Florida, Georgia and Mississippi.

However, the Alabama Senate version OK'd by seven members of the committee this week includes trial lawyer language that creates a new cause of action. Should an employer prohibit employees from having firearms in their vehicles on company property and an employee claims he/she was fired for violating that policy, under this bill, the employee can sue for reinstatement to their job at the same salary and benefits, recover lost wages and attorney's fees.

ARA is reviewing the bill with legal counsel. Please review this legislation carefully and contact ARA President Rick Brown with any concerns you may have.

The bill does not apply to company vehicles, exempts employers with secure or temporary parking areas and does not apply to an employee who as part of a disciplinary measure had been restricted from carrying or possessing a firearm on an employers' property.

Meanwhile, House Commerce Committee Chairman Frank McDaniel, D-Albertville, this week pulled the House companion, [HB 362](#) by [Rep. Craig Ford, D-Gadsden](#), from that committee's Wednesday agenda after business groups expressed concerns about the legislation. The House committee also was to consider a substitute version of the bill that

incorporated similar exception language.

ALCOHOL

House Approves Wet-Dry Referendum Legislation

The Alabama House of Representatives on Thursday approved a heavily amended version of [HB 175](#) by [Rep. Jimmy Martin, D-Clanton](#), which would allow any city with more than 500 residents to ask the voters to approve the sale of alcoholic beverages, even if the local government is in a dry county. Similar legislation died in the Senate on the final day of the 2008 regular session.

The bill was amended on the House floor to exclude Clay, Randolph, and Blount counties. **An ARA-supported amendment** added by the sponsor and approved by the House would allow businesses that were operating under a dual club or lounge and restaurant liquor license at the beginning of 2009 to continue operating under a dual license and be exempt from such requirements as separate accounting, inventory and entrances.

Martin's bill would give municipalities of more than 500 people the ability to change their classification from dry to wet, or wet to dry, independent of the county designation through a municipal option election. Current law allows cities in dry counties with 7,000 or more residents to call a wet-dry referendum and allows cities with 4,000 or more residents to vote to go wet if there is already a wet city in the county. Martin's bill requires a petition of 25 percent of the voters for a referendum to be called. The bill had not yet been assigned to a Senate committee at press time.

Possibility of Stronger Beers and Wine One Step Away from Reality

The Senate Tourism and Marketing Committee on Wednesday approved two House bills that would allow stronger beers and wines to be sold in Alabama, sending the legislation to the Alabama Senate for final approval.

[HB 373](#) by [Rep. Thomas Jackson, D-Thomasville](#), would raise the state alcohol content limitations from 6 percent to 13.9 percent, which clears the way for selling stronger imported and gourmet beers.



[HB 448](#) by [Rep. Greg Canfield, R-Vestavia Hills](#), would raise the threshold for fortified wine to 16.5 percent alcohol by volume, thus allowing more wines to be sold at stores that sell beer and wine but are not licensed to sell liquor. Current law designates any wine with more than 14.9 percent alcohol by volume as a fortified wine and any wine with a lower alcohol content as a table wine.

The same committee earlier approved the respective Senate companions: [SB 132](#) by [Sen. Bobby Singleton, D-Greensboro](#), and [SB 263](#), by [Sen. Steve French, R-Birmingham](#).

The Alabama Retail Association will continue to monitor these bills.

Gipson Bill Requires 21-Year-Old Alcohol Servers/Patrons

After a public hearing, the House Tourism and Travel Committee on Wednesday approved [HB 456](#) by [Rep. Mac Gipson, R-Prattville](#), which among other things 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. This bill would require everyone in a licensed lounge be 21 years old or older. **ARA is monitoring this legislation.**

Other changes to Alabama's alcohol laws included in this bill would:

- require the manufacturer and importer to maintain records of all territorial sales agreements and produce them upon request;
 - require licenses to be completed or renewed by August 1 of each year;
 - allow the board to impose a maximum fine of \$2,000 for any infraction that otherwise could have resulted in a license suspension or revocation.
-

ELECTIONS

Filling Judicial Vacancies by Nominating Committee Clears Panel

Wednesday, the House Judiciary Committee approved a substitute version of [HB 128](#) by [Rep. Marcel Black, D-Tuscumbia](#), a constitutional amendment that would establish nominating committees for filling all state judicial office vacancies. Black's bill applies to the state appeals courts as

well as circuit and district court judges. Under HB 128, when a judicial vacancy occurs, a nominating committee of lawyers and non-lawyers would recommend three individuals to the governor to fill the vacancy. The vacancy would have to be filled by one of the three nominated. The bill does not apply to the six counties that already have similar but separate commissions in place to fill judicial vacancies.

Under this bill, the Appellate Court Judicial Nominating Commission would be made up of four non-lawyers, appointed jointly by the governor, lieutenant governor and speaker of the House, with one of them being a minority and one being a woman. The remaining members would be lawyers. The state bar commissioners would elect a member of the Alabama Trial Lawyers Association; a member of the Alabama Defense Lawyers Association; and a third who belongs to neither the trial lawyer nor the defense attorney associations; a fourth lawyer is to be appointed by the Alabama Lawyers Association and finally, the sitting chief justice. This bill basically turns the decision of who will and who will not be a judge in Alabama over to the state bar. The Senate companion, [SB 100](#) by Sen. Rodger Smitherman, D-Birmingham, has been assigned to the Senate Constitution, Campaign Finance, Ethics and Elections Committee.



Black's legislation is one of several proposed bills that would change the way Alabama elects its judges. **ARA opposes any legislation that alters the current election process for appellate judges.**

TAXES

Panel Votes to Exempt Prescription Drugs

Business License Tax Exemption Based on Gross Receipts

Wednesday, the House Government Appropriations Committee approved [HB 567](#) by [Rep. Ronald Johnson, R-Sylacauga](#), which exempts prescription drugs from business license taxes based on gross receipts. Current law exempts prescription drugs from gross sales taxes. The bill now goes to the full House.

NEXT LEGISLATIVE DAY

2010 SESSION BEGINS IN JANUARY

Law makers will return for the first legislative meeting day of the 2010

regular session at noon **Tuesday, Jan. 12, 2010**. ARA will keep you informed should the governor call law makers back for a special session between now and then.

FEDERAL

Card Check is Back

Time to Make Your Opposition Known

In a move anticipated since the 111th Congress began, federal lawmakers this week introduced the Employee Free Choice Act, or EFCA, union-backed card check legislation universally opposed by business groups throughout the nation. **Defeat of the Employee Free Choice Act is the Alabama Retail Association's No. 1 federal legislative goal.**

Other opponents of this legislation, which would allow employees to unionize simply by collecting signatures from more than half the workers at a business, include the National Retail Federation, the Retail Industry Leaders Association, the U.S. Chamber of Commerce and the National Federation of Independent Business.



Besides the fact the legislation wasn't introduced at the first of the session, the good news is both the U.S. House of Representatives ([H.R. 1409](#)) and U.S. Senate ([S. 560](#)) versions have fewer co-sponsors than in 2007, six fewer in the Senate and seven fewer in the House. The only member of the Alabama congressional delegation to sign on as a co-sponsor is [U.S. Rep. Artur Davis](#), D-Birmingham. **Contact Davis now to express your displeasure with his sponsorship of this legislation, especially if he is your representative.**

Also take time to express your thanks to U.S. Sens. [Richard Shelby](#) and [Jeff Sessions](#) as well as U.S. Reps. [Robert Aderholt](#), [Spencer Bachus](#), [Jo Bonner](#), [Bobby Bright](#), [Parker Griffith](#) and [Mike Rogers](#) for not signing on as a co-sponsor.

The bad news is this job-killing legislation could hit the floor unannounced at anytime, requiring a loud, unified voice to stop its progress. In January, the Alabama Retail Association sent letters to the entire Alabama congressional delegation to let them know that **Alabama's retailers don't want Congress to fundamentally alter a business's ability to interact directly with its employees**. Make sure your representative knows where you stand as a business owner or manager as well.

If you haven't already, please fax your congressman and senator a letter expressing your opposition to H.R. 1409 and S 560. Be sure your congressman knows that you do not want the economic progress Alabama has made to be turned back by removing the secret ballot rights of American workers!

>> [View Sample Letter Opposing Employee Free Choice Act](#)

The legislation, which is identical to the version that failed to pass Congress in 2007, effectively eliminates the secret ballot in union organizing campaigns, making it easier for unions to organize, and replaces collective bargaining with mandatory binding arbitration.

Every three percentage points gained in union membership through card checks and mandatory arbitration will result in a one percentage point rise in unemployment the following year, according to the *Empirical Assessment of the Employee Free Choice Act: The Economic Implications*, a groundbreaking study on the economic impacts of the Employee Free Choice Act. Consequently, if 1.5 million existing jobs are unionized in year one as predicted by labor leaders, a loss of 600,000 other jobs would occur by the following year

>> [View Key Findings from the Study](#)

House Education and Labor Committee Chairman George Miller, D-Calif., and Sen. Tom Harkin, D-Iowa, a senior member of the Senate Health, Education, Labor and Pensions Committee introduced the Employee Free Choice Act.

The bill has majority support in the House and the Senate, but it needs 60 Senate votes to survive a filibuster. There are only 58 Senate Democrats at this time. A 59th Democrat, Al Franken, D-Minn., currently faces a court challenge to his 225-vote election recount victory. Senate proponents would need all the Democrats plus Sen. Arlen Specter, R-Pa., the only Republican who voted to end debate in 2007, to overcome a filibuster.

Federal COOL Rules Effective Monday

Beginning Monday, grocers and fish markets must comply with federal requirements for country-of-origin labeling for fish, shellfish, beef, lamb, pork, chicken, goat, perishable agricultural commodities, ginseng, pecans, macadamia nuts and peanuts.

>> [More on the final federal COOL rules](#)

If you are an ARA member grocer or meat market, you should have received an e-mail or fax communication this week from ARA about meeting the federal requirements, including checklists for your meat, produce and seafood departments. If not, please contact **ARA Member Relations Manager Brett Johnson** via e-mail or at **1-800-239-5423**.

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