

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

*Friday, March 27, 2009*

**CRR EXTRAS**

## TAXES

### Not Enough Votes to Consider Food Sales Tax Ban

Three Votes Short on Bill That Also Would Limit Income Taxes Paid Deduction

The Alabama House of Representatives dealt a blow Tuesday to an effort to eliminate the state's four percent sales tax on groceries, sending the House into a slow down for the remainder of the week. Proponents fell three votes short of the number of votes needed to bring the bill up for debate. The vote was 56-42, but 59 affirmative votes were needed to debate the bill before the state budgets.



Rep. John Knight, D-Montgomery, vowed he will try again to get the House to consider HB 116, a constitutional amendment to remove the state portion of sales tax from groceries, excluding candy and soft

drinks, and limit the exemption for federal income taxes paid. Supporters said Thursday they will continue to filibuster until the grocery tax bill is back on the House work agenda. The Legislature plans a three-day work week next week, even though the Senate also shut down this week on other issues.

Knight's plan would slowly phase out the federal income tax deduction for singles with adjusted annual gross incomes of more than \$75,000 and married joint filers with adjusted annual gross incomes of more than \$125,000. The plan would not eliminate the federal income tax deduction completely until the adjusted gross income reaches \$200,000 for singles and \$400,000 for married joint filers. Should the bill ever get enough votes to be considered, it would take 63 votes in the 104-member House to pass, as it is a proposed constitutional amendment.

The Senate has similar legislation in line for consideration. SB 115 by Sen. Hank Sanders, D-Selma, also a constitutional amendment, would remove the state sales tax

## TOP ISSUES

- [Call your rep to stop COOL](#)
- [Continue to call senators about unemployment compensation tax increase](#)
- [Movie incentives now law](#)
- ['Checkmate' Specter says to card check](#)
- [House to get final say on ephedrine correction](#)
- [Procedural failure of food sales tax ban shuts down House](#)
- [ARA advocates retail sale amendment for price-gouging reform](#)

## BILLS

- [HB 055](#)
- [HB 069](#)
- [HB 116](#)
- [HB 183](#)
- [HB 362](#)
- [HB 391](#)
- [HB 435](#)
- [HB 473](#)
- [HB 517](#)
- [HB 548](#)
- [SB 027](#)
- [SB 027 Amendment](#)
- [SB 027 Amendment 2](#)
- [SB 047](#)
- [SB 099](#)

on groceries in the same manner as Knight's. It incrementally reduces the federal income tax paid deduction for single taxpayers with an annual adjusted gross income of more than \$100,000 and married couples making more than \$200,000 until the deduction is eliminated altogether for single taxpayers making more than \$200,000 and married couples making more than \$400,000. The Senate bill, so far, has not been placed on the upper chamber's agenda. It will take 21 votes in the Senate to pass the bill.

[House Minority Leader Mike Hubbard.](#)

[R-Auburn](#), led the fight to block the House bill from consideration. "*The Republican Caucus is opposed to the Robin Hood nature of this legislation to take off sales taxes while increasing taxes on one segment of taxpayers*," he said. He also said that the Legislative Fiscal Office made a mistake in its estimates on the financial impact of the legislation.



A family of four with an adjusted gross income of \$200,000 would see its annual state income tax rise by \$413, while saving only \$194 annually on groceries under the plan, for a \$219 increase in taxes, he said. A family of four with an adjusted gross income of \$125,000 that spends \$11,705 annually on groceries would pay no additional income tax and would save \$194 annually on its grocery bill. LFO's original numbers showed a \$464 annual savings on groceries but had based its numbers on the amount of groceries the U.S. Department of Agriculture recommends families buy, rather than what they actually buy, Hubbard said. However, the Legislative Fiscal Office stands by its numbers.

Hubbard said Republicans plan to introduce a bill that would use tax credits to offset the grocery tax for low-income families. [Rep. Paul DeMarco, R-Homewood](#), said he will introduce a bill based on a plan used in Idaho where food is taxed, but some taxpayers, based on income, are offered a tax credit for groceries purchased.

**Public Hearing Next Week on Bill to Allow Localities to Drop Sales Tax on Food**

In a related issue, the Senate Governmental Affairs Committee will have a public hearing at 11 a.m. Tuesday in Room 727 at the Alabama State House on [SB 450](#), by [Sen. Arthur Orr, R-Decatur](#), which would give county or city officials the authority to drop local sales taxes from food, as defined by food stamp regulations or as defined by the county commission or municipal governing body. In many areas of the state this could reduce sales taxes by as much as 6

- [SB 113](#)
- [SB 113 Amendment](#)
- [SB 115](#)
- [SB 115 FITP Amendment](#)
- [SB 115 Intent Amendment](#)
- [SB 148](#)
- [SB 194](#)
- [SB 407](#)
- [SB 414](#)
- [SB 450](#)
- [SB 460](#)
- [SB 518](#)
- [SB 535](#)
- [SJR 68](#)
  
- [USHR 1409](#)
- [USS 560](#)

**IN THE NEWS**

- [Tempers flare over legislative grocery tax battle](#)
- [Bill to remove Alabama sales tax from food fails](#)
- [Proposal to remove food tax fails in Alabama House](#)
- [Anti-grocery tax bill not good gov't](#)
- [Filibusters put Legislature in logjam](#)
- [Alabama's unemployment rate skyrockets to 8.4 percent](#)
- [Union leader, lawmakers bash governor for refusing federal jobless benefits](#)
- [Governor's action in rejection of portion of stimulus receives criticism](#)
- [Governor signs film industry incentives bill into law](#)
- [Riley hopes new law attracts film production to Alabama](#)
- [House panel nixes](#)

percent.

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## >> Other News

### MORE TAXES

#### **GOP Leaders: No More Unemployment Taxes**

Unemployment Hits 8.4%; Highest in 22 Years

Republican leaders from both chambers this week said they hope to use similar tactics used to thwart the food tax/income tax paid deduction to stop [SB 460](#) by [Sen. Rodger Smitherman, D-Birmingham](#), which would expand unemployment benefits to about 20,000 more unemployed Alabama workers and **cost Alabama businesses \$22 million more annually in unemployment taxes** .

Smitherman's legislation is backed by the Senate Democratic Caucus in lock step with the labor unions. The Democratic-controlled Senate did not take up the bill this week, however, despite a union rally in support of the legislation on the Alabama State House steps Tuesday. When the Legislature returns Tuesday, it will be at the midpoint of the 2009 regular session.

SB 460 would allow the state to deposit \$100.5 million in federal stimulus money in the Unemployment Compensation Trust Fund to pay for federally required extended benefits ONLY through 2013. It extends benefits to cover workers who have been in the work force at least 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, all conditions set by Congress for accepting the stimulus money. After the federal money runs out, Alabama businesses will foot the bill for the additional benefits. Gov. Bob Riley has refused to accept the \$100.5 million in federal stimulus money because of the strings attached that ultimately will cost business.



*"Unemployment in Alabama continues to increase pushing up unemployment taxes on businesses. We cannot accept, and will not accept, an additional increase on unemployment compensation taxes,"*

[Sen. Del Marsh, R-Anniston](#), told business lobbyists Tuesday.

In fact, the Alabama Department of Industrial Relations

[nonpartisan judicial votes](#)

- [House panel votes to ban sale of novelty lighters](#)
- [Business beats card check - for now](#) (WSJ subscription)
- [Specter shifts stance; will oppose card check](#)
- [Alabama considers minimum experience law for judges](#)
- [Alabama's new steel coil hauling law is toughest in nation, trucking association officials say](#)

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

### ARA CONTACTS

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President

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Vice President

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Dir. of Public Relations

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Member Relations Mgr.

### 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

announced Friday that **unemployment in Alabama hit 8.4 percent in February , the highest rate in 22 years** . Increasing unemployment means increasing demand on the 100 percent employer-supported Unemployment Compensation Trust Fund. Every trust fund dollar paid out for benefits in one year *MUST* be repaid by employers in subsequent years. Consequently, because of an automatic trigger built into state law to keep the Fund solvent, **unemployment taxes for businesses will increase from almost 16 percent to a high of 56 percent PER EMPLOYEE in 2010, no matter the outcome of Smitherman's legislation.**

House Minority Leader Mike Hubbard, R-Auburn, said the Republican Caucus has voted to oppose Smitherman's legislation. *"Hopefully, we'll be able to kill it on the budget isolation resolution (same method used in the House to stop the elimination of the sales tax on groceries). My gut feeling is that (supporters) don't have the votes to bring it up for debate."*

A joint resolution approved with little fanfare and no news coverage before the Alabama Legislature left on spring break also indicates lack of support for the legislation. Both legislative bodies (Alabama House on March 12 and Senate on March 10) passed the resolution calling on Congress to repeal conditional provisions attached to federal stimulus funds related to unemployment compensation. Interestingly, Smitherman is the sponsor of **SJR 68**, which asks that federal lawmakers *"immediately amend the American Recovery and Reinvestment Act of 2009 to allow states to accept unemployment compensation benefits unconditionally."* The resolution goes on to say, *"provisions of the act that require states to make changes to their laws concerning base-period calculations (four most recent quarters) and less restrictive grounds for disqualifications in order to receive unemployment compensation incentive payments should be repealed."*

**ARA appreciates the motivation to urge Congress not to impose costly mandates on the states and will continue to rigorously oppose attempts to increase unemployment compensation taxes.**

**ASK YOUR SENATOR TODAY TO VOTE 'NO' ON SB 460!**

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## **ARA LEGISLATIVE AGENDA IN ACTION**

**Governor Signs Movie Industry Incentives**

reached through the House e-mail system by using the following format:  
[firstname.lastname@alhouse.org](mailto:firstname.lastname@alhouse.org).

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

[house3@alhouse.org](mailto: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](http://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**

Let the filming begin! Gov. Bob Riley on Tuesday signed into law the Entertainment Industry Incentive Act of 2009 Tuesday, making it the **first bill on the Alabama Retail**



**Association's 2009 State Legislative Agenda to become law .**

Thanks and congratulations to [Rep. Richard Lindsey, D-Centre](#), sponsor of [HB 69](#), and [Sen. Roger Bedford, D-Russellville](#), who sponsored the Senate companion, [SB 148](#).

The new law targets smaller movie, TV and video productions whose budgets range from \$500,000 to \$10 million in order to grow the state's movie industry as well as soundtrack productions spending at least \$50,000. It also places a limit of \$5 million on the rebates available this year, with the cap growing to \$7.5 million in 2010 and \$10 million in years beyond.

Alabama Tourism Director Lee Sentell said his office hopes to prepare the rules for awarding the incentives by July or August.

More than 40 states offer some type of enticements to filmmakers, according to the Screen Actors' Guild. A study done for Louisiana lawmakers in 2006 found that incentives there, enacted in 2002, helped triple that state's filmmaking employment. **ARA supported this legislation because of the increased sales expected for retailers should Alabama attract more movie, TV and sound productions.**

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

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### **Country-of-Origin Bills Headed for House Debate**

The fate of proposals to require Alabama restaurants and delis to identify the country of origin for seafood and catfish now is in the hands of the Alabama House of Representatives.

**For seven years, ARA has led the fight to keep country-of-origin labeling legislation from being considered at the state level. That effort now focuses on the House.**

**CALL YOUR REPRESENTATIVE TODAY  
AND VOICE YOUR OPPOSITION TO THIS LEGISLATION!**

Wednesday, on voice votes, the House Agriculture and Forestry Committee approved the broader seafood bill, [HB 435](#) by [Rep. Spencer Collier, R-Irvington](#), as well as the more narrow catfish legislation, [HB 473](#) by [Rep. A.J. McCampbell, D-Linden](#). **The committee did add ARA-supported amendments to both bills.**



### **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 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



[Rep. Jamie Ison, R-Mobile](#), (photo at left) amended Collier's bill so that it carries the same penalties as McCampbell's. Now under either bill, if a food service operator mislabels or fails to comply with the labeling required, it will receive

a written warning on first offense, a \$100 fine on second offense, \$250 fine on the third offense, \$500 fine on the fourth offense, culminating with a \$1,000 fine on the fifth offense within a two-year period and the possible revocation of the establishment's food safety permit.

[Rep. Chad Fincher, R-Mobile](#),

(photo at right) amended the labeling requirements in McCampbell's catfish bill so the minimum size for any signage would be 93 square inches, which



equates to 8.5 inches by 11 inches, a regular letter-size sheet of paper. The bill requires only one method of labeling but gives the proprietor the option of denoting country of origin for its catfish on the menu, a sign or a tabletop display. It specifies that menu labeling be done with the catfish offering in the same font size and specifies that tabletop displays be at least 30 square inches and be placed on each table.

Fincher's amendment more readily matches the proponents' contention that all the bill requires is "*a magic marker and a piece of paper.*" The original bill required a 250-square-inch sign.

HB 473 specifically requires any restaurant to inform consumers whether the catfish it serves is farm-raised catfish; river or lake catfish; AND tell customers the state or country of origin, while HB 435 requires food service establishments to inform customers where they get ALL their fish. Collier's legislation calls for the following disclaimer on a restaurant's menu or, if the business doesn't have a printed menu, prominent display of the message on a placard:

*"Under Alabama law, the consumer has the right to know, upon request to the food service establishment, the country of origin of imported farm-raised or wild fish."*

Fincher had planned to amend McCampbell's catfish bill so that the Alabama Department of Public Health would administer this legislation as is provided in Collier's broader bill. However, the Health Department asked for time to review the amendment. A Health Department official did say during the committee meeting that health inspectors visit Alabama restaurants at least three times a year and could easily check for signage and labeling compliance during those visits.

*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 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](https://www.facebook.com/speakersjobscommission)

Grocers and fish markets already must comply with federal requirements for country-of-origin labeling. If these state bills pass as written, grocery delis would be subject to three different regulators, two on the state level and one on the federal level. Fincher said he would amend HB 473 on the House floor to make the Health Department the administrator.

This legislation is an effort by Alabama catfish producers to save their industry from competition from cheaper imports and distinguish their product from imported goods. It is more about protecting the catfish industry than consumer safety. Rep. Robert Bentley, R-Tuscaloosa, even admitted that during the committee meeting. "*Catfish farmers need our support. We are going to help this industry,*" Bentley said.

**ARA opposes these two country-of-origin labeling bills because of the additional cost and additional regulatory oversight 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.**

The Senate Agriculture, Conservation and Forestry Committee again failed to get a quorum for its Wednesday meeting, but it did hold a public hearing on the Senate companion to Collier's bill, [\*\*SB 194\*\*](#) by [Sen. Jim Preuitt, D-Talladega](#). No vote was taken, which means the bill remains in the committee.

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### **Pseudoephedrine Law Correction Headed to House** House Expected to Give Bill Final Passage

The Alabama House will get the final word on **an ARA-supported correction to state law regulating the sale of ephedrine or pseudoephedrine**. Wednesday, the House Judiciary Committee approved [\*\*SB 47\*\*](#) by [Sen. Lowell Barron, D-Fyffe](#), sending it to the full House for final consideration. **This legislation is a part of the ARA 2009 State Legislative Agenda.**

The House already has approved the companion legislation, [\*\*HB 183\*\*](#) by [Rep. Frank McDaniel, D-Albertville](#), which continues to await 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 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.

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## **WORKPLACE POLICIES**

### **House or Senate Could Consider Ban**

#### **Legislation Would Ban Policies Against Guns in Parking Lots**

The House Commerce Committee this week approved [HB 362](#), by [Rep. Craig Ford, D-Gadsden](#), which would prohibit an employer from establishing any policy that restricts employees and customers who lawfully possess a firearm from storing their guns in his/her locked vehicle in a public or private parking area, including any employee parking lot or facility. The Senate Judiciary Committee last week approved the Senate companion, [SB 407](#) by Sen. Roger Bedford, D-Russellville. Committee approval means the legislation could be considered in the respective chambers at any time. Nine states have adopted this National Rifle Association-backed legislation in recent years, including bordering states Florida, Georgia and Mississippi.

Both bills create a new cause of action, opening up retailers and other businesses to additional lawsuits. Should an employer unlawfully 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.

The legislation 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. The House committee also added an amendment exempting railroad property.

**[ARA will continue to work with the NRA representative handling this legislation to make changes to the liability section that would make this bill more palatable for retailers.](#)**

**[Please contact ARA President Rick Brown with your concerns about this legislation.](#)**

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## **LABOR**

## Bill Mandates Unions Use Secret Ballots in Elections

Thursday, [Sen. Scott Beason, R-Gardendale](#), introduced legislation that would require secret ballots for any election conducted by a labor union in Alabama. [SB 535](#) is intended to protect workers from unfair influence in the workplace. The bill awaits action by the Senate Business and Labor Committee.

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## ELECTIONS

### House Panel Defeats Nonpartisan Judicial Elections

Alabama's method of electing judges will remain the same for now after Wednesday's defeat of two bills that would have created nonpartisan judicial elections in Alabama and set limits on campaign contributions in those elections. **Their defeat was a victory for ARA, which opposes any legislation that alters the current election process for appellate judges**. Both bills were supported by Alabama Supreme Court Chief Justice Sue Bell Cobb.



The House Constitution and Elections Committee defeated:

- [HB 548](#) by [Rep. Jeff McLaughlin, D-Guntersville](#), which would have required the nonpartisan election of state judges. The vote was 6-5; and
- [HB 55](#) by [Rep. Christopher England, D-Tuscaloosa](#), to limit cash or in-kind contributions to any candidate seeking a judicial office to \$500 per election, and provide for a mechanism to increase that amount in future years for the effects of inflation. The vote was 5-5. The Senate Campaign Finance Committee has approved the companion bill, [SB 99](#) by Sen. Rodger Smitherman, D-Birmingham. The Senate bill awaits action by the full Senate.

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## PRICE GOUGING

### Senate Judiciary Approves Price Gouging Bill

On a 10-1 vote Wednesday, the Senate Judiciary Committee approved [SB 27](#) by Sen. Roger Bedford, D-Russellville, to reform Alabama's price gouging law. Under Bedford's bill, during a declared state of emergency, an increase in the price on goods or rentals exceeding 15 percent of the previous 30 days' average price would constitute price gouging. Currently, the price gouging statute activates when price increases exceed 25 percent of the previous 30 days' average.

The committee added two amendments to the bill, including one advocated by the Alabama Retail Association, which exempts items that had been on sale or discounted immediately prior to the emergency declaration. For those items, the price cannot rise 15 percent above the average price of the item before it went on sale. **ARA thanks Senator Bedford for his assistance in adding the amendment.**

[Sen. Vivian Figures, D-Mobile](#), added an amendment that would make price gouging unlawful throughout the state during a state of emergency, even if the emergency status only applies to certain counties.

Bedford's bill also increases the civil penalty for violating the state's price gouging statute from \$1,000 to \$5,000 per violation with an aggregate total not to exceed \$25,000 for any 24-hour period.

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## LEGAL

### **Beason Wants It Spelled Out If Legislation Could Lead to Lawsuits**

Thursday, [Sen. Scott Beason, R-Gardendale](#), introduced the Transparency in Lawsuits Protection Act. [SB 518](#) seeks to ensure that any legislative act in Alabama, regulatory or otherwise, does not create a private right of action unless such a right is expressly stated in the legislation. The bill also says Alabama courts cannot construe a statute to imply a private right of action in the absence of such express language. The bill has been assigned to the Senate Judiciary Committee.

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## LIMITATIONS ON PRODUCT SALES

### **House Panel Votes to Ban Novelty Lighters**

On a unanimous voice vote Tuesday, the House Government Operations Committee approved [HB 517](#) by [Rep. Arthur Payne](#), [R-Trussville](#), which would ban the sale of novelty lighters in Alabama.

Any lighter that resembles cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or that plays musical notes or has flashing lights or other entertaining features is considered a novelty lighter under this bill, which now goes to the full House for debate. The Senate companion, [SB 414](#) by [Sen. Hank Sanders, D-Selma](#), awaits action by the Senate Children, Youth Affairs,

and Human Resources Committee.

The push for this bill stems from concerns about children starting fires. Alabama Fire Marshal Ed Paulk said an apartment fire in Baldwin County in 2007 started when a child was playing with a lighter that looked like a beer can. No one was hurt, but the apartment was destroyed, and others nearby were damaged. According to the U.S. Fire Administration, two children were killed in a 2007 Arkansas apartment fire started with a motorcycle-shaped lighter. Maine, Tennessee, Virginia and Oregon have novelty lighter bans, although some limit sales to adults rather than being outright bans. **If you have concerns about this legislation, please contact [ARA Vice President Alison Wingate](#).**

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### **Senate Judy OKs Bill Dealing with Minors and Tobacco**

Wednesday, the Senate Judiciary Committee on a 13-0 vote approved [SB 113](#) by [Sen. Larry Means, D-Attalla](#), which would make it illegal for a minor to use false identification to buy tobacco products, increase the penalties for possession of contraband tobacco, prohibit the sale of tobacco products through a self-service display and require stores to post signs stating the sale of tobacco products to anyone under the age of 19 is prohibited. The House Judiciary Committee has yet to consider [HB 391](#) by [Rep. Laura Hall, D-Huntsville](#).

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## **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.

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## **FEDERAL**

### **Specter Move Apparent Checkmate to 'Card Check'**

During a speech Tuesday on the floor of the U.S. Senate, Sen. Arlen Specter, R-Pa., announced he will oppose card-check legislation, halting progress of organized labor's primary objective for the 111th Congress.



**Defeat of the Employee Free Choice Act (EFCA)**, more aptly known as the card-check bill, **is the Alabama Retail**

**Association's No. 1 federal legislative goal. ARA plans to join the Alabama Alliance of Businesses Against EFCA, a group of Alabama-specific associations meeting next week to formalize the alliance.**

Following the news of the change of heart in the only Republican who supported the bill in previous Senate votes, moderate Democrats began speaking of compromise and amendments. Eighteen Senate Democrats already chose not to co-sponsor the bill - a sharp drop from the previous year, especially in light of the Democrats' expanded majority in the Senate. However, compromising now will undercut our ability to defeat this job-killing legislation. Specter's opposition means proponents can count on a maximum of 59 votes to move the bill forward, one short of the 60 required to clear Senate rules. The 59 count assumes Al Franken wins his contested election in Minnesota.

**H.R. 1409** by U.S. Rep. George Miller, D-Calif. and **S. 560** by U.S. Sen. Edward Kennedy, D-Mass., would allow employees to unionize simply by collecting signatures from more than half the workers at a business, foregoing the secret-ballot election entirely. Currently, if more than 30 percent of workers sign cards, the National Labor Relations Board schedules a secret-ballot election. The bill also replaces collective bargaining with mandatory binding arbitration.

*"The bill's requirement for compulsory arbitration if an agreement is not reached within 120 days may subject the employer to a deal he or she cannot live with. Such arbitration runs contrary to the basic tenet of the Wagner Act for collective bargaining, which makes the employer liable only for a deal he or she agrees to,"* Specter said in his floor speech. He also said, *"The problems of the recession make this a particularly bad time to enact Employees Free Choice legislation."*

Washington insiders now report that EFCA could be put on hold until after the 2010 elections. However, Specter didn't close the door entirely. *"I would be willing to reconsider Employees' Free Choice legislation when the economy returns to normalcy,"* he said.

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

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**IRS: Quick Turnaround for Small Retailers Seeking Stimulus**

The Internal Revenue Service has promised quick action for small retailers who take advantage of a stimulus bill provision that makes them eligible for special tax refunds by counting current losses against profits from up to five years ago.

*"The new net operating loss provisions could throw a lifeline to struggling businesses, providing them with a quick infusion of cash,"* IRS Commissioner Douglas Shulman said.

The American Recovery and Reinvestment Act allows small retailers and other businesses with up to \$15 million in annual gross receipts to "carry back" net operating losses from 2008 and 2009 and apply them against profitable years from as long as five years ago. The time period was extended from two years because some businesses haven't seen a profit that recently.

**Eligible companies have until April 17 to file paperwork electing to choose the five-year period.** Companies that don't meet the deadline will still be eligible to carry losses back for two years. The IRS expects record numbers of companies to apply and will add staff if necessary. The agency hopes to deliver refund checks in as little as 45 days.

Updated forms and instructions have been posted on the IRS Web site, [www.irs.gov](http://www.irs.gov).

[>> Read an IRS news release with direct links to the forms](#)

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