

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

CRR EXTRAS

Friday, April 17, 2009

ARA LEGISLATIVE AGENDA IN ACTION

Ephedrine-Pseudoephedrine Law Correction Accomplished

Second ARA Legislative Agenda Item to Receive Final Passage

In one of its few acts this week, the Alabama Legislature gave final approval to **an ARA-supported correction to state law regulating the sale of ephedrine or pseudoephedrine.**



The Alabama House of Representatives on Tuesday approved **SB 47** by Sen. Lowell Barron, D-Fyffe, on a vote of 87-0, sending the bill to Gov. Bob Riley for his signature. This is the **second item on ARA's 2009 State Legislative Agenda to receive final legislative approval** during the 2009 regular session. Riley signed the Entertainment Industry Incentive Act of 2009 into law on March 24. SB 47 was the only item on Tuesday's consent calendar, an agenda of noncontroversial legislation taken up each day before the special order calendar of bills for the day. After approving this legislation, the House began filibustering, creating a legislative slowdown that carried over for most of Thursday's legislative day as well.

Barron's legislation deletes 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 ephedrine/pseudoephedrine law originally was written, it was thought the technology to prevent extraction of the ingredients used in methamphetamine production would exist by the Oct. 1 effective date. Such technology has not yet been developed.

With the correction approved Tuesday, pharmacies will continue to be able to sell ephedrine and pseudoephedrine products in the same way they have since state and federal

TOP ISSUES

- [Toothless unemployment stimulus resolution on governor's desk](#)
- [Public hearing request made for unitary combined reporting](#)
- [Less burdensome country-of-origin labeling bill moves](#)
- [ARA achieves final approval for 2nd legislative agenda item](#)
- [Bill requires notification before substituting generics for anti-epileptic drugs](#)
- [Special election wrapup](#)
- [California rep's bill could lead to federalization of workers' compensation](#)

BILLS

- [HB 183](#)
- [HB 435](#)
- [HB 473](#)
- [HB 746](#)
- [HB 865](#)
- [HB 869](#)
- [HB 898](#)
- [SB 047](#)
- [SB 194](#)
- [SB 460](#)

changes were made to those type sales in 2004.

ARA thanks Sen. Barron and Rep. Frank McDaniel, D-Albertville (who sponsored the companion legislation, **HB 183**, which received House approval but never received Senate consideration) for their willingness to sponsor this legislation and see it through to final approval.

>> Other News

MORE ARA LEGISLATIVE AGENDA IN ACTION

House Sends Senate Seafood Country-of-Origin Labeling Catfish COOL Bill Sent to House for 2nd Time

On a vote of 92-1, the Alabama House of Representatives on Thursday approved a substantially rewritten version of **HB 435** by **Rep. Spencer Collier, R-Irvington**, which



requires food service establishments to inform customers of the country-of-origin for the fish they serve, *if the customers ask*. **The Alabama Retail Association worked with the Alabama Restaurant Association to make the bill much less burdensome to food service establishments.**

In the new bill, a food service establishment is defined as any place, vehicle, or vessel where individual portions of food are prepared, stored, held, transported, served, or dispensed, either on- or off-premises. The bill specifically excludes hospitals from the definition of a food service establishment.

Under the revised legislation, any business serving fish to customers must place the following disclaimer on its menu **OR** on an 8.5 inch-by-11 inch, or larger sign, near its food safety permit: *"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."* Instead of the disclaimer, a restaurant could simply post the country of origin for the fish products they serve and still be in compliance.

Suppliers must notify food service establishments of the country of origin of any fish sold and the food service establishment would NOT be subject to penalties if a wholesaler or distributor fails to disclose or mislabels the country of origin, under this legislation.

Under revised penalties in the bill, a food service operator who mislabels or fails to post the disclaimer or the country of

- [SB 570](#)
- [SJR 86](#)
- [USHR 635](#)

IN THE NEWS

- [State paves way for Hollywood](#)
- [Fish labeling proposal passes state House](#)
- [Alabama Legislature to president: State wants more money for unemployment](#)
- [Alabama jobless rate hits 9 percent](#)
- [State draws attention to unemployment fraud](#)
- [House, Senate panels pass state budgets](#)
- [Federal stimulus means jump in state's General Fund budget](#)
- [Senate committee clears way for Senate to debate Alabama education budget, even though panel members haven't seen it yet](#)
- [West Alabama senators unite for filibuster](#)
- [Lawmakers OK Riley changes to housing stimulus](#)
- [PAC-to-PAC money transfer ban stalled in Alabama Senate after getting OK from House](#)
- [Albritton wins state Senate District 22 GOP primary](#)
- [State Rep. Cam Ward to run for state Senate](#)
- [Alabama state Sen. Hank Erwin may run for lieutenant governor](#)

For more stories concerning legislative action and news

origin will receive a warning from the Alabama Department of Public Health 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. The amended bill no longer includes a possible revocation of the business' food safety permit.

Collier's bill now goes to the Senate for consideration. The Senate Agriculture, Conservation and Forestry Committee already has approved the Senate companion, [SB 194](#) by [Sen. Jim Preuitt, D-Talladega](#).

Meanwhile, for the second time in three weeks, the House Agriculture and Forestry Committee on Wednesday approved [HB 473](#) by [Rep. A.J. McCampbell, D-Linden](#), which would require food service establishments to notify customers of the country of origin of any catfish served.

Although the committee approved the bill March 25th, the House of Representatives recommitted it to the committee for amendments, which the sponsor preferred to have added in committee rather than on the House floor. The changes in the bill relate primarily to which state department would administer the legislation. The Alabama Department of Public Health would administer the legislation under the revised bill, which now awaits House consideration.

This catfish-specific bill requires only one method of labeling but gives the restaurant or other food service proprietor the option of denoting country of origin for its catfish on a menu, a sign or a tabletop display. It specifies that menu labeling be done with the catfish offering in the same font size; on tabletop displays of at least 30 square inches placed on each table; or in one-inch lettering on a sign of at least 93 square inches, which equates to 8.5 inches by 11 inches, the size of a regular letter-size sheet of paper. If the catfish served was imported from a country other than the United States, any advertising of that catfish also must state the country of origin, under the bill.

BATC Asks for Public Hearing on Unitary Combined Reporting

The Business Associations' Tax Coalition, 30 business and trade associations, including ARA, that are committed to responsible tax policy, have asked for a public hearing on [HB 865](#) by [Rep. Jeff McLaughlin, D-Guntersville](#). At this time, the bill, which has been assigned to the House Education Appropriations Committee, has not been scheduled for committee consideration.

of interest to retailers, go to [In the News](#)

ARA CONTACTS

[Rick Brown](#)
President

[Alison Wingate](#)
Vice President

[Nancy Dennis](#)
Dir. of Public Relations

[Brett Johnson](#)
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 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:

The link to each lawmaker mentioned in this publication goes to their individual websites, which have contact information.

McLaughlin's bill requires a group of two or more corporations to file a "combined" income tax return that includes the income and apportionment factors of all corporations that are members of a "unitary" business - whether or not they do business in or otherwise have nexus with Alabama. In other words, under this legislation, the state would look at ALL income for a multistate corporation in order to determine Alabama's share of taxes to be paid. However, the bill does not allow net operating losses for the multistate entity to be applied to the deductions in the group's combined return.

Under the bill, it is up to the Alabama Department of Revenue to determine which corporations would be subject to combined reporting. The bill is silent on the minimum level of common ownership necessary for the provisions of the bill to be applied. Such discretion in the hands of the state department, no doubt will lead to costly litigation. The bill also eliminates Alabama's existing consolidated returns for all tax years after Dec. 31, regardless of whether a corporation files its federal income taxes on a consolidated basis. The bill does not repeal the current add-back statute.

BATC voted this week to oppose this legislation. Opposition to required unitary combined reporting for corporate taxpayers is part of ARA's 2009 Legislative Agenda.

TAXES

Unemployment Stimulus Resolution on Governor's Desk

The Alabama Legislature has sent Gov. Bob Riley [SJR 86](#) by [Sen. Rodger Smitherman, D-Birmingham](#), a toothless resolution telling the president that the state's lawmakers want all unemployment funding available from the federal stimulus package and that they are willing to change state law to get it. However, the Legislature has yet to change the law, and the resolution by itself is meaningless. The Senate, which bogged down this week in filibusters, has not debated [SB 460](#), also by Smitherman, which would permanently expand unemployment compensation benefits in Alabama in exchange for the temporary federal funding.

The House approved Smitherman's resolution on a voice vote Tuesday. A spokesman for Gov. Bob Riley said he doesn't know what the governor plans to do with the resolution. At one point during Thursday's filibuster in the House, [Rep. Alvin Holmes, D-Montgomery](#), asked if it was time yet to override a gubernatorial veto related to the unemployment stimulus money, but Speaker Seth Hammett told him, "*we are not*

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 access to:

Cost-Saving Credit Card Processing:

eligible to receive this stimulus money for unemployment until the law is changed."

To get the extra \$100 million to pay unemployment benefits, the Legislature would have to change state law to make 20,000 more jobless workers eligible for benefits, immediately **costing Alabama businesses \$22 million more EACH YEAR in unemployment taxes**. Nineteen states qualified to receive all or part of these additional funds based on existing policy. The Virginia House of Representatives defied its governor last week and rejected a measure to expand the pool of workers eligible for unemployment benefits. Besides Alabama's governor, the chief executives in Alaska, Texas, Louisiana, South Carolina and Mississippi have spoken out against expanding unemployment benefits, arguing a larger number of people on the unemployment rolls will mean a greater cost for unemployment insurance programs, which are paid 100 percent by business. New Jersey, South Dakota and Connecticut have changed their laws to receive the money.

SB 460 would extend 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.

[>> Read 'The Facts About SB 460':](#)

ARA and the Business Associations' Tax Coalition oppose SB 460. Call your lawmakers to let them know retailers SIMPLY CAN'T AFFORD for the Legislature to pile on more unemployment compensation expenses onto your tax bill and the tax bills of other hardworking employers in your community.

New figures out today show that last month, the percentage of jobless Alabamians grew to 9 percent, the greatest percentage in 23 years.

[>> March unemployment in the Southeast](#)
[>> Alabama March unemployment by counties](#)

BUDGETS

Lawmakers Finally Get Budgets in Final Third of Session

With only nine legislative days over the next month left in the 2009 regular session, the Alabama House and Senate

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 are unable to come to the Birmingham exchange but would like to submit ideas and recommendations, you

committees on Wednesday passed proposed state budgets for the 2010 fiscal year.

House Majority Leader [Ken Guin, D-Carbon Hill](#), told representatives to expect to debate the General Fund budget ([HB 746](#) by [Rep. John Knight, D-Montgomery](#)) on Tuesday. The House Government Appropriations Committee this week approved a \$2.5 billion General Fund budget that includes \$1.524 billion in state dollars and \$1 billion in federal stimulus money, which provides for increased or level funding for most agencies.

The Senate Finance and Taxation Education Committee approved a \$6.14 billion Education Trust Fund budget ([SB 570](#) by [Sen. Hank Sanders, D-Selma](#)) with \$5.64 billion in state appropriations and \$512.9 million in federal stimulus dollars. However, Sanders, chairman of the Senate education budget committee, said a substitute education budget could be offered next week on the Senate floor, which means senators will be debating a budget they haven't had an opportunity to review.

may [email them to Alabama Jobs Commission](#)

or join the conversation on Facebook at

[facebook.com/speakersjobscommission](#)

ELECTIONS

Vacancies Closer to Being Filled

More Open Legislative Seats on Horizon

The party nominees for the first of three vacant Senate seats were decided this week, but these special elections will create even further vacancies in the Alabama Legislature if House members seeking the seats are elected.

Former state Rep. Greg Albritton will represent the Republican Party in the June 2 General Election for the Senate District 22 seat vacated by the January death of Sen. Pat Lindsey, D-Butler. State [Rep. Marc Keahey](#) is the Democratic nominee for that seat. Albritton won 57 percent of the vote in Tuesday's GOP primary.

The Republican primary runoff for the District 7 Senate seat vacated when Democrat Parker Griffith won election to Congress in November is Tuesday. [Paul Sanford](#), owner of Little Paul's Barbecue in Huntsville, an ARA member since 2002, faces real estate lawyer Sam Givhan in the runoff. The winner of Tuesday's runoff will face five-term state [Rep. Laura Hall](#), the Democratic Party nominee, in the June 9 General Election for the District 7 seat.

Three Alabama House members are among the eight Democrats seeking the Senate District 19 vacancy created by the January felony conviction of Sen. E.B. McClain, D-Midfield.

No Republicans qualified to seek the seat, so it will be decided during the May 12th primary or during a primary runoff, if necessary, which will take place June 30th.

State Reps. [Merika Coleman](#) of Birmingham, [Priscilla Dunn](#) of Bessemer and [Rod Scott](#) of Fairfield are seeking the District 19 Senate seat. Others on the ballot will be former state Rep. Eric Major of Fairfield, Bessemer City Council member Louise Alexander, Lawrence McAdory of Bessemer, Madilyn Southern of Fairfield and Nathan Reed of Ensley.

There also is one House vacancy. Four Republicans and three Democrats qualified the first of this month to run for the north Alabama House seat that became vacant when former Democratic Rep. Sue Schmitz of Toney was convicted of felony fraud charges.

Republicans qualifying for the House District 6 seat were Glenn Watson, a former Huntsville city councilman; Frank Prabel III of Harvest, a Boeing program manager; Phil Williams of Monrovia, co-founder of Synapse Wireless, and retired police officer Tommy Carter of Toney. Democrats in the race are Shawn Terry, a roofing company owner and chief of the Monrovia Volunteer Fire Department; Jenny Rhodes Askins of Toney, a member of the Madison County Board of Registrars, and Ed Sasan of Harvest, a Madison police officer.

That primary will be May 26 with a July 14 runoff, if necessary, or a General Election on that date, if not. In the event of a runoff, the General Election will be Sept. 1.

The makeup of the Alabama Legislature may not stabilize until the 2010 elections are decided. Two expected announcements illustrate that possibility. Republican state [Sen. Hank Erwin](#) of Montevallo is expected to announce at 3 p.m. Sunday at the Pelham Civic Center that he is seeking the office of lieutenant governor. If Erwin does run for the Senate presiding officer slot, state [Rep. Cam Ward, R-Alabaster](#), said he will be a candidate for Erwin's District 14 Senate seat. Ward has scheduled several announcements for Monday.

[>> Full Election Calendar](#)

PHARMACY

Newton Bill Requires Notification for Anti-Epileptic Generic Drugs

[Rep. Demetrius Newton, D-Birmingham](#), this week introduced [HB 869](#), which prohibits pharmacists from substituting any anti-epileptic therapeutic product without first notifying the

prescribing physician and patient.

Pharmacist substitution of brand name drugs with FDA-approved, generically equivalent drugs saves money for patients, employers and insurance carriers. Tennessee, Hawaii and Utah have passed similar legislation and more than 20 states have introduced similar legislation, creating obstacles to generic substitution for the prescription drugs that are used to treat epilepsy along with such common maladies as migraine headaches. A mandate to prevent pharmacists from substituting drugs prescribed to treat epilepsy with generically equivalent alternatives unless the pharmacist first notifies both the prescriber and the patient would adversely affect the delivery of patient care. Should this proposal become law, insurance premiums and Medicare obligations most likely would increase.

Similar legislation has been introduced in previous legislative sessions, although none gained final approval. HB 869 awaits action by the House Health Committee.

PRODUCT SAFETY

Hurst Proposes State Oversight of Children's Products Recalls

[Rep. Steve Hurst, D-Munford,](#)

this week introduced legislation that would require the Alabama Department of Public Health to maintain a list of unsafe or recalled children's



products and require retailers to give notice to potential users of unsafe products. [HB 898](#) would authorize the attorney general to enforce recalls ordered by the Consumer Product Safety Commission. The federal Consumer Product Safety Improvement Act of 2008, the most sweeping consumer product safety law enacted in the United States in more than 30 years, was signed into law in mid-August and became effective Feb. 10. Retailers already are struggling to comply with the far-reaching federal law. Conflicting or overlapping state law will only further complicate the issue.

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

Result of 'Study' Could Be Federalization of Workers' Comp Law

Rep. Joe Baca, D-Calif., has introduced legislation that would establish a national commission to "study" and "evaluate" all state workers' compensation laws. ARA is concerned the true nature of the national commission called for under [H.R. 635](#), or the "National Commission on State Workers' Compensation Laws Act of 2009," is to reform states' laws at the federal level. Federalization of workers' compensation laws seems to be the probable end result of this commission.



States' workers' compensation systems have continued to improve for decades based on the economies, business environments and traditions of each state. A state-based system allows each state to borrow from experiences in other states without the burden of a rigid, nationwide, one-size-fits-all federal program that is slow to change and administratively cumbersome. State workers' compensation systems, including administration, legal precedents, funding and fiscal accountability, are intricately linked to each state's economy. The imposition of federal requirements on the state-based system would create unnecessary imbalances and unintended consequences.

Let your congressman know that you have no desire for the federal government to get involved in workers' compensation law and ask him to stop this effort before it even gets started by voting against placing it on either a suspension or regular order calendar.

Suspension bills usually are minor, noncontroversial bills, which can't be amended, aren't subject to "motions to recommitt" and must get a two-thirds supermajority to pass. Don't let the sponsor try to slip this one by on such a calendar.

Contact your congressman now!

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