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CRR EXTRAS

Friday, May 08, 2009

Catfish Labeling Rests with Senate

Tell Your Senator to Vote 'No' on HB 473

Catfish Bill is More Narrow, Burdensome than HB 435

Legislation requiring food service establishments to notify customers of the country of origin of any catfish served - **HB 473** by [Rep. A.J. McCampbell, D-Linden](#) - is in line for final consideration on the last two days of the 2009 regular session.

On a vote of 82-8, the Alabama House of Representatives on Tuesday approved the bill. The Senate Agriculture, Conservation and Forestry Committee then quickly gave



it a favorable report Thursday morning after a public hearing, clearing the way for the full Senate to possibly give it final approval in the remaining days of the session. **ARA thanks Reps. [Mike Ball, R-Madison](#); [Greg Canfield, R-Vestavia Hills](#); [Warren Beck, R-Geneva](#); [Randy Davis, R-Daphne](#); [Paul DeMarco, R-Homewood](#); [Joe Faust, R-Fairhope](#); [Barry Mask, R-Wetumpka](#); and [Jack Williams, R-Birmingham](#) for opposing this punitive and burdensome legislation for Alabama's already stressed restaurant and food service industry.**

[>> Read the House roll call vote](#)

Restaurants, grocery delis, fish markets, dinner cruise ships and even sidewalk vendors who sell catfish would be affected by this legislation. Under the bill, food service establishments must post the country of origin of any catfish served either on the menu, on table tops or on a sign in plain view. Other provisions of the bill require the country of origin to appear in any advertisement that concerns catfish served. It assigns civil penalties for failure to comply ranging from a warning to a \$1,000 fine and suspension of your food service permit.

TOP ISSUES

- [Proposed unemployment compensation tax increase sure to resurface next year](#)
- [Stronger wine bill on governor's desk](#)
- [State sales tax remains on groceries](#)
- [Parking lot gun bill in line for final OK](#)
- [Say 'No' to catfish labeling](#)

BILLS

- [HB 116](#)
- [HB 175](#)
- [HB 222](#)
- [HB 362](#)
- [HB 373](#)
- [HB 373 Amendment](#)
- [HB 435](#)
- [HB 473](#)
- [HB 688](#)
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- [HB 973](#)
- [SB 103](#)
- [SB 115](#)
- [SB 132](#)
- [SB 194](#)
- [SB 263](#)
- [SB 377](#)
- [SB 407](#)
- [SB 450](#)
- [SB 460](#)

Also in line for final approval is the broader, less burdensome

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 customers ask. Collier's bill also is in line for final consideration by the Senate in the final two days of the 2009 regular session. Time has run out for the Senate companion, **SB 194** by [Sen. Jim Preuitt, D-Talladega](#). **The Alabama Retail Association worked with the Alabama Restaurant Association and the sponsor to make HB 435 much less burdensome to food service establishments than originally proposed. If the Legislature is intent on approving country-of-origin legislation for fish, ARA would prefer Collier's bill be enacted.**

>> [Read the April 17th Capitol Retail Report story for details on HB 435](#)

Should Collier's and McCampbell's bill both become law, **food service operators would have to operate under two different state labeling requirements related to fish; and grocery stores would operate under three different regulations, as they already have to meet federal country-of-origin labeling requirements for fish.**

The catfish-specific legislation is an effort by Alabama catfish producers to save that industry from competition from cheaper imports and distinguish their product from imported goods. It is more about protecting the catfish industry than consumer safety. The bill does not prohibit selling catfish from any source, nor does it require inspections or testing of catfish, it only requires the food service establishment to inform customers of what country supplied its catfish. **ARA opposes efforts to shift the burdens of one distressed industry onto the back of another.**

Repeatedly during debate Tuesday, proponents said the Catfish Institute would provide signage for restaurants to comply with the legislation. What they failed to mention is that the only provided signage would be for U.S. catfish. If the catfish served comes from some other country, the restaurant would have to bear the cost. Also, if a food service establishment's catfish supplier provides product from various countries, the restaurant's signage will have to change whenever the country of origin for the catfish changes.

**ASK YOUR SENATOR
TO VOTE "NO" ON HB 473
AND "YES" ON HB 435**

▪ [SJR 131](#)

Because the Alabama State House flooded Thursday and shut down the Alabama Legislative Information System, some of the bills above may not be completely up to date versions of pending legislation. Once the system is back online and updated, we will update the links to represent the most recent changes. In the meantime, if you have a question about a bill or would like a copy, please contact [Brett Johnson](#)

IN THE NEWS

- [Bill to remove sales tax from food dies in Alabama House](#)
- [Grocery tax fight back for fourth try](#)
- [Legislature OKs sale of stronger wine in Alabama](#)
- [Liquor sale legislation gets new life](#)
- [Governor criticizes state budget as pork filled, cheap on prisons](#)
- [Legislature OKs \\$2.5 billion General Fund budget](#)

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

ARA CONTACTS

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>> Other News

TAXES

No \$22 Million Annual Unemployment Tax Increase for 2010

Time ran out this week for **SB 460** by [Sen. Rodger Smitherman](#), [D-Birmingham](#), and **HB 688**, by [Rep. Jack Page, D-Gadsden](#), a **\$22 million annual increase in unemployment compensation taxes for employers**. Neither bill passed its originating chambers, so fortunately, not enough legislative days remain to consider this tax increase.

But this legislation most likely will be reintroduced in the 2010 and the 2011 regular legislative sessions. Under these bills, Alabama would have received almost \$100 million in federal funds to pay unemployment benefits in exchange for changing state law to make 20,000 more jobless workers eligible for benefits, immediately costing Alabama businesses \$22 million more EACH YEAR in unemployment compensation taxes. The state has until Sept. 30, 2011, to decide whether to expand its unemployment compensation benefits as mandated to receive these federal funds, which are part of the federal economic stimulus plan.

Thanks for letting your lawmakers know that Alabama businesses could not afford this tax increase.

Even though this legislation did not pass, Alabama employers still will see an unemployment compensation tax increase in 2010. Because of an automatic trigger built into state law to keep the Unemployment Compensation Trust Fund solvent, unemployment taxes for businesses will increase from a low of almost 16 percent to a high of 56 percent per employee in 2010. Because of the tremendous strain the current record level of unemployment has placed on the Fund, employers will move from Schedule C to Schedule D, the highest unemployment compensation tax rate schedule possible in Alabama. Most of the state's employers currently are at the minimum experience rating and will see their tax bills go from \$64 per employee in Schedule C to \$100 per employee under Schedule D.

[>> Two examples of what moving
from Schedule C to Schedule D would mean
>> Unemployment compensation tax table
for all 26 experience ratings](#)

What lawmakers failed to realize during discussions of this legislation is that within the unemployment compensation tax

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:

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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.

rate schedule, there are 26 experience levels, which means even though employers will be paying at the highest schedule, your tax rate still will increase if more people become eligible for unemployment benefits. When you get the opportunity during the months before the 2010 legislative session, try to help your lawmakers understand how unemployment compensation taxes work.

State Sales Tax Remains on Groceries

For the fourth and final time for the 2009 regular session, the Alabama House of Representatives this week failed to garner enough votes to consider **HB 116** by [Rep. John Knight, D-Montgomery](#), which would have removed the state portion of sales tax from groceries, excluding candy and soft drinks, while limiting the exemption for federal income taxes paid.

Tuesday, the House voted 59-41 to bring the bill up for debate, one short of the three-fifths vote needed to take it up before both budgets had passed. With only two days remaining in the session, there is no longer time for the legislation to make it all the way through the process. The Senate never even attempted to debate the Senate companion bill, **SB 115** by [Sen. Hank Sanders, D-Selma](#).



Other bills that would have adjusted the sales tax on food that are dead for the 2009 regular session include:

- **SB 450** by [Sen. Arthur Orr, R-Decatur](#), which would have given cities and counties the option of eliminating local sales tax on food.
- **HB 862** by [Rep. DuWayne Bridges, R-Valley](#), which would have given a groceries tax credit of \$75 per person to families with adjusted gross incomes of less than \$15,000, excluding those who qualify for food stamps; and a tax credit of \$65 per person for families with adjusted gross incomes between \$15,000 and \$22,000.
- **SB 377** by [Sen. Scott Beason, R-Gardendale](#), which would gradually eliminate the state sales tax on food by 1 percent at the start of each fiscal year after the education fund grows by 3 percent. Beason's bill also would have prohibited cities and counties from raising their sales and use taxes on food.



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:

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Discounted Inbound and Outbound Shipping:

WORKPLACE POLICIES

Ban on Policies Against Guns in Parking Lots Possible in Final Days

The Alabama House of Representatives this week unanimously approved **HB 362** by [Rep. Craig Ford, D-Gadsden](#), which would prohibit employer policies that say employees and customers cannot store lawfully possessed firearms in a locked vehicle in a public or private parking area, including an employee parking lot or facility. The bill makes it a Class A misdemeanor if an employer establishes, maintains or enforces such a policy.

"This bill simply allows a lawful gun owner to keep a gun in the car, in a locked glove box, under a seat or in the trunk," Ford said.

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 removed an exemption for railroad property that had been added by the House Commerce Committee.

Wednesday, the Senate carried over its version of this legislation, **SB 407** by [Sen. Roger Bedford, D-Russellville](#), after [Sen. Arthur Orr, R-Decatur](#), tried to amend the bill so it doesn't create a new cause of action against employers.

Under the Senate and House versions, if someone claims an injury, physical *"or otherwise,"* because a business prohibits its employees from keeping firearms locked in their cars parked in the company lot, the injured party could seek damages in civil court. Orr's amendment, **which the Alabama Retail Association supports**, sought to delete the words *"or otherwise."*

Leaving the language in creates *"an undue liability on corporations and businesses,"* Orr debated. The sponsor moved to table Orr's amendment, but that motion failed on a vote of 12-15. The Senate then carried over the bill with the amendment pending and did not bring the bill back up this week, which means not enough time remains in this session to consider the Senate version of the bill

The House bill could receive final passage on the two days remaining in the 2009 session.

ARA objects to the open-ended liability section of this bill .

Many small businesses use boilerplate employment manuals, which could prohibit firearms on company property, including the parking lot, without the business owner even

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

or join the conversation on Facebook at

facebook.com/speakersjobscommission

knowing it and put the business in violation of this legislation. ARA is concerned about exposing employers to civil lawsuits that seek damages beyond physical injuries.

Similar legislation backed by the National Rifle Association has passed in 10 other states.

ALCOHOL

Lawmakers Send Wine Bill to Governor; Wet-Dry Option Alive Ability to Sell Wines with Higher Alcohol Content in Governor's Hands

The Alabama Legislature this week gave final approval to **SB 263** by [Sen. Steve French](#).

[R-Birmingham](#), which would increase the allowable alcohol content of table wine from 14.9 percent to 16.5 percent.



Convenience stores are excluded from selling the more potent wines under this legislation. The Senate approved the bill Tuesday and the House gave its consent Thursday. If the governor vetoes the legislation, it could be back before lawmakers on Thursday or Friday of next week.

Other alcohol-related bills pending in the final days of the 2009 regular session include:

- **HB 175** by [Rep. Jimmy Martin, D-Clanton](#), which would allow any city of more than 1,000 residents, except those in Clay, Randolph, and Blount counties, to ask voters if they want to approve the sale of alcoholic beverages, even if the municipality is in a dry county. The legislation also contains **an ARA-supported provision that allows existing businesses operating under dual liquor licenses to continue to do so**. Both chambers approved this legislation, but the governor vetoed it last week. The House overrode the governor's veto. Wednesday, the Senate failed to get the majority votes needed to override the veto, then came back and voted to reconsider the issue later, which means another override vote could come up in the Senate in the final two legislative days.
- **HB 373** by [Rep. Thomas Jackson, D-Thomasville](#), commonly known as the "*Free the Hops*" bill, which would raise the state alcohol content limitations from 6 percent to 13.9 percent, allowing the sale of gourmet beers in Alabama. The Senate debated but never took a vote on the companion legislation, **SB 132** by [Sen. Bobby Singleton, D-Greensboro](#).

LEGAL

Business Code Overhaul on Governor's Desk

The Alabama Senate this week gave final approval to the more than 800-page Alabama Business and Nonprofit Entities Code, which reorganizes eight different business entities into one code.

Wednesday, the Senate approved **HB 222** by [Rep. Marcel Black, D-Tuscumbia](#), on a vote of 18-6. The Alabama House of Representatives voted 93-0 in March to approve the massive legislation. The bill now goes to the governor for his signature.

In earlier debates, Black said his bill "*makes no substantive changes in the law.*" It combines the previous Alabama Business Corporation Act; Alabama Non-Profit Corporation Act; Alabama Limited Liability Company Act; Alabama Revised Partnership Act; Alabama Revised Limited Partnership Act; Alabama Real Estate Investment Trust Act; Alabama Professional Associations Act; and the Alabama Professional Associations Act. The Senate companion was **SB 103** by [Sen. Rodger Smitherman, D-Birmingham](#).

Under the bill, if the Legislature adopts any amendments to the eight previous acts before this consolidated act takes effect on Jan. 1, 2011, those amendments will be folded into the new act as well.

According to a summary of the legislation provided by the sponsor, the reorganization is intended to:

- rearrange the business and non-business organizations into a more logical order;
- provide a smooth transition when a business needs to change from one entity to another;
- provide a numbering system designed to accommodate future expansion of the law;
- eliminate repealed, duplicative, expired, and other ineffective provisions; and
- simplify the language of the various acts.

PHARMACY

Resolution Advocates Notification for Anti-Epileptic Generic Drugs

On a voice vote Wednesday, the Alabama Senate adopted **SJR 131** by [Sen. Linda Coleman](#), which asks the U.S. Food and

Drug Administration to enact regulations or guidelines that require epilepsy patients and their physicians be notified prior to any interchange or substitution of anti-epileptic drugs.

The resolution keeps alive the issue, which previously died with

HB 869 by [Rep. Demetrius Newton, D-Birmingham](#), which would have prohibited 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. 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 adversely affects the delivery of patient care

Should the resolution achieve its goal or the bill become law, insurance premiums and Medicare obligations most likely would increase.

ELECTIONS

Panel Fails to Consider Private Ballot Bill

Legislation aimed at protecting the secret ballot rights of workers as well as voters gained brief consideration Wednesday in the House Constitution and Elections Committee before being carried over and effectively killed for the 2009 session.



HB 973 by [Rep. Greg Canfield, R-Vestavia Hills](#) (pictured), would have guaranteed the right of individuals to vote by secret ballot in all public votes for referenda or for employee representation. This legislation, in part, was in response to labor union efforts to force employees to forego secret ballots in union representation elections, thus exposing employees to intimidation and coercion. **ARA supports the right to a private ballot in all elections and supports efforts to guarantee that right.**

BUDGETS

Budgets Complete with Two Days Remaining in Session

Gov. Bob Riley has a \$2.5 billion budget on his desk to fund state operating expenses. The House and Senate this week

passed different versions of the General Fund budget, sending it to a conference committee.

The Senate version cut \$9 million from prisons and used that money to expand the state Children's Health Insurance Program, which provides health insurance to children in working families, and give appropriations to senators' special projects in their districts. The House unanimously rejected that budget. The House-Senate conference committee gave \$3 million back to prisons and placed \$6.5 million in community service grants for House members to use for projects in their districts. The House initially rejected the conference committee report, but later reconsidered and approved it.

The governor expressed his displeasure with the amount of special projects in the budget as well, but didn't indicate if he would veto the budget or any portion of it.

With both state budgets approved, lawmakers will no longer have to approve a budget isolation resolution before considering legislation on the final two days of the session. A simple majority is all that will be needed to pass legislation other than proposed constitutional amendments.

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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