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**CRR EXTRAS**

*Friday, April 16, 2010*

## Budgets with Governor

### Roads, PACT and Bingo Left to Final Week

Governor Says He'll Take Time to Carefully Read General Fund Budget

Alabama's governor now has both the education and the state's general operating budgets on his desk, and Alabama's Legislature can consider bills without having to first consider a budget isolation resolution. Major legislation left to be decided in the final two days of the 2010 regular session includes bills that would pump \$1 billion over 10 years into road and bridge construction and fix the struggling Prepaid Affordable College Tuition program, which are both in conference committees. The House also delayed the final vote on a bill to regulate, tax and legalize electronic bingo games in Alabama until next week.



Tuesday, the Senate on a vote of 25-8 and the House on a vote of 64-36 approved [HB 290](#) by [Rep. John Knight, D-Montgomery](#). The approved 2011 \$1.6 billion General Fund budget is about \$100 million more than state agencies expect to spend in the current budget.

The governor's staff told reporters that the state's chief executive plans to take a few days to review the General Fund budget before deciding whether to sign it into law. The Legislature only has two more days left in the 2010 regular session and plans to meet Wednesday and Thursday of next week.

The Legislature sent the \$5.5 billion education budget ([HB 274](#) by [Rep. Richard Lindsey, D-Centre](#)) to the governor last week.

**>> Other News**

#### TOP ISSUES

[Unemployment Comp Case Facts Still Evidence](#)

[Country-of-Origin Labeling Amendment Dead for Session](#)

[Retailers Able to Sell Fortified Wines Under Approved Bill](#)

[House, Governor Last Steps for Statewide Restaurant Smoking Ban](#)

[Feds Extend Unemployment Comp Benefits 'Til June](#)

[Budgets to Governor Before Session's End](#)

[Brewpub, Entertainment District Bills Alive for Final Week](#)

[Remote Drug Orders Up for Final OK](#)

[Herb and Incense Criminalization Could Get OK in Final Two Days](#)

#### BILLS

- [HB 171](#)
- [HB 274](#)
- [HB 290](#)
- [HB 571](#)
- [HB 697](#)
- [HB 700](#)
- [HB 704](#)
- [SB 098](#)

## SMOKING/TOBACCO

### Statewide Restaurant Smoking Ban Closer to Final Passage

A statewide ban on smoking in restaurants only is just two steps away from final passage. On a voice vote Wednesday, the House Government Operations Committee approved [SB 541](#) by [Sen. Vivian Figures, D-Mobile](#), which would ban smoking in restaurants statewide. To become law, the bill needs the approval of the full House and the governor's signature.



The bill defines a restaurant as an enclosed facility that primarily serves food. The ban would not apply to bars and lounges where serving food is only incidental to the consumption of beverages. Figures told the committee she would consider amending her bill on the House floor to add a more specific definition of restaurant.

Some restaurant industry representatives and committee members argued that bars should be included in the ban to assure economic fairness and protect patrons' health.

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## LEGAL ISSUES

### House Buries Unemployment Case Non-Disclosure Bill

Wednesday, the Alabama House of Representatives indefinitely postponed [HB 700](#) by [Speaker Pro Tempore Demetrius Newton, D-Birmingham](#), which would have excluded findings of fact made under unemployment compensation statutes from consideration as evidence in other proceedings. The lower chamber's action kills the bill for the session.

The bill would have precluded an employer from using an employee's previous statements and findings in court in certain cases. It also would have kept employers from using the evidence in any proceeding, even if it is the same occurrence or transaction and between the same parties. For instance, it would have prohibited the release of a finding that an employee was terminated for cause and not entitled to unemployment. This bill also would have prohibited the use of such prior findings in a retaliatory discharge case.

The Senate Judiciary Committee approved the Senate companion [SB 514](#) by [Sen. Quinton Ross, D-Montgomery](#), but that bill never reached the Senate floor.

- [SB 284](#)
- [SB 328](#)
- [SB 367](#)
- [SB 514](#)
- [SB 518](#)
- [SB 541](#)
- [SB 566](#)

[USHR 4851](#)

## IN THE NEWS

[Alabama Legislature maintains health care in budget](#)

[Road bill remains alive](#)

[Legislature likely to take up PACT issue again next week](#)

[House delays bingo bill vote until next week](#)

[Restaurant smoking ban nears final passage](#)

[CHPA urges nationwide e-tracking for all cough-cold medicines with PSE](#)

[Tea party activists mourn Alabama's opt out bill](#)

[President signs bill to extend jobless aid](#)

[Energy-efficient appliance rebates begin Monday in Alabama](#)

[Alabama retailers ready for appliance rebates](#)

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

## ARA CONTACTS

[Rick Brown](#)  
President

[Alison Wingate](#)  
Vice President

[Nancy Dennis](#)

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## FOOD SERVICE

### COOL Amendment Clears Senate, Yet Dies for Session

The Alabama Senate on Wednesday approved an amendment to current law that requires food service operators to reveal the country of origin of all fish served, if customers ask, then failed to transmit [SB 284](#) by [Sen. Jim Preuitt, D-Talladega](#), to the House. Meanwhile, the Alabama House on Wednesday indefinitely postponed the companion legislation, [HB 171](#) by [Rep. Spencer Collier, R-Irvington](#). Those actions mean the legislation is dead for the 2010 regular session.

Under a law adopted in 2009, restaurants, cafeterias, grocery delicatessens and any other food service establishment, except hospitals, that serve seafood are to place the following disclaimer either on the menu or on an 8.5-by-11 (letter-sized) or larger placard 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."*



A food service operator in violation receives 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 food service establishment is NOT subject to penalties if a wholesaler or distributor fails to disclose or mislabels the country of origin of the products.

The state law, however, excludes those who don't have to label country of origin under federal law from all of the above provisions. There are differing opinions as to whether or not food products delivered to restaurants have to be labeled.

Greg Locklier, the Health Department's assistant general counsel, said the current law makes it difficult, if not impossible, for the department to enforce. Consequently, the department has yet to develop rules for enforcement, even though, the law went into effect Jan. 1.

Without the adoption of SB 284 or HB 171, it is unclear when the department will begin to enforce the 2009 law. The governor did sign into law a legislative joint resolution, [Act 2010-84](#), also by Collier, urging the Health Department to

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](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).

enforce the fish country-of-origin notification law. The enacted resolution does not address the point of confusion; it simply instructs Public Health to enforce the law in its entirety.

**ARA will keep you informed about any rules or regulations arising from the 2009 law.**

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## ALCOHOL

### Fate of Fortified Wines in Governor's Hands

Should the governor sign a bill the Alabama House passed Wednesday, any Alabama retailer licensed to sell wine will be able to sell fortified wines. Currently, the sale of port, sherry, vermouth and other fortified or "dessert" wines is restricted to licensed liquor stores.



Under [SB 98](#) by [Sen. Roger Bedford, D-Russellville](#), any beverages made from fermented fruits containing not more than 24 percent alcohol will be considered wine or table wine under Alabama law. There will no longer be a separate definition for fortified wine, which currently is defined as wines with an alcohol content of between 14.9 percent and 24 percent. Table wines currently are defined as wines with less than 14.9 percent alcohol by volume. Under Bedford's bill, table wines will not include "any wine containing more than 16.5 percent alcohol by volume that is made with herbs or flavors, except vermouth, or is an imitation or other than standard wine." Wines that meet that description can only be sold by licensed liquor stores.

The House Tourism and Travel Committee approved the bill Tuesday and the Alabama House approved it Wednesday on a vote of 64-21-7, sending it to the governor. If the governor signs the bill or allows it to become law without his signature, it will take effect in three months, probably sometime in early August.

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### House Could Give City Entertainment Districts Final Look

The House Tourism and Travel Committee on Tuesday approved a substitute version of [SB 518](#). [Sen. Bobby Singleton, D-Greensboro](#), which would allow cities with populations of more than 100,000 to create entertainment districts where patrons can walk from establishment to establishment while drinking alcoholic beverages.



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



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### Discounted Inbound and Outbound Shipping:

Montgomery created the state's first entertainment district in a downtown area known as the Alley through local legislation. SB 518 now could go before the full House for final consideration in the last two days of the 2010 regular session. The House had not set its agenda for Wednesday at press time.

Wednesday, the House indefinitely postponed consideration of the House companion legislation, [HB 704](#) by [Rep. James Buskey, D-Mobile](#). The Senate substitute is identical to the substitute version of Buskey's bill adopted a couple of weeks ago by the House Tourism and Travel Committee.

The Senate legislation now ready for House consideration would create a separate liquor license for establishments within an entertainment district, and each municipality could have up to two separate districts with a maximum of four licenses allowed in each in those districts. Even the Montgomery district would need the Legislature to establish this separate license for its district to become a reality. Right now, there is no license that would allow patrons to walk out with an open container.

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### **Amended Brewpub Act Could Get Final Week Consideration**

Tuesday, the House Tourism and Travel Committee approved [SB 328](#) by [Sen. Bobby Singleton, D-Greensboro](#), which would allow brew pubs to produce an unlimited amount of beer, sell it on premise or to a distributor to bottle and sell to retailers. The panel's OK sets the bill up for possible final debate in the last two days of the 2010 regular session.

This bill amends the Alabama Brewpub Act by removing the restrictions that brew pubs can only produce 10,000 barrels annually, must be located in a county that had a brewery prior to 1919 and contain a restaurant that seats 80 or more. It allows brew pubs to sell beer to a licensed wholesale distributor, who in turn will be able to sell the Alabama-brewed beer to retail establishments. The bill also would allow brew pubs to offer tours and provide free samples of six ounces or less to be consumed on premises. Currently, there is only one brewpub in Alabama that brews on site, the Montgomery Brewing Co. in downtown Montgomery.

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## **PHARMACY ISSUES**

### **Senate OKs Bill to Allow Remote Drug Orders**

The Alabama Senate on Wednesday approved [SB 367](#)

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

by [Sen. Tom Butler, D-Madison](#), which expands the definition of pharmacy to allow for the processing of insurance information, dispute adjudication and other administrative functions related to prescription drugs at a remote site, rather than where the drugs actually are dispensed. The bill would make it possible to operate pharmacy call centers for hospitals and other facilities where there are pharmacists and pharmacy technicians on duty but no actual drug inventory. The remote sites would not dispense any drugs, Butler said. The House Boards and Commissions Committee is scheduled to consider the bill during a 12:30 p.m. meeting on Wednesday of next week.

The House Health Committee never considered the House companion, [HB 571](#) by [Rep. Jim Barton, R-Mobile](#).

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### **Bills Criminalizing Herb, Incense Ready for Final Debate**

Two different bills that would make an hallucinogenic herb illegal again saw legislative action this week.

The Senate Economic Expansion and Trade Committee on a 5-0 vote Wednesday approved [HB 697](#) by [Rep. James Gordon, D-Mobile](#), which criminalizes salvia divinorum and Salvinorin A and the chemicals JWH-018, JWH-073 and HU-210. That bill is now in line for final consideration by the Senate.

On the same day, the House Judiciary Committee approved [SB 566](#) by [Sen. Arthur Orr, R-Decatur](#), which would classify Salvia divinorum as a Schedule I controlled substance, putting it in the same category as such drugs as heroin, LSD and morphine.

Salvia divinorum is an herb in the mint family native to Mexico that is chewed or smoked to induce temporary illusions and hallucinations. Salvinorin A is the active ingredient in the plant. Possession or distribution of the substance would be a Class C felony under the Senate bill ready to be considered by the full House in the final days of the session. At least 16 other states have made Salvia divinorum illegal and similar bills are pending in six states, besides Alabama.

The chemicals JWH-018, JWH-073 and HU-210 are the main components of what is commonly known as Spice and sold as incense. When these chemicals are smoked or ingested, they produce effects similar to marijuana. These synthetic chemicals can be found in packages of dried substances in flavors called "*Blonde*," "*Pink*," "*Citron*" and "*Summit*" and are sold in smoke shops, convenience stores and on the Internet under such brand names as K2, Spice, Blayze II and Red

Bird. Gordon's bill makes possession of salvia or the marijuana-like chemicals a Class A misdemeanor on first offense and a felony for subsequent offenses or possession with intent to distribute, the same penalties as marijuana possession. His House bill is now ready for final consideration in the Senate.

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## **NEXT LEGISLATIVE DAY**

**The Alabama Legislature will meet for organizational purposes beginning Jan. 11, 2011. The Alabama Senate and House will meet in regular session for 30 legislative days between March 1 and June 13, 2011.**

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## **FEDERAL**

### **Congress Extends Unemployment, Other Benefits**

Benefits to Continue Through Late May, Early June

Back from its spring break, Congress this week voted to extend federal unemployment benefits and other programs on a 59-38 vote in the Senate, and a 289-112 vote in the House. President Obama signed the [\\$18 billion measure](#) into law late Thursday.

Key provisions of the new law will:

- Extend unemployment benefits retroactively through June 2. Meanwhile, the U.S. House and Senate will continue to try to reconcile a bill that would extend those benefits through the end of the year.
- Extend eligibility for the COBRA health insurance 65 percent subsidy for people who have lost their jobs through May 31.
- Restore full Medicare payments to doctors threatened by a 21 percent cut.
- Extend the National Flood Insurance Program authorization through May 31.
- Extend two temporary improvements to the Small Business Administration's loan guarantee program, raising the percentage of loan amounts that the SBA can guarantee and allowing SBA to waive or reduce loan fees through May 31.

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