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to benefit you!

CRR EXTRAS

Tuesday, April 27, 2010

Retailers Break through Legislative Noise

ARA Members Champion, Deter Bills

Your Legislative Contact Sent Retail Message Loud and Clear

With the Great Recession as a backdrop, legalization of electronic bingo as an overriding theme and the 2010



elections as the coming attraction, this year's regular session of the Alabama Legislature had many putting on a show just to be heard. In the end, bingo

died, legislators found a way to bail out the state's prepaid college tuition plan and besides choosing a new Legislature and governor, voters will decide in November if they want to spend \$1 billion over the next decade to build and repair the state's roads and bridges.

Amid the theatrics of the 2010 regular session, retailers were able to successfully champion and deter legislation, thanks to contact you made with lawmakers.

Legislation of benefit to retailers that became law as a result of 2010 regular session action:

- makes Alabama among the first 10 states in the nation to electronically track pseudoephedrine sales.
- gives Alabama business owners a tax break for hiring the unemployed.
- allows retailers to sell stronger beers and wines.
- allows the city of Tuscaloosa to vote on Sunday alcohol sales.

Just as importantly, not a single bill that would harm retailers received final approval during the entire 30 legislative days stretched over almost four months.

With your help, among other **legislation, the Alabama Retail Association and its allies blocked** :

- a \$42 million annual tax on jobs.

TOP ISSUES

NEW LAWS

[Electronic tracking of pseudoephedrine](#)
[Tax Break for Hiring Unemployed](#)
[Retailers Can Sell Stronger Wine and Beer](#)
[Tuscaloosa Gets to Vote on Sunday Sales](#)
[Governor to Decide if Criminal to Sell Certain Herb and Incense](#)

BAD BILLS YOU STOPPED

[\\$42 Million Annual Tax on Jobs](#)
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[Judicial Election Reform](#)
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OTHER DEAD BILLS

[Entertainment Districts and Brewery Reform](#)
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[Restaurant Smoking Ban](#)

BACK IN 2011

[Late Fee Increase](#)
[Increase in Health Insurance Deduction](#)
[Energy-Efficient Sales Tax Holiday](#)
[Rolling Reserve Act](#)

BILLS

- [Act No. 2010-215](#)

- excessively punitive immigration legislation that would have put violators out of business for administrative oversights.
- an attempt by a single wireless provider to force retailers to collect fees to support emergency 911 services.
- challenges to Alabama's method of electing its appellate judges.
- an attempt to infringe on employers' right to secure company property.

ARA reported on the progress of almost 100 of the 1,365 bills introduced in the final year of the current legislative term; while the ARA governmental affairs team tracked another two dozen pieces of legislation beyond what you read about in your weekly *Capitol Retail Reports*.

An account of how select bills – among those ARA supported, opposed or monitored – fared during the 2010 regular session follows.

>> Other News

WHAT YOU HELPED ENACT

Alabama to Track Pseudoephedrine Electronically

By January, Alabama pharmacies will electronically track the sales of over-the-counter products that contain ephedrine and pseudoephedrine, key ingredients in the production of the illegal drug, methamphetamine. Alabama joins nine other states in helping law enforcement track the sale of these common cold and allergy medications.



Gov. Bob Riley signs PSE tracking bill.

As a result of [Act No. 2010-215](#), the manufacturers of ephedrine and pseudoephedrine will provide the needed equipment at no cost to pharmacies and other retailers, and the system will not alter the ability of cold and allergy sufferers to get the medication they need. The system's goal is to stop "smurfers" who go from store-to-store to try to illegally violate limits on the amount of these medicines individuals can purchase in a given period of time in order to produce methamphetamine.

The Alabama Retail Association thanks retiring [Rep. Frank McDaniel, D-Albertville](#), and [Sen. Lowell Barron, D-Fyffe](#), the legislation's sponsors, for their leadership in getting this

- [Act No. 2010-271](#)
- [Act No. 2010-557](#)
- [Act No. 2010-568](#)
- [Act No. 2010-607](#)
- [Act No. 2010-84](#)
- [HB 001](#)
- [HB 034](#)
- [HB 099](#)
- [HB 119](#)
- [HB 125](#)
- [HB 171](#)
- [HB 181](#)
- [HB 355](#)
- [HB 364](#)
- [HB 486](#)
- [HB 487](#)
- [HB 542](#)
- [HB 557](#)
- [HB 559](#)
- [HB 571](#)
- [HB 620](#)
- [HB 662](#)
- [HB 680](#)
- [HB 697](#)
- [HB 700](#)
- [HB 704](#)
- [SB 11](#)
- [SB 253](#)
- [SB 277](#)
- [SB 284](#)
- [SB 312](#)
- [SB 322](#)
- [SB 328](#)
- [SB 360](#)
- [SB 366](#)
- [SB 367](#)
- [SB 457](#)
- [SB 518](#)
- [SB 527](#)
- [SB 541](#)

IN THE NEWS

[Legislature ends session](#)

[Tax flaw removed, Alabama Legislature approves PACT bill](#)

[Lack of legislative action has some businesses](#)

[system enacted into law](#) as well as the Consumer Healthcare Products Association for its assistance in supporting this legislation. The alternative would have been for these products to revert to prescription drugs, which would have limited their access to cold and allergy sufferers and driven up costs.

You Get a Tax Break for Hiring Unemployed

Under [Act No. 2010-557](#), retailers and other businesses can deduct up to 50 percent of the gross wages paid to any employee earning \$10 or more an hour who is hired off the unemployment rolls and then employed full time (37.5 hours weekly) for a full year. The one-time deduction can only be claimed after a worker has been on the payroll for a year.

The Reemployment Act of 2010 by [Rep. Robert Bentley, R-Tuscaloosa](#), provides a graduated deduction for tax years 2011 and 2012 based on the amount of wages paid. The allowable deductions are: 50 percent for wage rates of \$14 per hour or more; 40 percent for wages between \$12 and \$14 per hour; 35 percent for wages between \$10 and \$12 per hour; and no deduction for jobs paying less than \$10 per hour.

This law covers state income taxes while the Hiring Incentives to Restore Employment Act, a new federal tax break, exempts employers from paying the normal 6.2 percent share of Social Security payroll taxes on new workers hired in 2010 who had been unemployed at least 60 days. Companies also will receive a \$1,000 federal income tax credit for every new employee retained for at least a year, under the federal legislation.

Retailers Soon Able to Sell Stronger Wines and Beers Law Takes Effects July 1

In the regular session's final week, the Alabama Legislature overrode Gov. Bob Riley's veto of legislation that allows Alabama retailers to sell fortified wines. Previously, the sale of port, sherry, vermouth and other fortified or "dessert" wines had been restricted to Alabama Alcoholic Beverage Control Board stores, licensed liquor stores and certain private clubs. All retailers licensed to sell wine now will be able to sell the higher alcohol content wines under [Act No. 2010-607](#).

The legislation by [Sen. Roger Bedford, D-Russellville](#), also changes the definition of beer to allow all retailers licensed to sell beer to offer their customers higher alcohol content, or

[feeling lucky](#)

[Voters get to decide fate of \\$1B roads bill in November](#)

[Alabama Legislature overrides Gov. Bob Riley's wine bill veto](#)

[Alabama Legislature approves ban on sales of salvia, which has effects similar to marijuana](#)

[Ban on smoking in Alabama restaurants fails in Legislature](#)

[Mobile sets public hearing for changes to inspection scores for restaurants allowing smoking](#)

[Statewide ban on texting while driving killed by row between insurers, lawyers](#)

[Alabama Gov. Bob Riley says 'probably not' to idea of special legislative session](#)

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

ARA CONTACTS



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LEGISLATIVE CONTACTS



To contact members of the Alabama Legislature:

WRITE:

gourmet beer. Last year, the Legislature authorized the sale of the gourmet beers with alcohol content of up to 13.9 percent, only for merchants with a retail beer license for on- and off-premises consumption. The new law removes that restriction, allowing grocery and convenience stores to sell the higher alcohol content beer as well as the stronger wines.

Wednesday, April 21, the Senate voted 20-8, and Thursday, April 22, the House voted 58-24 with two abstentions to allow the legislation to become law without the governor's approval. **The new law takes effect July 1.**



Any beverages made from fermented fruit containing 24 percent or less alcohol are considered wine or table wine under this new Alabama law. There no longer is a separate definition for fortified wine, which had been defined as wines with an alcohol content of between 16.5 percent and 24 percent.

Imitation wines or fortified wines enhanced with flavors will continue to be sold only at the stores licensed to sell liquor. Under the act, table wines do 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."* The legal counsel for the ABC Board said the board will offer retailers guidance about that exception prior to the effective date of the law.

ARA will let those concerned know if the ABC Board adopts any regulations and rules in conjunction with this new law.

Tuscaloosa to Decide Sunday Sales in February

The city of Tuscaloosa has set a referendum for Feb. 22, 2011, to decide whether to allow liquor sales between noon and 9:30 p.m. Sundays. Under **Act No. 2010-271**, when New Year's Eve falls on a Sunday, the legal sale time would be between noon Sunday and 2 a.m. Monday, if the voters agree. If the referendum receives a positive response, Tuscaloosa restaurants, bars, grocery stores and other retailers licensed by the city and the Alabama Alcoholic Beverage Control Board would be able to sell alcohol on Sundays, just as they do the rest of the week.

Act Ties State to Federal Tax Estimation Standards

For tax years 2009 forward, the minimum thresholds at which

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. 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](#).

individuals and businesses must send in quarterly estimated income tax payments in Alabama align with federal standards. Under [Act No. 2010-568](#) by [Rep. Charles Newton, D-Greenville](#), the rules for federal and state quarterly tax estimations is the same with a few limited exceptions.

ACTION OF INTEREST TO RETAILERS

Governor to Decide if Herb and Marijuana-Like Incense Illegal

On the last day of the 2010 regular legislative session, the Alabama Senate gave final approval to [HB 697](#) by [Rep. James Gordon, D-Saraland](#), which criminalizes salvia divinorum and Salvinorin A as well as the chemicals JWH-018, JWH-073 and HU-210.

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. 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.

If the governor signs the bill into law, possession of salvia or the marijuana-like chemicals becomes 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. **Selling the products would become a felony punishable by one to 10 years in prison.** The governor has 10 days from passage to sign a bill adopted in the final days of a session. If he doesn't sign it, the bill is vetoed.

WHAT YOU HELPED STOP

Your Efforts Avert \$42 Million Annual Tax Increase

Thanks to the concerted efforts of Alabama retailers and other business allies, a proposed \$42 million annual



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:

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%

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**IMPORTANT EVENT
THIS WEEK**

tax on jobs never made it to the Senate floor for debate. [SB 11](#) by [Senate President Pro Tem Rodger Smitherman, D-Birmingham](#), called for the state to accept a one-time federal payment of \$100.5 million while expanding unemployment benefits permanently. While your calls and letters have stopped this job-killing legislation for two years now, the Legislature has until Sept. 30, 2011, to accept the federal funds, so expect another attempt to be made to raise your unemployment compensation taxes.

The Alabama Retail Association and the Business Associations' Tax Coalition will continue to vehemently oppose this legislation, which would allow part-time employees to collect unemployment; extend benefits beyond the normal period allowed for those training for high-demand occupations; give benefits to domestic abuse victims who left their jobs because of the threat of domestic violence; and shorten the time necessary to work to qualify for benefits.

You Helped Block Excessively Punitive Immigration Reform

Local and statewide legislation that would have put Alabama employers out of business for failing to verify their employees are in the country legally died as a result of protests from Alabama retailers and other businesses. While ARA and the Alabama business community does not condone hiring illegal workers, **your association fought to keep retailers and other businesses from losing their business licenses for failure to properly perform administrative functions.**

Three bills by [Rep. Micky Hammon, R-Decatur](#) – [HB 486](#), [HB 487](#) and [HB 559](#) – would have forced businesses in violation to stop doing business, either temporarily or permanently. All of the bills would have required employers to use the federal E-Verify program to confirm U.S. citizenship or authorization to live and work in this country, even though the program doesn't work more than half the time. While federal, state and some local governments require employers to use E-Verify on government projects, not many states require its use in the private sector. Alabama Employers for Immigration Reform, a coalition of businesses including ARA, will continue to work against legislation that unduly punishes or burdens business in regard to immigration. While a plethora of immigration reform bills were introduced in this session, none detrimental to business received final approval.

Retailers Won't Have to Collect E-911 Phone Fees

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://www.facebook.com/speakersjobscommission)

Your association and all of the groups associated with the state's enhanced 911 emergency telephone service stopped an attempt by a single provider to overhaul the Alabama Wireless E-911 Board and push collection of the fees onto retailers.

The House Boards and Commissions Committee summarily dismissed [HB 662](#) by [Rep. Craig Ford, D-Gadsden](#), in this session. However, Committee Chairman [Merika Coleman, D-Birmingham](#), told all of the parties involved to come back next year with legislation that would equalize the fee schedule for landlines as well as wireless phone users. Cell phone users pay a flat 70-cent monthly fee, while the monthly fee for landline users can be as high as \$5.08

Ford's bill would have substantially altered the governing board and tasked the revised panel to change collection of the fees. Currently, phone service providers collect E-911 fees from their customers and remit them to the state. A representative of the bill's lone proponent, TracFone Wireless Inc., a prepaid cell phone provider, testified that five states already collect the fees at the point of sale and that similar legislation backed by the company had been proposed in 15 states. **ARA will continue to oppose any attempts to use retailers as the collection agency for these fees.**

No Change to Election of Alabama Judges

Alabama's method of electing judges will remain the same as no proposals changing the way Alabama elects its judges received legislative approval in this session, including:

- [HB 542](#) by [Rep. Jeff McLaughlin, D-Guntersville](#), which would have mandated nonpartisan elections of justices for the Alabama Supreme, Civil Appeals and Criminal Appeals courts.
- [HB 680](#), also by McLaughlin, would have provided for the nonpartisan election of judges in a particular county or judicial circuit, after a petition requesting nonpartisan elections and signed by at least a majority of the circuit or district judges in that jurisdiction had been presented to the county commission.
- [SB 527](#) by [Sen. Hinton Mitchem, D-Guntersville](#), a constitutional amendment that would have allowed for nonpartisan elections of circuit and district judges in Marshall County only.
- [HB 620](#) by [Rep. Charles Newton, D-Greenville](#), which called for a separate nonpartisan judicial ballot.



Currently, local judicial candidates qualify with a political party, political parties nominate district and circuit court judges in a primary election and those primary nominees appear on the General Election ballot under their affiliated party banner. Under Newton's proposal, potential judges would have qualified with the Secretary of State, the qualifying fees would have gone to the state's General Fund and judicial candidates would have appeared under a separate ballot column labeled the "*Official Nonpartisan Judicial Ballot.*"

ARA will continue to oppose any legislation that alters the current election process for appellate judges. **ARA's opposition to such bills was part of its 2010 Legislative Agenda.**

Coalition Shoots Down 'Guns-To-Work' Legislation

The Alabama Coalition for Safe Workplaces, which includes ARA, successfully opposed [SB 360](#) by [Sen. Roger Bedford, D-Russellville](#), and [HB 364](#) by [Rep. Craig Ford, D-Gadsden](#), which would have infringed on employers' right to secure company property and had the potential to put many small employers who use boilerplate employment manuals in violation. The bill would have prohibited retailers and other businesses from having policies that prevent employees or customers from keeping licensed firearms locked out of sight in their vehicles in the businesses' parking lots or parking facilities. Generic employment manuals often prohibit firearms on company property, including the parking lot, without the business owner even being aware his business has such a policy.

Courts Can Hear Unemployment Comp Case Facts

Neither chamber debated [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. This legislation would have deprived retailers and other businesses of the ability to use an employee's previous statements and findings in discharge and other cases.

Several Business Mandates Avoided

Vacation and Sick Leave, Defibrillator and Conscience

[HB 557](#) by [Rep. Merika Coleman, D-Birmingham](#), which would have required Alabama employers to give 8.4 hours of sick time for every 80 hours worked if an employee works more than 2,060 hours annually, didn't even get a committee hearing. Employees would have been allowed to use sick time for preventive care, sickness in family and to obtain legal and medical services related to domestic assault. The legislation also would have required employers to keep time sheets for every employee for five years and create a presumption of guilt if the records were not kept. **ARA opposes efforts to mandate employee benefits and wages, believing that benefits and salary are best negotiated directly between an employer and his or her employees.**

Another bill by Coleman that didn't get out of committee ([HB 355](#)) would have required any business that serves or admits more than 1,000 customers monthly to have an automated external defibrillator. The devices, which cost up to \$3,000, require training specific to their operation as well as cardiopulmonary resuscitation training.

Another mandate that didn't make it past the committee level would have prevented pharmacy and other healthcare employers from disciplining employees for violating company policies or procedures. [SB 312](#) and [SB 457](#) by [Sen. Rusty Glover, R-Semmes](#), along with [SB 322](#) by [Sen. Wendell Mitchell, D-Luverne](#), and [SB 366](#) by [Sen. Scott Beason, R-Gardendale](#), would have given healthcare providers, institutions and payers the right to refuse to perform or participate in healthcare services that violate their conscience and would protect them from discrimination based on exercising that right. **Resolving the dilemma of how to make certain a patient has access to appropriate drug therapy as determined by their prescribing practitioner, while allowing pharmacists to follow their conscience, is complex and should be independent of governmental mandates.**

RETAIL-RELATED LEGISLATION THAT DIED IN 2010

Entertainment District, Brew Pub Bills Didn't Make it Through

The Alabama House of Representatives adjourned before taking up a bill that would have permitted the state's largest cities to create entertainment districts where patrons could leave restaurants and bars with open containers of alcoholic beverages as long as they remained within the district. Had the House stayed in session, [SB 518](#) by [Sen. Bobby Singleton, D-Greensboro](#), would have been next on the

calendar. The House also never took up the companion legislation, [HB 704](#) by [Rep. James Buskey, D-Mobile](#).

The bills would have allowed municipalities of more than 100,000 to create up to two separate entertainment districts with four or more businesses with liquor licenses within each district.

[SB 328](#) by [Sen. Bobby Singleton, D-Greensboro](#), which would have allowed brew pubs to produce an unlimited amount of beer, sell it on premise or to a distributor to bottle and sell to retailers, did not make it to a Senate calendar in the final two days of the session.

Remote Drug Orders Ran Out of Time

On the next to last day of the legislative session, the House Boards and Commissions Committee approved [SB 367](#) by [Sen. Tom Butler, D-Madison](#), which would have expanded 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. Unfortunately, time ran out before the full House could give the bill final approval. The House Health Committee never considered the House companion, [HB 571](#) by [Rep. Jim Barton, R-Mobile](#).

The legislation would have made 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.

Sales Tax Remains on Food and Over-the-Counter Drugs

For the second year, the Alabama House of Representatives never garnered enough votes to fully debate removal of the state's 4 percent sales tax on food and over-the-counter drugs.

[HB 1](#) by [Rep. John Knight, D-Montgomery](#), would have



offset the annual loss of \$405 million in sales taxes by raising \$407 million annually in income tax taxes through limitations on the state deduction for federal income taxes paid. A similar constitutional amendment also suffered the same fate in

numerous votes during the 2009 regular session.

Under Knight's legislation, gradually decreasing deductions for federal income taxes paid would have been allowed for individuals with adjusted gross incomes between \$100,000 and \$150,000 and for couples making between \$200,000 and \$300,000 until the deductions disappeared completely at the top end of those ranges. Those with adjusted gross incomes below the lower end of the ranges could continue to fully deduct the federal income taxes they pay from their taxable state income.

The Senate Finance and Taxation Education Committee never considered the companion bill, [SB 585](#) by [Sen. Hank Sanders, D-Selma](#).

Snuffed Out

Restaurant Smoking Ban and Cigarette Tax Increase

The Alabama House of Representatives did not place a statewide ban on smoking in restaurants on its calendar during the final two days of the 2010 regular session. [SB 541](#) by [Sen. Vivian Figures, D-Mobile](#), defined a restaurant as an enclosed facility that primarily serves food. The ban called for in the bill would not have applied to bars and lounges where serving food is only incidental to the consumption of beverages.



For the third year, a bill by [Rep. Patricia Todd, D-Birmingham](#), to triple taxes on a pack of cigarettes failed to receive consideration. [HB 119](#) would have raised the state tax on cigarettes from 26 cents per pack to 75 cents per pack. **ARA continues to support comprehensive tax reform over patchwork tax policy.**

HEARING FRIDAY IN MOBILE

On the local level, the Mobile County Health Department has set a 1 p.m. Friday public hearing on proposed changes in the way it scores restaurants where smoking is permitted. Under one proposal, four points would automatically be deducted from the health rating of restaurants where smoking is allowed. Another proposal is to require restaurants that allow smoking to post a sticker on the front door warning patrons about the dangers of second-hand smoke. Only the Mobile and Jefferson County Health Departments can set health policies beyond those of the Alabama Department of Public Health.

ARA WILL RETURN WITH AGENDA ITEMS

Modest ARA-Backed Late Fee to Resurface

A modest \$8 increase in late fees for delinquent consumer credit payments, which ARA has advocated since 2007, more than likely will reappear in 2011. As it did in 2007 and 2008, the increase from \$10 to \$18 received committee approval in 2010. The legislation wasn't introduced in 2009. **The fee change was part of ARA's 2010 State Legislative Agenda .**

SB 253 by [Sen. Wendell Mitchell, D-Luverne](#), and **HB 34** by [Rep. Craig Ford, D-Gadsden](#), received early committee approval, and then neither chamber placed the bills on their calendars.

In 2007, the late fee was increased to \$18 under the Alabama Small Loan Act, which applies to businesses that make loans of less than \$1,000. Mitchell's and Ford's legislation simply applies the same fee to the Alabama Consumer Credit Act, also known as the Mini Code, which governs loans of \$1,000 to \$2,000. Their legislation would have put transactions in which consumers buy on credit on the same late fee schedule as small loans.

A creditor can continue to charge \$10 or five percent of the scheduled payment, whichever is greater up to a cap of \$100, when a credit payment is 10 days late. That has been the case since 1997, when the Alabama Legislature increased the late charge from \$5.

Despite Efforts Health Insurance Deduction Remains Same

Gov. Bob Riley and ARA members, Montgomery Web design and development company, **Square Root Interactive**, publically campaigned to increase the income tax deduction for health insurance premiums paid for small businesses from 150 percent to 200 percent. **HB 181** by [Rep. Jay](#)



ARA member since 2006, Square Root Interactive, advocated for increased healthcare insurance deduction.

[Love, R-Montgomery](#), however, **a plank in the ARA's 2010 State Legislative Agenda**, never made it out of committee.

In a 2008 special session, legislation authored by Love gave Alabama businesses with fewer than 25 employees and their

employees who earn less than \$50,000 a 150 percent deduction for the health insurance premiums they pay. That deduction was applied for the first time on 2009 returns.

2011 Could Be Year for Energy-Efficient Sales Tax Holiday

The success of the current federal rebate program for energy-efficient appliances could bode well for ARA-supported legislation calling for an energy-efficient sales tax holiday. [HB 125](#) by [Rep. Greg Wren, R-Montgomery](#), would have added energy-efficient furnaces, refrigerators and other energy-efficient appliances and products valued at \$1,500 or less to the list of items included in Alabama's annual sales tax holiday. It did not receive committee approval in this session, but lawmakers could be more open to the idea next year following the success of the federal rebate program for energy-efficient appliances.

Innovative Budgeting Proposal May Resurface

A proposed budgeting process that would use spending ceilings based on the historical 15-year average annual growth rate for sales and income taxes, rather than revenue projections could return next year. The Education Trust Fund Rolling Reserve Act - [HB 99](#) by [Rep. Greg Canfield, R-Vestavia Hills](#), and [SB 277](#) by [Sen. Steve French, R-Birmingham](#) - would allow for growth, eliminate proration and create reserve funds for future capital needs. Excess funds would be transferred to a "Budget Stabilization Fund" that would "roll" from one year to the next. If revenues fall short, money from the fund would transfer to prevent proration, with no "pay-back" requirement, thus eliminating the need to borrow from the state's Rainy Day Fund, which does mandate taxpayer reimbursement.

UNRESOLVED LEGISLATIVE ISSUE

Country-of-Origin Notification Amendment Dies Legislation May Return or New Rules Surface

An amendment to current law that requires food service operators to reveal the country of origin of all fish served, if customers ask, did not receive final approval in the 2010 regular session, leaving



open the question of enforcement of the 2009 law.

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."*

The state law, however, excludes those who don't have to label country of origin under federal law from 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. The intent of [SB 284](#) by [Sen. Jim Preuitt, D-Talladega](#), and [HB 171](#) by [Rep. Spencer Collier, R-Irvington](#), was to clarify the law.

A food service operator in violation of the 2009 law 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 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 governor did sign into law a legislative joint resolution, [Act 2010-84](#), also by Collier, urging the Health Department to 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.

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.

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