

From Montgomery
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CRR EXTRAS

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Friday, March 25, 2011

Tell Lawmakers No Shoplifter, Thief Relief Acts Hearing Set for Next Week; Immediate Vote Not Expected

A public hearing has been set for 1:30 p.m. Wednesday in the Attorney General's Office on a nine-bill package of bills intended to ease prison overcrowding, including bills calling for a 100 percent increase in the felony shoplifting threshold and a 1,000 percent increase in the value of property that qualifies as organized retail theft.

Although a vote isn't expected next week on the package of bills pushed by the Alabama Public Safety and Sentencing Coalition, **call your legislators NOW to let them know the tremendous cost these reclassifications of the felony statutes governing shoplifting and organized retail theft could cause your business:**

- Companion bills, [SB 204](#) and [HB 218](#), which create a new class of felony, raise the felony shoplifting threshold from \$500 to \$1,000, increase from \$1,000 to \$10,000 the value of goods that would have been stolen in a six-month period to classify as organized retail theft and lowers criminal mischief, forgery and burglary of unoccupied buildings to the new Class D felony level.

[>> Read more about these bills](#)

- Under [HB 128](#) and [SB 259](#), first-time felony offenders without youthful offender records who plead guilty could be placed on probation or serve less than three years in prison and have his or her criminal record sealed after completing their sentence or probation. As a result **employers will end up hiring convicted felons**, while turning away people convicted of similar misdemeanor offenses.
- Three months after the passage of [SB 142](#), nonviolent offenders sentenced to one and half to two years in prison could see their sentences cut by as much as six months and be released into the supervision of the Alabama Board of Pardons and Paroles. The coalition estimates their entire package of bills could **put 5,000 incarcerated felons**

back on the streets.

>> Read the [Alabama Public Safety and Sentencing Coalition report](#)

>> Other News

ARA LEGISLATIVE AGENDA IN ACTION

200% Health Insurance Deduction Moving Quickly

In the week in which the United States observed the one-year anniversary of national healthcare reform, the Alabama Legislature advanced one related bill and stalled another.

Tuesday on an 83-12 vote, the Alabama House approved [HB 61](#) by [Rep. April Weaver, R-Brierfield](#), which raises the income tax deduction employers and employees can claim on health insurance premiums from 150 percent to 200 percent, moving the bill on to the Senate Job Creation and Economic Development Committee. A day later, the Senate Health Committee approved the Senate companion, [SB 159](#) by Sen. Greg Reed, R-Jasper, sending it to the full Senate. If the Senate substitutes the identical House version with Reed's bill on the Senate floor, final passage could come as early as next week, making the double deduction your ARA and the Business Associations' Tax Coalition have championed for years a reality.

>> [Increase Health Insurance Deduction for Small Business Issue Brief](#)



"Liberals in Washington thought the answer was forcing companies into ill-fitting healthcare plans, expanding Medicaid rolls and raising taxes to pay for it. In Alabama, we are lowering taxes for small businesses and workers to help spur job growth and make quality healthcare more available and

affordable," Weaver (pictured) said after the House voted to expand the tax deduction that small businesses get for supplying health insurance for their employees, a [measure that is part of ARA's 2011 State Legislative Agenda as well as a part of the governor's and the Republican majority's agenda.](#)

Meanwhile, the House fell four votes short of opting out of federal healthcare reform. The House voted 59-28 for [HB 60](#) by [Rep. Blaine Galliher, R-Gadsden](#), a proposed constitutional amendment to prohibit mandatory participation in any health

- [HB 149](#)
- [HB 150](#)
- [HB 178](#)
- [HB 195](#)
- [HB 214](#)
- [HB 218](#)
- [HB 281](#)
- [HB 300](#)
- [HB 301](#)
- [HB 303](#)
- [HB 313](#)
- [HB 341](#)
- [HB 346](#)
- [SB 046](#)
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- [SB 142](#)
- [SB 155](#)
- [SB 159](#)
- [SB 163](#)
- [SB 166](#)
- [SB 167](#)
- [SB 192](#)
- [SB 192 Amendment 1](#)
- [SB 204](#)
- [SB 232](#)
- [SB 256](#)
- [SB 259](#)
- [SB 272](#)
- [SB 274](#)

[S. 575](#)

[H.R. 1081](#)

IN THE NEWS

[House passes plan making healthcare more affordable, available for small businesses](#)

[Alabama House passes plan to give extra tax break to small businesses that provide health insurance to employees](#)

[Weaver's bill a home run](#)

[Alabama House challenge to federal health care](#)

care system. House Speaker Mike Hubbard said the bill will come back up for a vote Tuesday and he expects supporters to have the 63 votes needed to pass a constitutional amendment.

Senate or House Could Consider Late Fee Increase

Thanks to a one-vote majority in committee, a modest \$8 increase in late fees for delinquent consumer credit payments is ready for the full Alabama Senate to consider. The change your association has sought since 2007 is already on the House calendar ([HB 3](#) by [Rep. Craig Ford, D-Gadsden](#)).

Wednesday, by a vote of 5-4 the Senate Banking and Insurance Committee approved [SB 70](#) by [Sen. Gerald Dial, R-Lineville](#), which links the minimum late fee retailers and other businesses can charge on credit transactions under the Mini-Code to the amount allowed under the Alabama Small Loan Act. Voting for the bill were [Sens. Bill Holtzclaw, R-Madison](#); [Paul Bussman, R-Cullman](#); [Slade Blackwell, R-Birmingham](#); [Tom Whatley, R-Auburn](#); and [Senate Majority Leader Jabo Waggoner, R-Vestavia Hills](#). Voting against were [Sens. Hank Sanders, D-Selma](#); [Roger Bedford, D-Russellville](#); [Ben Brooks, R-Mobile](#); and [Jerry Fielding, D-Sylacauga](#). Committee approval puts the bill in line for consideration by the full Senate as soon as next week.

The minimum late fee allowed under the Alabama Small Loan Act has been \$18 since 2007. Meanwhile, the Mini-Code minimum has remained at \$10.

ATTENTION FURNITURE/APPLIANCE STORES AND OTHERS WHO FINANCE IN-HOUSE: Please [ask your representative and senator to vote "Yes" on SB 70 and HB 3](#) to correct the inequity between the Mini-Code and Small Loan Act.

[>> Read more about Late Fee Fairness](#)

Revised Taxpayers' Bill of Rights Has Widespread Support

The Business Associations' Tax Coalition, a 30-member business trade association group that ARA President Rick Brown chairs, voted this week to endorse the Alabama Taxpayers' Bill of Rights II, legislation that centralizes and makes the state's tax appeal process independent of the taxing governments. The bill is part of the [Alabama Retail Association's 2011 State Legislative Agenda](#).

[reform law 4 votes short of passage](#)

[House passes Northport Sunday alcohol sales bill](#)

[Alabama bill to ban smoking in public places stalls in committee](#)

[House panel blocks bill to delay school year start](#)

[Alabama House measure proposes bigger holiday tax break](#)

[Future of debit card swipe fees uncertain](#)

[Federal crackdown on debit card swipe fees sparks showdown](#)

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LEGISLATIVE CONTACTS

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WRITE:
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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

The legislation also has the support of the Alabama Society of Certified Public Accountants, the Alabama Bar Association and the Council on State Taxation among others. [Sen. Ben Brooks, R-Mobile](#), introduced [SB 232](#), which creates the Alabama Tax Appeals Commission, or ATAC, under the executive branch. The legislation abolishes the current Administrative Law Division within the Alabama Department of Revenue and instead places the tax appeals process under an independent tribunal. Brooks' bill has been assigned to the Senate Judiciary Committee. [Rep. Paul DeMarco, R-Homewood](#), the legislation's primary author, plans to introduce the House bill Tuesday.



DeMarco told BATC members this week that the legislation would improve the state's business climate, while cutting costs for the average taxpayer who wants to challenge a tax assessment. The overall goal is uniform and fair treatment of taxpayers, he said.

Under this legislation, taxpayers would for the first time ever be able to appeal final assessments of sales, use, rental and lodging taxes made by the Alabama Revenue Department or self-administered cities and counties and their private auditing firms to the state's Tax Appeals Commission, unless the local government opts out.

[>> Learn more about the Taxpayer Bill of Rights II](#)

Tort Reform Bills Set for Hearing before Senate Judiciary

The House and Senate Judiciary Committees will conduct a public hearing at 9:30 a.m. Wednesday in the Attorney General's Office on four bills intended to complete tort reform efforts that began in 1999. As a member of the Alabama Civil Justice Reform Committee (ACJRC), [ARA supports these tort reform measures](#), which are expected to draw trial lawyer opposition.

[>> Details of bills from March 11 Capitol Retail Report](#)

Security Freeze Legislation Incorporates ARA Changes

[Rep. DuWayne Bridges, R-Valley](#), this week introduced [HB 313](#), which would regulate Alabama residents' power to put a security freeze on their credit report. This freeze would prohibit the credit reporting agency from releasing the credit report or score to a third party without the explicit consent of the

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](#).

BENEFIT FROM THE VALUE

Now, Even More Benefits from ARA

consumer. The legislation sets up methods by which a consumer can have the freeze lifted in under 15 minutes, should he wish to apply for credit. Bridges previously introduced a different version of this legislation. He introduced this version after incorporating changes ARA and the Automobile Dealers Association recommended in a meeting with the representative. The bill awaits action in the House Financial Services Committee.

Unitary Tax, Federal Depreciation Decoupling Back

Two tax bills were introduced this week that would be detrimental to Alabama's ability to attract new businesses and keep the ones it has.

HB 301, introduced this week by [Rep. Richard Lindsey, D-Roanoke](#), would require corporations to follow a set of unitary combined reporting rules when calculating their Alabama income taxes. Under these rules, a corporation would be required to submit the financial information for all of its related entities and then the Department of Revenue would determine what amount of income is attributed to Alabama by using a formula comparing Alabama source apportionment data relative to the combined group's apportionment. The bill gives the Revenue Department full authority to promulgate rules and regulations to determine the details of the calculation. **Opposition to required unitary combined reporting for corporate taxpayers is part of ARA's 2011 Legislative Agenda.**

HB 300, also by Lindsey, would decouple Alabama from the federal depreciation schedule, preventing Alabama businesses from taking advantage of the bonus depreciation offered in the federal *Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010*. The bonus depreciation allows a business to deduct up to 100 percent of the adjusted basis of qualified property from their income taxes. Decoupling Alabama from the federal schedule cuts the rate from 100 percent to 50 percent, creating a disincentive to business growth and job creation, plus it places significant tax compliance burdens on Alabama businesses. **ARA opposes this legislation.**

FOOD SERVICE

Bills Preventing Local Menu Nutrition Labeling Laws Moving

Legislation that would prevent a patchwork of local food nutrition labeling laws has made it out of a House committee



Your Business Can Save Thousands

ARA constantly strives to increase the value its members received from membership. Many members have been using our low-cost workers' comp program for years, but were asking for more. In January, we announced more savings. ARA members now have access to:

Cost-Saving Credit Card Processing:

Through a partnership with Huntsville-based **CHECKredi**, ARA members get rates normally reserved for only the largest stores.

Discounted Inbound and Outbound Shipping:

Through our arrangement with **Partnership** ARA members can save up to 27% on FedEx services and up to 70% on other shipping needs.

Budget Friendly Email Marketing:

Constant Contact brings ARA members cutting edge e-mail marketing technology for as low as \$15 a month; members save up to 25%

Find Out More Today

IMPORTANT EVENT THIS WEEK

WHAT: Birmingham Business Leadership Exchange

WHEN: 6 p.m. Wednesday, April 6

WHERE: Regions Center Upper Lobby Auditorium, 1900 5th Avenue North

and will be considered by a Senate committee next week.

The House Health Committee this week approved [**HB 195**](#) by [**Rep. Ken Johnson, R-Moulton**](#), which gives the state the power to set a nutritional labeling standard and excludes local governments from coming up with their own. The Senate Health Committee has set a public hearing for the Senate companion bill, [**SB 166**](#) by [**Sen. Gerald Allen, R-Tuscaloosa**](#), for 11:30 a.m. Wednesday.

Congress as part of the national health care reform legislation, the *Patient Protection and Affordable Care Act*, set a national standard for nutrition disclosure in chain restaurants and similar retail food establishments. That law requires chain restaurants with 20 or more locations nationally to provide comprehensive nutrition information on their menu offerings with some exclusions, such as for menu items offered for a limited time. Restaurant chains with fewer than 20 locations can voluntarily comply with the federal law by signing up with the Food and Drug Administration. The FDA is expected to release draft regulations soon for implementing the federal standard.

Florida and Georgia already have preempted the ability of local jurisdictions to create an unworkable patchwork of nutritional labeling requirements within those states. **ARA appreciates Johnson's and Allen's efforts to make sure Alabama restaurants aren't subjected to a myriad of menu requirements that varies from city to city.**

Public Hearing Set for Bill That Says:

Can't Say Restaurant, Grocery or Store Made Me Eat It

The Senate Health Committee also will conduct a public hearing Wednesday on the Commonsense Consumption Act, [**SB 167**](#) by [**Sen. Gerald Allen, R-Tuscaloosa**](#). This bill would protect retailers from civil action by those who claim the products sold by the retailer made the plaintiff obese. **ARA supports this bill.**

ALCOHOL AND TOBACCO

Senate to Consider Northport Sunday Sales Next

By a vote of 36-0, the Alabama House on Tuesday approved [**HB 66**](#) by [**Rep. Alan Harper, D-Aliceville**](#), which calls for a Sunday alcohol sales referendum in Northport. This bill is a near mirror of legislation approved last year for neighboring Tuscaloosa, which overwhelmingly approved Sunday sales in

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

a Feb. 22 referendum. The bill now goes to the Senate.

Brew Pub Retail Production Bill Advances

One bill to allow licensed brew pubs to sell their products to distributors for retail sale cleared committee this week and another is set to be heard next week. The Senate Small Business Committee this week amended and approved [**SB 192**](#) by [Sen. Bill Holtzclaw, R-Madison](#), which allows brew pubs to produce an unlimited amount of beer and sell it on premise or to a distributor to bottle and sell to other retail establishments. The House Economic Development and Tourism Committee will conduct a public hearing at 1:30 p.m. Wednesday on the House companion, [**HB 86**](#) by [Rep. Joe Hubbard, D-Montgomery](#).

Panel to Consider Allowing Wet/Dry Referendums Anytime

The House County and Municipal Government Committee will consider [**HB 281**](#) by [Rep. Bill Roberts, R-Jasper](#), at its 1:30 p.m. Wednesday meeting. This bill would allow cities to schedule a wet/dry referendum at any time, rather than having to wait for a regularly scheduled election as the law currently requires.

Sponsor Carries Over Statewide Smoking Ban

The House Health Committee this week carried over a ban on smoking in all public places at the request of its sponsor, [Rep. Mary Sue McClurkin, R-Indian Springs](#). [**HB 149**](#) would prohibit smoking in any workplace, public building or place and any closed-off area within a private club. The legislation also requires signage posting. Some committee members objected to McClurkin's bill as government intrusion in private business, while others said her bill shouldn't cover private clubs, such as country clubs.

PHARMACY

Health Care Rights of Conscience Bill

Up in Senate, Down in House

One bill to prevent pharmacy and other healthcare employers from disciplining employees for violating company policies or procedures if those policies or procedures violate personal

beliefs is up and the other is down.

The House Health Committee this week carried over [**HB 178**](#) by [Rep. Mary Sue McClurkin, R-Indian Springs](#), possibly killing the bill; meanwhile, the Senate companion, [**SB 46**](#) by [Sen. Cam Ward, R-Alabaster](#), is scheduled for a public hearing at 11:30 a.m. Wednesday before the Senate Health Committee. **ARA contends 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.**

Re-labeling, Storing of Residential Care Drugs Bill Moving

Legislation authorizing the Alabama Board of Pharmacy to establish protocols that would permit retail pharmacies to re-label and store prescription drugs not classified as controlled substances for residential care patients who live in a facility that does not have an on-site pharmacy made progress this week.

The Senate Health Committee this week unanimously approved [**SB 155**](#) by [Sen. Billy Beasley, D-Clayton](#). The House companion, [**HB 107**](#) by [Rep. Ron Johnson, R-Sylacauga](#), is on the House consent calendar for the ninth legislative day, which means the House will vote it up or down without debate. Wednesday or Thursday of next week will be the ninth legislative day of the 2011 regular session depending on whether the Legislature meets two or three days next week.

OTHER PHARMACY BILLS:

- Legislation allowing pharmacists and pharmacy technicians to provide therapeutic diabetic shoes and inserts is on its way to full Senate after the Senate Health Committee approved [**SB 60**](#) by [Sen. Cam Ward, R-Alabaster](#).
- The House Ways and Means General Fund Committee will debate [**HB 303**](#) by [Rep. Ron Johnson, R-Sylacauga](#), which would exempt prescriptions from business licenses taxes based on gross receipts, at its 1:30 p.m. meeting Wednesday. Beasley introduced the Senate companion, [**SB 272**](#), which has been assigned to the Senate Finance and Taxation General Fund Committee.

IMMIGRATION

Democratic Immigration Bill Advances

Republican Senator Introduces Another

By a vote of 4-1, the Senate Small Business Committee this week approved [**SB 163**](#) by [Sen. Rodger Smitherman, D-Birmingham](#), which would require Alabama employers to verify the legal status of new employees through the federal E-Verify program. Businesses that fail to comply would face having its business' license suspended on first offense. A second offense would shut the business down. The bill now moves to the full Senate.

[Sen. Scott Beason, R-Gardendale](#), this week introduced a comprehensive immigration bill, [**SB 256. ARA will monitor its progress.**](#)

INSURANCE

House Next Hurdle for Online Auto Liability Verification

Senate legislation that would allow county tag officials and law enforcement to instantly check whether a vehicle has liability insurance bill is headed to the Alabama House for its approval. The House Insurance Committee this week amended and approved [**SB 137**](#) by [Sen. Arthur Orr, R-Decatur](#), sending the bill to the full House. Because the bill was amended, it will have to go back to the Senate for concurrence should the House approve it.

The bill sets up requirements for Alabama motorists to provide proof of liability insurance prior to registering their car, as well as require proof of insurance when they re-register their car; and establishes an online verification system so that law enforcement can verify proof of liability insurance when motorists are stopped or involved in an accident. According to insurance company estimates, about 25 percent of Alabama drivers do not have valid auto insurance, even though it is required by law. Orr said 28 states already use computer databases to check insurance.

TOURISM

Delayed School Start Stalls in Committee

After a public hearing Wednesday, a House committee split evenly on [**HB 150**](#) by [Rep. Jim Barton, R-Mobile](#), which would set August 22 as the earliest date the public school year could begin, and the Friday before Memorial Day as the last day of classes for public elementary or secondary schools. Barton said increased tourism in the first couple of weeks of August

would help Alabama Gulf Coast business owners struggling to recover from last year's oil spill. He only convinced half of the House Education Policy Committee, however, which voted 3-3, keeping the bill in committee rather than advancing to the full House. Senate Finance and Taxation Education Committee will debate a similar bill next week, [**SB 274**](#) by [**Sen. Tripp Pittman, R-Daphne**](#).

NEXT LEGISLATIVE DAY

The **Alabama House meets at 1 p.m. Tuesday, April 5, 2011**, for the 10th meeting day of the 2011 regular session. The **Senate meets at 3 p.m.**

FEDERAL

ARA Goes to DC to Oppose Delay of Swipe Fee Reforms

Members of the Alabama Retail Association executive committee will be in Washington next week to impress upon Alabama's congressional delegation that debit card fee reform should proceed on the schedule already set by law.



Your fellow ARA members will **ask the entire congressional delegation to oppose S. 575**, the *Debit Interchange Fee Study Act of 2011* by Sen. Jon Tester, D-Mont., which would delay swipe fee reforms for two years and calls for yet another study by government agencies; **and H.R. 1081** by Sen. Shelley Moore Capito, R-W.Va., the *Consumers Payment System Protection Act*, which would require a one-year delay and a study. Both pieces of legislation were introduced last week. More than nine legislative hearings already have been held in both the House and Senate on the subject with swipe fees and the General Accounting Office and Federal Reserve have done studies of their own. The time for study is over.

More than 200 trade associations, including the ARA, along with more than five million individuals who signed petitions pushed for the Durbin amendment to the Dodd-Frank Wall Street Reform Act of 2010, which became law last July. The amendment requires reform of the swipe or interchange fees,

which the nation's largest banks charge when someone uses a debit card. The U.S. interchange rate, which averages about 2 percent, is one of the highest in the world.

In December, the Federal Reserve proposed regulations to reach the amendment's mandated goal of "reasonable and proportional" swipe fees for debit cards. The recommendation was to move to a flat fee of no more than 12 cents per transaction for large banks that adhere to fees set by the card companies. Banks that set their own rates would be free to charge any fee the market will bear. All but the 100 largest banks in the country are exempt from the Durbin amendment, which means 99 percent of all banks are exempt from the Fed's proposed regulations as are 99 percent of all credit unions. Yet banks and credit unions have descended on Washington in recent weeks in attempt to get Congress to delay the reforms.

The Federal Reserve is scheduled to issue a final version of the regulations April 21 and the reforms are set to take effect July 21. As it stands now, the proposal would reduce the current \$20 billion a year in debit swipe fees by about 70 percent, or \$1.2 billion a month.

Two of Alabama's congressional delegation members are key to this debate. Sen. Richard Shelby, R-Tuscaloosa, who is the senior Republican on the Senate Banking Committee, has expressed a desire to slow the pace of rulemaking, saying implementation of the law would be "very, very expensive." House Financial Services Committee Chairman Spencer Bachus, R-Birmingham, even encouraged credit unions to lobby the Senate to slow down the process.

Tell Alabama's U.S. senators and representatives NOT to vote for repeal, delay or amendments to interchange reforms achieved last year as part of the Dodd-Frank Wall Street Reform Act. Especially reach out to Shelby and Bachus, so they know where Alabama's retailers stand on this issue.

>> Contact Your Lawmaker NOW!