



ALABAMA RETAIL ASSOCIATION

CAPITOL RETAIL REPORT

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

April, 15 2011

CRR EXTRAS

Senate Next Step for Ending Internet Retailers' Tax Advantage

House OKs Bill 89-6; Tell Your Senator to Protect Consumers and Alabama Retailers

At the halfway point for the 2011 regular session, at least one chamber of the Alabama Legislature has approved both state budgets, the entire Republican agenda and major planks in your Alabama Retail Association 2011 legislative agenda, including a double deduction for the states' smallest businesses and their employees for health insurance premiums paid, a fairer system of late fees for consumer loans and the first major step toward ending the sales tax advantage out-of-state, online retailers have over your store.

Thursday, the Alabama House of Representatives voted 89-6 to stand with Alabama's hometown retailers. The House approved **HB 365** by **Rep. Jamie Ison, R-Mobile**, which requires online retailers who do not collect sales taxes to:

- notify the Alabama consumer at the time of purchase that the retailer isn't collecting sales tax and a use tax is due. Alabama's use tax law has existed since 1939;
- and send an annual summary of non-taxed purchases to their Alabama customers, making it easier for consumers to pay the taxes and avoid audits, back taxes, interest and fines.

The bill also makes it possible for taxpayers to remit the state, county and city use taxes in one place, their annual state income tax return, and requires the Alabama Department of Revenue to distribute the county and city use taxes to those governments. Recent aggressive enforcement of Alabama's 72-year-old use tax law by the Alabama Department of Revenue (more than 10,000 letters sent to taxpayers and counting) has made this bill necessary. For retailers, it would begin to bring your business back into balance with online competitors who currently operate under an unfair tax advantage, and potentially drives back to your store at least some of



Rep. Jamie Ison presents H.B. 365 on the Alabama House floor Thursday.

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TOP ISSUES

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BILLS

HOUSE

the estimated \$2 billion in sales Alabama-based retailers lose each year to online behemoths.

The Senate Commerce, Transportation and Utilities Committee will conduct a public hearing Thursday on HB 365. **If you are willing to come to Montgomery and testify** about how your business suffers from unfair competition from online retailers who refuse to collect sales taxes, **please contact Nancy Dennis at 1-800-239-5423 or ndennis@alabamaretail.org.**

ARA thanks Ison for her sponsorship of the legislation **and the representatives who spoke favorably about the bill: Reps. [Jay Love, R-Montgomery](#); [Richard Lindsey, D-Centre](#); [DuWayne Bridges, R-Valley](#); [Lynn Greer, R-Rogersville](#); [Jack Williams, R-Birmingham](#); and [Mike Hill, R-Columbiana](#). Special thanks to [House Speaker Mike Hubbard, R-Auburn](#), and [House Rules Chairman Blaine Galliher, R-Gadsden](#), for placing the bill near the top of Thursday's calendar.**

[>>See if your representative voted for HB 365](#)

Six representatives **voted against the bill: [Merika Coleman of Birmingham](#), [Dexter Grimsley of Newville](#), [Lawrence McAdory of Bessemer](#), [Darrio Melton of Selma](#), [Mary Moore of Birmingham](#) and [Rod Scott of Fairfield](#).**

The bill faces a much tougher challenge in the Senate. Please **ask your senator to vote "Yes" on HB 365.**

ARA LEGISLATIVE AGENDA IN ACTION

Double Health Insurance Deduction Sent to Gov Gov. Robert Bentley Says He'll Sign It

By Tax Day next year, businesses with 24 or fewer employees and their employees who earn \$50,000 or less can double the amount they pay out for health insurance and deduct it from their 2011 income tax returns. The Business Associations' Tax Coalition, which includes ARA, has advocated for this change for the past four years. ARA thanks the Business Council of Alabama for its diligent efforts on behalf of this legislation.

Thursday on a vote of 29-1, the Alabama Senate gave final approval to **[HB 61](#)** by **[Rep. April Weaver, R-Brierfield](#)**, which raises the income tax deduction small employers and their employees who qualify can claim on health insurance premiums paid from 150 percent to 200 percent. Gov. Robert Bentley plans to sign the bill into law. The new law will apply to 2011 tax returns.

More than 90 percent of ARA members employ fewer than 25 employees and qualify for this increased deduction if they offer group health insurance. This law does NOT require companies to offer health insurance. It merely gives businesses an incentive to offer health insurance by making it more affordable. **[Sen. Greg Reed, R-Jasper](#)**, author of the Senate companion, **[SB 159](#)**, expressed hope that the tax savings will be used to hire more employees.

Reps Vote for Late Fee Fairness; Senate Up Next

[Rep. Napoleon Bracy, D-Prichard](#), said the five furniture stores in his

- [HB 3](#)
- [HB 17](#)
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- [HB 505](#)
- [HB 520](#)

SENATE

- [SB 36](#)
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- [SB 88](#)
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- [SB 159](#)
- [SB 167](#)
- [SB 254](#)
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- [SB 347](#)
- [SB 373](#)
- [SB 381](#)
- [SB 384](#)

IN THE NEWS

[Alabama bill requires informing Web consumers about taxes](#)

[Alabama lawmakers increase health insurance tax break](#)

[2 bills from Alabama sentencing panel get 1st vote](#)

district will be excited to learn the Alabama House voted 76-11-3 Thursday for [HB 3](#) by [Rep. Craig Ford, D-Gadsden](#), sending the bill to the Senate Financial Services Committee.

Ford's bill ties the minimum late fee retailers and other businesses can charge on delinquent consumer credit transactions under the Mini-Code to the amount allowed under the Alabama Small Loan Act, which if enacted would mean a modest \$8 increase in late fees. The minimum late fee allowed under the Small Loan Act has been \$18 since 2007, while the Mini-Code minimum has remained at \$10, even though larger loans are allowed under the Mini-Code. "This is an equity issue," [Rep. James Buskey, D-Mobile](#), told his fellow representatives during debate Thursday. Furniture, appliance and other stores offering in-house financing will benefit the most from the change.

This is the fourth year ARA has included this bill on its legislative agenda and the first year it has gotten further than committee approval. **ARA thanks Ford for sponsoring the bill and House Rules Committee Chairman Blaine Galliher, R-Gadsden, for choosing it as one of his picks for Thursday's House calendar.** Several representatives spoke on the House floor about lowering the Small Loan Act late fee minimum to bring fairness to the system, rather than raising the Mini-Code minimum.

**Let your senator know you support HB 3
as the vehicle for bringing about late fee fairness.**

The Senate companion, [SB 70](#) by [Sen. Gerald Dial, R-Lineville](#), also awaits consideration by the full Senate.

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

House Judiciary Advances Taxpayers' Bill of Rights II

The House Judiciary Committee on Wednesday approved the Alabama Taxpayers' Bill of Rights II, sending it to the full House for consideration. [HB 427](#) by [Rep. Paul DeMarco, R-Homewood](#), centralizes and makes the state's tax appeal process independent of the taxing governments. "This bill will ensure that businesses and taxpayers choosing to appeal tax assessments are given a level playing field and referees who will remain neutral from the beginning of the process to the end," DeMarco told the *Birmingham Business Journal*. The bill has the support of the Business Associations' Tax Coalition, a 30-member business trade association group that ARA President Rick Brown chairs, the Alabama Society of Certified Public Accountants, the Alabama Bar Association and the Council on State Taxation among others. The Senate companion, [SB 347](#) by [Sen. Ben Brooks, R-Mobile](#), awaits action in the Senate Judiciary Committee.

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

House Judiciary Agrees to Flat 7.5 Percent Interest on Post-Judgment Court Awards

Wednesday, the House Judiciary Committee amended [HB 236](#) by [Rep. Greg Canfield, R-Vestavia Hills](#), to set post-judgment interest at a flat 7.5 percent rather than having the rate tied to the one-year Treasury bill (currently less than 1 percent) as originally proposed. The Senate Judiciary Committee made the same agreed on change

[Bill would streamline tax appeals process](#)

[New state system blocked more than 26,000 sales of meth ingredient in three months](#)

[States battling meth makers look to limit ingredients](#)

[Bentley promotes job legislation](#)

[Legislation would give new tax breaks to big industry in Alabama](#)

[Health groups back Birmingham lawmaker's call for higher cigarette taxes](#)

[Alabama House passes education budget that won't offset loss of federal funds](#)

[Stealing baby formula is 'liquid gold' for sophisticated theft rings](#)

[Calera police to help dispose of public's unwanted prescription drugs](#)

[Semmes' scheduled May 1 incorporation could create sales tax holiday](#)

[Senator to JPMorgan CEO: Stop whining](#)

[Landmark online privacy legislation is introduced in Senate](#)

[House Seeks Voluntary Approach on Web Privacy](#)

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

ARA CONTACTS

[Rick Brown](#)

last week in the Senate companion, [SB 207](#) by [Sen. Cam Ward, R-Alabaster](#). Currently, if an Alabama defendant loses a lawsuit and chooses to appeal, he pays 12 percent post-judgment interest on the amount the court or jury awarded the plaintiff, creating a significant financial deterrent to appealing an unjust verdict. Eight percent is the Southeast average. This legislation is part of the Alabama Civil Justice Reform Committee's tort reform package, which is also part of ARA's legislative agenda.

PHARMACY AND HEALTHCARE ISSUES

Alabama Ephedrine/Pseudoephedrine Law Working No Need for PSE to Be Prescription Only

An Alabama Drug Abuse Task Force report delivered Tuesday to the Alabama Legislature shows our state's law requiring electronic tracking of sales of over-the-counter products that contain ephedrine and pseudoephedrine works. The report is further evidence that making these commonly used products available by prescription only would be costly and premature.



Between Jan. 1 and the end of March, the system used by 97 percent of the state's pharmacists blocked 26,354 potentially illegal purchases of 64,000 grams of the products, or about six percent of the total sales for the medications that legally provide needed relief to hundreds of thousands of Alabama cold and allergy sufferers.

[>> Read full Alabama Drug Abuse Task Force report](#)
[>> Read news release](#)

Four bills proposed in this session would make ephedrine/pseudoephedrine products controlled substances forcing legal consumers to get a prescription from their physician to buy such products as Sudafed and Claritin D: [SB 88](#) by [Sen. Roger Bedford, D-Russellville](#); [SB 36](#), also by Bedford; [HB 89](#) by [Rep. Mike Millican, R-Hamilton](#), and [HB 103](#) by [Rep. Jim McClendon, R-Springville](#). **ARA opposes making these products available by prescription only as doing so would limit cold and allergy sufferers' access to medicine they need daily and drive up costs by as much as 50 percent.** Alabama ranks high in terms of allergy sufferers. In fact, [Birmingham ranks as the sixth worst city in the nation for allergies this spring](#), according to the Asthma and Allergy Foundation of America.

Compromise legislation is being discussed that would make these products available for sale only in pharmacies.

Alabama's pharmacy community has worked and will continue to work alongside law enforcement to address illegal production and abuse of methamphetamine, of which ephedrine and pseudoephedrine is a key ingredient. Our state has been a leader in controlling the sale of these products, putting them behind the counter two years before required to do so by the federal government and being among the first states to enact electronic tracking.

[Alabama's electronic tracking system, which was just enacted](#)

President

[Alison Wingate](#)
Vice President

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

[Brett Johnson](#)
Member Relations Mgr.

LEGISLATIVE CONTACTS

To contact members
of the Alabama Legislature:

WRITE:

Alabama State House
11 South Union Street
Montgomery, AL 36130

CALL:

HOUSE: (334) 242-7600
SENATE: (334) 242-7800

E-MAIL:

Most representatives can be reached through the House e-mail system by using the following format:

[firstname.lastname@alhouse.org](#)

Those without e-mail addresses can be reached through the general e-mail address:
house3@alhouse.org

There is no general e-mail address for senators. [Click here](#) for a roster of the state senators with their complete contact information.

LINKS GO TO CONTACT INFO:

The link to each lawmaker mentioned in this publication goes to their individual websites, which have contact information. You can also find out whose legislative district you live or work in under [Find Your Lawmaker](#) in the [Political Affairs](#) section of

last year, needs to be allowed to continue to prove its worth.

ATTENTION PHARMACISTS, GROCERS AND CONVENIENCE STORE OPERATORS:

If you no longer sell or have never sold ephedrine/pseudoephedrine products and have not done so already, you MUST notify the Alcohol Beverage Control (ABC) Board in writing. Be sure to include your state license number, trade name and location address in your letter to: Alabama Alcoholic Beverage Control Board, Enforcement – Licensing Section, P.O. Box 1151, Montgomery, AL 36101. If you have questions about the required letter, call your local ABC District Office.

Re-labeling, Storing of Residential Care Drugs Headed to Final Passage

Companion bills received Health Committee approval this week authorizing the Alabama Board of Pharmacy to set up protocols so retail pharmacies can re-label and store certain prescription drugs for patients who live in residential care facilities without an on-site pharmacy. The House panel approved **SB 155** by **Sen. Billy Beasley, D-Clayton**, sending it to the full House for final approval. The Senate group OK'd **HB 107** by **Rep. Ron Johnson, R-Sylacauga**, sending it to the full Senate for final approval.

TAXES AND TAX INCENTIVES

House Gives Unanimous Approval to Governor's Full Employment Act

On a vote of 96-0, the Alabama House on Thursday approved the governor's tax incentive legislation for small business, **HB 230** by **Rep. Blaine Gallier, R-Gadsden**, known as the Full Employment Act. The legislation provides a one-time, \$1,000 income tax credit for each new \$10 or more per hour job created by businesses with 50 or fewer employees. The credit can be applied after the employee has worked for a business for 12 consecutive months, starting with this tax year. The bill now goes to the Senate. The Senate companion, **SB 173** by **Sen. Arthur Orr, R-Decatur**, receive Senate committee approval April 7.

Committees Approve Mercedes-Style Incentives

Wednesday, House and Senate committees approved legislation supported by the governor and the Alabama Development Office that create tax breaks similar to those used in 1993 to attract Mercedes to our state. Under **HB 478** by **Rep. Barry Mask, R-Wetumpka**, and **SB 373** by **Sen. Phil Williams, R-Rainbow City**, a new or expanding industry could withhold up to 90 percent of state income taxes taken from the paychecks of its fulltime employees. A plant that is modernizing in order to keep jobs could withhold up to 75 percent. The State Industrial Development Authority will approve the companies and negotiate the size of the tax breaks. The tax break would end once the entire incentive package offered by the state equals the cost of building the new plant or expansion. Kentucky, Georgia and Mississippi have similar legislation. Both bills now move to their respective chambers for consideration.

alabamaretail.org.



For committee assignments and clerk contacts for the Alabama Legislature, see [ARA's 2011 Legislative Roster](#).

BENEFIT FROM THE VALUE

Now, Even More Benefits from ARA



Your Business Can Save Thousands

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

Cost-Saving Credit Card Processing:

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

Smallest Retailers Relieved of Monthly Estimated Sales Tax Payments under Bill

Wednesday, the Senate Finance and Taxation Education Committee approved [SB 254](#) by [Sen. Bryan Taylor, R-Prattville](#), which would exempt many of the state's smallest businesses from having to estimate and remit their sales tax obligations on a monthly basis. Taylor's bill raises the threshold at which a retailer is responsible for making estimated monthly payments to the Alabama Revenue Department by \$1,500. Currently, retailers with an average monthly sales tax liability of \$1,000 or greater has to make the estimated payments. Taylor's legislation moves that to \$2,500 based on the actual tax liability for the same calendar month in the preceding year. If enacted, the new threshold would be effective Sept. 1, 2011. This bill now awaits action by the entire Senate.

ALCOHOL AND TOBACCO

Bills Seek to Alter Alcohol Licensing Fees

An onslaught of bills introduced this week would change current law related to alcohol licensing. [HB 520](#) by [Rep. Mike Hill, R-Columbiana](#), seeks to more than double liquor license fees and impose the first increase in these fees in 30 years. The following license fees would increase as noted under this bill:

- Lounge retail liquor license – from \$300 to \$800
- Restaurant retail liquor license – from \$300 to \$800
- Club liquor license – from \$300 to \$800
- Retail off-premise table wine license – from \$150 to \$400
- Retail on- and off-premise beer license – from \$150 to \$400
- Retail off-premise beer license – from \$150 to \$400

Other related bills introduced this week included:

- [HB 498](#) by [Rep. Lesley Vance, R-Phenix City](#), which would double the application filing fee for an alcoholic beverage license from \$50 to \$100.
- [HB 499](#) by [Rep. Alan Boothe, R-Troy](#), which would change the timing for alcohol license renewals. Currently, all licenses must be renewed before Oct. 1; the bill seeks to have licenses renewed between June 1 and July 31, while increasing the fee for late filing from 50 percent to 75 percent of the license fee. The bill also would allow the Alabama Alcoholic Beverage Control Board to setup an online renewal process and charge a "*reasonable fee*."

All of the above bills await action by the House Economic Development and Tourism Committee.

House OKs Athens and Jasper Draft Beer Bills

Thursday, the Alabama House approved [HB 458](#) by [Rep. Dan Williams, R-Athens](#), which authorizes the Athens City Council to vote on allowing draft beer sales in Athens, on a vote of 26-0; and [HB 430](#) by [Rep. Bill Roberts, R-Jasper](#), which would authorize draft beer sales there by properly licensed businesses, on a vote of 28-0. Both bills now go to the Senate for consideration.

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%

Entertainment District Bill Receives Committee OK

The House Education and Tourism Committee this week approved [HB 17](#) by [Rep. James Buskey, D-Mobile](#), which would allow cities with populations of more than 25,000 to create entertainment districts where patrons can walk from establishment to establishment while drinking alcoholic beverages. This bill would create a separate liquor license for establishments within an entertainment district, and each municipality could have up to two separate districts with a minimum of four licenses required in each in those districts. Right now, there is no liquor license that would allow patrons to walk out with an open container.

Bill Seeks to Allow Bigger Beer Containers

[Rep. Oliver Robinson, D-Birmingham](#), this week introduced [HB 408](#), which would set the maximum container size for beer at 25.4 ounces, which would allow a greater variety of beers to be sold in Alabama. Currently beer can be sold in containers up to 16 ounces. The legislation awaits action in the House Economic Development and Tourism Committee.

Harper Proposes Tobacco Filing and Licensing Fee

[Rep. Alan Harper, D-Aliceville](#), this week introduced [HB 505](#), which would set both a one-time, \$100 filing fee and a \$250 annual licensing fee for tobacco product retailers. Currently, there are no fees associated with a retail tobacco license. This bill awaits action by the House State Government Committee.

FOOD SERVICE

House & Senate Now Ready to Consider Commonsense Consumption Act

The House Judiciary Committee on Wednesday amended and approved [HB 193](#) by [Rep. Mike Jones, R-Andalusia](#), the Commonsense Consumption Act, which protects retailers from civil action by those who claim the food products sold by the retailer made them obese. "*One frivolous lawsuit can put down a restaurant,*" Jones told the committee. The panel amended the bill to make it clear that it does not apply to food manufacturers. The Senate Health Committee last week approved the Senate companion, [SB 167](#) by [Sen. Gerald Allen, R-Tuscaloosa](#).



[ARA supports this legislation being pushed by the Alabama Restaurant Association](#), which is now ready for consideration by either chamber.

Panel OKs Bill Banning Unlabeled or Damaged Labeled Food and Beverages

The House Agriculture and Forestry Committee on Wednesday approved [HB 461](#) by [Rep. Harry Shiver, R-Bay Minette](#), which would

ban obscuring, removing, or otherwise rendering illegible any product information on food or beverage labels and prohibit storing, transporting or selling any food or beverage without a label or with a label that has been obscured, removed or otherwise rendered illegible.

UNEMPLOYMENT AND EMPLOYMENT ISSUES

Williams Proposes Unemployment Benefits

Rep. Jack Williams, R-Birmingham, this week, introduced HB 473, which would extend unemployment compensation benefits in times of high unemployment. This bill awaits action by the House Commerce and Small Business Committee.

Ross Bill Conceals Unemployment Comp Facts

Sen. Quinton Ross, D-Montgomery, has once again introduced legislation to keep findings of fact made under unemployment compensation statutes from consideration as evidence in other proceedings. SB 381 would preclude an employer from using an employee's previous statements and findings in court in certain cases. It also would keep 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 prohibit the release of a finding that an employee was terminated for cause and not entitled to unemployment. This bill also would prohibit the use of such prior findings in a retaliatory discharge case. The bill has been assigned to the Senate Business and Labor Committee.

Figures Proposes Equal Pay Commission

Sen. Vivian Figures, D-Mobile, this week introduced SB 384. The Equal Pay Remedies and Enforcement Act, which would create an Equal Pay Commission to study wage disparities and report its findings and recommendations to the House speaker, governor and Alabama Legislature. According to the legislation, the bill's purpose is to help the state enact more effective laws to eliminate wage disparities between men and women, minorities and non-minorities.

The ultimate result of this legislation could be exposure to regulations and laws broader than those required by the federal government. The bill awaits action by the Senate Judiciary Committee.

NEXT LEGISLATIVE DAY

The **House will meet at 1 p.m. Tuesday, April 19, 2011**, for the 16th meeting day of the 2011 regular session.

The Senate meets at 2 p.m .

FEDERAL

Continue to Support Debit Swipe Fee Reforms in Conversations with Congress

U.S. Sen. Dick Durbin, D-Ill., this week sent a letter to JPMorgan Chase & Co. CEO and President Jamie Dimon debunking the banking industry's claim that Durbin's amendment to the Dodd-Frank Wall Street Reform Act of 2010 had "little basis in fact or analysis" about the affect debit swipe fee reforms would have on community banks.



In conversations and letters with Alabama's congressional delegation, use the letter to help explain the importance of voting to keep the Durbin amendment law and against repeal, delay or amendments to the swipe fee reforms retailers fought so hard for last year. Alabama's congressional delegation has told ARA that they have reservations about the Federal Reserve setting the rate of debit card swipe fees. The Federal Reserve in response to the Durbin amendment has recommended moving to a flat debit card swipe fee of between 7 and 12 cents per transaction for the 100 biggest banks. Legislation before Congress would delay that change for up to two years. As it now stands, that change would be effective July 21.

[>> Read letter at Durbin Letter to JPMorgan CEO](#)

Bills Would Further Regulate Consumer Privacy

Dueling customer privacy bills were introduced this week.

Sen. John Kerry, D-Mass., introduced **S. 799**, the Commercial Privacy Bill of Rights Act, which would apply to nearly all data about consumers collected by businesses or their service providers regardless of whether the information is collected online, through mobile devices such as cell phones, or in person in a store. Customers would have to be able to "opt out" of having even non-sensitive information collected. Violators could face civil penalties of up to \$3 million.

The second bill would allow more flexibility. **H.R. 1528**, the Consumer Privacy Protection Act, by Rep. Cliff Stearns, R-Fla., would require that customers be notified of privacy policies and given the option to preclude their information from being shared with third parties, but would focus on self regulation and require the FTC to presume that companies participating in an approved self-regulatory program are in compliance.

Text of these bills had not yet been posted online at press time. Go to www.thomas.gov to find them.