

February 24, 2012

Alabama Should Join Marketplace Fairness Fight, Study Says

A University of Alabama at Birmingham study out this week begs for Congress to take action and stop the madness that is the nation's current sales tax collection system. The study's conclusions make it clear the Alabama Legislature should also do what it can to encourage Congress to end the unfair tax advantage certain distant Internet sellers now have over hometown retailers.

"*Estimates of Alabama Losses Due to E-Commerce*," released Tuesday by Robert A. Robicheaux with the UAB School of Business, puts the tally for uncollected sales and use tax revenue from online purchases in Alabama at more than \$1 billion over the next five years. That number just skims the surface of the losses outlined in the study:

- More than \$2 billion in sales Alabama retail stores lost in 2011 to far-away online retailers who don't collect sales tax.
- From a \$1.3 billion last year and growing to as much as \$2.1 billion in 2016 in lost household income.
- From about 1,000 to as many as 4,000 jobs lost annually.

"*The economic multiplier affects retailers, bankers, commercial property realtors, developers, advertisers and more*," said Robicheaux, the state's premier retail expert, who has served for many years on the ARA board of directors.

[>> Read full UAB news release](#)

ARA President Rick Brown said, "*Alabama can't afford to continue to lose billions in sales, millions in taxes and thousands of jobs every year. It is time for Congress to quit picking winners and losers when it comes to which sellers must collect sales taxes.*"

Three bills pending in Congress would make it easier for states, like Alabama, to require Internet sellers to collect sales tax just as local stores do – the Marketplace Fairness Act ([S. 1832](#)), the Marketplace Equity Act ([H.R. 3179](#)) and the Main Street Fairness Act ([S. 1452](#) and [H.R. 2701](#)).

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Using a conservative estimated growth rate of 2.0 to 2.5 percent, the estimated growth rate of Alabama's gross domestic product, the study predicts lost sales and use tax revenue will rise from \$263 million in 2011 to almost \$300 million in 2016. Using a more likely growth rate of 6 to 7.5 percent, closer to the actual growth rate of online sales, the study predicts sales tax revenue losses will grow from \$309 million in 2011 to almost \$400 million in 2016.

If Congress enacted one of the three pieces of legislation before it and Alabama's Legislature adjusted state tax law to comply with the federal solution, the Alabama Legislature could even consider cutting some of Alabama's current taxes. It has been estimated that eliminating the sales tax on groceries and over-the-counter drugs in Alabama would mean the loss of \$280 million to \$325 million annually. That revenue could be easily replaced if Alabama sales and use taxes already owed were simply collected, based on the estimates included in the study released this week.

The study outlining what Alabama could gain if it was able to collect taxes that already exist also provided a timely contrast as more Alabama General Fund agencies enumerated what next year's expected \$367 million revenue shortfall would mean in terms of lost services to its citizens.

[>> Read the full "Estimates of Alabama Losses Due to E-Commerce"](#)

ARA AGENDA IN ACTION

Gross Income Fix Ready for House Consideration

The House Ways and Means Education Committee on Wednesday approved [HB 286](#) by [Rep. Jay Love, R-Montgomery](#), which would fix a business-recognized inequity in the tax code and make a September rule change regarding gross income taxes fairer for business.

The bill concerns only pass-through entities, such as partnerships, limited partnerships, limited liability corporations and S corporations that operate in multiple states, or about 2,000 to 3,000 Alabama taxpayers, Curtis Stewart, director of the Alabama Department of Revenue's Tax Policy and Research Division said income from pass through entities flows through the entity to the owners' personal income tax returns. Because Alabama allows a deduction for federal income taxes paid, some taxpayers were wiping out their Alabama income tax liability with the federal-income-tax-paid deduction that was a result of income earned in other states.

House

- [HB 9](#)
- [HB 20](#)
- [HB 29](#)
- [HB 37](#)
- [HB 38](#)
- [HB 58](#)
- [HB 88](#)
- [HB 92](#)
- [HB 105](#)
- [HB 129](#)
- [HB 140](#)
- [HB 150](#)
- [HB 264](#)
- [HB 285](#)
- [HB 286](#)
- [HB 307](#)
- [HB 363](#)
- [HB 393](#)

Senate

- [SB 23](#)
- [SB 48](#)
- [SB 52](#)
- [SB 77](#)
- [SB 171](#)
- [SB 184](#)
- [SB 211](#)
- [SB 222](#)
- [SB 294](#)
- [SB 300](#)
- [SB 309](#)
- [SB 344](#)
- [SB 350](#)

Federal

- [S. 1452](#)
- [S. 1832](#)
- [H.R. 2701](#)
- [H.R. 3179](#)

IN THE NEWS

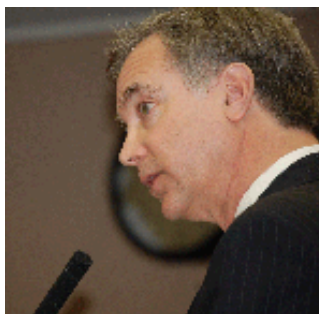
[Alabama may lose \\$1 billion in uncollected taxes from online purchases](#)

[Alabama to lose \\$1 billion in online tax revenue during next 5 years](#)

[State online sales tax losses grow \(The Huntsville Times editorial\)](#)

[Jefferson County won't](#)

"(Business has) tried since 2007 to fix the federal income tax loophole," Marty Abroms, a certified public accountant and ARA member since 2002 (pictured right), told the committee. The bill codifies the September regulation that attempted to fix the inequity, plus it allows a 50 percent tax credit for income generated in foreign countries. The rule change the Revenue Department made in September expires Oct. 1 of this year.



By agreeing to this legislation, the state's business community has effectively signed off on increasing their taxes, Love (pictured right), who is also the committee chairman, reminded those on his committee who expressed opposition. The Business Associations' Tax Coalition, a 29-member business trade association group that ARA President Rick Brown chairs, voted this morning to support this legislation, a version of which the group also endorsed last year. The legislation will generate \$11.5 million in new revenue for the state in 2012 and \$10 million in 2013, according to its fiscal note. Abroms said those estimates are low.



This bill is part of the ARA's 2012 legislative agenda.

Compromise Legislation Would Avoid Prescription-Only Cold, Allergy Meds

Compromise legislation was introduced Tuesday that will further restrict the sale of ephedrine products, which are used legally to treat colds and illegally in the production of methamphetamine. The Alabama Retail Association worked diligently with the sponsors and other interested parties on this compromise to avoid legislation that would require a physician's prescription for these common medications.



The compromise legislation - **HB 363** by **Rep. Blaine Galliher, R-Rainbow City**, and **SB 344** by **Sen. Bill Holtzclaw, R-Madison** – would:

- Require medication containing ephedrine be sold from behind a pharmacy counter. Nearly every Alabama pharmacy is compliant with the National Precursor Log Exchange, a real-time, stop-sale electronic tracking system in place here since Jan. 1, 2011. Alabama is winning the war against meth with this system that has blocked the sale of almost 100,000 boxes of cold and allergy remedies commonly used in the illegal manufacture of methamphetamines.
- Reduce the legally allowable amount of ephedrine that could

[exit bankruptcy with expiration date on job tax, Alabama legislators told](#)

[Alabama DHR commissioner says funding cuts could stop welfare payments](#)

[Gov. Robert Bentley delivers a grim diagnosis for Alabama budget](#)

[More than 300 rally in Montgomery, urging legislators not to cut mental health funding](#)

[Birmingham News' View: Governor, legislative leaders making serious run at streamlining state government](#)

[Governor, legislators serious about cuts, consolidations in Alabama agencies, leaders say](#)

[Meth bill sponsors seek compromise](#)

[Senate votes for bill to allow bigger cans of beer](#)

[Birmingham's Johnathan Austin lobbies lawmakers for entertainment districts, easing open container rules](#)

[House approves bill making immigration law change](#)

[Redistricting leaders eye special session in May](#)

[A new day for data centers under proposed tax breaks](#)

[Bill sets new standards for newspaper legal notice publication](#)

[Obama to propose lowering corporate tax rate to 28 percent](#)

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

be purchased in any 30-day period from 9 grams to 7.5 grams, or just under one-quarter of an ounce. That is less than the federal limit.

- Make residents of states that require prescriptions for ephedrine products (only Mississippi and Oregon) present a prescription to buy ephedrine-based cold and allergy medications in Alabama.
- Prohibit anyone with drug paraphernalia or possession convictions from obtaining ephedrine-based products for seven years, and anyone convicted of trafficking in drugs for 10 years.

ARA supports the above compromise, while opposing [HBs 29](#) and [88](#) by [Rep. Mike Millican, R-Hamilton](#); [HB 58](#) by [Rep. Elaine Beech, D-Chatom](#); [HB 92](#) by [Rep. Lynn Greer, R-Rogersville](#); [SBs 23](#) and [184](#) by [Sen. Roger Bedford, D-Russellville](#); and [SB 52](#) by [Sen. Paul Bussman, R-Cullman](#). Those bills would make ephedrine available by prescription only, limit access for cold and allergy sufferers to needed medication and drive up related health costs by as much as 50 percent.

JOBS

House Panel Amends, Approves Capital Credits Bill

Wednesday, the House Economic Development and Tourism Committee amended and approved [HB 140](#) by [Rep. Micky Hammon, R-Decatur](#), which would allow companies that spend at least \$100 million on capital improvements and hire at least 100 people to delay the tax credit for up to four years. The full Senate last week unanimously approved the companion measure, [SB 48](#) by [Sen. Arthur Orr, R-Decatur](#).

New or expanding companies typically get an income tax credit for 5 percent of their investment each year for 20 years. Hammon's and Orr's legislation would allow a company that invests \$400 million to carry forward the credit for four additional years. The credit can be held for three years for a \$300 million investment, two years for \$200 million and one year for \$100 million.

The House committee amendment made the effective clause the same as the Senate-passed bill. Under the amended bill, capital improvement projects for businesses that aren't yet operational but have already entered into an agreement with the state could qualify for the extended credits. If enacted, the credits also would be available for projects with a state agreement in place on or after Dec. 31, 2011.

ALCOHOL

Senate OKs Bigger Beer Containers by One-Vote

The Alabama Senate voted 14-13 Tuesday for [SB 294](#) by [Sen. Paul Sanford, R-Huntsville](#), which increases the maximum size of a bottle or can of beer sold by retailers in Alabama from 16 ounces to 25.4 ounces. The bill now goes to the House. Sanford told the Senate his bill would allow the sale of more types of gourmet beer, which often come in larger containers. The House companion is [HB 264](#) by [Rep. Jim Barton, R-Mobile](#).

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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](#)

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

House Sends Fort Payne Draft Question to Senate

The Alabama House voted 36-0 Tuesday to give the Fort Payne City Council authority to decide if draft beer sales will be allowed in that municipality. [HB 129](#) by [Rep. Todd Greeson, R-Ider](#), now goes to the Senate for consideration.

House Panel to Consider Entertainment Districts

At 1:30 p.m. Wednesday, the House Economic Development and Tourism Committee will consider [HB 20](#) by [Rep. James Buskey, D-Mobile](#), which would allow cities with populations of more than 25,000 to create up to two entertainment districts where patrons can walk from establishment to establishment. The districts must have a minimum of four establishments with liquor licenses nearby and can be as large as a half mile long and a half mile wide. Legislation creating such districts specifically for Montgomery passed in 2010.

IMMIGRATION

House OKs Military ID as Proof of Citizenship

On a vote of 92-0 Thursday, the Alabama House approved [HB 38](#) by [Rep. Steve Clouse, R-Ozark](#), which adds a U.S. Uniformed Services Privilege and Identification Card as acceptable documentation for engaging in business transactions. It is the first change to Alabama's tough new immigration law. Similar bills, [SB 171](#) by [Sen. Jimmy Holley, R-Elba](#), and [SB 211](#) by [Sen. Bryan Taylor, R-Prattville](#), await action by the Senate Judiciary Committee.

UNEMPLOYMENT

Senate and House Ready to Consider Moving Unemployment Waiting Week

Tuesday on a vote of 5-1, the Senate Job Creation and Economic Development Committee approved [SB 300](#) by [Sen. Trip Pittman, R-Daphne](#), which would move the one-week, unpaid waiting period for unemployment compensation from the 14th to the 1st week of benefits. It now goes to the full Senate. The House companion, [HB 285](#) by [Rep. Jack Williams, R-Birmingham](#), is in line for consideration by the full House.

FOOD

House Panel Sends Alabama-Food Restaurant Rebate to a Subcommittee

The House Agriculture and Forestry Committee this week referred [HB 37](#) by [Rep. Joe Hubbard, D-Montgomery](#), which offers restaurants a four percent rebate for buying Alabama-grown food products to a subcommittee. **The Alabama Retail Association has asked that the bill be expanded to grocery stores as well.** As it stands now, the bill has no funding mechanism.

work in under [Find Your Lawmaker](#) in the [Political Affairs](#) section of [alabamaretail.org](#).

BENEFIT FROM THE VALUE

Plan to Vote in the Tuesday, March 13, Primary

The 2012 primary is quickly approaching. The presidential preference and statewide primary is Tuesday, March 13.

Friday, March 2, is the deadline for voter [registration](#).

The deadline to submit an absentee ballot [application](#) is Friday, March 9.

Primary absentee ballots are due on Monday, March 12, to the election administrator in your county.

Polls will be open from 7 a.m. to 7 p.m. on Tuesday, March 13.



Vote for these candidates

The Alabama Retail Association's state political action committee, RetailPAC, recommends these judicial candidates as right for retailers in the March 13 primary.

**Alabama
Chief Justice**

SMALL BUSINESS

Senate Panel All in for 'Reg-Flex' Bill

The Senate Business and Labor Committee on Wednesday unanimously approved [SB 222](#) by [Sen. Bill Holtzclaw, R-Decatur](#), which requires a small business regulatory flexibility analysis and a small business economic impact statement when a state agency proposes a new rule or rule change. House could take up the companion, [HB 150](#) by [Rep. April Weaver, R-Brierfield](#), is in line for consideration by the full House.



**Chief Justice
Chuck Malone**

WORKERS' COMPENSATION

Workers' Comp. Changes Sent to Senate

After considerable debate and a failed effort to refer [SB 77](#) by [Sen. Arthur Orr, R-Decatur](#), to a subcommittee, the Senate Business and Labor Committee on Wednesday voted 5-2 to make changes to Alabama's workers' compensation law. The bill:

- clarifies that appellate courts can determine the existence of "*substantial evidence*" in light of the entire evidentiary record, not just the evidence relied upon by the trial court in making a finding of fact.
 - terminates permanent total disability benefits at age 65 or after 500 weeks, whichever is longer.
 - increases the cap on weekly permanent partial disability benefits from \$220 to \$240.
 - prohibits a trial judge from considering complaints of pain from a scheduled member as a reason to remove the injury from the schedule.
 - establishes that two years with no medical treatment creates a rebuttable presumption that any subsequent treatment is not related to the worker's compensation injury, and that four years with no medical treatment means any subsequent treatment is definitely not related to the workers' compensation injury.
-

Alabama Supreme Court Place 1



Judge Tommy Bryan

Alabama Retail Association PAC, ARA's new federal political action committee, recommends these three incumbent congressional candidates who face opposition as the best choices for Alabama retailers.

TAXES

House Panel to Consider Tax-Exempt Insulin, Other Diabetes Products

Wednesday, the House Ways and Means Education Committee will debate [HB 307](#) by [Rep. Ron Johnson, R-Sylacauga](#), which would make the sale of insulin, insulin syringes, blood or urine testing supplies and related items used to treat diabetes exempt from any state, county, and municipal sales and use taxes if prescribed. The bill applies retroactively to open tax periods. The Senate companion [SB 309](#) by [Sen. Gerald Dial, R-Lineville](#), awaits consideration by the Finance and Taxation General Fund Committee.

1st Congressional District



**U.S. Rep. Jo Bonner
R-Mobile**

PHARMACY

Bill Would Create Pharmacy Services Permit

Thursday, [Rep. Lynn Greer, R-Rogersville](#), introduced [HB 393](#) and [Sen. Tammy Irons, D-Florence](#), introduced [SB 350](#) both of which authorize the Alabama Pharmacy Board to create a pharmacy services permit for entities, such as pharmacy call centers, that perform some pharmacy services, but do not receive or inventory drugs, medicines, chemicals, poisons or medical devices. The bills do not expand or limit the existing practice of pharmacy or medicine.

NEXT LEGISLATIVE DAY:

The Alabama House meets at 1 p.m. Tuesday, Feb. 28, for the eighth meeting day of the 2012 regular session. The Senate meets at 2 p.m.

5th Congressional District



**U.S. Rep. Mo Brooks
R-Huntsville**

6th Congressional District



**U.S. Rep. Spencer
Bachus
R-Vestavia Hills**

The candidates listed above all face opposition in the election. ARA's political action committees only endorse candidates who are opposed.

For all of the latest election information, visit [Election Information](#) in the [Political Affairs](#) section at alabamaretail.org.