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April 20, 2012

**Decision to Further Restrict Sales
of Cold and Allergy Meds
Rests with Governor**

ARA-Supported Compromise Avoids Rx-Only

Gov. Robert Bentley is reviewing ARA-supported legislation that will further restrict the sale of pseudoephedrine products rather than make them prescription-only medications.

Thursday, the Alabama Senate voted 27-4 for [HB 363](#) by Rep. Blaine Galliher, R-Rainbow City, sending it to the governor for his signature. The House approved the bill March 13 on a 101-1 vote.



The legislation:

- requires pseudoephedrine products be sold only from behind a pharmacy counter;
- reduces the amount of pseudoephedrine that can be purchased in any 30-day period from 9 grams to 7.5 grams, which is less than the federal limit;
- makes residents of states that require prescriptions for pseudoephedrine products (only Mississippi and Oregon) present a prescription to buy pseudoephedrine-based cold and allergy medications in Alabama; and
- prohibits those convicted of any drug-related charge from buying pseudoephedrine-based products.



The Alabama Retail Association has worked for months with the sponsors and other interested parties on this compromise to avoid legislation that would require a physician's prescription for common medications used to combat cold and allergy symptoms. **ARA supports this compromise** as a way to ensure common cold and allergy medications remain available and affordable for patients who need them. Sen. Bill

Holtzclaw, R-Madison, sponsor of the Senate companion, [SB 344](#), told senators that a prescription-only law would "clog doctor waiting rooms

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and medical facilities" with cold and allergy sufferers seeking medication.

Still, Sen. Roger Bedford, D-Russellville, the author of one of the more than a half dozen bills that would have made pseudoephedrine products available by prescription only, attempted to substitute his legislation for this compromise. His motion was tabled on a 20-12 vote. Ultimately, Bedford voted for HB 363.

ARA AGENDA IN ACTION

House May Debate 3-in-1 Tax Filing Bill on Tuesday

Legislation that would allow retailers statewide to handle up to three taxes levied by three different types of governments with one return and one payment in one place is on the Alabama House's calendar for Tuesday.

SB 459 by Sen. Slade Blackwell, R-Birmingham, creates a single, electronic filing and remittance mechanism for city, county and state sales, use and lease/rental taxes to be known as the Optional Network Election for Single Point Online Transactions, or ONE SPOT.

Streamlining sales and use tax administration through a single entity is a **main plank in the Alabama Retail Associations' 2012 Legislative Agenda** and has been recommended by Senate President Pro Tem Del Marsh's Initiative to Streamline Government, House Speaker Mike Hubbard's Commission on Job Creation and the Alabama Streamlined Sales and Use Tax Commission.

Should the House get to and approve SB 459 next week, it will have to go back to the Senate for concurrence with a minor amendment added last week before reaching the governor. The governor has said he supports the bill and is expected to sign it into law if it makes it to his desk.

[>> Read a synopsis of the bill](#)

Use of the system will be optional for taxpayers, but all of the state's cities and counties must participate. While this legislation doesn't require a single administrator, it does give retailers the option of remitting the taxes through a single portal. This is a first step toward bringing Alabama's tax system into compliance with federal legislation pending in Congress that would require all retailers to collect sales and use taxes

House Sends Immigration Law Revisions to Senate

After slightly more than five hours of debate and another hour spent reading revisions aloud, the Alabama House of Representatives voted 64-34 Thursday to rework Alabama's immigration law, which the Legislature first enacted last year. The core of the 2011 immigration law, including E-Verify requirements for businesses remain, but lawmakers say the changes will make the law easier to enforce and less burdensome for legal citizens and businesses. The bill now moves to the Alabama Senate.

"E-Verify is your safe harbor, if (your business) is innocent," Rep. Micky Hammon, R-Decatur, sponsor of **HB 658** explained to representatives during Thursday's debate. As of April 1, every Alabama employer

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BILLS

House

- [HB 9](#)
- [HB 20](#)
- [HB 67](#)
- [HB 89](#)
- [HB 89](#)
- [HB 132](#)
- [HB 140](#)
- [HB 160](#)
- [HB 242](#)
- [HB 245](#)
- [HB 286](#)
- [HB 325](#)
- [HB 327](#)
- [HB 354](#)
- [HB 363](#)
- [HB 372](#)
- [HB 394](#)
- [HB 450](#)
- [HB 579](#)
- [HB 658](#)
- [HB 712](#)
- [HB 725](#)

Senate

- [SB 48](#)
- [SB 100](#)
- [SB 174](#)
- [SB 237](#)
- [SB 271](#)
- [SB 329](#)
- [SB 337](#)

should be using the E-Verify system to determine the legal status of all new hires. Proper upkeep of those records is imperative for businesses to pass any possible inspections by state and federal officials and to avoid fines, penalties and loss of your business license. If your business has not yet enrolled, do so now.



[More information on how to enroll](#)

ARA's 2012 Legislative Agenda advocates for clarification of the 2011 immigration law as well as the minimization, reduction and elimination of administrative burdens and penalties connected with the law. by Rep. Micky Hammon, R-Decatur, substantially accomplishes those goals. Thursday's debate followed a committee hearing Tuesday and lengthy public hearing last week on the bill, which was introduced Thursday, April 5.

During debate, Rep. April Weaver, R-Brierfield, said the revisions make the state's immigration standards "*stronger, more workable and less burdensome for businesses.*"

For retailers, key changes proposed to the current law would:

- remove the requirement that any business with government contracts, grants or incentives obtain notarized affidavits from subcontractors stating that the subcontractors do not employ any unauthorized aliens. Businesses with formal relationships with governmental entities and their subcontractors would still be required to register new employees with the federal E-Verify system and the prime contractor would still have to provide documentation establishing enrollment in E-Verify. An amendment to the House-passed bill lowered the evidentiary burden of proof for someone challenging a contractor's use of a noncompliant subcontractor from "*clear and convincing*" to proving the contractor had "*actual knowledge*" of a subcontractor violation. This adjustment will require general contractors to be more thorough in their selection of subcontractors.
- define a "*project*" as an undertaking to provide, create or deliver a service or thing within Alabama, but specifically eliminates a transaction in the sale of goods. In the current law, project is undefined. Under the proposed definition, retail sales made to governmental entities such as a county sheriff's office or a local school board would not qualify as a project.
- define a "*contractor*" as those who fulfill a state contract that is required to be competitively bid, direct projects exceeding \$7,500, or submit contracts to the Joint Legislative Contract Review Oversight Committee, such as personal or professional service contracts.
- clarify that only those agencies or political subdivisions that actually fund and administer state or local public benefits are required to verify the lawful presence or eligibility of each person who applies for such state or local benefits. This revision makes it clear that entities such as pharmacies and hospitals that receive reimbursement through Medicaid or some other government program do not have to verify the legal status of their customers or vendors.

- [SB 344](#)
- [SB 379](#)
- [SB 383](#)
- [SB 440](#)
- [SB 459](#)

Federal

- [SJR 36](#)
- [S 2230](#)

IN THE NEWS

[Alabama to restrict some cold, allergy medicines](#)

[New cold, allergy medicine rules necessary inconvenience](#)

[Health insurance plan gets House panel's OK](#)

[Alabama House approves revisions to immigration law](#)

[House passes bill making immigration law changes](#)

[House panel approves bill changing immigration law](#)

[Alabama House committee approves immigration law tweaks](#)

[U.S. Senate panel on racial profiling discusses Alabama immigration law](#)

[Alabama Capitol prayer service to remember tornado victims April 27](#)

[Tornadoes accounted for 'record year' in Alabama insurance payouts](#)

[AP Enterprise: Thousands displaced by Ala twisters](#)

[Legislature approves tornado shelter bill](#)

[Alabama House votes to ban 'made me fat' lawsuits](#)

[Job-creating legislation passes out of committee](#)

- clarify that "business entity," "contractor," "employee," "employer," and "subcontractor" apply only to those employed in or performing a labor or service in Alabama. If a company has no physical presence or employees in Alabama, it does not have to enroll and participate in the E-Verify system or provide proof that it has done either.

The revisions also place more stringent requirements on citizens who complain about businesses not complying with the law or wish to file suit, plus the revised bill gives judges more discretion in assessing penalties.

[>> Read the ARA immigration attorney's summary of the revisions](#)

Gross Income Fix First on House's Tuesday Agenda

HB 286 by Rep. Jay Love, R-Montgomery, (*pictured*) which would make a September rule change regarding gross income taxes fairer for business, is the first bill on Tuesday's special order calendar for the House. **This bill**, which will fix a business-recognized inequity in the tax code, **is part of the ARA's 2012 legislative agenda.**



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. 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. The bill codifies a September regulation that attempted to fix that federal income tax loophole, 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. The Business Associations' Tax Coalition, a 29-member business trade association group that ARA President Rick Brown chairs, supports 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.

House Health Votes to Create Alabama Health Insurance Exchange

After conducting two public hearings in previous weeks, the House Health Committee approved legislation Wednesday that would create the Alabama Health Insurance Exchange as required by federal healthcare reform.

The committee approved a substitute version of **HB 245** by Rep. Greg Wren, R-Montgomery, then amended it twice. The bill gives a 21-member board authority to create a state health insurance exchange, a hub where those needing health insurance could compare prices and options among different plans. The exchange would be funded through fees assessed on insurers offering qualified plans, based on one of the two amendments added to the substitute. Those who

[Bentley criticizes AEA's opposition to tax incentives legislation](#)

[House panel kills bill to license small wineries](#)

[State wineries call for beer boycott](#)

[Fire officials, fireworks industry divided over proposed overhaul of state regulations](#)

[Bentley signs film project incentives legislation](#)

[Jefferson County House legislative delegation rejects occupational tax plan](#)

[Legislative panel sets vote on new JeffCo occupational tax](#)

[Birmingham bans smoking in many public places](#)

[Land-line phone service becoming part of history](#)

[Panel OKs bill to allow home sale of some goods](#)

[Business, labor groups gird for vote on controversial NLRB](#)

[Court blocks NLRB's union poster rule with emergency injunction](#)

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[Rick Brown](#)

President

[Alison Wingate](#)

Vice President

[Nancy Dennis](#)

Dir. of Public Relations

[Brett Johnson](#)

Member Relations Mgr.

qualify for federal assistance can use federal vouchers to purchase insurance, under the federal enabling legislation.

The Patient Protection and Affordable Care Act of 2010 requires states to have exchanges in place by 2014, when the individual mandate in the legislation goes into effect. States must show they are in the process of setting up an exchange by 2013 or face the possibility of the federal government setting it up for them.

Wren's bill specifies that if the federal health reform law is repealed, declared unconstitutional or is no longer funded, the Alabama exchange will be disbanded. **Monitoring this legislation is part of ARA's 2012 Legislative Agenda.**

Rep. Joe Hubbard, D-Montgomery, amended the bill to require the governor to appoint two consumer advocates to the board. Wren's substitute version makes the board quasi-public and subject to state sunshine laws. The bill now goes to the full House for consideration.

TAXES

First Severe Weather Sales Tax Holiday Could Be First Full Weekend in July

Alabama's first severe weather sales tax holiday won't coincide with next Friday's one-year anniversary of the devastating tornadoes that claimed the lives of 248 Alabamians, but it could occur one month before the state's existing tax holiday.



Tuesday, the Alabama House of Representatives approved [HB 436](#) by Rep. Bill Poole, R-Tuscaloosa, which would establish a severe weather sales tax holiday on a vote of 91-1-2, and 27 representatives signed on as co-sponsors of the bill. Thursday, on a 5-0 vote, the Senate Commerce, Transportation, and Utilities Committee amended the bill to move the first holiday to the first full weekend in July of this year. The bill sets subsequent, annual severe weather sales tax holidays to be the last full weekend of February to coincide with Severe Weather Awareness Week.

The original bill called for the tax holiday to begin April 27, exactly a week from today and the anniversary date of last year's deadly tornadoes. There is not enough time for retailers to gear up and local governments to join the tax holiday by next week, which prompted the Senate committee to move the first observance to July.

Common supplies, costing \$60 or less, that every home and business might need during and after severe weather (*pictured*) are included in the proposed sales tax holiday. Generators costing \$1,000 or less also would qualify for the state tax exemption. Poole described the covered items as "a controlled list that could be used in a general emergency as well as a natural disaster."

The bill now goes to the full Senate. If the Senate approves it, the bill

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.

CONTACT INFO:

Find a list of members of the Alabama House [here](#). A complete list of senators is available [here](#).

You can find out whose legislative district you live or work in under [Find Your Lawmaker](#) in the [Political Affairs](#) section of alabamaretail.org.

will have to go back to the House for concurrence before it becomes law.

ARA supports this legislation as it does the state's current sales tax holiday for books, school supplies, clothes and computers. That sales tax holiday will be observed Aug. 3-5.

LABOR

Child Labor Revisions Receive Final Approval; Bill Awaits Governor's Signature to Become Law

Legislation that updates and clarifies the state's child labor laws received final approval this week and awaits the governor's signature.

On a vote of 99-0 Tuesday, the Alabama House approved [SB 174](#) by Sen. Jimmy Holley, R-Elba, after substituting it for the House companion, [HB 268](#) by Rep. Blaine Galliher, R-Gadsden. On a vote of 24-0-5 Thursday, the Senate concurred in a House amendment, sending the bill to the governor.

Under the new law, employers will have to keep the most recent 60 days of time records for workers younger than 19 at the location where the minor works. Also, all required records must be maintained either where the minor works/worked or at a central location, such as the business' headquarters or home, for at least one year after the minor's employment ends. Federal law requires the records be kept for three years at a central location. Under the soon-be-law, a completed Employee Information Form and proof of age records must be maintained where the minor works as long as they work there.

The bill also clarifies that no one younger than 16 can be employed where alcohol is served on premises, but that 16- and 17-year-olds can be employed where alcohol is served as busboys, dishwashers, janitors, cooks or hostesses/seaters.

The revisions to current law:

- prohibit 14 or 15 year olds from working in a warehouse;
- clarify the acceptable documents needed to verify a minor's age;
- require employers to post their Child Labor Certificate next to other licenses, health reports, etc., where it can be viewed easily by the public;
- prohibit anyone younger than 18 from working in an adult establishment;
- and allow for a range of civil penalties from \$1,000 to \$5,000. Prior to 2009, the Alabama Department of Labor could only assess criminal penalties after an inspection. In 2009, the possibility of a \$5,000 civil penalty was added. This newest change provides flexibility in the assessment of penalties for prohibited occupations.

LEGAL

House Votes to Ban 'Made-Me-Fat' Lawsuits

On a vote of 70-16-2 Tuesday, the Alabama House approved [HB 242](#) by Rep. Mike Jones, R-Andalusia, which would protect retailers from

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Wednesday, April 25



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**Customer service
strategies that will
make shoppers
return.**

being sued by someone claiming the food bought from retailers made them obese. Other groups covered by the ARA-supported Common Sense Consumption Act are manufacturers, packers, distributors, carriers, holders, marketers or advertisers. The bill now goes to the Senate Health Committee. The companion legislation, [SB 100](#) by Sen. Gerald Allen, R-Tuscaloosa, awaits action by the Senate Judiciary Committee.



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Twenty-four other states have passed similar legislation, Jones told House members. The bill does not prevent food mishandling suits from being filed, Jones said. *"This closes the courthouse door for those who say a fast-food restaurant made them fat,"* said Democratic Rep. Demetrius Newton, D-Birmingham, who voted against the bill.

Panel Votes to Allow Pistol-Packing in Car Without Concealed Permit

On a vote of 5-1, the Senate Judiciary Committee on Wednesday approved [SB 337](#) by Sen. Scott Beason, R-Gardendale, which authorizes carrying a pistol in a vehicle without a concealed pistol permit and repeals a prohibition against carrying a concealed pistol on another's property.

"This would allow you to carry a firearm inside your vehicle without a concealed pistol permit, just as you can have a gun in your home or on your property without a permit," Beason told the committee.

The House companion, [HB 132](#) by Rep. Todd Greeson, R-Ider, awaits consideration by the House Commerce and Small Business Committee. The Alabama Sheriff's Association opposes this legislation. There are provisions in this legislation that could violate the rights of business owners to secure their property. **ARA will continue to monitor these provisions** and any others that affect our members.

POINT OF SALE FEE COLLECTIONS

Senate Panel Agrees to 4% Allowance on E-911 Fees

Retailers, rather than carriers, would collect the E-911 fees for prepaid wireless communications services at the point of sale, under a bill the Senate Governmental Affairs Committee amended and approved this week. On a 7-0 vote Tuesday, the committee sent [HB 89](#) by Rep. Mike Millican, R-Hamilton, to the full Senate. Should the Senate OK the bill, it will have to come back to the House for concurrence.

ARA negotiated a provision that allows the retailer to deduct and retain four percent of the prepaid wireless 911 charges collected from consumers to cover the retailer's expenses for collecting and remitting the fees, along with sales taxes, to the Alabama Revenue Department.

Another ARA-negotiated provision of the bill allows retailers to choose not to include the E-911 fee on sales of prepaid wireless devices that only have 10 minutes or less, or \$5 or less of minutes. **Monitoring this legislation is part of the ARA's 2012 Legislative Agenda.**

PHARMACY

Assistive Device 'Lemon Law' One Step Away from Final Approval

A bill the sponsor calls a "*lemon-law for defective assistive devices*" received approval this week from the full House and a Senate committee. [HB 450](#) by Rep. Patricia Todd, D-Birmingham, now goes to the Senate for final approval.

The bill requested by the Governor's Office on Disabilities spells out duties for a manufacturers' warranty on assistive devices, including wheelchairs, scooters, hearing aids, voice synthesizers and Braille printers. The Senate Commerce, Transportation, and Utilities Committee approved it on a 5-0 vote Thursday after it cleared the House on a 101-0 vote Tuesday.

Cars and other vehicles do not qualify as an assistive device under the bill, but a wheelchair lift attached to the vehicle would. If a manufacturer can't fix a defect in a device, Todd's bill calls for a full refund plus finance charges and sales taxes or a replacement device within 30 days of the consumer returning the defective device. The bill's provisions would apply to individuals as well as governmental entities purchasing such a device for an individual

House Approves Pharmacy Audit Bill

Tuesday on a vote of 99-0, the Alabama House approved [HB 394](#) by Rep. Elaine Beech, D-Chatom, which would establish minimum and uniform standards for pharmacy record audits. The bill now goes to the Senate Health Committee. The Senate companion, [SB 383](#) by Sen. Paul Bussman, R-Cullman, awaits action by the full Senate.

JOBS

Senate Panel Moves Income Taxes Withheld Incentive

The Senate Finance and Taxation Education Committee on a 9-4 vote Wednesday approved a substitute version of the centerpiece of Gov. Robert Bentley's jobs program, sending it to the full Senate. [HB 160](#) by Rep. Barry Mask, R-Wetumpka, allows companies in certain instances to use income taxes withheld from full-time employees to build, expand or retain operations in Alabama. The Senate Job Creation and Economic Development Committee has yet to take up [SB 271](#) by Sen. Phil Williams, R-Rainbow City, the companion measure to HB 160. Williams said 19 other states have similar laws, which puts Alabama "*behind the curve*." The bill has drawn strong opposition from the state teachers' lobby.

Capital Credits Bill on Tuesday's House Agenda

The second order of business for the Alabama House on Tuesday is [HB 140](#) by Rep. Micky Hammon, R-Decatur. This legislation 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 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.

FIREWORKS

Panel Conducts Hearing on Statewide Fireworks Reform

The Alabama Legislature is considering uniform statewide regulations for fireworks that would allow Alabama retailers to sell fireworks that aren't shot into the air.

The House Commerce and Small Business Committee held a public hearing Wednesday and made technical amendments but did not vote on [HB 579](#) by Rep. Lynn Greer, R-Rogersville. The Senate companion, [SB 440](#) by Sen. Roger Bedford, D-Russellville, is pending before the Senate Governmental Affairs Committee.

This legislation provides for the statewide sale of:

- Non-aerial fireworks such as ground or hand-held sparklers, cylindrical or cone fountains, illuminating torches, wheels and spinners.
- Novelties such as party poppers, snappers, toy smoke devices, snakes, glow worms and dipped sticks.

[>> Chart outlining sparklers and novelty items that could be sold statewide under the legislation](#)

This legislation, supported by Alabama's fire marshal, also provides for classifications of fireworks consistent with federal regulations. Under current law, a retailer must pay the same licensing fee regardless of the types of fireworks that are sold. This legislation provides for degrees of permits depending upon the types of fireworks sold.

Besides the state fire marshal and the sponsor, those speaking in favor of the legislation were Tommy Glasgow (*pictured*), president of Florence-based American Promotional Events Inc., which does business as TNT Fireworks, and Eric Turner, government affairs director for the U.S. Fireworks Safety Commission and speaker pro tempore of the Indiana House of Representatives, who sold his longtime fireworks business to TNT. The national commission is charged with creating better state statutes for fireworks use.



Glasgow said his company, which is located in Greer's district, is the nation's largest fireworks company and employs 200 in Lauderdale County alone. To opponents who complained that the bill promotes unsafe use, Glasgow said, "*if this bill is not safe, we're out of business.*"

Proponents said the legislation could provide an additional \$3 million to cities, counties and the state.

ALCOHOL

Entertainment District Bill Headed to the Senate for Final OK

On a 6-1 vote Wednesday, the Senate Tourism & Marketing Committee approved legislation to allow certain cities to create entertainment districts where patrons can walk from establishment to establishment with open containers. Now the only hurdle for [HB 20](#) by Rep. James Buskey, D-Mobile, is the full Alabama Senate.

The bill applies to cities with populations of more than 25,000 or with an incorporated arts council, main street program or downtown development entity. It allows Class 1 cities, those with populations of 300,000 or more, to have up to five entertainment districts. Cities with between 25,000 and 299,999 people are limited to the possibility of two entertainment districts. Any district created would have to be approved by the local government. 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.

Senate Panel to Consider House Bill That Allows Customers to Take Home Opened, But Corked Wine

At its Tuesday afternoon meeting, the Senate Job Creation and Economic Development Committee will consider a House-passed bill would allow restaurant patrons in Alabama to put the cork back in an unfinished bottle of wine and take it home. This week on a vote of 77-17-7, the Alabama House approved [HB 325](#) by Rep. Terri Collins, R-Decatur, which allows customers to take one opened bottle of wine from a properly licensed establishment, if the bottle has been recorked and resealed in a bag. The seller must provide the customer with a dated receipt for the resealed wine bottle. The legislation could boost sales of higher-priced wines at Alabama restaurants. At least 30 states have recorking laws. Thursday, the Senate had been scheduled to take up a substitute version of the Senate companion, [SB 237](#) by Sen. Paul Sanford, R-Huntsville, but the bill was carried over.

Senate Panel to Consider House-OK'd Draft Beer Definition Next Week

On a vote of 78-9-8, the Alabama House this week approved [HB 67](#) Rep. Alan Boothe, R-Troy, which defines draft or keg beer as beer packaged and distributed in a keg by the manufacturer. It defines a keg as *"a pressurized factory sealed container with a capacity equal to or greater than five U.S. gallons, from which the beer is withdrawn by means of an external tap."* Bottled beer labeled as draft beer would not fall under that definition. The Senate Job Creation and Economic Development Committee will consider the bill Tuesday at 2 p.m. **ARA will continue to monitor this legislation.**

House Panel Defeats Farm Winery Bill



The House Economic Development and Tourism Committee on Wednesday defeated [HB 372](#) by Rep. Becky Nordgren, R-Gadsden, which would have allowed small Alabama winemakers to distribute their products without going through a distributor or the state liquor agency. The committee voted 7-6 against the bill that would have created a farm winery license that would have allowed production and self-distribution of less than 250,000 gallons of wine annually. Currently, the Alabama Alcoholic Beverage Control Board allows a three-tier system of producers, distributors and retailers. Products can only be sold to distributors who sell to retailers. A similar bill is on the Senate calendar, [SB 358](#), but it would have to pass the Senate and then the same House committee that defeated the House version to become law.

TOBACCO

Tobacco Tax and User Fee Bills to Get Public Hearings Next Week

Bills that would tack another \$1 onto the cost of cigarettes will get public hearings next week before the House Ways and Means General Fund Committee.

[HB 9](#) by Rep. Joe Hubbard, D-Montgomery, calls for \$1-a-pack additional cigarette tax, while [HB 725](#) by Rep. Patricia Todd, D-Birmingham, calls for a \$1-a-pack user fee. Hubbard also introduced a user fee bill this week, [HB 712](#), which he is calling the Medicaid Paygo Act of 2012. That bill is also on the House Ways and Means General Fund Committee agenda for Wednesday, but was not scheduled for a public hearing at press time.

All of the bills would bring the extra amount added to the retail price of each pack of cigarettes to nearly \$1.43.

FOOD SERVICE

Differing Views Presented on Bill That Bans Messing with Beverage Labels

The Senate Judiciary Committee held a public hearing but took no vote Wednesday on [SB 379](#) by Sen. Slade Blackwell, R-Birmingham, which bans tampering with beverage coding that tracks where and when it was manufactured. Blackwell pointed to tiny numbers on the bottom of a soft drink bottle and told the committee his bill would make it illegal to remove that coding.

The bill, however, is broader than that, banning obscuring, removing, or otherwise rendering illegible any product information on non-alcoholic beverage labels. It also prohibits storing or transporting beverages without a label or with a label that has been obscured, removed or otherwise rendered illegible.

Opponents said the impetus for the bill is an internal feud among bottlers over territory and characterized the punishments in the legislation as a "*sledgehammer*." Violations would result in a \$500 fine or a \$5,000 fine or six months in jail for violations involving 200 units or more, under the bill.

Alabama bottlers testified that coding on their products is being wiped off with acetone, filed off or rubbed off with sandpaper to obscure where the products originated. They contend the changes called for in the bill are intended for food safety.

The House companion, [HB 327](#) by Rep. Chad Fincher, R-Semmes, awaits consideration by the full House.

NEXT LEGISLATIVE DAY

The Alabama House of Representatives will convene at 1 p.m. Tuesday, April 24, for the 22nd legislative day of the 30-day 2012 regular session. The Senate meets at 3 p.m.

FEDERAL

Resolution to Stop Ambush Union Elections Rule Expected to Get Monday Vote

Early Monday, the U.S. Senate is expected to vote on a joint resolution disapproving of the National Labor Relations Board's (NLRB) ambush elections rule. This could be the most important labor vote in the 112th Congress.

[SJR 36](#) by Sen. Mike Enzi, R-Wyo., will use the Congressional Review Act to stop the NLRB's final rule on expedited union representation election procedures, which without action take effect April 30. The resolution will only need a simple majority for passage. It cannot be filibustered and debate will be limited to 10 hours.



The ambush rule would allow a unionization election to be held in as little as 14 days, down from the current median of 37 days for most elections and an average 101 days for those in which legal challenges are filed.

In addition to the ambush regulations, the NLRB last year handed down a ruling allowing the creation of micro-unions where a union could cherry pick certain departments or employees within a company. A pending proposal would require companies to give workers' telephone numbers and personal e-mail addresses to union organizers. Another action currently being challenged in federal court would require employers to display posters explaining union organizing rights and other pro-labor information (see related story below).

The moves are related to key elements of the Employee Free Choice Act, or "*card check*" bill, that you helped defeat in Congress in 2007. Unions have sought to have the bill's union organizing procedures implemented through administrative procedures ever since.

No Need to Put up Union Posters; Final Poster Decision Months Away

Tuesday, a three-judge panel of the U.S. Court of Appeals in the District of Columbia Circuit blocked a NLRB rule that would have required retailers and other employers to display posters informing workers of their rights to form a union. The decision followed South Carolina U.S. District Judge David Norton's April 13 ruling that the NLRB cannot require private employers to put up the 11 x 17 posters by April 30. The posting requirement must come from Congress, Norton said in his ruling. The fate of the poster will not be known until the court proceedings are concluded, more than likely in the fourth quarter of this year.

Meanwhile, **ARA will keep you informed about any new workplace poster requirements** and will continue to provide general posters to its membership free of charge.

U.S. Senate Rejects Voting on Buffett Rule

As predicted, the U.S. Senate rejected consideration Monday of [S 2230](#), the Paying a Fair Share Act of 2012, also known as the Buffett Rule. The procedural vote was 51-45, falling short of the 60 votes needed to break a filibuster. The bill by Sen. Sheldon Whitehouse, D-R.I., would have required households with adjusted gross incomes exceeding \$2 million annually to pay a minimum tax rate of 30 percent, beginning in 2013. Households with incomes from \$1 million to \$2 million would have seen their taxes increase on a sliding scale up to 30 percent.

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