

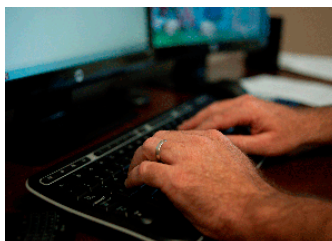
March 08, 2013

Urge Senators to Stand with Main Street

Ask for E-Fairness Reference in Budget Resolution

The U.S. Senate sponsors of the Marketplace Fairness Act, [S. 336](#), have decided to seek an amendment to the federal budget resolution that will make clear the intent of the Senate and Congress to pass e-fairness legislation. While this is a test vote, it is a pivotal one. A vote is expected soon.

Sixty votes are needed for this amendment to be a success and considered a reflection of the wishes of the Senate.



Reach out to Alabama's senators, Richard Shelby and Jeff Sessions, and ask them to support making Marketplace Fairness an important component of the U.S. budget resolution. Their votes are needed to demonstrate that the Senate has sufficient support to pass the Marketplace Fairness Act.

Call Shelby at (202) 224-5744 or [e-mail him](#).

Call Sessions at (202) 224-4124 or [e-mail him](#).

The Senate bill and its House companion, [H.R. 684](#), seeks to end sales tax disparity by giving states the authority to require remote and online sellers to collect sales and use tax at the point of purchase.

Urge Shelby and Sessions to support the budget resolution amendment and become co-sponsors of the Marketplace Fairness Act so that 2013 is the year all retailers are treated equally when it comes to sales tax collection.

LABOR AND EMPLOYMENT

Senate OKs Making Right-to-Work Part of Constitution

After slightly more than two hours of debate spanning two legislative days, the Alabama Senate on Thursday approved [SB 41](#) by Sen. Gerald Dial, R-Lineville, which would allow voters to decide if Alabama's "right to work" policy should be part of the Alabama Constitution. The bill now awaits consideration by the House Commerce and Small Business Committee. Should the bill become

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TOP ISSUES

[Workplace Poster](#)

[E-Fairness](#)

[Right-to-Work](#)

[Swipe Fee Settlement](#)

[Guns to Work](#)

[Debit Swipe Fees](#)

[Drug Database](#)

[Occupational Taxes](#)

[Employer Healthcare Mandate](#)

[Nexus Standard](#)

[Business License Year](#)

[Weights/Measures Inspectors](#)

[Alcohol Server ID](#)

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[Draft Beer Definition](#)

[Sequestration](#)

[Previous Issues](#)

law, Alabama voters would decide in the next statewide general election whether to put the weight of the state constitution behind current policy that Alabamians have the right to work without their membership or nonmembership in a labor union being a condition of employment.

FIREARMS

Senate Panel OKs Sweeping Gun Legislation

On a 7-1 vote Tuesday, the Senate Judiciary Committee approved [SB 286](#) by Sen. Scott Beason, R-Gardendale, the latest version of his far-ranging firearms legislation. Beason's legislation is backed by the National Rifle Association and opposed by the Alabama Sheriffs' Association, District Attorneys Association and the Association of Chiefs of Police.

Under the bill:

- employers can forbid employees to carry firearms while working, either on or off the employer's property
- employers are banned from having policies that keep lawful gun owners from storing firearms in their parked vehicles on workplace property as long as the firearm stays locked out of sight in their vehicle in the parking lot. It even forbids an employer from asking an employee if he/she has a firearm stored in their vehicle.
- carrying a visible, holstered firearm in public by itself does not constitute disorderly conduct.
- no pistol permit is required to carry a gun on your land, in your home or in a private vehicle.
- Sheriffs must issue or deny carrying permits within 30 days of application and receipt of fees and provide those denied a carrying permit with written reasons for the denial.
- Allows a pistol permit applicant to decide if he/she wants the permit to carry a concealed pistol to be good for one to five years.
- authorizes someone licensed to carry a handgun in another state to carry a handgun in Alabama.

Thursday, Rep. Craig Ford, D-Gadsden, introduced the companion bill, [HB 430](#). It has been assigned to the House Commerce and Small Business Committee.

PHARMACY

Retail Amendment Added to Senate Version of Prescription Database Bill

Senate and House versions of legislation related to the Controlled Substances Prescription Database now contain an Alabama Retail requested amendment that retains current law, which states pharmacists are not obligated to check the database every time they fill a prescription for controlled substances. No state mandates that pharmacists consult the database before dispensing drugs.

The Senate Judiciary Committee on Wednesday unanimously approved the amended version of [SB 115](#) by Sen. Cam Ward, R-Alabaster, which restored language to protect pharmacists from

House

- [HB 150](#)
- [HB 245](#)
- [HB 357](#)
- [HB 376](#)
- [HB 408](#)
- [HB 418](#)
- [HB 422](#)
- [HB 423](#)
- [HB 426](#)
- [HB 429](#)
- [HB 430](#)

Senate

- [SB 41](#)
- [SB 115](#)
- [SB 165](#)
- [SB 226](#)
- [SB 261](#)
- [SB 269](#)
- [SB 270](#)
- [SB 286](#)

Federal

- [S. 336](#)
- [S. 399](#)
- [H.R. 684](#)
- [H.R. 903](#)
- [H.R. 933](#)

IN THE NEWS

[E-fairness proponents hope 2013 Marketplace Fairness Act will collect billions in unpaid online taxes](#)

[The Marketplace Fairness Act will protect free enterprise](#)

[Fight about collecting online sales tax gets personal](#)

[What is the Marketplace Fairness Act of 2013?](#)

[Right-to-work bill passes Senate 21-10](#)

[Senate votes to add right-to-work law to constitution](#)

[Alabama sheriffs, police](#)

liability. The amendment is identical to one the House Health Committee added Feb. 14 to the House companion, [HB 150](#) by Rep. Jim McClendon, R-Springville.

The legislation changes the makeup of the Controlled Substances Prescription Database Advisory Committee, allows for committee teleconferencing and video conferencing and tweaks who has access to the database. It also adds the method of payment and the third-party payer identification to the information included in the database.

Both bills now are ready for consideration by their respective chambers.

TAXES

Bill Limiting Occupational Taxes Headed for Full Senate

The Senate Governmental Affairs Committee on Tuesday unanimously approved [SB 226](#) by Sen. Dick Brewbaker, R-Montgomery, which specifies that only the Alabama Legislature can levy occupational taxes in Huntsville, Montgomery, Gadsden, Tuscaloosa, Anniston, Bessemer, Decatur, Dothan, Florence, Phoenix City, Prichard and Selma. Right now, the city councils in those cities could levy an occupational tax without having to introduce a local bill in the Legislature, Brewbaker told the committee. To become effective under SB 226, an occupational tax in these mid-to-large-size cities would have to receive approval of both chambers of the Alabama Legislature and be signed into law by the governor. Existing occupation taxes would be allowed to stand under the bill.

According to a survey by the Alabama League of Municipalities, 25 municipalities now have occupational taxes, ranging from .5 percent to 2 percent, including Gadsden with a 2 percent tax and Bessemer with 1 percent. Companion legislation, [HB 245](#) by Rep. Greg Wren, R-Montgomery, awaits consideration by the House County and Municipal Government Committee.

Bill Would Create Factor Presence Nexus Standard

Rep. Rod Scott, D-Fairfield, this week introduced legislation to establish a factor presence nexus standard for business activity for income tax purposes. Under [HB 429](#), out-of-state businesses doing business in Alabama would be considered to have "*substantial nexus*" and subject to Alabama income tax, if their business activity in Alabama surpassed any of the following thresholds:

- \$50,000 of property.
- \$50,000 of payroll.
- \$500,000 of sales.
- 25 percent of total property, total payroll and total sales.

The bill has been assigned to the House Ways and Means Education Committee.

WEIGHTS AND MEASURES

Panels Approve Bills that Would Collect

[chiefs and DAs: Legislation to widen conceal-carry rights bad for public safety](#)

[Gun bill reworked; Limestone County sheriff says it's not enough](#)

[U.S. House votes to avert shutdown as Obama looks for big deal](#)

[U.S. House passes bill to avert government shutdown in March](#)

[Retailers face May deadline on swipe fee settlement](#)

[Birmingham's Lexco looks to get boost from \\$7B swipe fee settlement](#)

[Federal Reserve lauds its current debit card swipe fee rules, but merchants call it price fixing](#)

[State health officer: Alabama will have 'a different Medicaid program in 2014'](#)

[With or without Medicaid expansion, system faces strain](#)

[Economists: Expand Medicaid or miss out](#)

[Medicaid expansion could bring 12,000 jobs to Alabama, new study says](#)

[Study: Medicaid expansion could be financial windfall for Alabama](#)

[Proposed state General Fund budget includes \\$48 million in uncertain tobacco money](#)

[Senate committee approves General Fund budget bill with no state employee raises](#)

[Raises not likely for Alabama's non-education workers](#)

[Bill to build resort on](#)

Weights Inspection Reports in Database

Agriculture committees in both chambers approved legislation Wednesday that would shift inspections of weighing and measuring devices in Alabama from state Agriculture Department inspectors to registered service agents who would submit inspection reports to a central database accessible to the department. [SB 261](#) by Sen. Billy Beasley, D-Clayton, and [HB 357](#) by Rep. Paul Lee, R-Dothan, would govern the inspection process for weights and measures for grocery stores, drug stores, filling stations, pawnshops, farms and even coal operations, Agriculture Commissioner John McMillan (*pictured*) told legislators.



Under the legislation, any individual or company that services, repairs, or reconditions weighing or measuring devices and registers with the Agriculture and Industries Commissioner could be a service agent. Budget cuts have reduced the number of department weights and measures inspectors from 28 to just five, McMillan said, adding there are already 2,000 registered

service agents in the state.

"Owner/operators are already responsible for the accuracy of their devices," he said. The department will develop rules for inspections and provide decals that the registered service agents will be required to place conspicuously on devices that pass their inspections. The bills now await action by their respective chambers.

UNEMPLOYMENT COMPENSATION

Bill Alters Definition of Employing Unit

The Senate Business and Labor Committee on Thursday approved [SB 270](#) by Sen. Clay Scofield, R-Arab, which clarifies that an employing unit for unemployment compensation purposes can be an employer who acquires at least 65 percent of another employing unit in Alabama. Currently, an employer must acquire all of the assets of another employing unit to be considered an employing unit. The bill now goes to the full Senate for consideration.

Thursday, Rep. Wes Long, R-Guntersville, introduced the House companion, [HB 426](#). It awaits consideration by the House Commerce and Small Business Committee.

ALCOHOL

Panel Carries Over Bill Creating \$35 Alcohol Server Identification Card

The Senate Governmental Affairs Committee on Tuesday carried over [SB 269](#) by Sen. Gerald Dial, R-Lineville, which would require anyone who serves, dispenses or provides alcoholic beverages at any licensed, on-premise liquor location to register with the state and obtain a \$35 server ID card for four years. William Thigpen Sr., a former state representative who has served as assistant administrator of the Alabama Alcoholic Beverage Control Board since 2011, told

[Alabama coast passes to Senate](#)

[Want that beer to go? Huntsville considering two downtown entertainment districts with relaxed alcohol rules](#)

[Mississippi passes homebrewing law, meaning Alabama may soon be the only state where the hobby is illegal](#)

[Measure would let certified registered nurse practitioners OK wider range of drugs](#)

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[Brett Johnson](#)

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WRITE:

Alabama State House
11 South Union Street
Montgomery, AL 36130

CALL:

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

E-MAIL:

committee members that a server identification card would help track servers who habitually violate laws regarding who can be served. Some committee members questioned the ability of small businesses to readily find credentialed servers.

Bills Would Alter Alcohol License Fees

Rep. Lesley Vance, R-Phenix City, this week introduced two bills to alter the alcohol licensing process. Vance introduced the same bills in 2012, but they never received a floor vote.

[HB 422](#) would double the application filing fee for an alcoholic beverage license from \$50 to \$100. The fee is only assessed on new applicants.

[HB 423](#) switches the renewal period for alcohol license renewals from Oct. 1 to between June 1 and July 31, while increasing the fee for late filing from 50 percent to 75 percent of the license fee. It also allows the Alabama Alcoholic Beverage Control Board to set up an online renewal process and charge a "*reasonable fee*." Supporters last year said a reasonable fee would be similar to interchange fees, somewhere between 40 cents and \$1.

Both bills have been assigned to the House Financial Services Committee.

Draft Beer Definition Bill Back

Rep. Alan Boothe, R-Troy, this week reintroduced legislation that would define draft or keg beer as beer packaged and distributed in a keg by the manufacturer. Bottled beer labeled as draft beer would not fall under that definition. A similar bill died in the Senate due to inaction on the final day of the 2012 regular session. [HB 408](#) has been assigned to the House Economic Development and Tourism Committee.

BUSINESS LICENSES

Bill Would Allow Cities to Change Business License Year to Something Other Than a Calendar Year

Rep. Terri Collins, R-Decatur, this week introduced legislation to allow cities to issue a 12-month business license that doesn't necessarily correspond to the calendar year as long as the Alabama Legislature approves a local law to permit the change in what is considered a license year. [HB 418](#) awaits consideration by the House County and Municipal Government Committee.

RETAIL CRIME

Bill Would Permit Deadly Force in After Hours Robberies and Burglaries

Rep. Wes Long, R-Guntersville, has introduced legislation that would allow a business owner or employee to use deadly force in defense of themselves or others during a burglary or robbery of the business after business hours. [HB 376](#) has been assigned to the House Judiciary

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.



For committee assignments and clerk contacts for the Alabama Legislature, see [ARA's 2013 Legislative Roster](#).

Committee. On a 6-0 vote Feb. 28, the Senate Business and Labor Committee approved the Senate companion, [SB 165](#) by Sen. Bryan Taylor, R-Prattville.

NEXT LEGISLATIVE DAY

The Alabama Senate will convene at 10 a.m. Tuesday, March 12, for the 12th legislative day of the 2013 regular session of the Alabama Legislature. The House will meet at 1 p.m.

FEDERAL

U.S. House Votes to Fund Government thru Sept. 30

Wednesday, the U.S. House of Representatives approved a six-month spending bill ([HR 933](#)) that would fund the federal government through the end of the fiscal year. The temporary solution provides \$982 billion, enough to keep federal agencies operating past March 27, when current funding will expire. It also locks in the \$85 billion across-the-board spending cuts known as the sequester for the rest of the fiscal year. U.S. Sen. Richard Shelby, R-Tuscaloosa, as the ranking member of the Senate Appropriations Committee, will play a pivotal role in any additions the U.S. Senate makes to the House solution (see top story). A final version could clear Congress by the end of the month.



May 28 Deadline for Swipe Fee Settlement; Consider Your Options Carefully

If your business accepts VISA or MasterCard credit cards, by now, you've probably received a notice of the proposed settlement in the federal antitrust action against MasterCard and Visa's credit card swipe fees. Each merchant needs to decide how to respond to the settlement, but you do not have to respond until May 28. Alabama Retail is working on a summary of the proposed settlement that it will provide to its retailer members in the next few weeks.

The \$7.25 billion proposed settlement was announced in July. The monetary settlement is one-time money to be divided between an estimated six million merchants, the equivalent of an estimated two to three months of interchange fees: \$6.05 billion in cash and an estimated \$1.2 billion in interchange fee reductions for eight months while new rules are adopted. U.S. retailers currently pay almost \$1 million each week in interchange fees. Accepting the settlement bars retailers from future lawsuits over swipe fees on either credit or debit cards.



The National Association of Convenience Stores, National Grocers Association, National Community Pharmacists Association and

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**U RETAIL
UNIVERSITY**

Major components of the Affordable Care Act are scheduled to take effect soon. The first of four free Retail University webinars this year deals with this important subject. The same webinar will be repeated at different times on the same day.

Sign up and mark your calendar now for:

[What Retailers Must Know about Healthcare Reform](#)



Presented by Randal Limbeck, partner, Omaha, NE Office, Jackson Lewis

**Tuesday, March 12
7:30 a.m. CT / 8:30 ET
and
10:30 CT / 11:30 ET**

[Register](#)

for 7:30 a.m. CT webinar

[Register](#)

for 10:30 a.m. CT webinar

To learn more about and register for other webinars in the Retail University series, go to [Calendar](#) under [Awards and Events](#) at alabamaretail.org.

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National Cooperative Grocers Association, all parties to the lawsuit, are among 10 of the 19 named plaintiffs who have rejected the proposed settlement.

Despite those objections, the U.S. District Court for the Eastern District of New York gave preliminary approval Nov. 9 to the proposed settlement. The final approval hearing has been set for 10 a.m. Sept. 12 before the same court.

Fed Issues Report on Debit Card Swipe Fees; No Plan to Alter Fees

The Federal Reserve acknowledged in a report Tuesday that the cap it set on debit card swipe fees a year and a half ago is four times what it costs banks to process the transactions, but said there are no plans to adjust the cap. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 required the Federal Reserve to issue a report on debit swipe fees every two years, at which time the level of the cap could be reassessed. In October 2011, the Fed set the cap at 21 cents plus 0.05 percent of the transaction and an extra 1 cent for fraud prevention. Banks with less than \$10 billion in assets are exempt. Tuesday's report placed large banks' average cost of processing transactions at 5 cents. The average swipe fee after the regulations took effect on Oct. 1, 2011, was 24 cents for banks covered by the law, down from 50 cents in the first three quarters of that year.

Federal Legislation Would Strike Employer Mandate in Obamacare

U.S. Rep. Charles W. Boustany Jr., R-La., and Senate Finance Committee Ranking Member Orrin G. Hatch, R-Utah, last week introduced the American Job Protection Act ([HR 903](#) / [S 399](#)), which would strike provisions in the Affordable Care Act requiring employers with 50 or more full-time workers to provide health insurance at government-mandated levels or pay large penalties if they fail to do so.

The federal healthcare reform act provision, which take effect in 2014, requires businesses of 50 employees or more to provide health insurance of minimum value or pay a penalty between \$2,000 and \$3,000 for each employee working 30 hours or more a week. The mandate already has caused some companies to reduce the size of their payrolls and discourages small companies in particular from growing to the 50-employee threshold.

Register for [FREE 7:30 a.m.](#) or [10:30 a.m.](#) March 12 webinar on the Affordable Care Act

New Family and Medical Leave Act Posters Must be Posted Today

By today, employers with more than 50 employees should post the new Family and Medical Leave poster in your workplace. The Alabama Retail Association recently mailed the revised poster to all locations of our member businesses, whether those businesses are required to post it or not. The revision replaces one element of the federal 6-in-1 poster you received in early January. You should tape or glue the FMLA section update over the bottom left-hand corner of your federal poster. If you did not receive the revised FMLA section in the mail, you can [download the poster online](#).

Your Business Can Save Thousands

Find out More!

ARA constantly strives to increase the Value its members receive from membership.

Most members use our low-cost workers' comp program, but haven't taken advantage of the many other Alabama Retail benefits. Among those are:

Cost-Saving Credit Card Processing:

Through a partnership with Huntsville-based **CHECKredi**, Alabama Retail 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%.



Alabama Retail members should NEVER waste hundreds of dollars on workplace posters. Your association provides the posters that are required for most businesses as a FREE member service.

The Family and Medical Leave Act applies to workers who have been employed at their current job for at least a year, have worked a minimum of 1,250 hours in the 12 months before their leave is to begin, and who work for an employer with at least 50 employees within a 75-mile radius. Changes to the act were included in the letter you received with the revised poster. To learn more, read:

[>> The Final Rule](#)

[>> Side-by-Side Comparison of the Former and New Regulations](#)

[>> Other Information and Guidance on the Revised FMLA](#)

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

go to www.alabamaretail.org