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April 12, 2013

### Red Tape Reduction Act on Governor's Desk

#### Could Ease Regulatory Burden for Business

On a vote of 94-0 Tuesday, the House approved Senate changes to the Red Tape Reduction Act, [HB 101](#) by Rep. April Weaver, R-Brierfield, sending the bill to Gov. Robert Bentley for his signature. The bill requires any state agency that receives a complaint that a regulation might negatively impact business to file a business economic impact statement with the Joint Committee on Administrative Regulation Review or its successor committee prior to a proposed regulation's adoption.

The bill also requires all existing rules and regulations to be reviewed every five years. Agencies would be required to post information related to proposed and existing regulation reviews on their websites. Emergency rules are exempt from the provisions of this legislation. The bill also requires state agencies to fulfill license or permit requests within 28 calendar days or notify the applicant as to why the license or permit has not been granted.



### MEDICAID

#### Medicaid Reform Back on the Agenda Next Week

At its 9 a.m. Wednesday meeting, the House Health Committee is expected to discuss the pivotal Medicaid reform legislation, [HB 454](#) by the committee's chairman, Rep. Jim McClendon, R-Springville (pictured).



The legislation authorizes the Alabama Medicaid Agency to divide the state into as many as eight regions, each capable of supporting at least two risk-bearing regional care organizations. Those organizations will provide healthcare to about half of Alabama's Medicaid patients. Under the regional care model, monthly payments to the organizations would be made on a per-participant, or capitated, basis, rather than

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### [Previous Issues](#)

#### BILLS

#### House

- [HB 43](#)
- [HB 101](#)
- [HB 110](#)

the current fee-for-service payment method.

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## Medicaid Fraud Bill Before Senate Panel Next Week

Wednesday, the Senate Finance and Taxation General Fund Committee will consider [HB 110](#), or the Medicaid Fraud Reduction Act of 2013, by Rep. Jim McClendon, R-Springville. The bill enumerates what qualifies as Medicaid fraud and increases the statute of limitations for Medicaid fraud from three to five years. It is aimed at not just individuals who defraud Medicaid by submitting false claims, but also doctors and corporations that commit Medicaid fraud. Medicaid providers guilty of fraud, regardless of the amount, will be banned from Medicaid programs for at least three years, under this proposal. Any individual or provider who fails to keep required records or who knowingly destroys the records within five years from the payment date would be guilty of a Class A misdemeanor under this bill. Pharmacies and physicians have to retain Medicaid patient records for seven years and Part D patients for 10 years. The bill is part of the "We Dare Defend Our Rights" Agenda being advanced by the House Republican Caucus.

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## UNEMPLOYMENT COMPENSATION

### Senate OKs Bill to Penalize Late or Inadequate Responses to Unemployment Inquiries

On a vote of 25-8 Wednesday, the Alabama Senate approved [SB 201](#) by Sen. Paul Bussman, R-Cullman, under which an employer's failure to respond promptly or adequately to the state when questioned about an unemployment claim could result in any consequent overpayment of claims being charged against the employers' account.

Employers who have failed to respond in a timely fashion or adequately two or more times could see a decline in their unemployment compensation account, under this bill. The House Commerce and Small Business Committee will consider the bill next Wednesday.



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### House Panel OKs Increasing Weekly Jobless Benefits by \$20 by 2014

On Wednesday, the House Commerce and Small Business Committee approved [HB 539](#) by Rep. Pebblin Warren, D-Tuskegee, which would increase the maximum weekly jobless benefit in Alabama by \$20 by 2014. The Alabama Department of Labor estimates the increase could mean at the most a \$3.60 per employee increase in unemployment taxes paid by certain employers.

The maximum weekly jobless benefit in Alabama is \$265. Warren's bill would increase that amount to \$275 beginning July 5 of this year and to \$285 beginning July 5, 2014.

The Labor Department spokesman told the committee that the increase in the maximum benefit would only affect employers who have laid off employees who had been earning about \$15 or more an hour and had been working 40 hours a week for more than 13 weeks

- [HB 150](#)
- [HB 237](#)
- [HB 357](#)
- [HB 408](#)
- [HB 454](#)
- [HB 461](#)
- [HB 524](#)
- [HB 539](#)
- [HB 566](#)
- [HB 571](#)
- [HB 611](#)

## Senate

- [SB 115](#)
- [SB 201](#)
- [SB 261](#)
- [SB 415](#)
- [SB 431](#)

## Federal

- [H.R. 1406](#)

## IN THE NEWS

[Alabama pharmacists worried about Medicaid care model proposal](#)

[Bill lays out criminal charges for 'doctor shopping'](#)

[Alabama losing 9 weeks of unemployment benefits](#)

[Unemployment benefits changing in Alabama](#)

[Shedd takes oath as new member in Alabama House](#)

[Shedd cleared to become House District 11 representative](#)

[Finley not conceding District 97 race](#)

[Adline Clarke appears to have narrowly beaten Karlos Finley in House District 97 race](#)

[GOP budget chairs say cigarette tax worth considering](#)

[House of Representatives](#)

when they became unemployed. Unemployment compensation taxes are individual to each business based on a formula that takes into account wages paid; the amount of unemployment among current and former employees; the average duration and cost of unemployment benefits paid to all claimants over a three-year period; as well as shared costs. Warren's bill does nothing to change that formula.

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## **Worker-Contributed Pensions Would Not Be a UC Disqualifier under Bill**

Rep. Barry Moore, R-Enterprise, introduced legislation this week that specifies that only 100-percent-employer-financed pensions would disqualify someone from receiving unemployment benefits. Any pension payments retroactively awarded to an individual would constitute disqualification and require recovery of any unemployment benefits paid during the disqualification period only if the worker did not contribute anything to the pension fund, under [HB 611](#). The bill has been assigned to the House State Government Committee.

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## **Alabama Loses Nine Weeks of Federal UC Benefits**

Because more Alabamians are working, the state is losing nine weeks of federal Emergency Unemployment Compensation benefits. The extended benefits in Alabama are dropping from 63 to 54 weeks. The first 26 weeks of unemployment benefits are paid out of Alabama's employer-funded unemployment compensation trust fund. The federal government is responsible for the remaining 28 weeks. Alabama's average unemployment rate for the three months that ended Jan. 31, was 6.9 percent, below the 7 percent threshold for the state to qualify for the extra benefits.

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## **PHARMACY**

### **House-Approved Drug Database Reform Contains Pharmacist Protection**

On a vote of 91-0 Tuesday, the House approved [HB 150](#), the Controlled Substances Prescription Database reform bill by Rep. Jim McClendon, R-Springville, one of three House-approved bills to further regulate the sale and use of controlled substances as prescription drugs. Its next stop is the Senate Health Committee. The package of bills requested by the Medical Association of Alabama is designed to better track prescriptions for opioids, painkillers and other commonly abused drugs, prevent instances of "*doctor shopping*" and provide the Alabama Medicaid Agency with tools to combat drug abuse among the patients it serves.

At the request of the Alabama Retail Association, HB 150 and its Senate companion, [SB 115](#) by Sen. Cam Ward, R-Alabaster, protect pharmacists from liability by retaining 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 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. Another provision calls for adding the method of

[approves education  
budget, 2 percent teacher  
raise](#)

[U.S. House panel debates  
comp time legislation;  
Democrats oppose Roby's  
proposal](#)

[Proposed legislation would  
extend comp time to  
private sector](#)

[Rep. Martha Roby  
introduces bill to offer  
workers more options for  
overtime compensation](#)

[Retail group opts out of  
Visa, MasterCard pact](#)

[Retail trade group to opt  
out of \\$7.2 bln credit card-  
fee pact](#)

[Judge in U.S. credit-card  
fees case assails critics'  
website](#)

[Judge orders merchant  
trade groups to correct  
swipe-fee websites](#)

[Lawmakers take sides in  
Marketplace Fairness Act  
debate](#)

[Online vs. on the corner](#)

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Member Relations Mgr.

## **LEGISLATIVE CONTACTS**

To contact members

payment and the third-party payer identification to the information included in the database. The Senate bill is ready for consideration by the full Senate.

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## **Panel OKS Bill to Allow Pharmacists to Destroy Outdated or Unused Drugs**

Wednesday, the Alabama House unanimously approved [HB 237](#) by Rep. Elaine Beech, D-Chatom, which would allow pharmacies in Alabama to accept unused or expired dispensed medications for destruction. Current law forbids pharmacists from paying refunds for unused prescription drugs. This bill would allow pharmacists to accept unused drugs for the purposes of destruction only. Chatom is a retired pharmacist. The Senate Health Committee will next consider the bill.

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## **ALCOHOL**

### **Panel OKs Draft Beer Definition**

Wednesday, the House Economic Development and Tourism Committee approved [HB 408](#) by Rep. Alan Boothe, R-Troy, which 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. The Alabama Alcohol Beverage Control Board requested the legislation, Boothe said. A similar bill died in the Senate due to inaction on the final day of the 2012 regular session.

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### **New Liquor Tax Proposed for Dallas County**

Rep. Darrio Melton, D-Selma, this week introduced legislation to levy an additional 5 percent sales tax on liquor sold in Dallas County. [HB 571](#) has been assigned to the House Local Legislation Committee.

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## **EMPLOYMENT**

### **Panel Carries Over Bill Leveling \$500 Penalty for Conspiring to Violate New Hire Provisions**

The House Commerce and Small Business Committee carried over until next week [HB 43](#) by Rep. Becky Nordgren, R-Gadsden, which would set a \$500 administrative penalty if an employer and employee conspire to withhold required information from Alabama Department of Labor or to provide false information when the employee is hired or rehired. Since Oct. 1, 1997, all employers have been required to report newly hired or rehired employees to the Alabama Department of Labor. The information must be furnished within seven days from the date of hire or reemployment. Employers who fail to report can be fined up to \$25 for each violation. Since May 1, 2008, employers with five or more employees must make new hire reports through a special portal on the Labor Department's website. Employers with fewer than five employees can make the reports online or send copies of the hired employees' W-4's to the Alabama New-Hire Unit. Federal law sets a \$500 penalty for employers who conspire with employees to withhold or falsify new hire information. Nordgren's bill would make Alabama's law mirror the federal statute on the conspiracy issue, which is primarily aimed at employers who help employees avoid

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](mailto:firstname.lastname@alhouse.org).

Those without e-mail addresses can be reached through the general e-mail address:

[house3@alhouse.org](mailto: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](http://alabamaretail.org).



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## TAXES

### Bill Would Exempt Property Valued at \$250 or Less from Property Taxes

Sen. Shadrack McGill, R-Woodville, introduced legislation this week that would exempt any tangible taxable assets that originally cost \$250 or less from property taxes. [SB 415](#) has been assigned to the Senate Finance and Taxation General Fund Committee.

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## WORKERS' COMPENSATION

### House to Consider Bill to More Than Double Workers' Comp Burial Expenses

The House's Special Order Calendar for Tuesday includes [HB 461](#) by Rep. Rod Scott, D-Fairfield, which increases the possible burial expenses a workers' compensation claim can pay by \$3,500. If a covered employee dies as a result of an employment-related accident or occupational disease, the expenses paid by the employer currently are not to exceed \$3,000. The bill would require the employer to pay up to \$6,500.

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### Bill Allows Workers' Comp Exemption for LLC Members

Thursday of next week the Senate Business and Labor Committee will consider [SB 431](#) by Sen. Bryan Taylor, R-Prattville, which would allow members of a limited liability company to exempt themselves from Alabama Workers' Compensation Act coverage on a year-by-year basis. Corporate officers already have that option. The bill also removes the requirement that written notification be given to the Department of Labor of the exemption. The only notification required under the bill is to the employer's insurance carrier.

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## WEIGHTS AND MEASURES

### House to Consider Weights Inspection Database Bill

Tuesday, the House calendar includes [HB 357](#) by Rep. Paul Lee, R-Dothan, which 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. The Senate companion, [SB 261](#) by Sen. Billy Beasley, D-Clayton, is ready for consideration in that chamber.

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## LEGAL

### Bill Could Partially Undo Post-Judgment Interest Law

A bill introduced last week, [HB 524](#) by Rep. Paul Beckman, R-Prattville, could undermine the post-judgment interest statute that was part of the 2011 tort reform package. The legislation could be detrimental to



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

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*Presented by Jeff Greer,  
Founder and Chief  
Executive Officer, Easyfish  
Marketing*  
**Wednesday, April 24  
7:30 a.m. CT / 8:30 ET**

companies offering finance contracts or loans requiring the payment of interest, depending on the agreed-to rate of interest.

Current law permits interest to accrue on judgments based upon the rate specified in a contract when the contract was signed without regard to the amount. All other judgments, such as judgments arising from civil lawsuits, accrue interest at the fixed rate of 7.5 percent as specified in the 2011 statute. Under Beckman's bill, any legal action instituted to collect a debt based on a contract would run interest at 7.5 percent from the date of the filing of the suit, and after the judgment is entered, regardless of the rate agreed to in the contract. In addition, the legislation appears to entitle claimants to 7.5 percent pre-judgment interest either from the time suit is filed or their injury occurs, whereas current law does not entitle them to any pre-judgment interest. The bill would apply retroactively to judgments since Sept. 1, 2011. The Alabama Civil Justice Reform Committee, of which the Alabama Retail Association is a member, opposes this legislation that would partially undo the benefits of the tort reform package. The bill has been assigned to the House Judiciary Committee.

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### House Bill Proposes Losers Pay

Rep. Ed Henry, R-Hartselle, has introduced loser pays legislation that directs the courts in all civil actions to award attorney's fees to the prevailing party. It includes all civil actions whether for personal injury, workers' compensation or debt collection. [HB 566](#) sets out no criteria for determining winners and losers in civil litigation and does not address the inability to collect attorneys' fees from unsuccessful plaintiffs in civil litigation. Tort reform activist groups to date have not supported loser pays legislation and have not produced a way to make it meaningful and workable. The bill has been assigned to the House Judiciary Committee.

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## MID-TERM ELECTIONS

### New House District 11 Legislator Takes Office; District 97 Seat Still to Be Decided

State Democrats chose not to field a candidate after their House District 11 nominee resigned, clearing the way for the Republican nominee to take the office without a general election.

House Speaker Mike Hubbard, R-Auburn, administered the oath of office to Rep. Randall Shedd, R-Fairview, on the House floor shortly after the House came into session Thursday. Shedd, former director of the Cullman County Commission on Aging, replaces Jeremy Oden of Eva, who was appointed to fill an Alabama Public Service Commission vacancy. Shedd says he'll seek a full term in 2014.

Democratic candidate Kelly Evans withdrew from the race in March, clearing the way for Shedd to take office sooner than anticipated. The general election for the House seat had been scheduled for May 7.

District 11 includes Cullman, Blount and Morgan counties.

The only remaining legislative vacancy is in House District 97, which will be decided in a May 21 general election.

Mobile Housing Board executive and book store owner Adline Clarke appeared to have won the Democratic nomination for that seat in a

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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## Nominate a Retailer of Year



Each year, ARA, in conjunction with the [University of Alabama at Birmingham School of Business](#), sponsors the Retailer of the Year program. Help us recognize the top retailers in Alabama and their accomplishments in the retail industry.

## DEADLINE FOR NOMINATIONS

**Friday, May 24**

Nominees will be asked to complete entry forms, which must be received by Friday, June 24. Winners will be notified before Aug. 1.

## HOW TO NOMINATE?

Just complete the [online nomination form](#)

[Learn more](#)

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Tuesday run-off by slightly more than 150 votes, but lawyer Karlos Finley has not yet conceded the race.

The Democratic nominee will face independents Burton LeFlore, who runs a real estate company, and David Blunt, a Mobile builder, in the General Election.

The District 97 seat was vacated by the death of Rep. Yvonne Kennedy, D-Mobile.

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## NEXT LEGISLATIVE DAY

**The Alabama House will convene at 1 p.m. Tuesday, April 16, for the 21st legislative day of the 2013 regular session of the Alabama Legislature.  
The Senate will meet at 1:30 p.m.**

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## FEDERAL

### **Roby Wants to Extend Comp Time to Private Sector; Committee Vote Set Next Week**

The U.S. House Education and the Workforce Committee will vote next week on legislation introduced Tuesday by U.S. Rep. Martha Roby, R-Montgomery, which would allow private-sector employers to offer compensatory time off instead of overtime pay to their hourly workers. Federal workers have that option now.

The Working Families Flexibility Act of 2013, or [H.R. 1406](#), met immediate Democratic opposition during subcommittee debate Thursday. Even so, House GOP leaders have said they will bring the bill to the House floor for a vote before the end of the month.

This legislation would allow private-sector employees, with an agreement from their employer, to convert their overtime hours to equivalent paid time off. Roby's proposal would allow comp time only if an employee volunteers for it, but opponents contend employers would abuse the system by letting workers work overtime only if they agree to take comp time rather than overtime pay. Under the proposed legislation, employers would not be required to offer the comp-time option and employees would have to affirm they were interested in participating. Either party could withdraw from the agreement with a month's notice.

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### **Tuesday Webinar to Review Swipe Fee Settlement Options**

Businesses that accept VISA and Mastercard are invited to a webinar next week that will explain options available in regard to a proposed settlement in the federal antitrust action against the two credit card giant's swipe fees.

#### **Webinar Details:**

Date: Tuesday, April 16  
Time: 2 – 3 p.m. CST/ 3 – 4 p.m. EST

## **KNOW A RETAILER IN BUSINESS FOR 100 YEARS OR MORE?**

Retail businesses that began operating in Alabama in 1913 or earlier are eligible to be recognized as an [Alabama Centennial Retailer](#)

### **Nominations are due Monday, June 3**

Businesses can only be recognized once as a Centennial Retailer. Before making a nomination, check first to see if the business has already been honored. [View those previously honored as Centennial Retailers](#)

### **Nominate a Centennial Retailer Now !**

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**[Register Now!](#)**

This week, the Retail Industry Leaders Association announced it was opting out and objecting to the class-action settlement. RILA has organized next week's webinar.

The \$7.25 billion proposed settlement was announced in July. The estimated 8 million affected merchants have until May 28 to respond in advance of the final Sept. 12 hearing in federal district court. Each merchant must make their own decision on how to respond to the settlement.



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