



April 26, 2013

**Senate Delays Vote on E-Fairness; Opponents Berate House Members**

**Ask Alabama's Congressional Delegation to Say 'Yes' to Marketplace Fairness**

After debating the Marketplace Fairness Act ([S. 743](#)) for most of the week, the U.S. Senate decided late Thursday to wait and vote Monday, May 6, on amendments from the sponsors and then take a final vote on the legislation. Alabama's senators, Richard Shelby and Jeff Sessions, as well the majority of senators, continued their support of the legislation that allows states to require all sellers to collect sales taxes.

Senators, mostly from states without sales taxes, caused the delay by objecting to some of the more than 30 amendments proposed for the bill. When the Senate returns from a week recess, the only amendments that will be considered are those offered by the bill's sponsors.



Despite an exemption for online sellers who sell \$1 million or less annually to consumers, eBay, the giant online auction and shopping website, led a relentless campaign against the legislation all week in both the Senate and House. U.S. Rep. James Sensenbrenner, R-Wis., is urging his colleagues in the House to co-sponsor a resolution opposing the Marketplace Fairness Act titled, "Supporting the Preservation of Internet Entrepreneurs and Small Business." Contact Alabama's House members now and ask them to support the Marketplace Fairness Act ([H.R. 684](#) and [S. 743](#)) and to reject Sensenbrenner's effort to stop the e-fairness momentum.

To find out how to contact your congressional representatives, go to: [alabamaretail.org/findyourlawmaker](http://alabamaretail.org/findyourlawmaker)

The Marketplace Fairness Act requires states to simplify sales and use tax administration before implementation and provide sellers with free software to help them comply. Alabama's Streamlined Sales and Use Tax Commission has been working to prepare our state for the eventual adoption of this nationwide solution to the e-fairness issue.

Under the bill for states to require retailers to collect the sales taxes at the point of sale, they must have:

**CRR EXTRAS**

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**TOP ISSUES**

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**Previous Issues**

**BILLS**

**House**

- [HB 269](#)

- a single entity responsible for all state and local sales and use tax administration, return processing and audits for remote sales sourced to the state;
- a single audit of a remote seller for all state and local taxing jurisdictions within the state;
- and a single sales and use tax return to be used by remote sellers to be filed with the single entity responsible for tax administration.

The Optional Network Election for Single Point Online Transactions, or ONE SPOT, which the Alabama Legislature enacted last year, makes some progress toward those goals. The system, which should be in place in Alabama by Sept. 30, allows retailers statewide to handle city, county and state sales, use and lease/rental taxes through one electronic portal with one return and one payment.

## **STATE REVENUE DEPARTMENT PROPOSES CHANGE TO IN-STATE NEXUS RULE**

This week, the Alabama Department of Revenue indicated its intention to change the rule regarding nexus within the state. To summarize the rule linked below, if a retailer delivers to another county or city's taxing jurisdiction, then that jurisdiction's sales taxes must be collected and remitted. The department expects this rule to be in place by October when the ONE SPOT sales tax remittance system is in place. Alabama Retail will communicate with you further about the state's formal comment period on the new rule, but in the meantime, please review the proposed rule and let us know your thoughts.

[>> Review proposed nexus rule](#)

## **BUSINESS LICENSE REFORM**

### **Subcommittee to Study Business License Reform and Bring Back Next Year**

Following a public hearing Thursday, Senate Governmental Affairs Committee Chairman Jimmy Holley (pictured), R-Elba, said he would ask a subcommittee to study the issue of business license reform and report back to the committee at the start of the 2014 regular session. He asked that the Alabama Retail Association be involved in that process.



Alabama Retail Association President Rick Brown told the committee chairman that the state's retailers are ready to work with the subcommittee to help craft a solution for the state's cumbersome and confusing business licensing system. Alabama Retail's legislative agenda includes support for efforts to simplify and streamline the current business license system.

[>> Read Alabama Retail's full 2013 Legislative Agenda](#)

- [HB 276](#)
- [HB 286](#)
- [HB 357](#)
- [HB 370](#)
- [HB 371](#)
- [HB 372](#)
- [HB 454](#)
- [HB 461](#)
- [HB 539](#)
- [HB 617](#)
- [HB 677](#)

### **Senate**

- [SB 7](#)
- [SB 143](#)
- [SB 230](#)
- [SB 261](#)
- [SB 286](#)
- [SB 340](#)
- [SB 397](#)
- [SB 453](#)

### **Federal**

- [S.743](#)
- [H.R. 684](#)

### **IN THE NEWS**

[Internet sales taxes should be collected: Fairness is the real issue](#)

[Internet sales tax long overdue](#)

[Senate advances Internet sales tax bill, but final vote delayed until after weeklong vacation](#)

[Shopping tax free on the Web nears end](#)

[U.S. Senate moves to close the Internet sales tax loophole](#)

[Retail e-commerce set to keep a strong pace through 2017](#)

[M-commerce up 31% in first quarter](#)

[Amazon grows, and spends](#)

[Senate approves overhaul](#)

[SB 397](#) by Sen. Slade Blackwell (pictured), R-Mountain Brook, would have eliminated the more than 140 existing state and county business licenses currently required and replaced all of those licenses with one flat business license fee of \$150 on each corporation and pass-through entity operating in Alabama with an additional \$50 fee for each location a business has in the state. It would have created an online system where all businesses could apply for, purchase and renew all applicable state and local business licenses in one place.



Under the bill, the business license fee for a sole proprietorship would have been a flat \$20, regardless of the number of locations it has in Alabama. It would have eliminated all existing county business licenses authorized by a local act, except for Jefferson County, but would allow each county to impose a flat \$50 business license for every location a business has within that county. The bill also would have created a mechanism for eventually streamlining city business licenses.

Rep. Terri Collins, R-Decatur, is the author of the House companion, [HB 677](#).

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## MEDICAID

### Senate and House OK Medicaid Reform

The Alabama Senate and House each passed Medicaid reform this week. The Senate voted 27-3 Thursday night for [SB 340](#) by Sen. Greg Reed, R-Jasper; while the House voted 78-20-1 Tuesday for the House companion, [HB 454](#) by Rep. Jim McClendon, R-Springville.

The legislation alters Alabama Medicaid's structure and delivery by eliminating the current "fee-for-service" model for paying providers. Instead, regional care organizations would receive per-participant, or capitated, payments to oversee the healthcare for about half of the state's Medicaid recipients. The legislation authorizes the Alabama Medicaid Agency to divide the state into regions, each capable of supporting at least two risk-bearing regional care organizations.

The bills were amended to require reports on adding long-term care and dentist services to the regional care networks by Oct. 1, 2015; and adding a dentist and a federal healthcare center physician to the board overseeing the regional care organizations.

The two bills now move to the opposite chambers.

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### House Approves Other Medicaid Reforms

The House on Tuesday also approved a package of bills by Rep. Greg Wren, R-Montgomery, aimed at further reforming Medicaid:

- [HB 370](#) (vote of 71-28) would put a cap on how many General Fund dollars go toward Medicaid each year. The initial 10-year cap, which would begin in the 2017 fiscal year, would be a negative 1 percent growth from the 2016 Medicaid

[of Alabama's Medicaid program](#)

[House of Representatives approves Alabama Medicaid overhaul](#)

[House passes General Fund budget, finds another \\$3 million for prisons](#)

[NRA, sheriffs support revised gun bill](#)

[NRA, sheriffs announce support for compromise on gun legislation](#)

[Budgets, guns, Medicaid reform, homebrew on tap for Alabama lawmakers during final eight days](#)

[Some heavy lifting left in legislative session](#)

[Remove grocery tax, but fairly](#)

[Health exchanges unlikely to end carrier dominance in Alabama](#)

[In split vote, JeffCo commission hires Bolin to be new county attorney](#)

[Fultondale City Council approves sales tax holiday weekend in August](#)

[Bill introduced in U.S. House and Senate to require labeling of GE foods](#)

## ARA CONTACTS

[Rick Brown](#)

President

[Alison Wingate](#)

Vice President

[Nancy Dennis](#)

Dir. of Public Relations

[Brett Johnson](#)

Member Relations Mgr.

appropriation. The cap would be adjusted annually by the percentage growth in the U.S. healthcare inflation rate minus 1 percent. The measure does not forbid spending increases because of enrollment growth, lower provider assessments, unfunded federal mandates or changes to the federal Medicaid matching rate.

- **[HB 371](#)** (83-13-2) would require the Alabama Medicaid Agency to seek a waiver from the Centers for Medicare and Medicaid Services so Alabama can increase the co-payments Medicaid patients pay for health care services beginning Jan. 1, 2014, or sooner if CMS approves the waiver. The Legislative Fiscal Office estimates the co-payment change would save the state about \$700,000 in 2014.
- **[HB 372](#)** (99-0-1) abolishes the Legislature's Medicaid Joint Interim Committee and the Permanent Joint Legislative Committees on Medicaid Policy and creates the Permanent Joint Medicaid Committee. It also would create a Medicaid Advisory Council. The bill was amended to add a pharmacist specializing in long-term care, one appointed by the Alabama Pharmacy Cooperative and a representative of the home health industry.

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## BUDGETS

### General Fund Needs Senate Concurrence; Could Be Headed to Conference

On a vote of 75-27 Tuesday, the House approved a substituted and amended \$1.75 billion general operating budget, **[SB 143](#)** by Sen. Arthur Orr, R-Decatur. The Alabama Senate approved the budget last month. The bill now goes to the Senate for concurrence in the House changes or to a conference committee if the Senate does not concur. Included in the flat \$615.1 million appropriation for the Alabama Medicaid Agency are parameters for prescribing and paying for prescription drugs, including a ban against the agency paying for a generic drug that is more expensive than its brand name drug net of rebates. The budget allows for no more than five brand name drugs per Medicaid patient. The third and subsequent brand drugs provided for a Medicaid patient requires prior authorization by the agency.

Meanwhile, the Senate Finance and Taxation-Education Committee approved a \$5.77 billion education budget Wednesday, making substantial changes from the House version of the education budget.

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## TAXES

### House Amends, OKs Business Privilege Tax Relief for Dormant Entities

On a vote of 97-0 Wednesday, the Alabama House approved an amended version of **[HB 276](#)** by Rep. Jamie Ison, R-Mobile, which forgives business privilege tax obligations for any dormant business, even if the business fails to dissolve or to withdraw its qualification to do business with Alabama's Secretary of State. The House added the

## 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](#)**.

same amendments to the bill that the Senate Finance and Taxation General Fund Committee added earlier this month to the Senate version, [SB 230](#) by Sen. Slade Blackwell, R-Birmingham.

Under those amendments, the bill now:

- requires the Department of Revenue to notify the Secretary of State of businesses that aren't operating and requires the Secretary of State to update its records to reflect a non-operating business.
- creates a three-month amnesty period (Oct. 1 through the end of the year) when dormant businesses could pay two years of unpaid business privilege taxes to avoid penalties. If the taxpayer can document its dissolution, its liability would only be \$150, under the bill.

Under the legislation, a business entity would be considered dormant if it has not owned property, produced income or carried out any business activity or function of any type for two consecutive years prior to the taxable year. Although the House unanimously approved Ison's bill in 2012, it died without being considered by the Senate on the final legislative day.

The House-approved bill will next go to a Senate committee, while the Senate bill is ready for consideration by the full Senate in the final five days of the 2013 regular session.

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## FIREARMS

### Panel OKs 3rd Version of Firearms Bill; House is Next

A House committee Thursday approved a third version of far-ranging firearms legislation by Sen. Scott Beason, R-Gardendale. The latest incarnation of [SB 286](#) maintains the current ban on openly carrying weapons at a public demonstration and the requirement for a concealed carry permit in order to transport a loaded pistol in a vehicle. A concealed permit is not needed as long as the weapon is unloaded and locked in a compartment or container that is out of reach of the driver and passengers. Under this bill, a person can only carry a weapon onto the property of another if the person has a concealed weapons permit or with the consent of the property owner. For the bill to become law, it will need to receive House approval and Senate concurrence in the House changes in the final five days of the 2013 regular session.

Under the bill, employers:

- can forbid employees to carry firearms while working, either on or off the employer's property.
- 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. The bill specifically forbids employers from having policies against employees with a proper hunting license from having unloaded shotguns in their vehicles during hunting season as long as those gun owners haven't been convicted of a violent crime, committed to a psychiatric hospital or been involved in a documented workplace violence incident.



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

BENEFIT FROM THE VALUE

## 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

- can ask an employee if he/she has a firearm in his or her vehicle if the employer believes the employee is at risk of harming himself/herself or others.
- do not have a duty to patrol, inspect, or secure any employee parking facility or any privately owned motor vehicle in the employer's parking facility.

If Beason's bill becomes law, the presence of a firearm or ammunition on an employer's property would not, by itself, constitute the failure by the employer to provide a safe workplace. The latest bill also retains employer/owner immunity. *"An employer and the owner and/or lawful possessor of the property on which the employer is situated shall be absolutely immune from any claim, cause of action or lawsuit that may be brought by any person seeking any form of damages that are alleged to arise, directly or indirectly, as a result of any firearm brought onto the property of the employer, owner or lawful possessor by an employee, including a firearm that is transported in an employee's privately owned motor vehicle,"* the bill states.

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## LEGAL

### Panel Hears Testimony on Bill to Protect State from Innovator Liability Suits

The Senate Banking and Insurance Committee on Wednesday held a public hearing but did not vote on [HB 617](#) by Rep. Jack Williams (pictured), R-Birmingham, which seeks to prevent brand-name manufacturers from being sued by consumers who use a generic version of their product made by a different company. The bill is in response to a January decision by the Alabama Supreme Court that would permit those who take generic drugs to sue the brand name manufacturers.



That "court decision sent shockwaves throughout the business community," Williams said. The fear is that the decision could impact products other than drugs. A lawyer representing Alabama manufacturing interests testified that Alabama would stand alone if the Supreme Court decision holds. A reconsideration request is

pending before the state's highest court. Alabama trial lawyers were the only group to testify against the bill.

The January Supreme Court decision relates to U.S. Food and Drug Administration rules that require warning labels for generic drugs to be the same as the brand name equivalents.

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## WORKERS' COMPENSATION

### Senate Panel OKs House-Passed Bill to More Than Double Workers' Comp Burial Expenses

be notified before Aug. 1.

## HOW TO NOMINATE?

Just complete the [online nomination form](#)

[Learn more](#)

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## 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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## Now, Even More Benefits from ARA



## 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

The Senate Banking and Insurance Committee on Tuesday approved [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. Scott said the average burial cost in Alabama is \$9,000. The bill now goes to the Alabama Senate for final approval.

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## Workers' Comp Reform Bill Stuck in Committee

A 2-2-1 committee vote Wednesday keeps comprehensive workers' compensation reform legislation by Alabama Senate President Pro Tem Del Marsh, R-Anniston, in the Senate Business and Labor Committee. After a motion to carry the bill over failed, a vote to give the bill a favorable report failed to get the needed majority to move the bill to the full Senate.

The committee did conduct a public hearing and adopt a substitute version of [SB 453](#) before failing to reach the consensus needed to move it out of committee. Marsh said the substitute expands the board, incorporates an 18-month implementation period and increases rehabilitation rates. He said some issues involving pain management still had to be resolved.

Labor, insurance and pharmacist representatives spoke out against certain provisions of the legislation during the public hearing.

Chris Phung, a pharmacist with Adams Drugs in Montgomery, objected to a provision in the bill that allows employers to choose the pharmacy where workers' compensation beneficiaries fill prescriptions. Phung and Patrick Devereux, the managing pharmacist with FMS Pharmacy in Bessemer, objected to the reimbursement rates in the bill, which they deemed a reduction from current rates.

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%.

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## UNEMPLOYMENT COMPENSATION

### Jobless Benefit Increase One Step from Final OK



Wednesday, the Senate Business and Labor Committee approved [HB 539](#) by Rep. Pebblin Warren (pictured), D-Tuskegee, which would increase the maximum weekly jobless benefit in Alabama by \$20 by 2014. The bill now goes to the Senate for final approval.

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. 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 increase in the maximum benefit will affect employers who have laid off employees who had been earning \$14.25 or more an hour and

had been working 40 hours a week for more than 13 weeks when they became unemployed, according to the Alabama Labor Department. 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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## WEIGHTS AND MEASURES

### Panel OKs House-Passed Weights Inspectors Bill

Following a public hearing Wednesday, the Senate Agriculture, Conservation and Forestry Committee voted 7-1 in favor of [HB 357](#) by Rep. Paul Lee, R-Dothan, which would allow merchants to use certified inspectors to ensure equipment to weigh and measure is working properly. The bill is now ready for final consideration before the full Senate.

The registered service agents would submit inspection reports to a central database accessible to the Alabama Department of Agriculture and Industries. Like its Senate counterpart, [SB 261](#) by Sen. Billy Beasley, D-Clayton, the bill would govern the inspection process for weights and measures for grocery stores, drug stores, filling stations, pawnshops, farms, coal operations and more. 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. 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. Beasley's bill also is ready for Senate consideration.

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## TOBACCO

### E-Cigarettes Ban for Minors One Step from Final OK

The Senate Judiciary Committee on Wednesday gave unanimous approval to [HB 286](#) by Rep. Mike Jones, R-Andalusia, which would make it illegal for minors to buy, use, possess or transport electronic cigarettes. The bill also requires that parents or guardians be notified if a minor violates the proposed law. The next stop for Jones' legislation is the full Senate, where it could receive final approval.

E-cigarettes are battery-powered gadgets designed to look like real cigarettes, but instead of inhaling tobacco the user breathes in a mist of nicotine that is absorbed in the lungs.

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## PUBLIC BENEFITS

## Senate Approves Bill Limiting Use of EBT Benefits

On a vote of 25-7 Tuesday, the Alabama Senate approved a substitute version of **SB 7** by Sen. Arthur Orr, R-Decatur, which would prohibit public benefits from being used to buy alcoholic beverages, tobacco products or lottery tickets. The substitute stripped stiff retailer penalties that had been in the original bill. The House State Government Committee is the next stop for the legislation.

The bill further prohibits those receiving public benefits from using those benefits in a bar, casino, tattoo facility, for psychic services or adult entertainment. The federal government recently added prohibitions to the use of EBT benefits for strip clubs, casinos and public and private liquor stores and have given states until 2014 to adopt similar rules. The cash benefit program is small compared with the Supplemental Nutrition Assistance Program, or SNAP (formerly known as food stamps), which already prohibits purchases of non-food items.

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## ALCOHOL

### Entertainment District Bill Headed to Senate

The Senate Governmental Affairs Committee on Thursday amended and approved **HB 269** by Rep. Phil Williams, R-Huntsville, which would allow certain cities to designate up to five entertainment districts where patrons can walk from establishment to establishment with open containers. The bill now goes to the full Senate for consideration. If the Senate approves it, it will have to return to the House for concurrence.

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## NEXT LEGISLATIVE DAY

**The Alabama Senate meets at 10 a.m. Tuesday, April 30,  
for the 26th legislative day of the Alabama  
Legislature's 2013 regular session.  
The House meets at 1 p.m.**

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