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May 3, 2013

Budgets and More Await Final Three Days

E-Fairness Legislation Expected to Clear U.S. Senate on Monday

Next week holds the promise of big votes in Congress and the Alabama Legislature.

The U.S. Senate is set to approve the Marketplace Fairness Act, which will level the playing field for all retailers in regards to sales tax collection, while the Alabama Legislature should vote on the state's \$5.77 billion education budget and \$1.75 billion General Fund budget to fund all other government functions.



Three meeting days remain in the Alabama Legislature's 2013 regular session. Legislative leaders have said they plan to meet Tuesday and Thursday next week and take a week break before the final legislative day. Monday, May 20, is the last possible day the Legislature can meet by law.

The Senate had planned to take up the education budget this week, but negotiations broke down on how much of a raise to give teachers. The school spending plan ([HB166](#)) will more than likely end up in a conference committee. The General Fund ([SB143](#)) went to a conference committee Thursday.

Lawmakers scrambled this week to get to legislation that had not yet moved from its original chamber. Even though lawmakers worked long hours, they spent much of that time arguing about what to debate. Consequently, many bills, both good and bad, died this week including those calling for business license reform, cigarette taxes, adding energy-efficient appliances and band instruments to the annual sales tax holiday and removing the sales tax from food.

FIREARMS

Far-Reaching Firearms Bill Headed Back to Senate

On a 74-27 vote Thursday, the Alabama House of Representatives approved the latest version of the far-ranging firearms legislation,

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Previous Issues

BILLS

House

[SB286](#), by Sen. Scott Beason, R-Gardendale. The negotiated legislation, supported by the National Rifle Association and agreed to by law enforcement, strengthens Alabama's status as an "open carry" state and makes changes to the law related to the issuance of pistol permits. The bill differs substantially from what the Senate approved April 4, so with only three legislative days remaining in the 2013 regular session, it must return to the Senate. If the Senate rejects the changes, the bill could end up in a conference committee.

"It's a right to carry your gun. It's a privilege to conceal it," Rep. Ed Henry, R-Hartselle, who handled the bill in the House, told lawmakers in explaining the legislation.

Under the bill, Alabamians can openly carry a holstered gun without automatically being subject to a charge of disorderly conduct. Additionally, a concealed permit is not needed to transport a pistol in a car as long as the weapon is unloaded and locked in a compartment or container that is out of reach of the driver and passengers; but a permit is needed to carry a concealed loaded gun. Another change from current law would allow a person to carry a weapon onto the property of another if that person has a concealed weapons permit or the property owner gave his/her consent.

The bill also places some requirements and restrictions on employers. Specifically, 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.
- 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.
- or property owners can use force to defend himself/herself, an employee or others when the business is closed and the intruder is committing a crime involving physical force.

The House-approved version of the bill does include some protections for employers, including immunity from civil liability. Specifically, an employer, the owner and/or landlord *"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.

Also under the bill, 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.

Several other firearm-related pieces of legislation, some containing

- [HB 12](#)
- [HB 150](#)
- [HB 166](#)
- [HB 176](#)
- [HB 237](#)
- [HB 276](#)
- [HB 340](#)
- [HB 357](#)
- [HB 358](#)
- [HB 376](#)
- [HB 454](#)
- [HB 531](#)
- [HB 593](#)
- [HB 671](#)

Senate

- [SB 7](#)
- [SB 24](#)
- [SB 115](#)
- [SB 143](#)
- [SB 165](#)
- [SB 182](#)
- [SB 230](#)
- [SB 261](#)
- [SB 286](#)
- [SB 311](#)
- [SB 340](#)
- [SB 342](#)
- [SB 472](#)

Federal

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

IN THE NEWS

[\\$1.75 billion General Fund budget bill headed to conference committee](#)

[Alabama Senate delays school budget until next week](#)

[Senate expected to consider education budget on Tuesday](#)

[House of Representatives approves gun bill](#)

[House passes gun overhaul](#)

[Alabama Senate tells feds to back off on gun control](#)

provisions similar to Beason's bill, died because not enough time remains in the session to address them, including:

- [SB24](#) by Sen. Roger Bedford, D-Russellville, and [HB12](#) by House Minority Leader Craig Ford, D-Gadsden, which would have forbidden retailers and other businesses from having policies that prevent employees or customers from keeping licensed firearms locked out of sight in their vehicles in the businesses' parking lots or facilities. The House bill died in the Commerce and Small Business Committee. The Senate bill died in the Business and Labor Committee.
- [HB376](#) by Rep. Wes Long, R-Guntersville, and [SB165](#) by Sen. Bryan Taylor, R-Prattville, would have allowed 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. The House bill died in the House Judiciary Committee, while the Senate bill received committee approval but never made it to the Senate floor.

MEDICAID

Final Step: House to Debate Medicaid Reform Tuesday

The first item on the Alabama House's Tuesday calendar is expected to be [SB340](#) by Sen. Greg Reed, R-Jasper, which alters Alabama Medicaid's structure and delivery. Under the legislation, which the House Health Committee approved Tuesday, the Alabama Medicaid Agency would divide the state into regions capable of supporting at least two risk-bearing regional care organizations, or RCOs. The agency then would contract with the resulting RCOs to deliver health care to Medicaid recipients under a per-person model, rather than the current fee-for-service model. Medicaid recipients in nursing homes and dentists who deliver Medicaid services initially would not be included.

House consideration of the Senate bill is the final step needed for the legislation to become law. The House already approved the companion legislation, [HB454](#) by Rep. Jim McClendon, R-Springville, on a vote of 78-20-1.

PUBLIC BENEFITS

Bill Limiting Use of EBT Benefits 1 Vote From Final OK

The House State Government Committee on Wednesday approved [SB7](#) by Sen. Arthur Orr, R-Decatur, which would penalize welfare recipients who use public benefits to buy alcoholic beverages, tobacco products or lottery tickets. The bill now goes to the House for final approval. The bill adopted April 23 in the Senate stripped stiff retailer penalties that had been in the original bill. The legislation further punishes those receiving public benefits if they use the cash benefits in a bar, casino, tattoo facility, for psychic services or adult entertainment. The federal government recently added prohibitions to the use of Electronic Benefit Transfer benefits for public and private liquor stores, casinos and strip clubs and gave states until 2014 to adopt similar rules. The cash welfare benefit program is small compared with the Supplemental Nutrition Assistance Program, or SNAP (formerly known as food stamps), which already prohibits

[House approves gun rights amendment](#)

[Medicaid bill moves closer to passage](#)

[House committee approves Medicaid overhaul](#)

[Medicaid access increases use of care, study finds](#)

[Time to manage Medicaid care](#)

[Second thoughts on Medicaid from Oregon's unique experiment](#)

[Committee approves welfare bills to drug test some recipients, prohibit purchases of alcohol, tattoos and tobacco](#)

[Anniston Sunday alcohol sales bill now law, council could vote by June](#)

[Senate passes Weaver Sunday alcohol sales bill](#)

[Dothan alcohol bill lingers in Legislature](#)

[Wine tasting room bill clears committee; sponsor says passage unlikely this year](#)

[Alabama Legislature cracks down on painkiller abuse](#)

['Doctor shopping' prevention bills pass legislature](#)

[Mike Bolin, in his own words, on why he decided to withdraw as Jeffco's top lawyer \(updated\)](#)

[Newly appointed Jefferson Co. attorney backs out of job](#)

[Fairness on sales taxes](#)

[FDA: Morning-after pill OK for ages 15 and older, to be sold over the counter](#)

purchases of non-food items. Both SNAP and Temporary Assistance for Needy Families benefits are loaded on a single EBT card, which works much like a debit card.

WEIGHTS AND MEASURES

Senate Sends Weights Inspectors Bill to Governor



On a 27-1-3 vote Thursday, the Alabama Senate gave its final OK to [HB357](#) 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 now awaits the governor's signature to become law.

Registered service agents would submit inspection reports from weights and measures devices at such businesses as grocery stores, drug stores, filling stations, pawnshops, farms and coal operations to a central database accessible to the Alabama Department of Agriculture and Industries. 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.

Sen. Billy Beasley, D-Clayton, authored the Senate companion, [SB261](#).

ALCOHOL

Governor Signs Anniston Sunday Sales; Senate OKs Weaver Sunday Sales

Gov. Robert Bentley signed legislation into law Tuesday that gives the Anniston City Council authority to approve Sunday alcohol sales in Anniston. [Act No. 2013-166 \(SB182\)](#) by Sen. Del Marsh, R-Anniston, will allow the sale of alcohol "each day of the week" at retail establishments or restaurants if the Anniston council approves. Anniston Mayor Vaughn Stewart, who requested the legislation, said the council will vote on Sunday sales in the next two months.

Rep. Barbara Boyd, D-Anniston, authored the House companion, [HB358](#).

Meanwhile Thursday on a vote of 20-1, the Alabama Senate approved [SB311](#), also by Marsh, which would allow the Weaver City Council to decide if it wanted to permit seven-day alcohol sales within the Weaver city limits. The bill now goes to the House Local Legislation Committee for consideration.

Off-Premise Sunday Sales Bill for Dothan Ready for Final Consideration by the Senate

Legislation that could pave the way for off-premise Sunday alcohol sales in Dothan is in line for final consideration by the Alabama

[Trussville approves August sales tax holiday](#)

[Voter registration bill passes House](#)

[Food tax repeal unlikely](#)

[Supreme Court rejects Alabama immigration law appeal](#)

[U.S. Supreme Court rejects Alabama request to consider key part of immigration law](#)

[Immigration law sponsors say issue isn't going away; Opponents say it's time for Alabama to 'move on'](#)

[Supreme Court decision on Alabama immigration law not surprising](#)

[Supreme Court won't revive Alabama immigration law](#)

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Alabama State House

11 South Union Street

Senate. Dothan already has on-premise Sunday sales. A local legislation committee approved [HB593](#) by Rep. Dexter Grimsley, D-Newville, on Tuesday and the bill was placed on the Senate's regular order calendar Thursday. The House approved the bill April 18 on a 31-4 vote.

The bill would allow a citywide referendum on the issue in August, its next general election. If voters approve the referendum, alcohol could be sold for off-premise consumption on Sundays between 1 p.m. and midnight.

Jefferson County Defines the Wine Supplier/Wholesaler Relationship

Thursday, the Alabama House voted 43-0 for the Jefferson County Wine Franchise Jobs Protection Act, [HB671](#) by Rep. Rod Scott, D-Fairfield. On Wednesday, the Jefferson County delegation also approved the Senate companion, [SB472](#) by Sen. Linda Coleman, D-Birmingham. The bills outline the parameters for the wine supplier/wholesaler relationship in that county. It specifically requires suppliers to designate in writing exclusive sales territories for wine wholesalers within Jefferson County. It also forbids wholesalers from delivering wine to a retail business outside the designated sales territory. Under the bill, suppliers would be forbidden to offer the same brand or brands of wine in the same territory to more than one wholesaler or to sell directly to any retailer in the state. It also forbids suppliers from requiring a wholesaler to purchase one or more brands of wine or other products in order for the wholesaler to purchase another brand of wine.

Panel OKs Wine Tasting and Special Events Licenses

Despite the likelihood [HB176](#) by Rep. Becky Nordgren, R-Gadsden, won't go any further, the House Economic Development and Tourism Committee on Wednesday approved the legislation to create separate \$150 wine manufacturer's licenses for tasting rooms and special events. The bill sought to allow the state's wineries to sell their products somewhere other than at the winery. The Alcoholic Beverage Control Board opposes the bill because it would allow wineries to operate both as manufacturers and retailers. The sponsor said she'll be back in the 2014 session with a similar bill.

Under the bill, wine manufacturers or associations would have been allowed up to four off-premise testing rooms and no more than 10 off-premise special events annually with a new license required for each event. The special events could last no more than three days.

PHARMACY

Governor to Decide if Pharmacists Can Destroy Outdated or Unused Drugs

On a vote of 25-3 Thursday, the Alabama Senate gave final approval to [HB237](#) 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. If the governor signs this bill into law, beginning Aug. 1, pharmacists would be able to

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.



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

accept unused drugs for the purposes of destruction only. Beech is a retired pharmacist. The Alabama House unanimously approved the bill Wednesday, April 10.

Senate Gives Final OK to Drug Database Reform with Pharmacist Protection

Thursday, the Alabama Senate gave final approval to [HB150](#), the Controlled Substances Prescription Database reform bill by Rep. Jim McClendon, R-Springville, sending it to the governor for his signature. The bill is part of a three-bill package to further regulate the sale and use of controlled substances as prescription drugs. The remainder of the bills in the package also received final approval. **At the request of the Alabama Retail Association, the legislation protects 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 payment and the third-party payer identification to the information included in the database.

Sen. Cam Ward, R-Alabaster, authored the Senate companion, [SB115](#).

TAXES

Senate to Get Final Say on Business Privilege Tax Relief for Dormant Entities

The Senate Finance and Taxation General Fund Committee on Thursday approved [HB276](#) 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 bill now goes to the full Senate for final approval. Similar legislation died on the final legislative day in the Senate last year.

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. It also requires the Revenue Department 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 and it 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.

Sen. Slade Blackwell, R-Birmingham, authored the Senate companion, [SB230](#).

LEGAL

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 be notified before Aug. 1.

HOW TO NOMINATE?

Just complete the [online nomination form](#)

[Learn more](#)

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](#)

LLC Reform Heads to House for Final OK

The House Judiciary Committee this week approved the Alabama Limited Liability Company Law of 2014, [SB342](#) by Sen. Rodger M. Smitherman, D-Birmingham, which if enacted would replace the current limited liability company law on Jan. 1, 2014. The bill is now in line for final consideration by the full House.

The bill focuses on the contractual nature of LLCs and has few mandatory features. The bill, however, does say the implied contractual covenant of good faith and fair dealing cannot be modified. The bill also acknowledges that LLCs can be used for purposes other than operation of a business.

[>> Summary of the LLC Law of 2014](#)

Rep. Paul DeMarco, R-Homewood, authored the House companion, [HB531](#).

Bolin to Stay on Supreme Court



Alabama Supreme Court Justice Mike Bolin decided this week to finish out his term on the Alabama Supreme Court rather than take the Jefferson County attorney job he was offered last week.

Bolin has strong ties to Jefferson County government, having served as Jefferson County's probate judge before being elected to the Supreme Court in 2004. His term on the Alabama Supreme Court expires in 2016.

NEXT LEGISLATIVE DAY

The Alabama Senate meets at noon Tuesday, May 7, for the 28th legislative day of the Alabama Legislature's 2013 regular session. The House meets at 1 p.m.

FEDERAL

Critical Vote Monday on E-Fairness; Remind Delegation to Support Marketplace Fairness

After 21 years of waiting for Congress to act, the U.S. Senate on Monday evening is expected to approve [S. 743](#), the Marketplace Fairness Act, after voting on amendments from the sponsors. The simple, 11-page bipartisan bill has the support of the majority of senators, including Alabama's Sens. Richard Shelby and Jeff Sessions.

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 !](#)

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 program, but haven't taken advantage of the many other Alabama Retail benefits. Among those are:

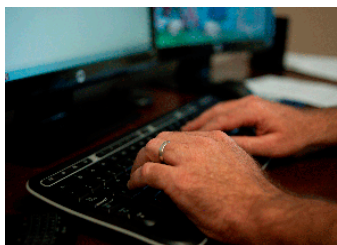
Cost-Saving Credit Card Processing:

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

The expected victory in the Senate should go a long way in convincing U.S. House members to vote for the legislation.



Your e-mails, letters and calls to Alabama's congressional delegation have solidified Alabama retailers' support for this legislation to level the playing field for all retailers when it comes to sales tax collection. Keep the conversation with your elected officials going. To find out who your representative is and how to contact them, go to alabamaretail.org/findyourlawmaker

Building public support is also important. Please consider writing a letter to the editor of your local paper or asking your local television station to air an editorial in favor of Marketplace Fairness. Working together, we can make 2013 the year e-fairness becomes the law of the land.

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%.

FDA Lowers Age Limit for Morning-After Pill

Tuesday, the Food and Drug Administration announced that the emergency contraceptive pill, Plan B One-Step, could be sold over the counter to those 15 and older. Currently, the pill is only available behind-the-counter for those 17 and older. The FDA ruling applies only to Plan B One-Step, and not to generic versions of the pill, which will remain behind pharmacy counters with the age-17 restriction.

Plan B will be packaged with a product code that prompts the cashier to verify a customer's age. Cashiers should not sell the drug to anyone who cannot provide such proof as a driver's license, birth certificate or passport. In most states, including Alabama, the most common form of identification, a driver's license, isn't issued until age 16. A learner's permit, which is issued at age 15, will be acceptable.

The FDA decision is independent of the April 5 court decision by New York U.S. District Judge Edward Korman, which ordered an end to all age restrictions for Plan B and its generic versions by Monday, May 6. The Department of Justice has filed a motion to overturn Korman's order in the U.S. 2nd Circuit Court of Appeals.

New I-9 Forms Necessary by May 8

Employers should already be using a [revised I-9 form](#) released in March and must be using the form for every new hire by Wednesday, May 8, or be subject to fines. The revised I-9 does not need to be completed for existing employees who already have an I-9 on file.

Besides using the link above, you can obtain forms by calling **1-800-870-3676**.

As with the previous I-9, the employee must complete and sign Part I of the I-9 on the first day of employment; the employer must complete Part 2 within three business days of the employee's first paid work day; and the forms must be retained three years from the date of hire or one year from the date of termination, whichever is longer.

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

go to www.alabamaretail.org