

BENEFIT FROM THE VALUE.

**THIS ISSUE
INSIDE**



— Retailers survived one of the most anti-business regular sessions on record. Read about what ARA did, what our opponents didn't do and what's left to do.



— After three years of effort, Alabama small business and their employees can finally deduct 150 percent of what they pay for health insurance from their state income taxes.



— Alabama cities and counties have until June 30th to join the state's third annual sales tax holiday.



— Driver License Specialist Regina Hardy won Examiner of the Year honors for a second time.



— ARA is seeking nominations for Retailer of the Year, Centennial Retailer and Centennial Insurance

Agency. ARA and the University of Alabama at Birmingham will honor the winners Sept. 23 during Retail Day in Birmingham.



ARA court candidates avoid June 3 opposition



Judge Greg Shaw



Judge Bill Thompson

but they are gearing up for November. Judicial candidates endorsed by the **Alabama Retail Association's** political action committee in the June primary drew no primary opposition.

continued on page 2

Business emerges unscathed from brutal '08 regular session

The Alabama Legislature wrapped up its 2008 regular session May 19, then went immediately into a special session.

Not one piece of anti-business legislation received final approval during the regular session, a testament to the tenacity of your ARA lobbyists and those of other business interests in our state.

Thanks to all the retailers and other business

operators **who contacted their lawmakers during the regular session** to stop more than \$1 billion in new business taxes, an all-out, six-bill assault on workers' compensation, extra labeling requirements on fish and seafood, and placing the bulk of liability for computer data security breaches on retailers.

A better accounting of how legislation relevant to retailers fared during the 2008 regular session can be found on Pages 8 and 9 of this issue of **Alabama Retail Quarterly**.

SPECIAL SESSION SUMMARY:
Pages 2 and 3



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FROM THE PRESIDENT
RICK BROWN



The Alabama Legislature kept ARA staffers busy during the 2008 regular session plus a one-week special session. Tight budgets made these extremely stressful legislative sessions.

The good news is that once the dust cleared after the special session, retailers and business received a tax incentive that could benefit more than 90 percent of ARA members.

If you are a retailer or business with fewer than 25 employees and you offer group health insurance to your employees, your business qualifies for this tax incentive. Your workers also will benefit if they earn \$50,000 or less annually or have an adjusted gross income of \$75,000 or less. Starting in

2009, your business and your employees can deduct 150 PERCENT of the premiums paid for group health insurance from state income taxes.

This deduction makes employer-sponsored health insurance more affordable and enables more hard-working Alabamians to take advantage of employer-sponsored health insurance, which ultimately should reduce the number of uninsured in our state.

ARA hopes all who can will take advantage of this legislation. You can read more about ARA's legislative accomplishments on Pages 3, 8 and 9 of this issue of *Alabama Retail Quarterly*.

Rick Brown:
rbrown@alabamaretail.org

... ARA court candidates

continued from page 1

In the lone Alabama Supreme Court race on the 2008 ballot, **RetailPAC** has endorsed Alabama Criminal Appeals Court Judge Greg Shaw, who is seeking election to the seat currently held by retiring Justice Harold See.

RetailPAC also has endorsed Alabama Court of Civil Appeals Judge Bill Thompson, who is seeking his third term in that office. Thompson is the only member of the Civil Appeals Court up for re-election in 2008.

Right before qualifying ended in April, Alabama Court of Criminal Appeals Judges H.W. "Bucky" McMillan and Pam Baschab announced their retirements. Their seats are the only posts on the five-member Court of Criminal Appeals up for election this year.

State appeals court lawyer Beth Kellum of Montgomery and former Montgomery County District Judge Lucy McLemore will face each other July 15 to determine

who will face Place 1 Democratic nominee Jefferson County Circuit Judge Clyde Jones in November. In Place 2, Deputy Attorney General Mary Windom will face Montgomery lawyer Aimee Cobb Smith in the General Election. ARA was not involved in the Criminal Appeals Court primary races, but may make endorsements in the General Election.

As we draw nearer to the November elections, ARA will communicate with you about the statewide judicial races. In the meantime, encourage your employees to register to vote and vote in the July 15 primary runoff for the candidates of their choice.

Statewide, voters this year will choose representatives in all seven congressional districts, a U.S. senator, the PSC president and four state board of education members in addition to the appellate court positions mentioned here.

Alabama Loses Premiere Retailing Expert

Morris Lehman Mayer, who served on the Alabama Retail Association board of directors for more than 20 years, died Feb. 15. He was 82.

After leaving his active role as an ARA board member, Mayer continued to serve until his death as director emeritus.

He was the former head of the **University of Alabama's** department of marketing. After 32 years of service to the University of Alabama, Mayer was granted emeritus status in



Morris L. Mayer

1992, serving as Bruno Professor Emeritus of Marketing from 1992 until his retirement. Awards at the University of Alabama and from the Alabama chapter of the American Marketing Association are named for Mayer. With co-authors, he published six editions of one retailing text and five of another.

J. Barry Mason, dean of the Culverhouse College of Commerce and Business Administration, called Mayer, "one of the most prominent retailing experts in the country."

Born to a prominent Jewish family in Demopolis, Mayer served in the Army from 1944-46. After the war, Mayer attended the university, graduating with a bachelor's of science degree in business administration in 1949.

Mayer earned his master's

Make memorial contributions to:

- Temple Emanuel Building Fund
P.O. Box 3066, Tuscaloosa, 35403
- The Morris L. Mayer Award
Office of Advancement
P.O. Box 870101
The University of Alabama
Tuscaloosa 35487-0223

of science degree in retailing from New York University in 1950. Mayer returned to the Army for a couple more years before working as a buyer for Goldblatt Brothers Department Store in Chicago. In 1955, Mayer left to gain a doctor of philosophy degree in business organization from Ohio State University.

He began his career at the University of Alabama in 1960 as an associate professor in marketing.

He is survived by his wife, Judith, daughters, Susan M. Bruchis and Betsy Mayer, and two grandchildren.

2008 ELECTION CALENDAR

Make certain these dates are on your calendar and that you are communicating with your employees and customers about the 2008 election year!

For more, see "Election Information" in the "Political Affairs" section of www.alabamaretail.org.

June 3: Primary Election

July 3: Voter registration deadline for Primary Runoff

July 10: Primary Runoff absentee ballot applications due

July 14: Primary Runoff absentee ballots due

July 15: Primary Runoff

Oct. 24: Voter registration deadline for General Election

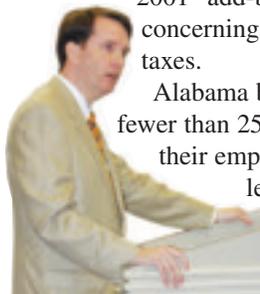
Oct. 30: General Election absentee ballot applications due

Polls open 7 a.m. - 7 p.m.

Small retailers win 150 percent deduction for group health insurance

Read more about the Special Session at [May 08 Special Session Summary](#) under [Capitol Retail Report Archives](#) in the [Political Affairs](#) section of www.alabamaretail.org

Alabama retailers and other businesses with fewer than 25 employees walked away from the May 27-31 special session with a substantial and immediate tax incentive for group health insurance. In the special session called just a week after the regular session ended, the Alabama Legislature also rewrote the 2001 "add-back" statute concerning corporate income taxes.



Alabama businesses with fewer than 25 employees and their employees who earn less than \$50,000 will receive a 150 percent deduction

Rep. Jay Love

next year for the health insurance premiums they pay. Rep. Jay Love, R-Montgomery, first proposed this legislation three years ago to make health care more affordable. **This legislation was part of the ARA's 2008 Legislative Agenda.** The legislation also was a part of Gov. Bob Riley's second term agenda, known as Plan 2010.

The approval of the small business healthcare tax incentive was tied to the approval of the rewrite of Alabama's 2001 "add-back" statute, which legislative fiscal experts estimate will generate \$74 million to cover the revenue lost from the health insurance deduction and provide a greater revenue source for the state's \$6.3 billion education budget.

Time to prepare for 3rd annual sales tax holiday

By Nancy King Dennis, *Alabama Retail Quarterly* Editor

For a concise listing of the tax-exempt items, a retailer primer on the holiday, the list of cities and counties that have joined the holiday and an Alabama Revenue Department presentation on how businesses should implement the holiday, go to "Sales Tax Holiday" in the "News" section of www.alabamaretail.org

Beginning at **12:01 a.m. Friday, Aug. 1**, and ending at **midnight Sunday, Aug. 3**, Alabama will hold its third annual sales tax holiday, exempting certain school supplies, computers, clothing and books of certain values from the state's sales or use tax. The sales tax holiday has proven to be extremely popular in Alabama with sales tax collections in the month of August jumping 10.4 percent in the first year and another 4.6 percent in 2007 compared with the first year.

During the three-day period, the state's four percent sales tax is waived on:

- **Clothing** priced at \$100 or less;
- **School supplies** priced at \$50 or less;
- **Books** valued at \$30 or less; textbooks valued at \$50 or less;
- And **computers and computer equipment** with a selling price of \$750 or less.

Retailers must participate and cannot charge tax on items that are legally tax-exempt during the sales tax holiday.

If cities and counties act at least 30 days prior to the sales tax holiday, they

also can join the holiday under the same conditions provided for in the state sales tax holiday. The tax savings for consumers in certain areas could grow to as much as 10 percent of their purchases if their local governments also participate. More than 50 cities and counties opted to participate each previous sales tax holiday.

However, the vast majority (184) of the 233 counties and municipalities that participated in the 2007 sales tax holiday adopted resolutions or ordinances for that year only. For these counties and municipalities to participate in the 2008 sales tax holiday, another resolution or ordinance must be adopted at least 30 days prior to the sales tax holiday and a certified copy of that resolution or ordinance must be submitted to the Alabama Department of Revenue **before Monday, June 30**.

To determine if the local government where your business is located will be participating in the state sales tax holiday, go to:

<http://www.revenue.alabama.gov/salestax/STholiday.htm>

Keep checking as the list will be updated as cities and counties meet the June 30th deadline. Remind your local government to get their ordinance or resolution passed on time so your



customers get the full benefit of the holiday.

Sales tax holidays, which began to materialize about a decade ago, seek to provide relief to taxpayers by instituting a temporary sales tax exemption on certain items for a specific period of time. In 2007, the District of Columbia and 15 states, including Alabama offered sales tax holidays. More states were expected to add holidays this year to help encourage consumers to spend their federal tax rebates. **See story on page 14.**

Sales tax holidays help boost tax revenues because consumers are drawn into stores to buy tax-exempt items but often buy additional taxable items while shopping. In fact, as stated earlier, Alabama sales tax collections for August have increased for the past two years despite the three-day holiday from taxes on popular merchandise.

ARA expands toner/cartridge offerings available at a discount on the ARA Web site

Order your discounted toner now by clicking on "Discounted Office Supplies and Business Products" on the home page of www.alabamaretail.org

The **Alabama Retail Association** and our partners, Data Supplies Inc. and the Association Benefit Group, have expanded the toner offerings at our online office supply portal.

There now are more than 600 toners and almost 300 inkjet cartridges available at discount prices.

By purchasing these toners as well as other office supplies through the ARA Web site, you and other ARA members could see **up to a 35 percent discount on toner**, as much as **50 percent on labels** and **up to 15 percent on other supplies!**

There now are more than 600 toners and almost 300 inkjet cartridges available at discount prices.

But to enjoy this **Benefit from the Value** of ARA membership, you must first be a registered user of ARA's Web site and logged in.

When you register, you also will need your member number, which you can find to right of your name on any recent ARA correspondence, including this newsletter. (*For some members, that*

"number" is actually six letters, rather than numerals) This number must be included in your member profile to take advantage of the discounted office supplies.

MORE **BENEFIT FROM THE VALUE** OF MEMBERSHIP



expands online training and compliance programs

Benefit from the Value and train online today! Click on "Online Training" on the home page of www.alabamaretail.org

The **Alabama Retail Association** and its partner LearnSomething have expanded the online training options now available at www.alabamaretail.org

You or your employees can learn business skills, computer skills, food safety, loss prevention, fraud, waste and abuse prevention, retail compliance and retail management or take OSHA or pharmacy courses sitting at your computer. With prices starting at \$9.95, you can't beat the **Benefit** you'll get **From the VALUE** of these courses.

The more you know, the more successful you can make your business.

LearnSomething offers compliance solutions for retail, food, drug and healthcare companies.

The course offerings brought to you by LearnSomething and ARA include:



LOSS PREVENTION

Detecting and preventing internal and external theft continues to be one of the greatest challenges facing retailers.

Courses include:

Preventing Shoplifting, Detecting Charge Card Fraud, Detecting Counterfeit Currency, Handling Fraudulent Checks and Preventing Employee Theft.



PREVENTING FRAUD, WASTE AND ABUSE

The Centers for Medicare and Medicaid Services (CMS), a federal agency that administers Medicare and Medicaid, now requires that pharmacy and healthcare workforce members engaged in delivering any Medicare services receive general and specialized training to prevent fraud, waste and abuse. Pharmacists are required to take fraud, waste and abuse prevention training annually and may be eligible for continuing education credit.

QUICK REFERENCE TO RETAIL BEST PRACTICES IN FOOD SAFETY AND SANITATION

This one-hour course with its quick and easy-to-understand format sets the standard for online food safety training for food handlers. Topics covered include personal hygiene, time and temperature control, preventing cross contamination and cleaning and sanitizing practices. This course is an excellent way to introduce new employees to food safety fundamentals or provide a refresher for seasoned employees. It is also available in Spanish.

RETAIL BEST PRACTICES AND GUIDE TO FOOD SAFETY AND SANITATION

Beginning Jan. 10, 2010, all food establishments in Alabama must have a food protection manager certified through an accredited program. This 16-hour SuperSafeMark® course prepares you to take an accredited CPFM exam.



Members benefit from **FREE** immigration/wage and hour issue workshop

Got an employment law question? Call (205) 323-9260 during business hours. Identify yourself as an ARA member calling the **Employment Law Hotline**

About 50 ARA members received up-to-date information on wage and hour as well as immigration compliance during a free **Wage and Hour /Immigration Update on May 15** at the Innovation Depot in Birmingham.

Both subjects were reviewed by employment lawyers Richard I. Lehr and Michael L. Thompson of the labor and employment firm of Lehr Middlebrooks & Vreeland, P.C. Lyndel Erwin also joined the wage and hour dis-

cussion. Erwin previously was area director for the U.S. Department of Labor, where he worked for 36 years.

Thompson warned employers that Immigration and Custom Enforcement "can go after you even if you only facilitate employment" of illegal workers. For instance, knowing a subcontractor's employees are not authorized to work in the United States puts you in violation. He also pointed out that the penalties for immigration violations have

doubled over the past two years.

Other topics covered included exempt status of managers and assistant managers, docking employee pay as well as meal, break times.

Michael Thompson



ARA Honors Driver License Examiner of the Year

Learn more at **Identity Theft Facts under Examiner of the Year in the Awards and Events** section of www.alabamaretail.org

Last August, a man identifying himself as Rashad Abdul Hamid applied for an Alabama identification card at the Montgomery Driver License Office. Examiner Dorothy Poore recognized the documents he presented as fraudulent. A subsequent fingerprint check revealed that Rashad Abdul Hamid actually was Derrick Lloyd, a convicted felon from New York. The Albany Police Department wanted him for a parole violation on felony robbery charges, and the New York City Police Department wanted him for murder. Because of an alert driver license examiner, he also was charged with resisting arrest and three counts of possession of forged instruments.

Lloyd's arrest was one of the 4,089 arrests made by the Alabama Department of Public Safety's Driver License Division in 2007.

"A license is not simply a permit to drive," said Col. J. Christopher Murphy, the department's director. "It provides a means to establish an identity with retailers, credit agencies, the banking community, employers, and others."

For that reason, the **Alabama Retail Association** each year partners with the Alabama Department of Public Safety to curtail driver license fraud and present the "Examiner of the Year Award."

Regina Hardy, a driver license specialist with the Birmingham District, Birmingham Driver License Office,



WANT TO GET INVOLVED?
 Would your company like to provide a gift certificate or gift card for the 2009 Examiner of the Year winner, runners up or Examiners of the Quarter?
 Please contact **Nancy Dennis** at ndennis@alabamaretail.org; or **1-800-239-5423, Ext. 101**

received the award March 26 during a luncheon ceremony attended by all the division chiefs and regional commanders in the Driver License Division. Hardy also received a \$100 gift card from **Home Depot**, one of the many ARA member companies that appreciate



the work of Alabama's driver license examiners.

Throughout 2007, Hardy was responsible for 107 arrests for a total of 16 felony and 91 misdemeanor charges.

In determining the award recipient, a point system is used, with five points allocated for each misdemeanor arrest and 10 points for each felony arrest. In 2007, Hardy accumulated 501 points. This is the second time she has been named the Examiner of the Year. She also won the 2005 award. ARA also recognized Hardy earlier this year as the Examiner of the Quarter for the second quarter of 2007.

The 2006 Examiner of the Year, Driver License Examiner I **Reba Thompson** of Arab finished second in 2007 with 439 points. She works out of the



Decatur District, Guntersville Driver License Office. She also was recognized Examiner of the Quarter for the third quarter of 2007. The third-place finisher was Driver License Specialist **Holley Cook** from the Dothan District, Dothan Driver License Office.

She accumulated 416 points last year and was also recognized as the Examiner of the Quarter for the first quarter of 2007.

The Fourth Quarter Winner for 2007 was Driver License Specialist Carolyn Spain from the Birmingham District, Birmingham Driver License Office.

"Alabama retailers are proud that through this award program and our partnership with the Department of Public Safety, the Driver License Division has seen an increase in its arrest record by almost 325 percent since the inception of the Examiner of the Year in 2000," said ARA President Rick Brown.

In 2007, the Driver License Division was responsible for 819 felony, 3,258 misdemeanor and 12 Immigration and Customs Enforcement arrests.



Examiner of the Year Regina Hardy, far left, with Major Hugh McCall, chief of the Driver License Division of the Alabama Department of Public Safety

In times of economic uncertainty, don't panic with employment decisions

By Richard I. Lehr and Matthew W. Stiles

Economic uncertainty leads to volatility. At least that's what every talking head from the CNBC network is babbling about right now. Tell us something we don't already know, right? While insecure economic conditions can play havoc with the stock market — not to mention our retirement accounts and the value of our homes — it also tends to force businesses into hasty cutbacks, write-offs and that word spoken only in hushed tones around the water cooler, “downsizing.” (*Weren't we scrambling just a year ago to meet the challenge of hiring enough employees to handle the work we already had?*)

Businesses tend to use economic uncertainty to off-load their problems while shareholders, taxing authorities, customers and employees have low expectations for business success. If everyone's primed for bad news, now's as good a time as any to dish some out. That's why each passing day brings us another headline about a balance sheet write-down at First National MegaBank or a layoff at Overextended Speculative Finance Company Inc. Sure, increasing supply costs and decreasing demand for goods and services requires an appropriate level of cutbacks. But it doesn't take an economist (*and certainly not a couple of lawyers*) to tell you that businesses, indeed markets as a whole, tend to overreact to both good news and bad news. At the first mention of the “R” word, driven by a need to stay ahead of competitors, businesses hastily jump into cutback mode. Whether we've hit a recessionary bump in the road or not, under these circumstances, employment decisions are something you simply shouldn't rush.

REDUCING STAFF IS NO PANACEA

Layoffs, reductions-in-force and other kinds of position eliminations should be made only where necessary and not without a clear understanding of the costs. Staffing is a huge expense for every employer and for this reason it's usually one of the first to face cutbacks. But staff reduction is not a zero-cost transaction. **Employees who lose**

their jobs can still add costs to a business' bottom line. First, many employers will feel forced to offer a severance package of some kind (*whether that includes a lump sum payment, continued health insurance benefits, or both*). (*More on severance in a minute.*) Second, if your terminated employee isn't able to find work quickly, he/she may end up filing for unemployment. With each new filing against an employer's unemployment insurance account, the Department of Industrial Relations bumps up the employer's experience rating, effectively increasing the cost of the insurance premiums that employer pays the state to administer the unemployment compensation program. One big layoff can affect your experience rating and premiums for years to come.

Remember all that good will you built by being aggressive in recruiting employees, paying them well and making them feel like an integral part of your business? Well, there's nothing like a layoff to damage that good will. This reputational harm can punish a business in the media, among its competitors, and in its standing with its future recruits. And don't lose sight of a layoff's damaging effects on the employees you keep. A retained employee may be grateful for a job, but still insecure about it.

It can get worse. **Your staff reduction could result in lawsuits.** It's true, very few business decisions can be considered anymore without factoring in the risk of a lawsuit. Trial lawyers start to salivate whenever they hear



Richard Lehr



Matthew Stiles

about business reorganizations, reductions-in-force and layoffs. Reducing staff causes some businesses to make highly subjective decisions about whom to keep, whom to let go and why. Trial lawyers are quick to find any misstep that disadvantages a protected group, and when they do, your business will pay for it.

DISPROPORTIONATE HARM TO OLDER WORKERS CREATES LEGAL RISK

When businesses reduce staff, it's usually because they need to cut costs. The most costly staff members tend to be senior, experienced workers. The result is that at least statistically, many staff reductions include more older workers than younger ones. The Age Discrimination in Employment Act, a federal law (*Alabama has a similar state law, too*) prohibiting discrimination on the basis of age against individuals 40 or older, is not a bar to making legitimate, non-age-based employment decisions. But discrimination lawsuits can be filed based on statistics alone. For this reason, **employers should be cautious about any staff reduction selection criteria that tends to have an unusually high incidence of selecting workers age 40 or older.**

Of course, other staff reductions may disproportionately harm the youngest workers, because they are usually the newest employees, they are the least likely to be fully trained, and they have the least at stake in the overall success of the business. Although you wouldn't know it from the name of the statute, the Age Discrimination in Employment Act provides no protection to workers under the age of 40.

MANAGING LEGAL RISK WITH STAFF REDUCTIONS

If there's simply no way to avoid a staff reduction, follow a few simple steps to reduce the likelihood that litigation will result. First, get legal counsel involved on the front end of any decision. There are key waiting periods, time lines and step-by-step criteria

continued on page 15



2008 REGULAR

Anti-Business Forces Held at Bay: *Business Av*

For more details, go to **2008 Regular Session Wrapup** under **Capitol Retail Report Archives** in www.alabamaretail.org **Political Affairs** section

*In 2008, retailers and business in general survived what has been referred to as one of the most anti-business regular sessions on record. However, among the more than 1,500 bills introduced, not a single bill that would harm business received final approval during the entire 30 legislative days stretched between Feb. 5 and May 19. In fact, the **Alabama Retail Association** and other business groups worked together throughout the session to keep at least \$1 billion in new taxes from being imposed on Alabama businesses. When the dust cleared, here's how select bills among the more than 100 that ARA supported, opposed or monitored during the 2008 regular session came out:*

What WE Did:

• **AVERTED \$700 MILLION IN ADDITIONAL UNEMPLOYMENT TAXES**

Legislation to make a federally mandated correction in the 2005 State Unemployment Tax Act (SUTA) was a primary plank in your ARA 2008 Legislative Agenda. Gov. Bob Riley signed the correction into law on May 8, thus avoiding **\$700 MILLION in additional unemployment taxes** for Alabama businesses. Without this revised act, federal unemployment taxes for each employee would have gone from \$56 to \$434 per employee, a \$378 increase for each employee!

• **ADDED ONE-WEEK WAITING PERIOD WITHOUT UNEMPLOYMENT BENEFITS**

On May 19, a one-week break after the 13th week of unemployment benefits became law. The total amount of benefits that can be paid — 26 weeks — doesn't change, but workers will collect those benefits over 27 weeks instead of 26, saving employers a week of benefit expense.



What THEY Didn't Do:

Often more important than passing legislation is killing legislation that would be detrimental to retailers. ARA had a hand in keeping some extremely bad legislation from being enacted.

• **ADD \$300 MILLION MORE IN TAXES; FOR TOTAL OF \$1 BILLION IN TAXES**

Hard economic times made it tempting in the 2008 regular session for the Alabama Legislature to add taxes to balance the budgets. ARA played a part in stopping some of these revenue-raising measures, including:

- a \$100 million change in 2001 add-back statute dealing with corporate income tax deductions;
- approval of unitary combined reporting;
- a \$59 million loss of state applications of depreciation deductions included in the federal economic stimulus package; and
- a \$10 million doubling of the caps on business privilege taxes.

• **DISMANTLE ALABAMA'S WORKERS' COMPENSATION ACT**

Thanks to an outcry from retailers and other business owners throughout the state, six bills that would have rewritten the Alabama's Workers' Compensation Act died without a committee hearing. Collectively, these bills would have erased every bit of economic progress we've accomplished in our state in the past decade. The bills would have removed benefit caps, increased employers' liability, made it easier to sue employers and forced employers to relinquish control of medical costs.



R SESSION REPORT

ids More Than \$1 Billion in Additional Taxes

You can view this report online under **Legislative Successes** in the **Political Affairs** section of www.alabamaretail.org

What THEY Didn't Do:

continued from previous page

• MAKE COOL COOL

For the sixth year, ARA kept mandated country-of-origin labeling for seafood products from swimming through the legislative process. Country-of-origin labeling for all fish and for catfish exclusively didn't make it upstream in 2008. ARA supports more positive programs such as the "Eat Alabama Wild Shrimp Campaign" and has pledged to help the Alabama catfish industry to promote its products with Alabama retailers.

• PUNISH RETAILERS FOR COMPUTER DATA BREACHES

Legislation never made it out of committee that would have created new, private causes of actions by financial institutions against retailers responsible for a security breach and would have **held retailers liable** to financial institutions for costs to protect customer information. This issue has national application and is better left to federal control.

• PROHIBIT PHARMACISTS FROM SUBSTITUTING ANTI-EPILEPTIC GENERICS

For the second year, neither Alabama Legislature chamber voted on legislation that would have prohibited pharmacists from substituting any anti-epileptic therapeutic product without notifying the prescribing physician and patient. The Legislature did create the Epilepsy Patients and Medication Interchange Joint Interim Legislative Commission, which is to report its recommendations to the Legislature no later than the fifth legislative day of the 2009 regular session.

• TAKE THE PARTY OUT OF JUDICIAL ELECTIONS

ARA maintained its opposition to nonpartisan elections and other changes to how Alabama selects its judges. No measure that would strip Alabama voters of their right to elect judges or change the current judicial election system received approval in the 2008 session.

What's LEFT to Do:

Some issues not addressed in 2008 will be revisited in 2009.

• LATE FEE INCREASE:

ARA will work again next year for passage of a modest increase to \$18 for the late fee for credit payments.



ARA opposes mandatory country of origin labeling at the state level on such products as seafood, meat, fruits, vegetables and peanuts.



ARA supports fairness for retailers on late fee charges for consumer credit transactions.

• SALES TAX HOLIDAY FOR ENERGY EFFICIENT PRODUCTS:

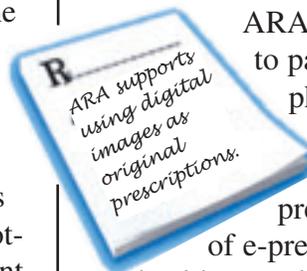
Building on the popularity of the ARA-inspired school sales tax holiday, ARA will once again support a holiday for energy-efficient products.

• PROSECUTION OF WORTHLESS ELECTRONIC CHECKS:

Alabama's district attorneys aren't prosecuting cases involving checks that don't require the writer to sign them. ARA will continue to work with the Alabama District Attorneys Association and the Alabama Bankers Association to bring the state's bad check laws into the electronic age by including electronic funds transfers or signature-on-file transactions.

• STORE DIGITAL PRESCRIPTIONS AS THE ORIGINAL:

ARA will try again to get lawmakers to pass legislation that would allow pharmacies to capture a digital image of a prescription and store it as the original prescription. Increased use of e-prescribing and electronic medical health records necessitates this change in law.



NEW MEMBERS **ARA** NEWS

WELCOME TO ARA



280 Animal Medical Center LLC Westover
 ABS Business Systems of Montgomery Inc. Montgomery
 Agricultural Weather Information Service Inc. Auburn
 Alabama Association of School Boards Montgomery
 Alexander's LLC Dothan
 All Star Automotive & Express Lube LLC Montevallo
 Anden Inc. New Market
 Animal House Vet Clinic Harpersville
 Around Your Table Inc. Owens Crossroads
 Artistic Expressions LLC Prattville
 Atchison Imports Inc. Mobile
 Bama Restaurant Management LLC Montgomery
 Beta LLC Gulf Shores
 Bravo Food Service LLC Hoover
 Budsy's Steak House Childersburg
 CDHS Group LLC Huntsville
 Chef Neil Green Dining and Catering LLC Huntsville
 Chestnut Properties Inc. Huntsville
 Chick & Sea Food Inc. Foley
 Children's Dream Maker LLC Theodora
 Coach Stage Inc. Stockton
 Copa Cabama Inc. Tuscaloosa
 Cricket by the Creek Inc. Decatur
 Cullman Internal Medicine, PC Cullman
 Cumberland Lake Golf LLC Pinson
 D & S Grocery Inc. Hurtsboro
 D & S LLC Dothan
 David G. Holcomb, DMD, PC Birmingham
 David's Catfish House Family Holdings LLC Greenville
 Decatur Burgers Inc. Decatur
 Donofro+Walker Architects LLC Dothan
 Dothan Behavioral Medicine Clinic Inc. Dothan
 Ed Holcombe Pharmacy Inc. Cullman
 El's Hair Salon LLC Birmingham
 F.N. Inc. Mobile
 Fab-tech Manufacturing Inc. Daleville
 Fairhope Yacht Club Fairhope
 Fish Camp Inc. Gulf Shores
 Furniture Outlet Inc. Dothan
 Fusion Spa LLC Birmingham
 Gamma LLC Gulf Shores
 Granville Interiors LLC Montgomery
 Hansa LLC Montgomery
 Harmony Landing LLC Homewood
 Harvest House Restaurant Harvest
 Hickory Pit Elba
 House of Lulu Inc. Mountain Brook
 Howell's Automotive Inc. Dothan
 Huatulco Mexican Restaurant Inc. Winfield
 Huntsville Burgers Inc. Huntsville
 Industrial Care Management Inc. Montgomery
 J & L Williams Inc. Springville
 Janino's Inc. Mobile

JC's Sports Pub & Grill Inc. Cropwell
 Julian's LLC Birmingham
 Kountry Kitchen Clanton
 Kristopher A. Portacci, DDS, PC Mobile
 Kylee Inc. Birmingham
 LD Embroidery Inc. Montgomery
 Lew B. Sample, DMD, PC Decatur
 Life Is Sweet LLC Hoover
 Lisa's Bar-be-que Inc. Fayette
 Lister Healthcare Corp. Florence
 LMG LLC Auburn
 Longleaf Machining LLC Brewton
 Machristie's Restaurant Alexandria
 Mac's Sports Bar & Steakhouse Inc. Athens
 Malibu Nails & Tan, Northport LLC Northport
 Mater's Restaurant LLC Jackson
 Merchandise Liquidators LLC Trinity
 Midtown Hardware LLC Midland City
 Mitchell, McLeod, Pugh & Williams Inc. Mobile
 Mitchell's Craft Marq Inc. Mountain Brook
 Mossy Grove Restaurant Luverne
 Myers Business Products Inc. Prattville
 North Baldwin Ob-Gyn PC Bay Minette
 Oak View Animal Hospital PC Pelham
 Off-The-Square Café' LLC Andalusia
 Original Ben's Jr. Inc. Fairhope
 Page Pollman's Bakery LLC Mobile
 Pharmacy First LLC Huntsville
 Pike Internal Medicine, PC Troy
 River Park Auto/Grocery Fairhope
 Rue Petite Corp. Huntsville
 SBH LLC Gadsden
 SCB393 LLC Pascagoula
 Sea Feast Inc. Millbrook
 Second Half Co. Inc. Fairhope
 Seidel Plastic Surgery, PC Cullman
 Semmes Tire LLC Semmes
 Shumake Furniture Co. Inc. Decatur
 Simon Mirelman, MD, PC Birmingham
 Smokehouse B-B-Q Inc. Deatsville
 Taunton - Ludlum Enterprises Inc. Sylacauga
 Tav Prattville LLC Prattville
 Tea Spoons LLC Saraland
 The Asthma & Allergy Institute Inc. Mobile
 The Baby's Room Florence
 The Blackstone Steakhouse LLC Northport
 The Mobile Museum of Art Inc. Mobile
 The Villa Dauphine LLC Mobile
 Thee & Me Ltd Inc. Tuscaloosa
 THM Investments Properties Inc. New Hope
 Tire Engineers Inc. Birmingham
 Tortora's LLC Owens Crossroads
 Trinity Bank Dothan
 TRO Inc. Mountain Brook
 Truman's Restaurant LLC Hale
 W.Y.G.T. LLC Aliceville
 Williamson Wholesale Inc. Hartselle
 YCDN LLC Troy

AWARDS/HONORS

Brannon's is Small Business of the Year

Brannon's Office Supply, which was established in 1886 as a print shop, has been named the Greater Talladega Area Chamber of Commerce Small Business of the Year. After changing hands just after World War I and again in the early 1950s, the retail office supply business was added. Cleve and Cathe Jacobs took over the business from Cathe's parents in the 1970s, and have run it since. The business now has stores in Talladega and Sylacauga. It sells office supplies, office furniture, advertising specialties, janitorial supplies and Internet technology supplies as well as offering printing services.



The **Alabama Retail Association** recognized Brannon's last year as an Alabama Centennial Retailer.

SOURCES: *Talladega Daily Home* and Brannon's Office Supply

Locker Room's 30th anniversary mailer gets award

A travel promotion mailer recognizing **The Locker Room's** 30 years in business won a Gold ADDY® award recently from the Montgomery Advertising Federation. The gentlemen's clothier in Montgomery celebrated its 30th year in business during 2007. LWT Communications designed this mailer to promote the clothier to business travelers.



SOURCE: Montgomery Ad Federation

MEMBERS NEWS

For more ARA Members News, go to [In the News at www.alabamaretail.org](http://www.alabamaretail.org)

COMMUNITY INVOLVEMENT

Vestavia Hills Chamber taps gift basket exec as president

Scott Perry of **Contri Bros. Gift Basket Inc.** has been installed as president of the Vestavia Hills Chamber of Commerce board.

SOURCE: *Birmingham News*

NEW VENTURES/STORE OPENINGS

Mobile vet opens new animal hospital

Veterinarian John Courtney is building a new, 11,000-square foot **Bit & Spur Animal Hospital** on four acres fronting on University Boulevard in Mobile. The animal hospital is expected to be complete by December. He plans to develop professional office space next to the hospital and will sell lots and design or develop spaces from 3,000 square feet up to 45,000 square feet.

Courtney employs 14 people at his current office, including two veterinarians. The new center likely will have four or five veterinarians and 40 employees.

SOURCE: *Mobile Press-Register*

Prattville barbecue bottles its sauce

Danny and Gretchen Loftin have bottled the signature sauce from their Prattville restaurant, **Fat Boy's Bar-B-Que Ranch**. A 12-ounce bottle of the brown sauce costs \$5.99. Fat Boy's has been in operation for 10 years. For more information, go to:

www.fatboysbarbqueranch.com

SOURCE: *Montgomery Advertiser*

Momma G's to expand

Momma G's Inc. is now an approved trademark, which means the Auburn-based landmark sandwich shop known as Momma Goldberg's can move forward with plans for as many



as 10 new locations throughout the Southeast. Bessemer native Don DeMent opened the restaurant in Auburn in 1976 and remains a major shareholder. Momma Goldberg's has two locations in Auburn and opened a Homewood branch as a trial franchise late last year. The company is now scouting locations for potential franchises in Alabama and Georgia, with sites being identified in the Huntsville, Decatur, Montgomery, Tuscaloosa and Mobile areas, as well as Atlanta.

SOURCE: *The Birmingham News*

Rudd Furniture opens second store

Rudd Furniture Co., a third generation family business founded in 1945, has opened its second Alabama location. The new Montgomery store is 2.5 times larger than the current Dothan location. The stores are owned and operated by Jim and Jason Rudd, son and grandson of founder O.W. Rudd.

SOURCE: *Montgomery Advertiser*

Huntsville restaurateur building shopping center

Restaurateur David Martin is planning a shopping center in west Huntsville. The 11,000 square-foot center will be on Enterprise Way and Moore Farm Lane, just north of Rime Village Drive, adjacent to the SuperTarget center. It will include a bank and possibly a new concept restaurant among other businesses. Martin of **Steak-Out, Inc./Right Way Restaurants** said he expects construction to be completed in the fall.

SOURCE: *Huntsville Times*

PERSONNEL/ORGANIZATIONAL CHANGES Belk has new western unit chief

Jan Clevenger took over in April as chairwoman of Charlotte-based **Belk Inc.**'s 77-store western division, based in Birmingham. Clevenger replaces Linda Zwern, who retired March 31.

Clevenger previously served as senior vice president and director of the northern division, based in Raleigh, N.C. She joined Belk in 2000 and was promoted to vice president in 2003. She is a graduate of the University of Memphis.

Zwern joined the company in 1999 and was involved in the Belk's division consolidation in 2002, the integration of Proffitt's, McRae's and Parisian stores in the past three years, and the western division's move to Birmingham last year.

SOURCE: *The Birmingham News*

Prattville Sears reopens after tornado

The **Sears Dealer Store** reopened April 23 after sustaining heavy damage during a Feb. 17 tornado that swept through the major retail corridor in Prattville.



Most of the store's metal siding and roof panels were replaced and interior repairs were made. Owner William Roland kept most of his employees on payroll while repairs were made.

ARA members **Palm Beach Tan** and **Wal-Mart** in the Premiere Place shopping center also were damaged during the tornado. Wal-Mart reopened 10 days after the storm. Renovations at Palm Beach Tan also have been completed.

SOURCE: *Montgomery Advertiser*

TELL US YOUR NEWS

We'd like to know what's happening at your store or organization. Have you celebrated a major business anniversary? Opened, closed or moved a location? Changed ownership or promoted a key employee? Received an award? Performed a community service?

Let us know! We may use your news in *Alabama Retail Quarterly* or link to your story online. To submit your news, go to [News at www.alabamaretail.org](http://www.alabamaretail.org) and click on [Tell Us Your News](#).

Deadline nears to nominate Retailer of the Year and Centennial Retailers

☛ To see a list of former Retailers of the Year, go to [Retailers of the Year Since 1999](#) under [Alabama Retailer of the Year](#) in the [Awards and Events](#) section of www.alabamaretail.org

☛ To view those honored previously as a Centennial Retailer, go to [Alabama's Centennial Retailers](#) under [Centennial Retailers](#) in the [Awards and Events](#) section of www.alabamaretail.org

The **Alabama Retail Association** will once again present the “Retailer of the Year” and “Centennial Retailer” Awards on Tuesday, Sept. 23, at The Club in Birmingham.

These awards recognize the top retailers in Alabama and their accomplishments in the retail industry as well as those retailers with 100 or more years in business in Alabama.

The retail industry in the state of Alabama accounts for more than 12 percent of the state’s total nonagricultural employment, making it the state’s third largest industrial sector. The retailers and restaurants in Alabama continue to grow and currently employ more than 380,000 Alabamians. Because the retail industry is made up of such a varied group of businesses, the “Retailer of the Year” awards are given in three categories based on sales volume. A Bronze, Silver and Gold Award will be presented in each category to the group of retailers picked by the selection committee. The selection committee will be made up of representatives from the media, Chambers of Commerce, fellow retailers and representatives from the academic community.

Who can make a nomination?

Retailers may be nominated for either Retailer of the Year or Centennial Retailer by their local chamber of commerce, their local newspaper(s), another retailer or any citizen. Once we receive a nomination form, a complete entry form will be sent to the nominated retailer asking for more detailed information. This information will serve as



the basis for judging by the selection committee.

What are the qualifications?

Nominated retailers must have a physical presence in the operation and/or management of a retail business in Alabama. To be considered a retailer, the business must collect state and local sales taxes. (*Banks, insurance agencies and dry cleaners do not qualify.*) Retail businesses that began in 1908 or before are eligible as Alabama Centennial

Retailers. The Retailer of the Year application form will take an in-depth look at the retailer’s accomplishments over the past year and any contributions to the community where the retail business is located.

What is the deadline for nominations?

Nominations for Retailer of the Year must be received by Thursday, June 19 with completed entries received by July 24. The nomination deadline for Alabama Centennial Retailer is Wednesday, July 16, with completed entries due by July 30. The selection of winners will take place after July 30 and winners will be notified by Aug. 12. The awards presentation will be held in conjunction with Retail Day.

How do I make a nomination?

Nominations may be made by visiting the “[Awards and Events](#)” section of ARA’s Web site, www.alabamaretail.org. Under the “[Alabama Retailer of the Year](#)” heading, go to “[Nomination Form](#)” and complete the information requested. Under “[Centennial Retailers](#),” go to “[Centennial Retailer Nomination Form](#)” to complete an online nomination. Once we receive the nomination, an entry form will be sent to the nominated retailer with a letter informing them they have been placed in consideration for these awards. Your name will be given as the person who nominated them. We will invite the individuals who made the nominations of the winning retailers as well as the winners to attend the awards luncheon in September.

Retail workers’ comp fund to recognize Centennial Insurance Agencies

For the first time, **Alabama Retail Comp** will honor Alabama insurance agencies that have been in business for 100 or more years.

Insurance agencies that began in 1908

or before will be eligible.

More information about how to nominate an agency and deadlines will be sent soon to agencies associated with Alabama Retail Comp.

Those honored will be recognized during Retail Day on Tuesday, Sept. 23, at The Club in Birmingham along with the Alabama Retailers of the Year and the Centennial Retailers.

Credit and Debit Receipt Clarification: Federal act offers relief from lawsuits; U.S. judge rules FACTA is unconstitutional

On June 3, President Bush signed legislation that protects all merchants from frivolous lawsuits over credit card expiration dates printed on customers' receipts.

The law states a business that printed an expiration date on a receipt over the past 18 months cannot be found in violation of the Fair Credit Reporting Act (FCRA) as long as the merchant printed no more than the last five digits of customers' credit or debit card numbers on receipts and complied with other FCRA requirements.

Meanwhile, in a May 28 ruling, U.S. District Judge William Acker Jr. said the original federal law that assessed punitive damages against retailers who printed too much credit card information on customers' receipts is unconstitutional. Acker's ruling is under appeal.

At issue is a provision in the Fair and Accurate Credit Transactions Act – a 2003 update of the Fair Credit Reporting Act – intended to prevent credit card fraud. Under FACTA, merchants were told they could no longer print more than the last five digits of a credit or debit card number “or” the card's expiration date on receipts after Dec. 4, 2006. Many merchants interpreted the law as meaning they could either truncate the card number or leave off the

expiration date, but that they were not required to do both. Most truncated the card number but some continued printing the expiration date, reasoning that the expiration date was of no value without the full card number.

Businesses have been hit with more than 300 class-action lawsuits contending that FACTA required them to take both steps, and seeking fines as high as \$1,000 per incident, the maximum allowed under the 2003 law. FACTA does not allow individuals to sue, instead giving enforcement authority to the Federal Trade Commission, but the lawsuits were brought under state laws citing FACTA.

Among those suits were the four cases before Acker against Rave Motion Pictures, Express Oil Change, Mexican Specialty Foods and Hooters of East Birmingham.

Acker wrote in his opinion that the 2003 law is "on its face and its application to these defendants, a bomb that has already exploded" He said the law imposes disproportionate punitive damages on defendants who cause no actual harm.

The Credit and Debit Receipt Clarification Act, which the president signed earlier this month, protects businesses from lawsuits for expiration dates printed between the time the FACTA rule went into effect (Dec. 4, 2004) and the time the clarification measure was

signed into law, June 3, 2008. Retailers are required to both truncate card numbers and leave off expiration dates going forward.

“Most retailers made good faith efforts to comply with the law by

truncating credit card numbers but some were unaware of Congress' intent that expiration dates also be omitted,” said ARA President Rick Brown. Hopefully by now, most businesses should know of the new law, said Brown.

The Credit and Debit Receipt Clarification Act does not go as far as Acker's decision. It merely gives amnesty to retailers who failed to redact the expiration date on receipts issued between December 2004 and June 3. Acker's ruling throws out the entire underlying law as unconstitutional. ARA will keep you updated as Acker's decision moves through the court process.

If you haven't already, retailers must (as of June 3) truncate numbers AND leave off expiration dates from customers' credit and debit card receipts



Congress considers Credit Card Fair Fee Act

H.R. 5546, the Credit Card Fair Fee Act, would give retailers and other merchants more power to negotiate transaction fees with Visa and MasterCard.

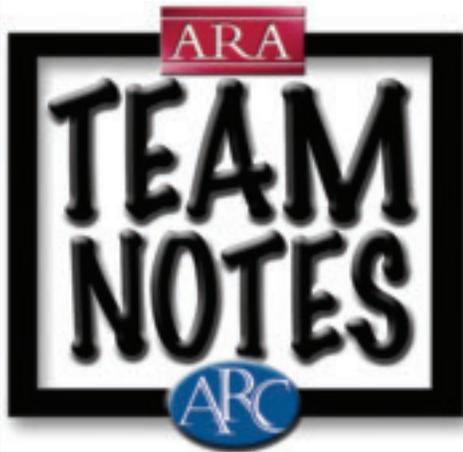
Last year, the U.S. credit card industry rang up \$48 billion in interchange fees, which are incurred each time a consumer uses a credit card to buy a product. A merchant's bank typically pays the interchange fee, ranging between 1.6 percent and 2 percent of the purchase price, but retailers pay it indirectly as a component of a larger set of fees charged by the bank.

The U.S. House Judiciary held a public hearing May 15 on the bipartisan legislation introduced by Judiciary Committee Chairman John

Conyers, D-Mich., and U.S. Rep. Chris Cannon, R-Utah. At press time, their legislation was about to enter the committee markup stage. Senate Majority Whip Richard J. Durbin, D-Ill., introduced the U.S. Senate companion June 5.

Visa and MasterCard set non-negotiable fees for transactions and the system lacks transparency. This hidden fee charged by the two card giants is projected to cost the average U.S. family more than \$400 this year.

In April, **ARA Chairman Darrell Bourne visited Alabama's congressional delegation to urge them to support this landmark antitrust legislation.** If you haven't already, ask your congressman to vote in favor of this legislation.



NEWS ABOUT STAFF MEMBERS

Brown serves as BATC chairman

Alabama Retail Association President **Richard "Rick" Brown Jr., CAE**, is the Business Associations' Tax Coalition chairman for 2008. The coalition of 30 business, trade and professional associations, including ARA, represents virtually every segment of Alabama's business community. The coalition reviews and takes positions on tax issues before the Alabama Legislature.

Contact Rick at 334.263.5757, Ext. 105, or rbrown@alabamaretail.org

Riley appoints Dennis to Workforce Board

In February, Gov. Bob Riley appointed **ARA Director of Public Relations Nancy Dennis** to the Alabama Workforce Investment Board. She was to attend her first board meeting and orientation on June 18. **ARA Vice President Alison Wingate** previously served on the board.

The Alabama Workforce Investment Board along with Alabama's Local Workforce Investment Boards develop and administer workforce activities in the state's three local workforce investment areas. The state board provides the primary oversight and is the strategic planning body for Alabama under the



federal Workforce Investment Act of 1998.

Board members oversee the statewide workforce investment system, including Alabama's One-Stop Career Centers, which provide employment assistance, adult education and job training, and services for youth and dislocated workers.

Board members also promote workforce development partnerships with local governments, schools, community college, businesses, local chambers of commerce, family service centers and nonprofit organizations.

Contact Nancy at 334.263.5757, Ext. 101, or ndennis@alabamaretail.org

Intern returns to ARA

Brett R. Johnson, 22, a senior public administration and communication major at Auburn University, is again working for ARA as an intern. Brett also interned for ARA in the summer of 2007.

Upon completion of his coursework at Auburn University in August, Brett plans to pursue a career in public policy while working towards an MBA. Brett was a member of FarmHouse Fraternity and the Auburn Student Government Association. He graduated in 2004 from LAMP Magnet High School in Montgomery.

Contact Brett at 334.263.5757, Ext. 117, or ARAintern@alabamaretail.org



Brett Johnson

ARA Web site and membership materials win awards

In February, ARA's Web site walked away with a Gold ADDY® for Interactive Media. ARA member **Square Root Interactive** developed the site. ARA's membership materials won a Silver ADDY® for Sales Promotions. The **Cunningham Group**, also an ARA member, put together the membership materials packaged in a bank bag.

Federal tax rebates fuel economy

Alabama retailers began to see the rewards of the Economic Stimulus Act of 2008 in April as sales tax collections in the state rose more than 9 percent over the same month last year.

The federal rebate checks – up to \$1,200 for married couples and \$300 extra for each child – began appearing in taxpayers' bank accounts on April 28.

Paper checks for the rebates will continue to be issued through at least July 11. Taxpayers receive their rebates based on the last two digits of their Social Security number. At least four more waves of checks will be issued on these dates according to the ranges of the last two digits listed here: June 20, 52-63; June 27, 64-75; July 4, 76-87; and July 11, 88-99.

Those who filed their federal tax returns after April 15 will receive their economic stimulus payment, but probably later than the schedule shows. A return must be filed by Oct. 15 in order to receive a stimulus payment in 2008.

Consumers are expected to spend up to 40 percent of the checks, which were expected to provide a \$42.9 billion boost to the national economy.

Many retailers are running special promotions to entice consumers to spend their rebate checks and stimulate the economy.

July 1: Tamper-proof prescription pad enforcement begins

The Alabama Medicaid Agency begins compliance reviews July 1 for tamper-resistant prescription pads.

After one warning, Medicaid will recoup costs from pharmacists and refer the physicians for disciplinary action. Pharmacists must provide Medicaid with the names of non-compliant physicians.



IN THE WORLD OF WORKERS' COMP

Retailers, all businesses should implement a safety program

A safety program can keep your insurance costs and hidden costs to a minimum.

Employee morale and increased production are usually additional benefits of not having accidents. Relatively simple, unwritten policies, practices and procedures are adequate to address the hazards in many smaller or less hazardous establishments. The more complex and hazardous an operation is,

the more formal (written) and complex the program will need to be.

In any case, you need to inform your employees that you want a safe workplace and that you want them to work safely. If your employees don't know what you want and what you expect, they will most likely fail to meet your expectations.

BASIC SAFETY PROGRAM GUIDELINES

The time to start your safety program and your savings is now. An

Occupational Safety and Health Administration survey showed that companies with a quality safety and health program experienced lost-time injuries that were approximately one-fifth to one-third of the average for their industrial classifications. In addition, employees at these sites reported improved morale and productivity, as well as significantly reduced workers' compensation and other costs.

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If you would like a Basic Safety Program template, please e-mail underwriting@alabamaretail.org or call 1-888-327-1915.

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that several federal laws mandate you follow for certain reductions-in-force. Your legal partner can keep you in compliance. Second, avoid making subjective decisions about individual employees by considering whether it would be appropriate to eliminate an entire cost center, department, division, or location that is underperforming or facing decreased demand. If you're a small employer, this group may be just two or three employees. When your decision about whom to terminate is based on a particular group's contribution (*or lack of contribution*) to the bottom line of the business, your business reason for that decision has greater credibility. Third, when your business needs require a broader reduction of staff across different parts of the business, pick objective criteria for determining whom you select. Many employers use a combination of years of service, years in a particular pay grade and recent performance appraisals to make their decisions. These factors are generally neutral to age as well as any other protected trait (*race, sex, color, religion, national origin, etc.*), affording greater protection to the employer's decision.

An objective process tends to be a fair process. And fairness is important here.

It's an employee's perception of unfair treatment (*not unlawful treatment*) that results in the employee seeking advice from a lawyer. Once the employee finds the lawyer's office — an increasingly easy task — there's little work to be done for that lawyer to connect the dots between unfair treatment and a legal claim.

Lastly, most employers are now willing to provide at least a small sum of severance money (*for small businesses, about four weeks of pay is the average*) and occasionally one or more months of healthcare coverage to an employee who loses a job through no fault of their own. If you have the resources to offer a severance, it's always a good idea (*and a perfectly legal one, too*) to ask the employee to sign a general release and waiver of legal claims in exchange for the severance. If you choose this route, be sure to bend the ear of your favorite employment lawyer because there are a few tricky rules when it comes to group severance programs, legal release agreements, and mass reductions-in-force.

Severance can be money well spent. It shows empathy and concern for the terminated employee, buys the employer a little good will in the marketplace (*which the employer will need when the market rebounds and it has to hire again*), and

improves the morale of existing employees who feel like they work for somebody who cares. Maybe the most important business benefit of paying severance is getting the employee's signed release and waiver of legal claims. In a time of economic uncertainty and market hysteria, at least you'll sleep a little better knowing your painful decision to reduce staff hasn't landed you in court.

Richard I. Lehr and Matthew W. Stiles are members of the Birmingham labor and employment law firm of **Lehr, Middlebrooks & Vreeland, P.C.**, which provides information for the ARA's **Employment Law Resource Center**. The firm represents employers exclusively regarding workplace matters. As an ARA member, another **BENEFIT FROM THE VALUE** of your membership is access to the **Employment Law Hotline** operated by Lehr, Middlebrooks. Be sure to identify yourself as an ARA member calling the Employment Law Hotline to receive free advice.

☛ Call (205) 323-9260 or e-mail rlehr@lehrmiddlebrooks.com



ARC: Implement a safety program

If you would like a Basic Safety Program template, please e-mail underwriting@alabamaretail.org or call 1-888-327-1915.

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An effective workplace safety program will include these four elements:

1. MANAGEMENT COMMITMENT AND EMPLOYEE INVOLVEMENT

Management commitment provides the motivating force and the resources for organizing and controlling activities within an organization. In an effective program, management regards worker safety as a fundamental value of the organization and applies its commitment to safety protection with as much vigor as to other organizational purposes. Employee involvement provides the means through which workers can develop and express their own commitment to safety and health protection for themselves and for their fellow workers.

2. WORKSITE ANALYSIS

Worksite analysis involves a variety of worksite examinations, to identify not

only existing hazards but also operations in which changes might occur to create hazards. Being unaware of a hazard, which stems from failure to examine the worksite, is a sure sign that safety policies are ineffective. Effective management activity analyzes the work and worksite in order to anticipate and prevent occurrences.

3. HAZARD PREVENTION AND CONTROL

Where feasible, hazards are prevented by effective design of the job. Where it is not feasible to eliminate hazards, they are controlled to prevent unsafe exposures. Elimination and control must be accomplished in a timely manner once a hazard or potential hazard is recognized.

4. SAFETY AND HEALTH TRAINING

Safety and health training addresses the safety and health responsibilities of all personnel concerned with the operations.

It is often most effective when incorporated into other training about performance requirements and job practices. The complexity of training depends on the size and the nature of the hazards or potential hazards.

The basic safety program outlined here was condensed from the OSHA Voluntary Guidelines for a Safety and Health Management Program. The program is designed to give general and timely information on a basic safety program. It is not intended as advice or assistance with specific workplace safety issues and following the guidelines of this basic safety program does not guarantee compliance with specific safety standards, federal or state laws and regulations or local code and ordinances.

Please send address corrections to:



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