



The Legislative Wrap-Up

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BILL DEADLINES PASS

In the House 1,358 bills made the February 11 (31st day) introduction deadline, after which introduced bills are assigned to the House Rules Committee, rather than to a principal standing committee. To date there are nine House Joint Resolutions.

By the close of the week, 840 Senate measures were on the 2005 ledger. Bills dropped in the hopper following the Senate bill introduction date (February 4, or the 24th day) are assigned to the Senate Rules Committee, rather than to a principal standing committee. To date there are eight Senate Joint Resolutions.

In both houses, the Rules Committees must vote to release the bills for assignment to standing committees, a step necessary for further consideration in the legislative process.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

[SB 488/HB 849](#) establish the felonies of threatening to use or actually using physical violence on a person to coerce, induce, or solicit the person to participate in a criminal gang or to prevent the person from leaving a criminal gang. The maximum penalty for either crime is two years in prison and a fine of \$1,000, and police must report the arrest of a public school student for committing such crimes to the school superintendent. The bills also allow a presentencing report for a defendant convicted of a gang-related crime to include information about the defendant's affiliation with the gang.

In the aftermath of last year's death of prisoner Ifeanyi A. Iko after a violent confrontation with correctional officers at the Western Correctional Institution in Allegany County, [SB 394](#) requires the Department of State Police (MSP) to investigate any death of a prisoner in the custody of the Division of Correction, when the death is not the result of natural causes. Currently, the Department of Public Safety and Correctional Services, which includes the Division of Correction, investigates

such deaths. The bill also makes MSP responsible for the investigation of any death by unnatural causes of a juvenile in the custody of the Department of Juvenile Services.

ECONOMIC AND BUSINESS ISSUES

Wineries

Legislation intended to increase Maryland wineries' abilities to market their wine in the State was introduced this week. [SB 565](#) establishes the Governor's Advisory Commission on Maryland Wine and Grape Growing to replace the Maryland Wine and Grape Growers Advisory Board. Another measure, [SB 566](#), creates a Maryland Wine and Grape Promotion Council and a fund. The fund will promote the production and consumption of Maryland wine.

Insurance

Heard by a committee this week, [HB 117](#) requires companies that sell homeowner's insurance to provide coverage for losses that result from mold or mold remediation. Under the bill, the mold must be caused by a peril that is otherwise covered under the homeowner's policy and the aggregate coverage limit for mold and mold remediation may not be less than \$15,000.

Labor and Industry

A Senate committee took testimony on a proposal to increase the minimum wage in the State above the current \$5.15 per hour federal minimum wage. [SB 89](#) increases the rate to \$6.15 per hour for employees subject to the federal or State minimum wage requirements. The bill also increases the rate for employees classified as tipped employees to \$3.38 per hour. Similar House legislation, [HB 13](#), increases the rate to \$7.00 per hour, and [HB 391](#) sets the rate at \$6.15.

Other provisions of [HB 13](#) set the minimum rate for workers under the age of 20 for the first 90 days of employment at \$5.75 per hour and increase the tip credit from \$2.77 to \$3.25. Thirteen other states and the

District of Columbia have set higher minimum wage rates than the federal level.

Other wage-related legislation, [SB 307/HB 310](#), affects overtime compensation for registered nurses providing direct patient care working for local health departments under the Community Health Administration. The bills entitle a registered nurse to payment of an overtime wage. The House bill had a hearing this week, and the Senate companion's hearing is scheduled for next month.

Other legislation ([HB 226](#)) heard in the House requires the Department of Business and Economic Development (DBED) to calculate the Maryland self-sufficiency standard income an adult needs to meet housing, food, dependent care, transportation and medical costs. State employees earning less than the standard must receive twice the amount of any percentage increase given to State employees whose pay rate is least equal to the standard. The companion bill, [SB 600](#), will be heard later this month.

a foreign language for the purpose of awarding academic credit and satisfying graduation requirements.

Two bills address changes in the current Senatorial and Delegate Scholarships programs. [SB 344](#) requires that money appropriated under the programs be distributed by the Office of Student Financial Assistance in the Maryland Higher Education Commission. [SB 547](#), the Robert Kittleman Scholarship Reform Act, abolishes the current program and sets up a Legislative Scholarship Program under which legislators would award 30% of the money available. The Higher Education Commission would award the remaining 70% of the funds in each legislative district based on need. Hearings are scheduled for February 23.

Other legislation ([SB 127/HB 148](#)), the Budget Reconciliation Act of 2005, eliminates the Senatorial and Delegate Scholarships programs. The Budget Bill ([SB 125/HB 150](#)) transfers those funds to the State's general scholarship program.

For the academic years 2006 and 2007, [SB 750](#) limits to no more than 5% the amount of annual increase in tuition for a resident undergraduate student at the University System of Maryland institutions and at Morgan State University. Another proposal, [SB 753](#), requires the Governor to include in his budget, starting in fiscal 2008 for University System of Maryland, Morgan State University, and St. Mary's College, an increase of support of at least 5% per full time equivalent resident student. The bill also limits for years fall 2006 through fall 2015 annual tuition increases of no more than 4% for these institutions.

[HB 616](#) requires the Maryland Higher Education Commission to establish a written policy by January 1, 2006, concerning campus solicitation of students at colleges by credit card marketers.

EDUCATION

Primary and Secondary Education

Under [SB 762](#), a county board of education is required to offer driver education instruction to high school students who are 15 years or older. Current law says school boards may offer such a program.

In an effort to address growing childhood obesity, legislation is being considered that requires more health instruction and limits the types of food and beverages available to students in schools. [SB 473](#) requires local boards of education to include the importance of physical activity in health education instruction and to establish a nutrition policy that applies to all foods and beverages available to students during the school day.

On the same topic, [SB 609/HB 521](#) establish a School Nutrition Program that includes requiring public school systems to serve more fresh fruits and vegetables, eliminate fried foods, and offer healthy food choices at school activities.

Higher Education

Under [HB 586](#), public colleges and universities are required to treat a course in American Sign Language as

ELECTIONS

A number of bills on various aspects of elections are scheduled for House hearings on February 17 and February 24 and in the Senate on February 24. Proposals, slated for hearings next week, include several dealing with absentee voting:

- [HB 376](#) – Disabled or Elderly Registered Voters – requires a local board of election to send, before each election, an absentee ballot to each disabled or elderly registered voter who has qualified to vote by absentee ballot at a previous election;

- [HB 622](#) – Absentee Voting on Demand – removes requirements on voter eligibility for absentee ballots and states that an individual may vote by absentee ballot except to the extent preempted under an applicable federal law. (The bill also simplifies an “in person” or by “authorized agent” application for an absentee ballot at a local board of elections and requires that the absentee ballot be issued when an application is submitted); and
- [HB 746](#) – One-Stop Absentee Ballot Voting Process – requires local boards of elections to set up a one-stop process at specified times for registered voters to obtain and complete applications for absentee ballots and then cast the ballots.

Another measure, on tap in two weeks, allows voters to cast write-in votes at any primary election, general election, or special election ([SB 288](#)). Current law allows write-in votes only at general elections.

Early voting is the subject of [SB 478](#), also up for a hearing on the 24th. This bill provides for early voting beginning eight days before a primary or general election through the Friday before the election. During the specified period, voting locations must be open for eight hours each day including each Saturday and Sunday.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Legislators heard testimony this week on [SB 96](#) that exempts nonpublic schools from the bay restoration fee established in 2004 ([SB 320/Chapter 428](#)). The 2004 law imposed a bay restoration fee on users of wastewater facilities, septic systems, and sewage holding tanks. The main goal is to provide grants to owners of wastewater treatment plants to reduce nutrient pollution to the Chesapeake Bay. Certain users, including local governments, school boards, and community colleges are exempt from the fee.

More bills were introduced this week relating to the gasoline additive methyl tertiary butyl ether (MTBE). A hearing on the issue will be held on February 16:

- [SB 669/HB 659](#) requires the Secretary of the Department of Environment (DOE) to negotiate with the surrounding Mid-Atlantic states on the creation of a Mid-Atlantic Regional Methyl Tertiary Butyl Ether Compact to study the prevalence and impact of

MTBE, and the feasibility and effectiveness of using alternative additives, including ethanol, throughout the region. (A report is due to the General Assembly by December 31, 2006);

- [HB 660](#) creates a requirement for the owner of a gasoline underground storage tank to notify DOE and the public, and develop a corrective action plan, if groundwater tests show the presence of benzene at or above five parts per billion; total benzene, toluene, ethyl benzene, and xylene at or above 100 parts per billion; or MBTE at or above 20 parts per billion; and
- [HB 960](#) bans, by October 1, 2006, gasoline that contains more than 0.5% by volume of methyl tertiary butyl ether, ethyl tertiary butyl ether, or tertiary amyl methyl ether, and by October 1, 2010, bans gasoline that contains any of these ethers.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Several bills are pending regarding gift certificates and their regulation. Heard this week, [SB 301](#) authorizes a gift card or gift certificate to be subject to expiration or a service fee if it complies with specified disclosure requirements. [HB 551](#), the companion bill of another Senate measure, [SB 8](#), is scheduled for a hearing next week. These proposals prohibit gift certificates with an expiration date less than five years from the date of issuance or service fees including a fee for dormancy.

[HB 667](#) also requires an expiration date at least five years after the date the certificate is issued and allows for a dormancy fee for gift certificates with a remaining value of \$5 or less.

At midweek, a Senate committee considered [SB 280](#), an emergency bill that prohibits specified disclosures of an individual’s Social Security number (SSN). Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act. [HB 56](#) on the same subject had a hearing last month. The Governor vetoed similar legislation that passed during the 2004 regular session.

FISCAL MATTERS

Three sales tax-free period bills ([SB 599/HB 37](#) and [SB 374](#)) are under consideration. [SB 599/HB 37](#) apply only

in enterprise zones and exempt sales of clothing and footwear under \$100 from the sales tax from August 24 through August 28, 2005. [SB 374](#) applies statewide and exempts school supplies, clothing, footwear, and, if the price is less than \$1,000, personal computers from the sales tax for the weekend starting the second Friday in August each year through the following Sunday.

[SB 403/HB 676](#) and [HB 62](#) require the corporations which are a part of a unitary group of corporations when filing their Maryland income tax return to compute Maryland taxable income by using a combined reporting method. Under this method the income of all of the corporations of the group reasonably attributable to Maryland is to be considered Maryland income. This Maryland income is, then, attributed to the individual corporations proportionately. [HB 62](#) varies from the other bills in the manner in which corporations incorporated in certain foreign countries designated as “tax havens” are treated.

Other bills, [SB 748/HB 1135](#), impose on corporations, including the corporations in an affiliated group, an additional alternative minimum assessment and requires the corporation to pay this assessment if it exceeds the State income tax liability.

Three bills address Maryland estate tax law and each has been afforded a hearing. [SB 99/HB 321](#) repeal provisions of the Maryland Estate Tax enacted in 2004 by Chapter 430. The legislation recouples Maryland estate tax law to the gradual increases in the unified credit allowed against the federal estate tax and repeals the provision relating to the deduction for State death taxes allowed under the federal estate tax law. The bills apply to decedents dying after December 31, 2004.

The third bill, [HB 136](#), recouples the Maryland estate tax to the federal estate tax by: repealing the requirement that the Maryland estate tax be determined without regard to a specified reduction or repeal of the federal credit for State death taxes paid; recoupling Maryland estate tax law to the gradual increases in the unified credit allowed against the federal estate tax; and repealing the provision relating to the deduction for State death taxes allowed under the federal estate tax. The bill also repeals the requirement that the person responsible for paying the inheritance tax is required to file an estate tax return and pay the estate tax under specified circumstances. As a result, the bill effectively repeals the State estate tax and applies to decedents dying after December 31, 2004.

[SB 211/HB 245](#) and [HB 270](#) gradually exempt military retirement income from State income taxation by 2010 for those retirees with at least 20 years of service. The bills exempt 20% of the income in 2006 and increase the amount of exempt income to 100% by 2010. Currently, a maximum of the first \$2,500 of retirement income of enlisted retirees is tax exempt.

[SB 12](#), providing a tax credit for the purchase of an electric or a hybrid vehicle, has received an unfavorable committee report.

GAMING, RACING, AND SPORTS

The Senate hearing on video lottery terminals (VLTs, or slot machines) legislation occurred this week; the House has several gaming bills scheduled for hearings next week including the Administration’s proposals. [SB 205/HB 255](#). This legislation authorizes 15,500 VLTs under the regulation of the State Lottery Commission. Licenses may be issued for racetracks at Pimlico, Laurel, Rosecroft, and a future track in Allegany County. In addition, licenses may be issued for two non-racetrack locations in Baltimore City, Prince George’s, Howard, Baltimore, Harford, or Cecil Counties.

Proceeds of racetrack slot machines are to be distributed as follows: 4.3% (5% the first year) to the State Lottery agency, 46% to an Education Trust Fund, 39% to racetrack licensee holders, 5.25% for racetrack purses, and 4.75% for local development. Proceeds to the Education Trust Fund are used to offset the total funding of the “Bridge to Excellence in Public Schools Act” (Thornton Plan), with \$100 million per year of the Trust Fund used for public school construction.

Proceeds from non-racetrack slot machines are to be distributed as follows: 4.3% (5% the first year) to the State Lottery Agency, a percentage to the licensee equal to the amount stated in the competitive bid for the license, 4.75% to local governments, and the remainder to the Education Trust Fund.

A committee also took comments this week on [SB 111](#) that establishes a fund for the distribution of \$100,000 in State Lottery proceeds each fiscal year to the Problem Gambling Council of Maryland.

House bills on next week’s hearing schedule include:

- [HB 108](#) that requires the State Lottery Commission to regulate the operation of VLTs at horse racetracks

in the State. The Commission may issue no more than five video lottery operations to racetracks at Laurel Park, Pimlico, Rosecroft, Allegany County, and Ocean Downs. Proceeds are distributed as follows: 5% to the State Lottery Agency for costs, 30% to the video operation licensee, and 10% to the county in which the video lottery facility is located, 5% to Senator H. Amoss Fire, Rescue, and Ambulance Fund, 10% to a Purse Dedication Account, and 40% to the Public School Construction Fund;

- [HB 673](#) authorizes VLTs to be regulated by the State Lottery Commission, creates Class A licenses for no more than six horse racing facilities, and Class B licenses for no more than four non-racing facilities. Proceeds include 2% to the Maryland-Bred Race Fund and Maryland Standardbred Race Fund, 7% to the Thoroughbred and Standardbred Purse Dedication Funds, .05% to the State Fair and Agricultural Society, 4.7% to local development, \$500,000 to counseling for compulsive gamblers, and \$500,000 for agricultural and equestrian activities. One-half the remaining proceeds will go to the slots operator with the rest to the Educational Trust Fund;
- [HB 720](#) requires the Governor to negotiate a revenue sharing agreement with neighboring states that have gaming facilities with VLTs. The bill allows up to 12,000 VLTs in the State, owned or leased by the State Lottery Commission; and
- [HB 722](#), a constitutional amendment to be submitted to the voters in 2006, prohibits statutorily expanding gaming except for VLTs. The bill limits the number of VLT licenses to six, with a total of 13,000 terminals in the State. Slot machines may only be issued in a county or Baltimore City if a majority of votes in that area were cast in favor of the amendment.

A proposal to reorganize State regulation of racing, [SB 498](#), abolishes the State Racing Commission and establishes the Thoroughbred Racing Commission and Standardbred Racing Commission. Similar legislation failed to gain support in previous sessions.

HEALTH CARE AND HEALTH INSURANCE

Legislation ([SB 783](#)) has been introduced to restore \$5 million in the capital budget for seven community

hospital projects that were not included in the Administration's submission.

The Maryland Stem Cell Research Act of 2005 ([SB 751/HB 1183](#)) establishes a research fund to support authorized stem cell research. The source for funding is an annual budget appropriation beginning in fiscal 2007 of \$25 million from the Cigarette Restitution Fund. Under the bill's provisions, an individual may not purchase, sell, transfer, or obtain human embryos, or conduct or attempt to conduct human cloning. Measures have also been introduced to ban human cloning ([SB 272](#) and [HB 885](#)).

This week, Delegates heard testimony on [HB 627](#) that establishes the Maryland Community Health Resources Commission (CHRC) to increase access to health care for lower-income individuals and provide resources to community health resource centers around the State. The bill also implements a variety of programs, grants, federal waivers for Medicaid expansion, and studies. A task force is to help facilitate access to health care. Similar legislation was considered in 2004. Anticipated funding derives from the Cigarette Tobacco Fund and CareFirst for grants to community health centers. The companion bill, [SB 775](#), will be heard before a committee next month. Another proposal, [SB 716](#), establishes a similar Community Health Resources Commission, but uses general fund appropriations.

[SB 769](#) reestablishes the 2% premium tax exclusion for HMOs. This revenue source provided funding for the newly created Maryland Medical Professional Liability Insurance Rate Stabilization Fund enacted as part of the special session's medical malpractice legislation ([HB 2/Chapter 5](#)). Another proposal, [HB 955](#), also repeals the application of the premium tax to HMOs.

Other bills address the lack of health insurance coverage. [HB 813](#) imposes a 1% income tax surcharge on individuals with taxable income exceeding \$55,900 unless the individual and each dependent child had health care coverage. The Fair Share Care Fund Act ([SB 790](#)) assesses a health care payroll assessment on employers with 10,000 or more employees in the State.

REAL PROPERTY, ESTATES, AND TRUSTS

This week, several property bills moved through committee and on to the Senate floor. [SB 17](#), as amended and given final Senate approval, requires residential real estate sales contracts to contain a

statement advising the buyer that the sale property may be located near a military installation that conducts flight operations, munitions testing, or other military operations that may result in high noise levels. The statement also advises the buyer to contact the nearest military installation to determine whether the property may be impacted by testing or operations at the installation. [SB 130](#), with a favorable final vote from the Senate, allows the Maryland Transit Administration (MTA) to enter private property to conduct environmental or engineering studies.

At the committee hearing stage this week, [SB 192](#) requires the seller of single family residential property to include a disclaimer that the seller knows of no latent defects in or improvements to the property. The seller must also disclose information about any defect that would not be reasonably observed by careful inspection or that would pose a health or safety threat to the buyer. The public will get a chance to comment on the companion bill, [HB 412](#), next week.

[SB 480/HB 637](#) reduce from 4% to 3% the amount of interest a mobile home park owner must pay a tenant on his security deposit within 45 days after the tenant ends residency. [HB 139](#), requiring the seller of a new residential property to give the buyer a house location plat at settlement, has been withdrawn.

As amended and passed by the Senate, [SB 51](#) increases to \$10,000 the maximum amount a personal representative of an estate may spend for funeral expenses of a decedent. The current limit of \$5,000 is retained for small estates. A special court order may be obtained to spend more. [SB 45](#), also given final Senate floor approval, allows a replacement or a co-personal representative to be appointed if the representative named in the will cannot serve and the will states that this representative can name an alternate.

TRANSPORTATION

Commuter and Airport Services

Heard by a committee this week, [HB 336](#) requires the Mass Transit Administration (MTA) to establish a commuter bus line that travels across the Bay Bridge from Queen Anne's County to Anne Arundel County. The MTA is to adopt a schedule in which buses stop at the transit points at least three times during peak rush hours on weekday mornings and three times during rush hours on weekday afternoons.

Under [SB 189](#), a Task Force to Study Governance of Baltimore-Washington International (BWI) Airport is to study a number of items including the governance and financial structure of other large commercial airports, passenger, cargo, and aircraft forecasts at BWI, and industry benchmark data. Task force recommendations are due the Governor and the General Assembly by December 31, 2005.

[HB 189](#) renames BWI as the Thurgood Marshall Baltimore-Washington International Airport. The renaming honors Justice Marshall, a native Marylander who, among his many accomplishments throughout his long career of public service, became, in 1967, the first African American justice to serve on the United States Supreme Court, serving for 24 years before his retirement. He died in 1993.

Drunk Driving

Sixteen bills on drunk driving are in the pipeline so far this session. On the House side, a number have been assigned a March 2 committee hearing date. Receiving committee scrutiny just recently, [HB 103](#) establishes that, upon conviction for an alcohol- and/or drug-related driving offense, an additional criminal penalty may be imposed for an individual who knowingly refuses to take a test to determine the alcohol or drug concentration of the individual's blood or breath when requested to do so by a police officer at the time the violation occurred. In addition to any other penalties, the person is subject to a maximum fine of \$500, imprisonment for up to six months, or both. The Senate companion bill is [SB 650](#).

Young Drivers

Well attended committee hearings put the spotlight on young drivers this week. Testimony in the House, both pro and con, revolved around eliminating the use of cell phones and like equipment ([HB 394](#)), extending the length of time required to get a provisional license ([HB 242](#)), extending the time lines for provisional licensing ([HB 244](#)), and restricting minor drivers from having minor passengers in their vehicles ([HB 393](#)). Other legislation also before the committee increases the number of hours of supervised practice driving instruction for new drivers ([HB 362](#) and [HB 395](#)).

In a Senate hearing, committee members and the public scrutinized [SB 57](#) and [SB 240](#) that restrict minors as passengers of minor drivers. Legislation similar to [SB 57](#) has been introduced every session since 1996. Dates for

committee hearings for additional bills addressing restrictions on young drivers are to be announced.

Wireless Communication Devices

In addition to [HB 394](#), two other introductions address restrictions on the use while driving of interactive wireless communication devices. [SB 50](#), before a Senate committee this week, generally restricts the use of interactive wireless devices by motor vehicle drivers and prohibits the use of these devices by provisional license holders, learner's instructional permit holders, or drivers under the age of 18. There are circumstances when the prohibition does not apply such as contacting a 9-1-1 system or a public safety agency in an emergency.

Also under [SB 50](#), other drivers may not use an interactive wireless communication device that is held by the driver while in use. This restriction also does not apply to a public safety agency in connection with an emergency or to the operator of an emergency vehicle acting in an official capacity or to an employee of an electric, gas, or telephone company in connection with emergency communications.

A House measure, [HB 45](#), also on the posthearing track in that body, prohibits the driver of a motor vehicle from engaging in distracted driving and also restricts the use of interactive wireless devices by drivers of moving vehicles. A driver of a motor vehicle in motion may not use the driver's hands to use an interactive wireless communication device. A driver of a school vehicle in motion carrying passengers may not use a wireless device nor may a holder of a learner's permit use any wireless device while driving a motor vehicle. These provisions do not apply to the activation or deactivation of a wireless device or the emergency use of a wireless device.

Equipment and Inspections

[SB 58](#) passed the Senate this week. The bill extends the width limit of a boat trailer that may be driven on State highways from 96 inches to 102 inches, provided it is a private boat trailer traveling from a point of origin to a boating, launching, repair, or fuel facility by the most practical route. Permits for private boat trailers up to 102 inches wide would not be required under this bill, nor would the trailer owners have to pay a permit fee.

[HB 367](#), which made its committee debut in the House this week, makes the current exemption for qualified hybrid vehicles from the State Vehicle Emissions

Inspection Program (VEIP) permanent by repealing the September 30, 2006, sunset provision. A 2003 law made qualified hybrid vehicles (those with city fuel economy of at least 50 miles per gallon) exempt from mandatory emissions tests and inspection until the sunset date. Only two commercially available hybrids, the Toyota Prius and the Honda Insight, currently meet that target.