



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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45th DAY

February 22 is the 45th day or the halfway mark of the 2008 session. To date the count for Senate bills is 946 and for House bills is 1559. The next deadline in the legislative process is the 55th day, March 3, which is the final date for introduction of bills without suspension of the Senate or House Rules. Suspension requires a two-thirds vote of the elected membership of either house.

COURTS AND CIVIL PROCEEDINGS

Current law requires a health practitioner, police officer, educator or human service worker to report suspected child abuse or neglect, with no penalty for failing to do so other than a possible disciplinary action by a licensing board. This week the Senate passed [SB 243](#) to make such failure to report a misdemeanor punishable by a fine of up to \$1,000. The bill also adds medical examiners and parole and probation agents to the list of those required to report. A House committee will hear the companion bill, [HB 965](#), in two weeks.

[HB 632](#) affects parents who routinely fail to pay child support until threatened by the Child Support Enforcement Administration with a driver's license suspension for nonpayment. The bill, heard by a committee last week, provides for automatic suspension of the driver's license of a child support obligor who has received 3 suspension notices within a 2-year period and whose child support payment is 30 days or more in arrears. The Motor Vehicle Administration may issue a work-restricted license.

[HB 77](#) received an unfavorable committee vote this week. The bill would have repealed the prohibition against broadcast media coverage of a criminal sentencing hearing.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Child Pornography and Sexual Abuse

A House committee heard testimony this week on two bills that change the crime of possession of child pornography from a misdemeanor to a felony. [HB 436](#)

does not change current penalties. [HB 574](#) applies the prohibition when the depiction involves a minor (rather than an individual under 16) and increases the maximum penalty for a first offense from 2 years in jail and a \$2,500 fine to 5 years and \$10,000. The maximum penalty for a subsequent offense increases from 5 years in jail and a \$10,000 fine to 10 years and \$20,000. As well, [HB 574](#) institutes a mandatory minimum sentence of 2 years for a first offense and 5 years for each subsequent offense. A Senate committee will hear companion bills [SB 414](#) and [SB 75](#) on March 5.

Under [HB 523](#), a person in a position of authority who commits certain sexual acts against a minor who is enrolled or participating in the institution or program at which the person in authority works is guilty of the felony of third degree sexual offense, rather than the misdemeanor of fourth degree sexual offense as current law provides. The maximum penalty increases from 1 year in jail and a \$1,000 fine, or 3 years and \$1,000 for a subsequent offense, to 10 years in jail. The bill, heard earlier this week in committee, also expands the definition of "person in a position of authority." The companion bill, [SB 740](#), will be before a Senate committee on March 5.

Alcohol to Minors

The House passed [HB 76](#) that establishes that it is a misdemeanor for a person to knowingly or willfully furnish an alcoholic beverage for consumption to a minor. A violator is subject to imprisonment for up to 60 days, a fine of up to \$1,000, or both. The bill does not provide an increased fine for subsequent offenses. These provisions do not apply to an individual who was acting in the capacity of an alcoholic beverages licensee and has committed a violation of and is subject to fines and penalties under alcoholic beverages laws prohibiting the sale of alcoholic beverages to minors. [SB 166](#), before a Senate committee last month, is the companion bill.

Hate Crimes – Homeless Persons

The Senate passed [SB 111](#) that expands the protected classes under existing hate crimes laws to include the homeless. The companion House bill, [HB 528](#), is waiting for a committee vote in that chamber.

Protection of Animals

The Senate passed [SB 44](#) to increase the penalty for attending a cockfight or dogfight from a maximum of 90 days in jail and a \$1,000 fine to a year in jail and a \$2,500 fine. The crime remains a misdemeanor under the bill.

[HB 378](#), which would have increased the penalties for the misdemeanor crime of abuse or neglect of an animal and the felony crime of aggravated cruelty to animals, failed a committee vote this week.

ECONOMIC AND BUSINESS ISSUES

Base Realignment and Closure (BRAC)

The BRAC decisions made in 2005 will have a major impact on Maryland's federal military installations and on the State's economic and business climate. An estimated 19,536 to 20,836 direct new jobs place Maryland among the largest beneficiaries nationally. This week a House committee received commentary on [HB 366](#), the Administration's "BRAC Community Enhancement Act." The bill proposes BRAC Revitalization and Incentive Zones in the State and specifically establishes eligibility criteria, the factors to consider when approving BRAC Zones, and the procedures that local subdivisions must follow to apply for them. The bill also creates financial incentives for BRAC Zones, including an income tax credit, a personal property tax credit, and one of three rebate options that consider real property tax collections. The companion bill is [SB 206](#).

Electric Companies

New requirements will be placed on electric companies prior to specified tree care activities if [HB 839](#) is successful. A company will be required to contact affected community associations, to give specified notice to the public, and to provide an opportunity for public comment, including holding a public hearing presenting a descriptive plan of the proposed tree care activities. The proposed legislation also allows homeowners to hire private tree experts for specified proposed tree removals. The Senate companion, [SB 727](#), is on the hearing schedule for early March.

Alcoholic Beverages, Tobacco, and Milk

[HB 1260](#) authorizes wine retailers and wine manufacturers outside of the State to ship wine directly to State residents for personal consumption. The bill requires licensing of shippers and conspicuous labeling of shipments as alcohol, as well as the signature of someone at least 21 years old at delivery. [SB 616](#) is the

companion or crossfiled bill. A similar bill failed in 2006.

Another measure, [HB 879](#), expands the definition of beer under State law. Current law defines beer as any brewed alcoholic beverage and includes beer, ale, porter, stout, and hard cider. The expanded definition would include flavored malt beverages, which are currently classified as distilled spirits but are taxed at the same rate as beer. The bill's companion is [SB 745](#).

[HB 147](#) exempts the sale of milk and milk products by milk producers (an operator of a dairy farm) directly to the final consumer from regulations governing the production, processing, labeling, and distribution of milk products in the State. The exemption does not apply to restaurant, retail, commercial, wholesale, or other sales of milk and milk products to subsequent buyers. An identical bill was withdrawn in 2007.

[SB 362/HB 1399](#) prohibit the sale of tobacco paraphernalia unless a retailer maintains a logbook with specified information about each sale and the customer who purchases the paraphernalia. Customers would be required to sign the logbook and show the retailer government-issued photo identification. Among its other provision, the bill also requires the retailer to submit the logbook's information to the Comptroller's office. Individuals found guilty of providing false or misleading information or identification for the purchase of the paraphernalia would be subject to misdemeanor maximum penalties of imprisonment for three years and/or a fine of \$1,000. A committee heard testimony on the Senate bill this week.

Employment and Corporate Law

Senate and House committees have taken testimony on the Lilly Ledbetter Fair Pay Act of 2008 ([SB 563/HB 439](#)). The legislation expands the time period for which an employee may seek back pay in certain circumstances. The bill responds to the U.S. Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, a federal case based on a claim that Lilly Ledbetter had been unfairly evaluated based on gender and as a result received less pay than male colleagues.

Corporation-related Senate bills were heard this week, with the House measures slated for hearings in upcoming weeks. [SB 696/HB 743](#) alter and update various provisions governing corporate procedures related to Maryland General Corporation Law. Two other measures ([SB 556/HB 728](#)) allow stockholders of a publicly traded corporation chartered in the State to be granted stock appraisal rights in the event of certain transactions such as a merger, consolidation, or share exchange. The bill permits the stockholder to demand

the fair value of the stockholder's stock in such transactions involving conversion of stock into something other than stock of the surviving corporation, such as cash or notes. Appraisal rights would also be available in transactions where any director or executive officer is treated differently than the public stockholders. Extending appraisal rights would provide additional safeguards for the public stockholders of corporations that are merging, consolidating, or exchanging shares.

EDUCATION

Higher Education

A hearing was held this week for [HB 538](#), which will allow graduate student employees and adjunct faculty of certain institutions of higher education to organize into collective bargaining units. While collective bargaining rights have been extended to many categories of higher education personnel, graduate student employees and adjunct faculty are excluded from the benefit. The bill's companion, [SB 617](#), will be heard next month.

Elementary and Secondary Education

[SB 229](#) places a figure of 65% as the minimum amount of the total annual operating monies a school should be spending on "direct classroom expenditures." Classroom expenditures are defined as costs and activities directly associated with the interaction between teachers and students. These expenses include books, supplies, and materials, as well as teachers' salaries.

[SB 264](#) will require local school boards to provide General Education Development (GED) information and testing locations to high school dropouts. For students who do not complete high school, the GED exists as an alternative avenue for achieving a diploma. The companion bill, [HB 953](#), will receive a committee hearing early next month.

A number of bills regarding school bullying, cyber-bullying, harassment, and intimidation had hearings this week. These bills seek to protect young victims and ensure a safe school environment for all students by defining 'bullying,' creating an anonymous avenue for reporting infractions, and setting disciplinary standards. The nuances among the bills are as follows:

- [HB 199](#) requires the State Board of Education to develop policy standards for the investigation and discipline of bullies. Local school districts must create their own standards to conform to the State Board standards;
- [HB 732](#), also requires schools to create educational materials aimed at preventing bullying in schools;

- [HB 206](#) establishes State and local policies, but requires that school districts publish and make anti-harassment policies available to faculty, students, parents, and volunteers; and
- [HB 546](#) calls for the creation of an ombudsman position within the State Department of Education and of a Prevention of Harassment and Intimidation in Public Schools Advisory Council.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Committees now have heard testimony on several administration bills that are meant to address global warming:

- [SB 205/HB 374](#) require electric companies to provide customers with energy conservation and energy efficiency programs and services;
- [SB 209/HB 375](#) increase the renewable portfolio standard percentage requirements and the fee charged to electric suppliers for shortfalls; and
- [SB 268/HB 368](#) create the Maryland Strategic Energy Investment Program and Fund to invest in the promotion, development, and implementation of energy efficiency and conservation programs, renewable and clean energy resources, and climate change research and other related programs, as well as provide targeted programs to reduce electricity consumption by low-income and moderate-income residential customers.

Other energy-related bills with hearings this week and next:

- [SB 309/HB 712](#) establish the Office of Climate change within the Department of the Environment to research and evaluate current methods and technologies that improve the efficiency and efficacy of greenhouse gas emissions reduction program, and require the department to adopt regulations to reduce greenhouse gas emissions by a minimum of 25% by 2020 and 90% by 2050 (from 2006 levels);
- [HB 907](#) creates the Sustainable Energy Task Force;
- [HB 1320](#) creates the Maryland Energy Center and Fund; and
- [SB 442](#) increases the maximum air quality emissions-based permit fee and repeals the current limit on the amount of money that can be maintained in the Maryland Clean Air Fund.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

The public was given the opportunity to testify recently on an emergency bill concerning credit regulation ([SB 347](#)). The bill creates exceptions to penalty provisions currently applied to credit grantors in violation of the laws governing open- and closed-end credit plans. The bill allows for state-chartered banks and independent mortgage lenders to continue the practice recapturing loan closing costs, which are initially paid by the lender, in the event that the borrower prepays the loan before a certain time. The next step for the House companion bill, [HB 852](#), which has had a hearing, is a committee vote.

FISCAL MATTERS

[HB 1256](#), the companion proposal of [SB 239](#), repeals the requirement that homeowners file an application with the State Department of Assessments and Taxation to receive the homestead property tax credit. It has a hearing scheduled for February 28. The Senate bill had a hearing on January 30.

[SB 381](#) prohibits a county from creating a special taxing district which includes residential property or from expanding an existing special taxing district to include residential property. A similar bill, [HB 1470](#), has the same prohibitions, but additionally requires a county to provide a 100% county property tax credit to those owners of residential property included in existing special taxing districts.

[HB 796](#), increasing from \$100 to \$300 the amount of unpaid taxes necessary for a tax sale, was withdrawn.

HEALTH CARE AND HEALTH INSURANCE

The Prosthetic Parity Act ([SB 98/HB 69](#)) was heard last week by both Senate and House committees. The bill requires insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for prosthetic devices at least equivalent to coverage specified in federal laws and regulations. The Act also provides coverage for replacement or repair of a prosthetic device prompted by change in the physical condition of the insured. In current law, there are 42 mandated health insurance benefits that specified carriers must provide to their enrollees; the extent of coverage for prosthetic devices, which are defined as artificial limbs, is not specified.

Limited service pregnancy centers are required to make disclaimers to their clients under [SB 690/HB 1146](#). The bill also requires that the disclaimers be made by staff at

a certain time and in a certain manner. A limited service pregnancy center is defined as an organization whose primary purpose is to provide pregnancy related services, that gives information about pregnancy related services for free or for a fee, and that does not provide information regarding abortions and contraceptive services. Among the disclaimer's mandatory provisions are that the staff inform the client that the information provided by the center is not intended to be medical advice or to establish a doctor-patient relationship. Hearings on these bills are scheduled for next month.

REAL PROPERTY, ESTATES, AND TRUSTS

Bills related to various aspects of foreclosure were the subject of committee hearings recently, including several Administration bills ([HB 360](#), [HB 361](#), [HB 363](#) and [HB 365](#)). Other foreclosure measures that were considered include:

- [HB 58](#) to grant a homeowner the right to rescind a contract for the sale of a residence in foreclosure within 3 business days after the contract is executed;
- [HB 59](#) to create a duty for a foreclosure consultant to provide written copies of any research regarding the value of a residence in foreclosure to the homeowner, and to add a statement of this duty to the language required in a foreclosure consulting contract. (Foreclosure consultants must provide to the homeowner any such research they have, including any information on sales of comparable properties or appraisals); and
- [HB 1398](#) to prohibit a creditor from maintaining suit in an action to foreclose a mortgage entered into by a homeowner unless the creditor shows to the satisfaction of the court that the mortgage is not a deceptive subprime mortgage, providing that a creditor may be liable for specified damages if the creditor fails to make the showing.

The Richard Atta Poku Right to Appeal Foreclosure Act, [HB 778](#), addresses a recent Court of Appeals decision referencing a homeowner's failure to file a supersedeas bond in an earlier proceeding concerning the foreclosure on his home. The bill specifies that the right of a record owner to appeal a final judgment of the circuit court may not be conditioned on the posting of a supersedeas bond in an amount exceeding the past due monthly payments under the loan secured by the mortgage or deed of trust and any late fees; and the future monthly interest due under the loan during the pendency of the appeal, as the interest accrues. The bill also prohibits dismissal of a record owner's appeal if the record owner makes a

timely request to set the amount of a supersedeas bond; and the circuit court fails to determine the appropriate amount of the supersedeas bond. A supersedeas bond is a bond that a court requires from an appellant who wants to delay payment of a judgment until the appeal is over.

STATE GOVERNMENT

Holidays and Special Dates

There are 12 bills under consideration that add special dates to the State of Maryland's official calendar. One measure designates the Friday after Thanksgiving Day as American Indian Heritage Day and adds it to the list of State legal holidays. The Friday after Thanksgiving, already a State employee holiday, designation is a follow-up to action taken almost two decades ago by then President George H.W. Bush who approved a Joint Resolution of Congress naming November as National American Indian Heritage Month, a designation that has since been made each year since 1994 (HB 83).

Black History Month is also celebrated nationwide. The month of February became an official national observance in 1976 and in 2007 Maryland recognized February as the State's Black History Month. This year, if successful, HB 418 would also recognize January to commemorate important events that occurred during the month including the signing of the Emancipation Proclamation, the passage of the 13th Amendment of the U.S. Constitution that abolished slavery, and the ratification of the 24th Amendment of the U.S. Constitution that made it illegal to condition the right to vote in federal elections on the payment of a poll tax or other tax. Additionally, many famous Black Americans were born during January including Martin Luther King, Jr., George Washington Carver, Sojourner Truth, and Nathaniel Turner.

Other proposals commemorate events in Maryland's early history:

- Maryland Charter Day (June 20) recognizes the date in 1632 that King Charles I granted Cecelius Calvert, the second Lord Baltimore, a charter for the Maryland Colony. 2008 is the 376th anniversary of the granting of the Maryland charter (SB 546/HB 957); and
- Annapolis Charter Day (November 22) commemorates the date in 1708 when the residents of Annapolis received a Royal Charter granting them powers of self-government. In 2008, the City of Annapolis celebrates the 300th anniversary of the granting of the charter (HB 1516).

Two proposals acknowledge the importance that certain diseases have in the lives of Marylanders. HB 202 names April 6 as Juvenile Diabetes Day and SB 477/HB 895 designate the month of May as Dandy-Walker Syndrome and Hydrocephalus Awareness Month. Dandy-Walker Syndrome is a congenital brain malformation. Hydrocephalus is a condition characterized by fluid retention in the brain. It can be congenital or acquired.

Legislators may also use resolutions to set apart special dates. Under SJ 3, January 20, 2008, through January 26, 2008, is designated as Nurse Anesthetists Week to honor Certified Registered Nurse Anesthetists who administer 27 million anesthetics in the U.S. each year. Another resolution, HJ 3, honors firefighters, law enforcement officers, and medical services and emergency services personnel by choosing each week of the year that contains September 11 as the annual Maryland First Responder Appreciation Week. A failed resolution would have recognized an annual Ronald Reagan Day on February 6, the former President's birthday (SJ 1).

Another annual week on the official calendar sets apart the last week of June as Pollinator Week, following the designation by the U.S. Department of Agriculture and the U.S. Senate of June 24-30, 2007, as National Pollinator Week to recognize the importance of pollinators to ecosystem health and agriculture. A second annual National Pollinator Week is planned for June 22-28, 2008. The importance of pollinator species has received media attention recently due to the disappearance of honey bee colonies, known as Colony Collapse Disorder, that appears to be occurring across the country, yet the cause of the problem is not fully understood (HB 209).

State Symbols

The number of Maryland State symbols may increase in 2008, if the General Assembly passes and the Governor agrees to make Smith Island Cake the State Dessert (SB 287/HB 315), walking the State exercise (SB 434/HB 1311), soybeans the State crop (HB 1267), and English the official State language (HB 886). Marylanders testified at a committee hearing this week concerning the State dessert, State exercise, and State crop.

TRANSPORTATION

Safety Issues

Several proposals are aimed at promoting safety for those who use or work in mass transit including:

- prohibiting the use of obscene language in Maryland Transit Administration (MTA) and MARC transit vehicles and facilities ([HB 320](#));
- prohibiting the use of a wireless communication device, such as a cell phone, while operating a MTA transit vehicle ([HB 321](#)); and
- prohibiting individuals from committing offenses including assault, reckless endangerment, carjacking, extortion, kidnapping, manslaughter, murder, rape, robbery or theft against public transit employees, such as bus drivers and station agents or attendants, acting in the course of their duties. Violators are subject to a fine of up to one and one-half times the maximum fine authorized for the underlying offense or imprisonment for up to one and one-half times the maximum imprisonment authorized for the underlying offense or both ([HB 1489](#)).

Other legislation also related to protecting mass transit passengers, property, and operators. recently failed in committee ([HB 322](#), [HB 323](#), and [HB 324](#)). The bills related to assault against passengers and operators would have subjected convicted offenders to a 15-year mandatory minimum, nonsuspendable, nonparolable term of imprisonment and a 20-year mandatory minimum, nonsuspendable, nonparolable term of imprisonment, respectively. Destruction of property could have resulted in a mandatory minimum, nonsuspendable imprisonment sentence of 30 days and payment of restitution.

On a different tack, another bill requires a person employed or offered employment as a driver or operator of a common carrier motor vehicle to apply for a State criminal history records check and submit proof of having successfully completed a course approved by the Public Service Commission that includes in the curriculum appropriate accommodations accompanied with respect and courteous treatment of all passengers, including disabled individuals ([HB 505](#)).

Teen Drivers

Several bills relating to teen drivers had hearings this week:

- [SB 460/HB 511](#) require the Motor Vehicle Administration to notify the cosigner of a minor's driver's license application about every citation issued to the minor for a moving violation, instead of just a speeding violation of at least 20 miles per hour over the maximum speed;

- [SB 461](#) repeals the limitation that a police officer enforce, only as a secondary action when the officer detains a driver for another suspected violation, the prohibition against a minor holding a provisional license or learner's permit from using a wireless communication device (cell phone) while driving a motor vehicle. The companion measure ([HB 695](#)) will be heard next week;
- [SB 661](#) repeals the limitation that a police officer can enforce, only as a secondary action when the officer detains a driver for another suspected violation, the prohibition against a teen driver holding a provisional license or a learner's permit from transporting other minors as passengers, unless the passenger is related to the driver. [HB 874](#), the companion measure will have a hearing early in March.

Towing Vehicles

Following a major accident on the Bay Bridge related to vehicle towing practices, several proposals are under consideration. [SB 174](#), as passed by the Senate, defines and regulates various towing devices used to connect a towing vehicle to any type of towed vehicle, commercial or otherwise. An additional maximum penalty of \$1,000 is authorized for a violation that leads to serious bodily injury or death. The companion measure is [HB 868](#). Another bill, [HB 1119](#), alters the procedures that must be followed and the equipment that must be used when one vehicle tows another vehicle. A task force to study motor vehicle towing practices is created under [HB 684](#).

Driving - Alcohol/Drug Use

[SB 638](#) prohibits a person who is detained for suspected alcohol- or drug-related driving offenses from knowingly refusing to a blood or breath test if the person was detained previously for a suspected alcohol and/or drug-related driving offenses and had refused to take a blood or breath test at that time. The companion measure is [HB 1475](#).