



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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DEADLINES

The 70th day of the 2009 session, March 24, is the Committee Reporting Courtesy Date. By this day, each chamber's committees are to report their own bills. Committees may report bills with a favorable vote (FAV), a favorable vote with amendments (FWA), or an unfavorable vote (UNF).

COURTS AND CIVIL PROCEEDINGS

Domestic violence legislation passed a final House floor vote this week that:

- requires a final protective order to order the respondent to surrender any firearm in the respondent's possession for the duration of the order ([HB 296](#));
- allows a judge, when issuing a temporary protective order, to order the surrender of a respondent's firearm for the duration of the order if the abuse by the respondent consisted of the use or a threat to use a firearm against the petitioner or serious bodily harm or a threat to cause serious bodily harm to the petitioner ([HB 302](#)); and
- authorizes a District Court commissioner or judge, when awarding temporary custody of a child to the petitioner under an interim or temporary protective order, to order a law enforcement officer to use all reasonable and necessary force to return a minor child to the custodial parent after the protective order is served ([HB 464](#)).

Failing a House third reading floor vote, an amended [HB 359](#) (failed) would have allowed the State Police to consider whether an applicant for a gun permit is a person eligible for relief under a final protective order when determining if the applicant has the necessary good and substantial reason to wear, carry, or transport a handgun. Similar legislation, [SB 586](#), had a Senate hearing this week. It gives a person who has been issued a temporary or final protective order the qualification of having a "good and substantial reason" to wear, carry, or transport a handgun, so that the person is eligible to receive a handgun permit, after meeting the other statutory requirements.

The Senate passed the Lilly Ledbetter Civil Rights Restoration Act of 2009 ([SB 368](#)), which authorizes an employee to recover back pay for up to two years preceding the filing of a complaint for employment discrimination based on an unlawful employment practice that occurred outside the statute of limitations for filing, but was similar or related to an unlawful pay discrimination practice that occurred during the complaint filing period.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Legislation to establish a statewide Silver Alert Program ([HB 317](#)) passed the House this week. The bill calls for the State Police to create a system of rapid dissemination of information to assist in locating a person with a cognitive impairment, such as Alzheimer's Disease or dementia, by using the dynamic message sign system on the State's highways for public alerts, recruiting the assistance of television and radio broadcasters and other members of the public, and allowing high school students to assist and earn student service credits for their efforts. The companion bill is [SB 303](#).

The House also passed [HB 1201](#) that expands hate crime prohibitions to make it a misdemeanor to place a noose or swastika on public or private real property without the express permission of the owner or occupant, with the intent to threaten or intimidate any person or groups of persons. The maximum penalty is three years in jail and a \$5,000 fine.

The Senate amended and passed [SB 447](#) to require law enforcement agencies that maintain a SWAT team to report every six months to the Governor's Office of Crime Control and Prevention (GOCCP) the number of deployments and each deployment's location, reason, legal authority, and result. The GOCCP must prepare an annual analysis and summary of these reports. The companion bill is [HB 1267](#).

All death penalty bills introduced this session were up for discussion this week in a House committee. Opposed to the death penalty, the Governor nevertheless testified in favor of [SB 279](#) as an achievable measure that makes execution of an innocent person much less likely. As

introduced in the Senate, [SB 279](#) would have repealed the death penalty. But as amended and passed by the Senate and now under consideration in the House, the bill retains the death penalty and restricts its use to cases with biological or DNA evidence, a video recording linking the defendant to the murder, or a videotaped voluntary confession. It also prohibits use of the death penalty in cases where the State relies solely on eyewitness evidence. Other measures heard include:

- [HB 316](#), which repeals the death penalty and is the companion bill to [SB 279](#);
- [HB 794](#), a constitutional amendment that authorizes the creation of a Death Penalty Court, a trial court with original and exclusive statewide jurisdiction over offenses punishable by death; and
- [HB 1109](#), which exempts the protocols governing the administration of the death penalty from the requirements of the Administrative Procedure Act.

A de facto moratorium on executions has existed since December 2006, when the Maryland Court of Appeals ruled that lethal injection regulations had not been properly adopted.

Legislation to retroactively require the addition of specified sexual offenders to the State's sexual offender registry recently had hearings. Under current law, offenders who committed their crimes before October 1, 1995 for some offenses or July 1, 1997 for others, but were not in prison or under supervision as of October 1, 2001, are not required to register. [SB 425](#) and [SB 441/HB 1030](#) require offenders to register if they were convicted of first or second degree rape, first or second degree sexual offense, or sexual abuse of a minor after October 1, 1995, for those crimes committed before October 1, 1995.

Legislation failed ([HB 907](#)) that would have required the Governor to withhold approval of the transfer of the National Guard to federal control in the absence of an explicit authorization for the use of military force, or a declaration of war, adopted by the U.S. Congress, as well as to request the return of the National Guard units to the State if such authorization expires or is no longer valid. The companion bill is [SB 501](#).

ECONOMIC AND BUSINESS ISSUES

Slaveholder Insurance Policies

[SB 751](#) passed the Senate this week with amendments. The bill requires a State-regulated insurer to submit to the Maryland Insurance Commissioner a report on

slavery era insurance policies issued by the insurer or any predecessor of the insurer. The Commissioner must make the information public via the Insurance Administration's website. Amendments to the bill require additional documentation to be included when reporting and require that copies of the reports be maintained at the University of Maryland School of Law library.

Prince George's County Soccer Stadium

Bills are under consideration that call for the Maryland Stadium Authority to take a lead role in working to establish a Prince George's County Soccer Stadium ([SB 1020/HB 1282](#)). The stadium is expected to be home to the DC United soccer team.

Solar Energy Credits

Withdrawn by its sponsors, [HB 1060](#) (failed) would have required electricity suppliers to accumulate a portion of their solar energy credits each year from small solar generators in order to meet a specific Renewable Energy Portfolio Standard.

Utility Regulation and Assistance

This week both chambers continued to hear bills on utility-related issues in the State:

- [HB 842](#), an emergency bill, requires Public Service Commission (PSC) approval for a person to acquire a generation facility or an ownership interest in a generation facility if the facility is owned by, or is an affiliate of, a company that controls or is the parent company of an electric company, gas company, or combined electric and gas company. The companion bill, [SB 794](#) (failed), was withdrawn;
- [SB 1051](#), another emergency bill, prohibits gas and/or electric companies from terminating gas or electric service to a residential customer whose account is in arrears until after June 1, 2009. After this date, the companies cannot terminate services to a residential customer whose account is in arrears when an investigation is pending by the PSC of a complaint by the customer about the increased cost of gas and electric service during the heating season; and
- [SB 1046](#) requires that 75% of unclaimed deposits and unclaimed rebates from gas and electric companies in the State's abandoned property fund be distributed to the Fuel Fund of Maryland that aids individuals in need of energy assistance. The companion is [HB 1423](#).

EDUCATION

Teacher ID Numbers/Standardized Course Numbers

Assigning teacher identification numbers to each public school teacher is the focus of [HB 587](#), which passed the House at the end of the week. The bill stipulates that unique and randomly generated numbers will be produced by the Maryland State Department of Education (MSDE) and assigned to each public school educator. This allows for data collection that can illuminate education policy issues, such as which form of teacher training and certification may have the greatest impact of students' academic growth. The ID numbers will not contain any personally identifying information.

The House also passed another education data collection bill, [HB 588](#), that authorizes MSDE to create a standardized course numbering system that local school systems may opt in to use. The aim is to produce a statewide longitudinal education data system that will allow comparisons among local school systems.

ELECTIONS AND ETHICS

Following continued scrutiny in Maryland and nationwide of the security and accuracy of electronic touchscreen voting machines, the State's election law was amended in 2007 to require that Maryland use a voting system that provides a voter-verifiable paper record beginning January 1, 2010. The existing touchscreen machines do not produce a paper record that a voter may verify at the time of voting. The estimated total cost of the new voting system is just under \$39 million, but actual costs may vary depending on the contract awarded. A number of bills address various aspects of this issue by:

- delaying the replacement of the touchscreen voting machines until the later of January 1, 2016, or the date of the final payment for the State's current touchscreen voting system ([SB 970/HB 1211](#));
- establishing that a system must be warranted by the vendor for two years from the date of the contract and allowing a person to file a civil action on behalf of the person and the State against a vendor who has breached the warranty ([SB 814/HB 863](#)); and
- requiring that the State Board of Elections may only certify a voting system that has been examined by an independent testing laboratory approved by the National Association of State Election Directors and shown by the laboratory to meet specified federal performance and test standards. [SB 415](#), [HB 738](#),

and [HB 893](#) also address accessibility for voters with disabilities.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Agriculture

A measure that requires that certain documents relating to the purchase of easements by the Maryland Agriculture Land Preservation Fund remain confidential, [SB 73](#), is moving through the legislative process. The bill, now in the opposite chamber, calls for records relating to a landowner's ranking, asking price, or foundation offer to be confidential and not subject to public inspection until after the end of the offer cycle.

Smart Green and Growing

[HB 294](#), one of the Administration's comprehensive planning proposals, has received House approval. The bill revises the State's planning visions and requires local planning commissions to take these into consideration when developing planning documents. As amended, the bill allows for the transfer of development rights within priority funding areas to assist in the purchase of land for the construction of recreation, transportation, or educational facilities. The crossfiled measure, [SB 273](#), amended similarly but with more restrictions, is in a House committee.

Energy Efficiency and Recycling

Among bills that received approval from the original chamber late this week are:

- [HB 595](#) that requires the Office of Recycling in the Department of the Environment to include in the State recycling program by July 1, 2010, a system to specifically recover aluminum, glass, paper, and plastic generated for disposal by State government. The system must include placement of collection bins in State-owned or State-operated office buildings by January 1, 2012;
- [SB 856](#) that, as amended, establishes a Green Jobs Workforce Training Program in the Department of Labor Licensing and Regulation to fund workforce training programs that prepare individuals for employment in energy conservation, energy efficiency, and renewable energy sectors; and
- [SB 212/HB 154](#) that expands the responsibilities of the Green Building Council to include providing recommendations on how to expand green building in the State.

Shellfish

[SB 168](#) passed to the House this week. As amended by the Senate, the bill requires the Department of Natural Resources (DNR) to hold public hearings in southern Maryland and on the Eastern Shore before adoption of a final blue crab regulation.

[SB 175](#), which alters from December 1, 2008, to July 1, 2009, the date by which DNR is required to apply to the Department of the Environment and the United States Army Corps of Engineers for permits to dredge buried oyster shells, has received Senate preliminary approval with technical amendments. The crossfiled measure, [HB 103](#), is in the Senate.

[SB 810](#), which allows DNR to pay a more competitive price for oyster shells, was heard by a committee this week. The amended crossfiled bill, [HB 177](#), is in the Senate.

Fertilizers and Sewage

Passing the Senate this week, [SB 553](#) prohibits the sale of lawn fertilizer that contains more than 5% of available phosphoric acid. The bill also establishes labeling and reporting requirements. The companion bill, [HB 609](#), remains in committee. Another bill that would have established reporting requirements on the release of fertilizers and pesticides, [HB 929](#) (failed), received an unfavorable committee report. Testimony will be heard on the crossfiled measure, [SB 917](#), on March 24.

[HB 529](#) (failed), a bill that would have created the Oversight Committee on Sewage Sludge Utilization and would have established requirements for septage haulers, also received an unfavorable committee report.

Hunting

Testimony was taken this week on [HB 1309](#), which expands the hunting “safety zone” from 150 to 300 yards around a dwelling house, residence, church, or other building or camp occupied by human beings.

Wetlands

[HB 1368](#), also heard by a committee this week, prohibits a person, in the exercise of rights as a riparian owner, from making improvements to preserve access to navigable water if the improvements extend over vegetated State or private wetlands.

additional reductions and to take other steps necessary to maintain a balanced budget.

[SB 715/HB 1259](#), the “Building Opportunities for All Students and Teachers (BOAST) in Maryland Tax Credit,” create an income tax credit for 75% of the contributions made by a business or nonprofit organization to an eligible nonprofit organization that either provides scholarships to students or teachers at a nonpublic K-12 school or provides grants to public schools. The grants must support innovative educational programs that are not part of the regular academic program in order to achieve the goals of the Bridge to Excellence Act of 2002. Public school teachers are also eligible for grants to assist in graduate-level education or certification coursework. The amount of credits awarded each year may not exceed the amount of money appropriated to a reserve fund established by the legislation, which applies to tax year 2010 and beyond.

The House approved [HB 493](#), concerning the biotechnology investment incentive tax credit. The companion bill, [SB 800](#), had a Senate hearing. [HB 700](#) (failed), which would have provided a renewable energy credit for the owner of a solar hot water system, received an unfavorable committee report.

GAMING, RACING, AND SPORTS

Instant Bingo

[HB 193](#), which extends the stop date for certain instant bingo and tip jar machines defined as illegal in 2008 legislation, was amended and passed the House this week. The amended version still extends the termination date of the operation of the machines until July 1, 2011, but reintroduces parameters for the machines to remain in operation. These parameters include the following:

- the machines must have been in operation for a one-year period by the end of December 31, 2007; and
- the operators cannot have more than the number of electronic machines that were in operation as of February 28, 2008.

BWI Slots

Two bills related to the addition of video lottery terminals (VLTs) at Baltimore-Washington International Thurgood Marshall Airport (BWI) were considered by a House committee recently. [HB 777](#), which authorizes a video lottery operating license to be awarded for operation of a maximum of 3,000 VLTs at the terminal building and surrounding area within the security perimeter of BWI, is contingent on the passage of [HB 1268](#), a constitutional amendment authorizing VLT

FISCAL MATTERS

Because of lower than anticipated revenue estimates, [HB 100](#), the Budget Bill, will be reported to the House floor next Monday after more time was required to make

gaming at BWI, and its ratification by voters in November 2010. If the voters approve, the total maximum number of VLTs in the State will be raised from 15,000 to 18,000, and the number of VLT sites will be increased by one.

HEALTH CARE AND HEALTH INSURANCE

Health Care Affordability Act of 2009

The Health Care Affordability Act of 2009 was heard by committees in both chambers this week. The crossfiled measures, [SB 813/HB 951](#), establish a Maryland Institute for Clinical Value to develop and implement policies and strategies that direct health care spending towards evidence-based services, benefit and value services, as well as services that improve public health. The bills also create several subgroups within the Institute, including the Value-Based Advisory Committee, Citizens Advisory Council, and the Maryland Prevention Trust for Health Promotion.

Raw Milk

Two bills were heard this week relating to the sale of raw milk:

- [HB 1080](#) exempts from regulation the sale of raw milk and raw milk products from specified producers directly to the consumer if the consumer through a written contract has an ownership interest in the animal or herd from which the raw milk is produced; and
- [HB 1015](#) similarly creates an exception to the prohibition of selling raw milk by requiring a producer that sells raw milk to the consumer to register with the State and to execute a written contract with the consumer that the milk being sold is unpasteurized, and that once the milk is in the consumer's possession, it is the consumer's responsibility to properly care for the product. There are additional requirements as to the care of the livestock producing the milk, along with labeling and testing requirements.

Stem Cell Research Act

Companion bills were heard this week on revisions to the State's Stem Cell Research Act. [SB 948/HB 1159](#) change the scope and name of the Stem Cell Research Fund to be the Maryland Stem Cell and Biotechnologies Research Fund, the primary purpose of which is to support innovative biotechnology research and development that has the potential to create sustainable job growth in the State, including manufacturing jobs. The bills also specify that the Fund may be used to

award grants and loans for research supporting a qualified technology, which is defined as any innovative and proprietary technology that comprises, interacts with, or analyzes biological material including biomolecules, cells, tissues, or organs, and includes technology used for stem cell research.

Gender Equity Health Coverage Act

The Gender Equity Health Coverage Act, [HB 1280](#), provides an exception to a provision of law allowing the consideration by insurers of actuarial justification with respect to sex. The bill also prohibits insurers, nonprofit health service plans, and health maintenance organizations from considering sex in determining whether to underwrite a particular risk or class of risks with respect to health insurance offered to individuals.

Prosthetic Parity Act

The Senate passed [SB 341](#), the Prosthetic Parity Act, requiring insurers, nonprofit health service plans, and health maintenance organizations (carriers) to provide coverage for prosthetic devices, components of prosthetic devices, and repair of prosthetic devices. The bill applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State beginning October 1, 2009. The crossfiled bill is [HB 579](#). Similar legislation did not pass in 2008.

Small Business Health Insurance Expansion Act

The House approved [HB 4](#), the Small Business Health Insurance Expansion Act, which generally relates to establishing additional requirements for the Small Employer Health Benefit Plan Premium Subsidy Program passed during the 2007 Special Session. The amended bill establishes further conditions related to minimum participation levels in the plan as related to a determination of whether the applicable percentage of coverage is met. An additional amendment increases the maximum number of employees that a small employer may have to be eligible for the subsidy from nine to 19, among other eligibility requirements already in current law. Also, the bill's effective date changes from October 1, 2009 to June 1, 2009, as amended.

Maryland Coverage Affordability and Revenue Standards Act

A House committee reported unfavorably on [HB 272](#) (failed), the Maryland Coverage Affordability and Revenue Standards Act, which would have altered specified loss ratio requirements for specified health benefit plans and Medicare supplement policies. The bill also would have established a specified loss ratio requirement for large group health benefit plans.

REAL PROPERTY, ESTATES, AND TRUSTS

SB 5, as amended and passed on second reading by the Senate, increases from three to five years the lease extension period that must be offered to a person who is at least 62 years old or disabled before a landlord of a rental unit covered by federal rental housing assistance may transfer the rental unit or take another protected action specified in statute. The bill applies prospectively to owners who take title to an assisted project beginning October 1, 2009.

TRANSPORTATION

Drunk and Drugged Driving

Testimony was heard in a Senate committee this week on **SB 783** that creates the offense of driving while under the influence of drugs, alcohol, controlled dangerous substances, or any combination thereof. The bill applies administrative and judicial penalties to homicide or causing life-threatening injury by motor vehicle or vessel while under the influence of alcohol or alcohol *per se*, and driving or attempting to drive any vehicle while under the influence of alcohol or alcohol *per se*.

Tolls, Bridges, and Traffic Safety

Bills addressing safety concerns on the Chesapeake Bay Bridge remain under discussion. This week, **HB 1375**, that establishes a Commission to Study the Impact of Large Truck Traffic on the Chesapeake Bay Bridge, had a committee hearing. The companion bill is **SB 866**. Additional issues related to toll increases and congestion on Maryland's bridges and roadways have also gained increased attention:

- **SB 478/HB 786** require the Maryland Transportation Authority (MDTA) to stop collecting tolls for the Chesapeake Bay Bridge if MDTA determines that traffic approaching the bridge is at a level of congestion where eastbound vehicles are waiting 30 minutes or longer to cross the bridge;
- **SB 477/HB 780** prohibit MDTA from fixing or revising a toll on any part of any transportation facilities project unless the General Assembly approves the toll through legislation;
- **HB 922** prohibits MDTA from fixing or revising tolls, fees, or other charges for a transportation facilities project until 60 days after submitting specified information and the completion of a 60-day public comment period; and
- **HB 1332**, an emergency bill, prohibits MDTA from imposing specified toll rate increases. In fiscal 2009,

MDTA may not impose a toll rate increase on any user group, and in fiscal 2010 there are specific toll prohibitions and implementation restrictions.

Cell Phones, Texting, and Distracted Driving

HB 518 (failed), which would have prohibited the use of a wireless communication device while driving, with specified exceptions, received an unfavorable committee vote this week.

Young Drivers

The House passed legislation this week concerning teen driver safety. **HB 303**, as amended, increases by three months the age limit for issuance of a provisional driver's license and original driver's license, increases the length of time that must elapse before a learner's instructional permit holder may take an examination for a provisional license, and increases restrictions on the carrying of other young passengers by provisional license holders younger than 18. The provisions regarding age of eligibility for licenses and permits do not apply to those who have already obtained a license or permit. The bill includes other provisions to:

- require the Motor Vehicle Administration (MVA) to apply for a criminal history records check for each applicant for a driving instructor's license;
- authorize the MVA to conduct a driver improvement program for young drivers;
- allow the MVA to cancel the license of a minor on request of the cosigner of the minor's application and provide for reissuance of the cancelled license; and
- and establish new penalties that the MVA may impose against the provisional license of persons younger than 18 who commit two or more moving violations.

Motorcycle Helmets

Motorcycle helmet legislation has returned to the General Assembly. **SB 766**, before a Senate committee recently, exempts specified motorcycle riders from current protective headgear requirements and requires the MVA to study the effect of exemptions on motorcycle injuries and fatalities and report by December 2011. The bill terminates in May 2012. Similar bills have been introduced each year since 1996, but **SB 766** is the first to include a sunset provision and require a study of the bill's impact. A hearing has not yet been scheduled for the second bill, **SB 253**, which provides for the same exemptions.

Lawful Presence – Identification Cards, Vehicle Licenses, and Permits – REAL ID

As of November 2008, 28 states had a statutory requirement that driver's license applicants prove lawful presence in the United States. Another 18 states and the District of Columbia had lawful presence requirements through agency policy or the combination of documents required of driver's license applicants. Maryland does not have a legislative requirement of lawful presence in the United States. Several bills addressing this topic were before House committees earlier this session ([HB 195](#), [HB 387](#), [HB 659](#), [HB 742](#), and [HB 1226](#)). A Senate committee listened to testimony recently on comparable legislation:

- [SB 208](#) prohibits the MVA from issuing an identification card or driver's license to an individual who cannot provide acceptable documentation certifying citizenship or lawful presence in the United States. For an individual who is lawfully present but who is not a citizen, the card or license is effective only for as long as the individual is authorized to remain in the United States; and
- [SB 244](#) and [SB 369](#), similar bills, prohibit the MVA from issuing an identification card, driver's license, or moped operator's permit to an individual who cannot provide documentation certifying citizenship or lawful presence in the United States. For an individual who is lawfully present but who is not a citizen, the card, license, or permit is effective only for as long as the individual is authorized to remain in the United States. An applicant who is not eligible for a Social Security number must provide documentation certifying that the applicant is not eligible. The companion bill of [SB 369](#) is [HB 195](#).