



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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(Click on Issue above for previous Wrap-Ups)

BILL SIGNING

On Thursday, March 25, in the presence of President Miller, Speaker Busch, and bill sponsors and supporters, Governor O'Malley held the first bill signing of 2010. The following emergency bills passed by the General Assembly are effective upon signing:

- [SB 106](#) (Chapter 1 of the 2010 *Laws of Maryland*), Labor and Employment - Job Creation and Recovery Tax Credit, creates a tax credit against the State income tax for employers who hire qualified individuals between the effective date of the bill (March 25) and December 31, 2010. The value of the credit is equal to \$5,000 per eligible employee hired, not to exceed \$250,000 per taxpayer or \$20 million statewide, to be awarded on a first-come, first-served basis;
- [SB 107](#) (Chapter 2 of the 2010 *Laws of Maryland*), Unemployment Insurance - Tax Deferment, Trust Fund Solvency, and Cost-Neutral Modernization Act, makes changes that provide savings to the State's Unemployment Insurance Trust Fund to offset the costs of the modernization efforts necessary to be eligible for a one-time payment of \$126 million in federal incentive funds. The net fiscal gain to the trust fund is \$126 million, since the changes under the bill are cost-neutral. The bill provides accommodations to businesses through payment plan options and a reduced late penalty plan; and
- [SB 18](#) (Chapter 3 of the 2010 *Laws of Maryland*), Vehicle Laws - Manufacturers, Distributors, and Factory Branches - Benefits to Employees of Dealers, repeals the prohibition, against a vehicle manufacturer, distributor, or factory branch giving an incentive payment or any other thing of value totaling more than \$200 in a calendar year directly to an employee of a vehicle dealer. A manufacturer, distributor, or factory branch may give the payment to the dealer for distribution to the employee as part of the payroll process, or may give the payment directly to the employee, if information about the payment is made available to the dealer.

CROSSOVER DATE

Monday, March 29, is the 76th day of the 2010 session and thus the date by which each chamber is to send to the other chamber those bills it intends to pass favorably. Opposite chamber bills received after this date are subject to referral to the Rules Committees in each chamber.

COURTS AND CIVIL PROCEEDINGS

Child Support Revision

The House gave preliminary approval to [HB 500](#) to revise the schedule of basic child support obligations used to calculate child support under the State's guidelines. Amendments reduce the new higher maximum income of parents included in the schedule, provide that the adoption or revision of the guidelines is not a material change of circumstance for the purpose of a modification of a child support award, and delay the effective date of the bill until October 2011. The companion bill, [SB 252](#), passed the Senate with no amendments earlier this month.

Child Protection

[SB 559](#) and [HB 811](#) authorize an individual to notify a local department of social services or law enforcement agency if the individual believes that a child lives with or is in the regular presence of a person, other than the child's parent or guardian, who is a registered child sexual offender and poses a substantial risk of sexual abuse to the child. Investigation of an allegation must be completed no later than 30 days after receipt of the report. Those who report receive the same immunity from civil liability that applies to other reporters of abuse and neglect. Both bills passed in their original chambers with amendments that make them identical.

Immunity – Defending Against Intruder

[SB 411](#) provides that a person is not liable for damages for a personal injury or death of an individual who enters the person's dwelling or place of business if the person reasonably believes that force or deadly force is necessary to repel an attack by the individual and the amount and nature of the force used by the person is

reasonable under the circumstances. The bill received preliminary Senate approval this week.

Last month the House passed [HB 207](#) that grants similar immunity from civil liability for action against an intruder who intends to commit a crime of violence or a burglary in the first, second, or third degree. Legislation that would have granted immunity from both criminal prosecution for the use of the force as well as civil liability for any resulting injuries or death in similar situations was voted down in committee ([HB 991](#) and [HB 992](#), both failed).

Jury Trials in Civil Actions

The House gave preliminary approval to [HB 436](#) to prohibit a party in a civil action from requesting a jury trial if the amount in controversy does not exceed \$15,000 (reduced from \$20,000 by amendment), instead of the current \$10,000. The bill is contingent on the voters' adoption of a constitutional amendment ([HB 434](#), also preliminarily passed by the House) that increases, from over \$10,000 to over \$15,000 (reduced from \$20,000 by amendment), the amount in controversy in civil proceedings in which the right to trial by jury may be limited by legislation. The amended bills are no longer identical to [SB 118](#) and [SB 119](#), respectively, which passed the Senate with the new maximum amount figure of \$20,000.

Jury Service

A House committee rejected [HB 1320](#) (failed) that would have required an employer to compensate an employee for job time lost as a result of responding to a summons for jury service.

Same-Sex Marriage

Only a marriage between a man and a woman is valid in Maryland, but on February 22, 2010, the Attorney General issued a formal opinion on the recognition of same-sex marriages in Maryland and concluded that although not free of all doubt, the Court of Appeals "... is likely to respect the law of other states and recognize a same-sex marriage contracted validly in another jurisdiction." A House committee heard testimony this week on [HB 1532](#) that prohibits a unit of State or local government from altering, on the basis of this opinion, any policy, procedure, rule, or regulation in effect on the date of the opinion, to the extent that the alteration requires or depends on a determination of whether a marriage must be recognized by the State. The prohibition is effective from the date of the opinion until the issue of recognition of same-sex marriage legally performed in other jurisdictions is decided by the Court of Appeals or addressed by the General Assembly

through the enactment of a law. The companion bill is [SB 1120](#).

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Office of the Public Defender

The Senate passed [SB 97](#) to expand the Board of Trustees of the Office of the Public Defender from 3 to 13 members; alter Board appointment provisions; alter the authority of the Board to remove the Public Defender by requiring a vote of at least 7 members and allowing removal only for specific causes; and establish a 6-year term for the Public Defender. The bill retains the provisions for regional advisory boards that are repealed under [HB 122](#), a similar bill that passed the House last month.

Salvia Divinorum

Similar bills [SB 17](#) and [HB 1145](#), moving on the floor of their respective chambers this week, make it a misdemeanor to distribute Salvia divinorum to an individual under the age of 21 and prohibit an individual under 21 from possessing the substance, with the possessor receiving a civil citation. [SB 17](#), which received preliminary Senate approval, requires the Attorney General to submit a report by December 1 that details a recommended scheme for the regulation of sales of Salvia divinorum. [HB 1145](#) passed in the House.

Child Endangerment

The misdemeanor of child endangerment, with a maximum penalty of 5 years in jail and a \$5,000 fine, is established under [HB 962](#), which received preliminary House approval. By committee amendment, these provisions replace provisions which would have created the felony of child neglect. Child endangerment occurs when a parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor recklessly fails to act in a manner that creates a substantial risk of death to the minor or permanent or protracted serious disfigurement or loss or impairment of the function of any bodily member or organ of the minor. The companion bill, [SB 757](#), remains in a Senate committee.

Juvenile Facilities

Private providers that contract with the Department of Juvenile Services (DJS) to place children who need services in facilities not operated by DJS that meet State licensing criteria are limited to serving no more than 48 children in a facility at one time under [SB 330](#), which passed a preliminary floor vote in the Senate.

[HB 1245](#) (failed) would have required DJS to develop and implement a plan to close the Thomas J.S. Waxter Children's Center, the State's only secure detention facility for girls, by July 11, 2011. The bill failed a committee vote.

Guns

The Senate passed [SB 44](#) to expand the current misdemeanor prohibition against the use of a handgun or concealable antique firearm in the commission of a crime of violence or a felony to apply to any "firearm," without regard to its capability of being concealed.

[SB 191](#) (failed) would have prohibited the carrying or possession of firearms, knives, or deadly weapons at public institutions of higher education. The bill failed a Senate committee vote.

Sexual Offenders

This week, the Senate amended and considered on the floor the Administration's sex offender bills:

- [SB 854](#), with initial approval, alters various sex offender registration and notification requirements to conform Maryland law to federal law. Committee amendments add provisions for civil commitment procedures for convicted sexually violent offenders who suffer from a certain mental abnormality or personality disorder; court procedures for admission of certain evidence in the prosecution of certain offenses; a listing of juvenile sex offenders that is maintained separately from the sex offender registry and accessible only by law enforcement personnel; and enhanced requirements for the Internet posting of registrant information;
- [SB 280](#), with Senate passage, establishes the conditions and requirements for lifetime sexual offender supervision; and
- [SB 856](#), with initial approval, alters the composition and duties of the Sexual Offender Advisory Board.

The companion bills ([HB 936](#), [HB 473](#), and [HB 931](#), respectively) passed in the House last week. The chambers must agree on a single version of each bill for final passage.

[HB 306](#) (failed) would have expanded the list of aggravating circumstances a court or jury must consider when making a decision to impose the death penalty to include whether the victim was a child murdered by the defendant while the defendant was committing or attempting to commit a sexual offense against the child. The bill failed a House committee vote.

Death Penalty

Legislation that failed in committee would have extended eligibility for the death penalty to cases where the State presents fingerprint or photographic evidence ([SB 404](#), failed) or scientific evidence ([HB 994](#), failed) that links a defendant convicted of first degree murder to the murder.

ECONOMIC AND BUSINESS ISSUES

Family Child Care Providers

[SB 284/HB 465](#) address collective bargaining for child care providers. The Administration bills codify a 2007 Executive Order that authorizes collective bargaining negotiations for providers who participate in the State's Child Care Subsidy Program. The bills, as amended, now differ in provisions related to service fees for nonmembers, establishing a fund to protect providers against hardship or loss of livelihood resulting from late payments, and requiring a study of the results of the changes made by the bill. The Senate bill has preliminary approval. The House bill is on the House floor.

Maryland Wine Modernization Act

This week, after unsuccessful attempts to add amendments allowing direct shipment of wines to State residents, the Senate passed [SB 858](#). The original companion bill, [HB 921](#), also passed in the House. The bills establish a farmer's market permit that allows the holder to sell sealed containers of wine to consumers for consumption off the premises of the farmer's market and to offer at no charge samples of wine at the market. The bills also expand the scope of operations and activities of a Class 4 limited winery licensee.

EDUCATION

Maintenance of Effort

Under current State law, a local jurisdiction must provide at least as much funding per pupil to the local school system as it provided in the previous fiscal year or face a penalty of withheld funds from State appropriations. This is known as "maintenance of effort" (MOE). [HB 223](#) passed both the House and Senate and will move to the Governor's desk for his signature. When introduced, this bill exempted Montgomery County from MOE requirements for fiscal 2010. The final version of the bill waives the fiscal 2010 county MOE penalty for public education statewide. It also requires two legislative committees to conduct a study during the interim as to what might be the appropriate

calculation of the penalty for failing to meet the MOE requirement and the appropriate party against whom the penalty should be applied. The committees must report their results and recommendations by the end of 2010.

In the same arena, [SB 310](#) addresses the process and factors affecting a county's request for a waiver of MOE. The bill passed the Senate and now heads to the House for consideration. Under current law, a county may request a partial or temporary waiver of MOE from the State Board of Education. This provision was added to the MOE law in 1996 but was never exercised until three counties requested a waiver in 2009. All three counties were denied a waiver. The bill clarifies the MOE waiver request process, changes the date by which a waiver must be requested by a local jurisdiction, and requires the State Board to consider a county's fiscal factors, such as inflation rate, tax base, loss of a major employer in the county, among other considerations, when approving or denying a waiver application. The companion bill, [HB 304](#), passed a preliminary vote in the House with amendments that add an appeal process to the State Board's decision to deny an application for a waiver.

Maryland Longitudinal Data System

An amended [SB 275](#), which establishes the Maryland Longitudinal Data System Center, passed the Senate. The Center will establish and maintain the Maryland Longitudinal Data System repository, which is to contain individual-level student data from all levels of education and the State's workforce. In compliance with federal privacy laws, users will be able to effectively organize, manage, disaggregate, and analyze "de-identified" individual student data and to examine student progress and outcomes over time, including preparation for postsecondary education and the workforce. The bill has a number of amendments, including the definitions of "student data" and "workforce data," strengthened privacy protection of the data, specific reporting requirements in the Center's annual reports, dedicated completion dates for getting the Center up and running, and a statement of legislative intent. The companion bill, [HB 467](#), remains in a House committee.

Education Reform Act of 2010

Race to the Top (RTTT) is a federal \$4 billion competitive grant program authorized under the American Recovery and Reinvestment Act of 2009 (ARRA). The program seeks to encourage and reward states that are implementing significant reforms in specific areas, two of which are:

- recruiting, developing, rewarding, and retaining effective teachers and principals, especially where they are needed most; and
- improving the lowest-achieving schools.

Both the Senate and House amended and passed their versions of the Administration's Education Reform Act of 2010, [SB 899/HB 1263](#). The bills help to strengthen Maryland's potential competitiveness for RTTT grants by encouraging highly effective teachers and principals to work in Maryland's lowest achieving schools through pay incentives and by redefining the policy by which certain employees acquire tenure.

Currently a certificated public school teacher or principal might be eligible to achieve tenure after two years of probationary employment, with an option for a one-year extension. This Act extends the probationary employment period to three years. Amendments to both bills allow for the portability of tenure among public school systems in the State under certain circumstances. If an employee is not on track to qualify for tenure at the end of the first or second year, a mentor must be assigned and professional development must be provided, as appropriate.

Personal Financial Literacy State Curriculum

When introduced, [SB 264](#) required the State Board of Education to develop curriculum content for a semester-long course in financial literacy as a high school graduation requirement. The Maryland State Department of Education (MSDE), however, has developed and submitted to the State Board of Education a different curriculum for financial literacy, which is to be approved and implemented by the 2011-2012 school year. The MSDE-backed curriculum was developed after recommendations made by a legislative Task Force to Study How to Improve Financial Literacy in the State, created in 2008. MSDE developed curriculum organized in grade bands of 3 to 5, 6 to 8, and 9 to 12 in order to ensure that financial literacy education is provided in a continuum throughout elementary, middle, and high school.

[SB 264](#), with Senate passage, was amended to require MSDE to develop a process to monitor implementation of their integrated curriculum in each county system and to monitor progress of these standards. Uncodified language in the bill expresses the General Assembly's intent that MSDE consider a measurement of financial literacy as a graduation requirement. There has been no further movement on three similar bills introduced this session, the companion [HB 764](#) and [SB 1030/HB 335](#).

Free Speech at Private Universities

[SB 805/](#)[HB 677](#) (both failed), both received unfavorable reports this week in committee. These bills sought to ensure that private nonprofit higher education institutions that qualify for State aid be prohibited from enforcing a rule that subjects an enrolled student to disciplinary sanction based solely on speech or other communication that, when engaged in outside the campus or other facility of the institution, is protected by the First Amendment of the U.S. Constitution or the Maryland Constitution. Currently, as State agents, public colleges and universities must respect the constitutional rights of their students. Private universities are not directly bound by the First Amendment.

Maryland Football Act

[SB 705](#) (failed), the Maryland Football Act, was withdrawn. A similar House bill, [HB 482](#) (failed) ended its journey through the legislative process last week. These bills would have required the University of Maryland, College Park to schedule and play a regular season football game at least once every four years against Morgan State University and Towson University.

ELECTIONS AND ETHICS

Lorraine M. Sheehan (1937-2009) was a member of the House, Prince George's County from 1974 to 1983 and served as Maryland's Secretary of State from 1983 to 1987. She recently was honored by the House for personal courage and dedication to the principles of liberty and freedom. Two bills moving through the legislative process were amended to have the title, The Honorable Lorraine M. Sheehan Act to Protect Voting Rights for Individuals Under Guardianship for Mental Disability:

- [HB 816](#), as passed by the House, maintains the disqualification in current law prohibiting these individuals to have the right to vote, but only if a court has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process; and
- [SB 28](#), the original companion bill that passed the Senate, repeals the provision of State law that automatically disqualifies an individual who is under guardianship for mental disability from being able to register to vote. Under the bill a person under guardianship for mental disability would be treated the same as any other individual insofar as determining eligibility to register to vote.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Chesapeake Conservation Corps

The House gave [HB 943](#), amended to read the same as [SB 311](#), initial approval to establish a Chesapeake Conservation Corps Program administered by the Chesapeake Bay Trust to provide young adults with meaningful service opportunities to promote, preserve, protect, and conserve the environment. Through fiscal 2015 the programs will be funded by \$250,000 from the Environmental Trust Fund and \$250,000 from the Chesapeake Bay Trust Fund. The Chesapeake Bay Trust and the Corps Board must seek federal funds and grants and donations from private sources for long-term funding of the Corps Programs.

Stormwater Management

[HB 1125](#) received preliminary approval in the House. As amended, the bill creates a process for an administrative waiver from stormwater management regulations that will take effect May 4, 2010.

Hunting Licenses

[SB 847](#), as amended, allows members of the U.S. armed forces who have a service-connected disability to hunt without a license. Under current law, residents on military leave may hunt without a license and a veteran with a 100% service-connected disability may receive a complimentary lifetime license. The bill passed on the Senate. [HB 673](#) (failed), which would have provided free fishing and hunting licenses to all veterans in the State, received an unfavorable committee report.

Recycling - Green Maryland Act of 2010

[SB 693](#), passed in the Senate, increases the percentage of paper purchased by the Department of General Services that must be recycled from 40% to 90%; requires a review of procurement practices and a study of the use of compost as fertilizer on State land; and establishes a goal to increase use of compost as fertilizer, among other provisions. As amended, it also creates a Maryland Green Purchasing Committee to develop green purchasing guidelines. The companion bill, [HB 1164](#), remains in committee.

Road Salt

[SB 775](#), as amended and passed in the Senate, requires the State Highway Administration in consultation with the Department of the Environment to develop a road salt management best practices road guidance document for use by local jurisdictions and the State to minimize the adverse environmental impacts of road salt runoff in

the State by October 1, 2011. The crossfiled bill, [HB 903](#), remains in committee.

Oysters

[SB 342/HB 1191](#), as amended, create a citation, hearing, license revocation and appeals process for a person who is caught taking oysters located more than 200 feet within a closed or prohibited area, taking oysters with gear that is prohibited in that area, taking oysters outside of a time restriction for the harvest or possession of oysters by more than 1 hour, or taking oysters during a closed season, among other provisions. [SB 342](#) also prohibits the Department of Natural Resources (DNR) from designating a new oyster sanctuary in State waters until April 1, 2011. The bills passed in their respective chambers.

Oyster harvesting related bills that have failed include:

- [SB 808/HB 284](#) (both failed), that would have allowed county oyster committees to authorize the use of power dredges to catch oysters in public shellfish fisheries areas;
- [HB 1172](#) (failed), that would have allowed the use of power dredges to catch oysters in waterways in Cecil, Kent, and Queen Anne's Counties; and
- [SB 809](#) (failed), an emergency bill that would have prohibited DNR from designating a new oyster sanctuary in State waters until September 30, 2011.

Puritan Tiger Beetle

Two bills that address the endangered puritan tiger beetle which is threatening the homes and land on cliffs along the Chesapeake Bay have received preliminary Senate approval. [SB 1020](#), now an emergency bill, authorizes DNR to allow for capturing the beetles. [SB 975](#) creates a task force to study erosion in areas of puritan tiger beetle habitat and make recommendations by December 31, 2010, on the most feasible and effective methods to prevent erosion in these areas. [HB 295](#), the companion bill to [SB 1020](#), passed the House earlier this month.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Credit Services Businesses - Limitation on Fees

The Senate has given approval to [SB 678](#), which amends the Maryland Credit Services Businesses Act (MCSBA) to limit the fees that may be collected in connection with an extension of credit. Specifically, the bill prohibits a credit services business from charging or receiving a fee in connection with an extension of credit that, when

combined with an interest charge, would exceed the interest rate permitted by law. Existing penalties that apply to violations of MCSBA also apply to this offense. [HB 79](#), the crossfiled measure, has passed in the House and was considered by a Senate committee this week.

FISCAL MATTERS

Operating Budget Bill

The Senate passed the \$31.9 billion Budget Bill, [SB 140](#), with 189 amendments, reducing the bill as introduced by \$583.3 million and eliminating 577 positions. Fiscal 2011 appropriations in the bill are \$361 million less than that for fiscal 2010. An adopted amendment requires the University of Maryland, Baltimore Law School Environmental Law Clinic to report on its law cases over the last two years. Failed floor amendments include those attempting to reduce the amount of State education aid, reducing the Geographic Cost of Education Index appropriation and authorizing its redirection to eliminate State employee furloughs, restricting the use of the stem cell research funds, eliminating the appropriation for stem cell research, and restricting the use of Medical Assistance and Maryland Children's Health Insurance Program for abortions.

The Budget Bill maintains State aid to education of \$5.7 billion, except for a \$4.3 million reduction in school transportation aid. State universities and colleges receive \$1.2 billion in State funds enabling them to hold tuition increases to 3% after four years of tuition freeze. State aid for community colleges is reduced by \$23.1 million, while the Sellinger formula for nonpublic colleges and universities is reduced by \$13.5 million. Neither of these reductions is contingent upon statutory changes in [SB 141](#), the Budget Reconciliation and Financing Act (BRFA).

Other reductions in the Budget Bill include:

- The Medical Assistance Program is reduced by \$63 million in General Funds for fiscal 2011 and fiscal 2010 deficiency appropriations with the anticipation that the funds will be replaced with federal funds;
- Highway user revenues are reduced by \$236.2 million to \$142.6 million;
- The Maryland Port Administration appropriation is reduced by \$40.6 million with most of the reductions reflecting unnecessary expenses in light of the public-private partnership for Seagirt Terminal;
- The Chesapeake Bay 2010 Trust Fund is reduced to \$10 million;

- Program Open Space and Rural Legacy funding is reduced by \$42.2 million, to be replaced by bond funds;
- Agricultural land preservation funds are reduced by \$11.8 million, to be replaced by bond funds;
- The Maryland Stem Cell Research Fund is reduced from \$12.4 million to \$6.2 million;
- Tourism promotion is reduced by \$1 million; and
- State aid for police protection is reduced by \$18.9 million.

The Governor is required to abolish 500 positions by June 30, 2011, for a savings of \$11.4 million, and he is authorized to offer financial inducements encouraging voluntary separation using existing agency resources.

Budget Reconciliation and Financing Act (BRFA)

SB 141, as passed by the Senate, reduces General Fund expenditures by \$405.1 million for fiscal 2011. The bill also makes statutory changes reducing mandated appropriations in future years including reducing State aid for community colleges and nonpublic colleges and universities, freezing local police aid for fiscal 2011 and fiscal 2012, limiting inflationary increases for school transportation aid, and reducing State highway assistance. The Intercounty Connector amount required to be transferred to the Maryland Transportation Authority is reduced from \$126.9 million to \$81.9 million.

As passed by the Senate, BRFA transfers \$595.8 million to the General Fund (\$270.8 million in fiscal 2010 and \$325.1 million in fiscal 2011) besides the transfer of \$330.1 million of capital money to the General Fund in fiscal 2010 and \$111.7 million in fiscal 2011.

A major change in BRFA is language requiring the counties to pay a portion of the pension costs of local education employees, including those of local school systems, libraries, and community colleges, starting July 1, 2011, the beginning of fiscal 2012. At present the State pays the employer's share of pension costs, and the counties and Baltimore City pay the employer's share of the Social Security tax. Under BRFA the State is phasing in the amount the counties and Baltimore City contribute towards the combined employers' portion of pension and Social Security costs until it equals 50% of the combined costs in fiscal 2016. The current requirement that the counties and Baltimore City pay the employer's portion of the Social Security tax is approximately equal to 35% of the total employers' share of the cost of pensions and Social Security.

Tax Credit for Electric Vehicles

SB 281/HB 469, Administration bills, passed their original chambers with differing amendments related to funding. The bills establish a tax credit for the purchase of qualified plug-in electric vehicles equal to 100% of the State vehicle excise tax imposed, not to exceed \$2,000. The vehicle must be registered in the State and must meet certain standards. For example, it must be an unmodified vehicle made by a manufacturer for use on public streets and highways and have a maximum speed capability of at least 55 miles per hour.

Property Taxes – Small Businesses

The House approved **HB 484** that requires county and municipal governments to establish a semiannual payment schedule for State, county, municipal, and special taxing district property taxes for small business property with a property tax bill of \$50,000 or less. The bill takes effect October 1, 2010, and applies to taxable years beginning after June 30, 2011.

GAMING, RACING, AND SPORTS

Card Games

The Senate passed **SB 1035**, which authorizes the issuance of one license for the commercial operation of card games in the State. Any new gambling licenses issued in the State (other than the two not yet awarded video lottery terminal licenses that voters approved in 2008) require voter approval via referendum, and this particular issue will appear on the November 2010 ballot. If voters approve, a license would be awarded to a games facility located in a specified area in Prince George's County (Rosecroft Raceway in Fort Washington).

HEALTH CARE AND HEALTH INSURANCE

Bisphenol-A - Prohibition

Bills that prohibit the use of bisphenol-A (BPA) in certain child care articles crossed over to the opposite chambers. **SB 213/HB 33** were amended to prohibit certain BPA levels in children's cups intended for food or liquid for children under 4 years of age and require the term "child care article" to be defined by federal law, should a federal law concerning the prohibition of BPA in children's products be enacted. The amendments also provide that a person may not manufacture the child care products specified in the bill after January 10, 2012.

Maryland False Health Claims Act of 2010

The Senate gave approval to an amended [SB 279](#), the Maryland False Health Claims Act of 2010, which does the following:

- prohibits a person from knowingly submitting a false or fraudulent claim to a State health plan or program;
- authorizes the State to file a civil action against a person who submits a false or fraudulent claim;
- permits a private citizen (a “relator” or “whistleblower”) to file a civil action (a “qui tam” action) on behalf of the State against a person who has made a false or fraudulent claim, but requires the action to be dismissed if the State declines to intervene;
- establishes liability for civil penalties and up to treble damages for making a false or fraudulent claim;
- requires the court to award a percentage of the proceeds of the action to the private citizen who initiated it; and
- protects whistleblowers from retaliation by their employers.

As amended, the bill will not allow the State to qualify under the Deficit Reduction Act of 2005 (DRA) to receive an additional 10% of funds recovered in Medicaid fraud cases. However, by enacting a modified *qui tam* provision, the State will be notified of multistate cases filed in federal court and will be included in discussions between the federal government and the affected states about the investigation and prosecution of these cases. Twenty-three states and the District of Columbia have enacted state false claims acts with *qui tam* provisions, 14 of which qualify for increased recoveries under DRA.

Amendments also alter the assessment of damages and civil penalties; set forth a list of factors the court must take into consideration in determining the appropriate amount of civil penalties and damages; and make certain awards of attorney’s fees discretionary rather than mandatory, among other provisions. [HB 525](#), the companion measure, remains in a House committee.

Artificial Trans Fat - Prohibition

A bill to prohibit the use of artificial trans fat in food service facilities failed in a House committee. [HB 727](#) (failed) would have prohibited food containing artificial trans fat from being stored, distributed, held for service,

used in preparation of any menu item, or served in any food service facility.

Decabrominated Diphenyl Ether - Prohibitions

This week, the Senate passed [SB 556](#), concerning the prohibition of decabrominated diphenyl ether (decaBDE) in certain products. The legislation phases out the manufacture, sale, and distribution of products containing decaBDE. A person may not manufacture, sell, or distribute for sale in the State any of the following products containing decaBDE: beginning December 31, 2010, mattresses, upholstered furniture designed for residential use, or electrical or electronic equipment; beginning December 31, 2012, any product, except transportation or military equipment or components thereof; and beginning December 31, 2013, transportation or military equipment or components thereof. Amendments to the bill add plastic pallets used to transport unpackaged fruits and vegetables among the items that contain decaBDE to be prohibited.

The Health Care Freedom Act of 2010

The Health Care Freedom Act of 2010 ([HB 603](#), failed) would have proposed a constitutional amendment to prohibit any law from requiring an individual, employer, or health care provider to participate in any health care system or pay penalties or fines for nonparticipation or placing any restrictions on an individual’s ability to pay for health care directly or a provider’s ability to accept direct payment for health care services. Subject to reasonable and necessary laws, the purchase or sale of health insurance in private health care systems may not be prohibited.

According to the National Conference of State Legislatures, legislation has been introduced in at least 19 states to make or keep health insurance optional, and allow people to purchase any type of coverage they choose. Such measures are in response to federal health care reform legislation and limit, alter or oppose selected state or federal actions, including single-payer provisions and mandates that would require the purchase of insurance. Massachusetts requires both employers and individuals to purchase health insurance and provides subsidized health insurance to individuals up to 300% of federal poverty guidelines. In addition, Vermont requires employers to provide coverage but does not require individuals to purchase insurance. Current Maryland law does not require State residents to obtain health care coverage. The crossfiled Senate bill, [SB 397](#), was heard last month.

HUMAN RESOURCES

Aimed at reducing the long waiting list for community-based services for individuals with developmental disabilities, crossfiled bills [SB 318](#) and [HB 830](#) were approved in their chambers of origin in identical form. The bills establish a checkoff box on the State individual income tax return form for contributions to the Waiting List Equity Fund.

STATE GOVERNMENT

No Representation Without Population Act

The Senate bill addressing how prison populations would be counted during reapportionment received approval by the Senate this week. [SB 400](#), as amended, requires that population counts used to create legislative districts for the Maryland General Assembly, Congress, municipal governments, and county councils exclude incarcerated individuals who were not State residents prior to their incarceration in either State or federal correctional facilities. It also requires that incarcerated individuals be counted as residents of their last known address before their incarceration in a State or federal facility, if they were State residents prior to their incarceration. The House companion legislation, [HB 496](#), passed an initial House floor vote late this week.

Maryland Constitutional Convention

[SB 26](#) passed the General Assembly and will be sent to the Governor. The legislation implements a requirement of the Maryland Constitution. Article XIV requires that every 20 years a question be submitted to the voters asking whether a convention should be called to alter the Maryland Constitution or frame a new constitution. The question will be placed on the ballot at the November 2010 general election.

TRANSPORTATION

Cell Phones and Video Display Equipment

Before Senate passage, the bill banning the use of handheld phones while driving, [SB 321](#), The Delegate John Arnick Electronic Communications Traffic Safety Act of 2010, was debated and numerous amendments were offered. One successful amendment reduced the fine for a first offense from \$100 to \$40. The bill, named for the late senator who was an early advocate of the bill's provisions, passed the Senate by a margin of one vote. The bill prohibits a driver from using a handheld phone while a vehicle is in motion, except to begin or end a call or to turn the phone on or off. It allows exceptions for emergency calls such as drivers calling 9-1-1, and

exempts law enforcement and emergency workers while they are on duty.

A related bill, [SB 322](#), passed the Senate by a wide margin with amendments. Motor Vehicles – Use of Video Display Equipment prohibits use of video display equipment that a driver can see while driving. It makes exceptions for video displays in vehicles used by a public service company or for public safety or law enforcement, and for properly installed safety equipment. The House companion bill, [HB 190](#), has moved to the House floor.

Traffic Citations – Option to Request a Trial

The Senate passed another bill after lengthy debate and amendment. [SB 560](#) changes the way in which a driver responds to a traffic citation for a nonincarcerable offense by giving the person three options. Within 30 days of receiving the citation, the person may pay the fine, request a hearing for sentencing and disposition in lieu of a trial, or request a trial date. A person who does not take one of the three actions within 30 days is subject to having his or her driver's license suspended. The original companion bill, [HB 829](#), passed second reading in the House.

Ignition Interlock

The Senate passed one of several bills concerning ignition interlock devices aimed at preventing drunk driving. [SB 564](#), as amended, requires participation in the Ignition Interlock System Program if the person is convicted of a first or subsequent violation of drunk driving. Under the proposed law, the MVA must require a drunk driver to complete the interlock program or must suspend the driver's license. The original companion legislation, [HB 743](#), remains in a House committee.

Motor Vehicle Liability Insurance - Required Security

As approved recently by the House and with a Senate committee hearing next week. [HB 825](#) increases the minimum security required on a motor vehicle liability insurance policy for bodily injury or death of a single individual from \$20,000 to \$30,000, and for more than one individual from \$40,000 to \$60,000. The bill takes effect January 1, 2011, and applies to all vehicle liability insurance policies issued, delivered, or renewed in the State on or after that date.

Bill status is current as of 5:00 p.m. on 3/26/10.