



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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FIRST CITIZEN AWARD

Charles Carroll of Carrollton (1737-1832) was a member of the Maryland Senate from 1777 to 1800 and served as its President from 1782 to 1783. A commemorative medal was commissioned in 1826 to celebrate Carroll's 90th birthday. A seal of that medal is used by the President of the Senate on the First Citizen Award, given annually to Marylanders who have been dedicated and effective participants in the process of making government work for the benefit of all. This year, the President bestowed the First Citizen Award on Senator Brian E. Frosh and Senator Thomas M. "Mac" Middleton. Each honoree possesses a distinguished legislative career.

Senator Frosh (District 16, Montgomery County) served in the House of Delegates from 1987 to 1995 and then became a member of the Maryland Senate in 1995. He has been Chair of the Senate Judicial Proceedings Committee since 2003. Among other interests, Senator Frosh is known for his devotion to environmental causes and for his dedication to the improvement of Maryland's judicial system. He has been called "one of the great gentlemen of Maryland politics."

Senator Middleton (District 28, Charles County) began his service in the Senate in 1995 and has been Chair of the Senate Finance Committee since 2002. Senator Middleton is a champion of affordable health care and for the eradication of racism. He is also a major supporter of increased voter activism as a means to promote democratic government.

COURTS AND CIVIL PROCEEDINGS

Same Sex Marriages

The Civil Marriage Protection Act ([SB 116](#)) received a favorable committee report with no amendments and passed a preliminary floor vote in the House this week, after all proposed floor amendments were defeated. Two days later, after extensive and emotional floor debate and two more defeated amendments on third reading, the bill was recommitted to committee. The bill provides that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in

Maryland. Religious entities may not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request to do so is related to actions that violate the entities' religious beliefs, and fraternal benefit societies that are operated, supervised, or controlled by a religious organization may not be required to admit an individual as a member or to provide insurance benefits to an individual if that would violate the societies' religious beliefs.

Divorce Actions

Requirements for a divorce based on the grounds of separation are changed under [SB 139](#) as it was amended and passed by the Senate. The bill reduces the period of time the parties in the divorce action must have lived separate and apart without cohabitation and without interruption before filing for absolute divorce from two years to 12 months and repeals existing law concerning divorce on the grounds of voluntary separation.

[HB 770](#) (failed) would have authorized a court to assign ownership of a pet when there is an ownership dispute during the granting of an annulment or a divorce.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Possession of Guns

A House committee heard testimony this week on gun legislation, some with similar or companion bills that have already been heard before a Senate committee. Other measures receiving testimony at the hearing:

- repeal the requirement that the Secretary of State Police find that a person has a good and substantial reason to wear, carry, or transport a handgun before issuing a handgun permit to the person ([HB 343](#));
- establish restrictions on individuals who have been treated within the previous five years for certain mental disorders with regard to firearms dealer's licenses and the purchase and possession of firearms. These individuals require a physician's certification that they are capable of possessing a regulated

firearm without undue danger to themselves or others ([HB 730](#)); and

- prohibit a person from wearing, carrying, or transporting a handgun, whether concealed or open, on property of an institution of higher education where postsecondary courses are conducted or in a hospital facility ([HB 803](#)).

Life Imprisonment - Parole Approval

The House passed [HB 302](#), which, as amended, provides that if the Patuxent Institution Board of Review or the Maryland Parole Commission decides to grant parole to an eligible prisoner sentenced to life imprisonment who has served 25 years without application of diminution credits, and the Governor does not transmit a written disapproval of the decision within 90 days, the grant of parole becomes effective.

Human Trafficking

The Senate passed [SB 247](#), which authorizes State or local law enforcement to seize property in connection with a violation of the human trafficking law and to establish the Anti-Human Trafficking Fund with the proceeds from the sale of the property. Also, the crime of human trafficking is expanded by prohibiting a person from knowingly recruiting, harboring, transporting, providing, or obtaining a person for labor or services and subjecting the person to involuntary servitude or debt bondage through force, fraud, or coercion.

Also approved in the Senate, [SB 299](#) adds human trafficking to the list of crimes for which evidence may be gathered during a criminal investigation through the interception of oral, wire, or electronic communications.

Animal Welfare

Under [HB 339](#), passed by the House this week, a Task Force on the Establishment of a Statewide Spay/Neuter Fund will review data on successful local spay/neuter programs and the unmet need for these services. The task force will also make recommendations regarding the establishment of a spay/neuter fund that best meets the needs of the State.

The House also passed an amended [HB 227](#), which authorizes a court, as a condition of probation, to prohibit a defendant convicted of aggravated cruelty to an animal or abuse or neglect of an animal from owning, possessing, or residing with an animal.

ECONOMIC AND BUSINESS ISSUES

Potomac Electric Power Company (Pepco)

[HB 1110](#) requires the Public Service Commission (PSC) to initiate a proceeding to determine whether Pepco has abandoned its franchise as an electric company in the State. Under the bill, by December 1, 2011, the PSC must determine whether Pepco has met certain standards of service and whether it is operating in a manner consistent with public convenience and necessity. If the PSC determines that Pepco has abandoned its franchise, the PSC must immediately initiate a proceeding to transfer the franchise to another public service company.

Energy Benchmarking and Disclosure – State Buildings

Under [SB 622](#), energy and gas companies are required to maintain energy consumption records for nonresidential retail customers and, if permitted by the customers, to upload the records to the U.S. Environmental Protection Agency's (EPA) online Portfolio Manager, an energy management tool. Also, State buildings of more than 10,000 square feet must be "benchmarked" annually by the Department of General Services. "Benchmark" means to obtain energy statistics for structures comparable to a particular structure and, if applicable, Energy Star ratings, using the EPA Portfolio Manager. The benchmarking information is to be made available to the public via the Maryland Energy Administration.

Alternative Energy Sources

Bills in various stages of the legislative process include proposals regarding solar renewable energy credits ([SB 715/HB 1123](#) and [SB 717/HB 933](#)). Other measures ([SB 690/HB 1121](#)) alter the renewable portfolio standard to include waste-to-energy as a Tier 1 renewable resource rather than a Tier 2 renewable resource. Bills that alter the net energy metering program include [SB 380/HB 860](#). Additionally, there is legislation ([SB 881/HB 1227](#)) to expand the definition of "extraordinary economic development opportunity" for the purposes of the Economic Development Opportunities Program that is aimed at maximizing economic opportunities in the State. The bills add the attraction of a new wind turbine manufacturing facility or expansion of an existing private sector enterprise, including wind turbine manufacturing, to the list of eligible projects for funding.

Telephone Companies

[SB 718/HB 529](#) allow a telephone company to require its customers to opt-in to receive a copy of a telephone directory. The bills do not apply to advertisement-based business directories distributed by or on behalf of a telephone company. The House bill passed this week with added language that requires a telephone company

to provide notice to customers if the company elects not to deliver a telephone directory to each customer and requires a company to deliver a requested print telephone directory to a customer at no cost to the customer.

[SB 619](#) (failed) would have required the PSC to require telephone companies to conduct assessments of telephone lines every three years to study maintenance, security, and reliability issues.

EDUCATION

Nutrition Information - School Lunches

[HB 1062](#) requires each public school, beginning in the 2011-2012 school year, to list the number of calories contained in a menu item next to the item on a meal menu published by the school. Montgomery County Public Schools currently show calorie count information on school menus, and several counties post calorie and nutrient information on their websites.

Higher Education - Tuition Charges - Maryland High School Students

[SB 167](#), which exempts certain undocumented students who attended a Maryland high school from paying nonresident tuition at institutions of higher education, passed second reading after much debate on the Senate floor. Among amendments discussed previously, the bill in its current version has several new provisions, including:

- ensuring that certain nonresidents would be exempt from paying out-of-county rates at a community college in the county in which they graduated from secondary school;
- increasing the number of years a nonresident must have attended a public high school in the State in order to qualify for the exemption from two years to three; and
- requiring an annual report that will indicate the number of students admitted to a higher education facility who qualify for resident tuition under this legislation.

A House committee gathered public testimony on the companion bill, [HB 470](#), this week.

Maintenance of Effort (MOE) - Penalty

[HB 869](#) delays the penalty for a county's failure to meet the public schools MOE requirement until the fiscal year after county funding is below the MOE amount. This avoids simultaneous reductions in State and county funding for local school systems and gives the systems

an additional year to prepare for reductions in State aid resulting from MOE penalties. The bill also prohibits the imposition of a penalty for failure to meet MOE in fiscal 2011.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Septic and Sewage

Bills that require the Department of the Environment to evaluate and rank nitrogen removal technologies for septic systems and advise local governments and citizens regarding nitrogen reduction technologies for septic systems that are approved as eligible for Bay Restoration Fund (BRF) assistance have moved to the opposite chambers. [HB 347](#), as amended, requires the cost of operating the system to be included in the evaluation and the evaluation to be posted on a webpage. [SB 372](#) requires the cost of operation to be included.

Testimony was heard this week on [SB 846/HB 1107](#), which, among other provisions, prohibit State or local authorities from approving a residential subdivision plan of five or more lots that would use individual septic systems.

Lawn Fertilizer

Bills that reduce the amount of nutrients from lawn fertilizer that reaches waters of the State were discussed in committees this week. [SB 487/HB 573](#) establish nitrogen and phosphorus content limits, application restrictions, and certification and labeling requirements. [SB 544/HB 687](#) require the inclusion of at least 30% slow release nitrogen in fertilizer for use on established lawns and require specific labeling and public notices. [SB 546/HB 706](#) expand existing restrictions on the use of phosphorus in fertilizer, prohibit its use on established lawns, and require similar labeling and public notice.

Disposable Bags

[SB 602/HB 1034](#) require stores to collect a 5 cent fee for each disposable bag provided to a customer. After covering the costs of operating the program and public awareness, fee revenue will go to the Chesapeake Bay Trust. [SB 721/HB 661](#) authorize Prince George's County to impose a fee for disposable plastic bags, and [HB 341](#) requires stores to establish an at-store plastic carryout bag recycling program.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Lend Local Act of 2011

SB 547/HB 619, heard by committees in both the Senate and House this week, essentially codify current practice by requiring the State Treasurer to consider whether a financial institution is incorporated under the laws of the State or operating in the State with total assets of less than \$5.0 billion when designating a financial institution for banking services or as a depository for the State.

FISCAL MATTERS

Budget and Bond Bills

The House Appropriations Committee and Senate Budget and Tax Committee have completed their operating budget hearings on the Budget Bill, **HB 70**. The House committee will make its decisions concerning reductions and other amendments to the bill next week, and then it will be reported to the full House for consideration on March 21.

The House Appropriations Committee has also completed its hearings on **HB 71**, the Maryland Consolidated Capital Bond Loan of 2011. This bill will be reported to the full House after the Budget Bill has been reported to the House floor. Under the Maryland Constitution, the General Assembly may not pass the capital budget bill or any other supplemental budget bill until after it has passed the Budget Bill. Committee hearings on individual bond bills are scheduled for Saturday, March 12.

Building Opportunities for All Students and Teachers (BOAST) in Maryland Tax Credit

SB 315/HB 932 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 eligible students or teachers at a nonpublic K-12 school; or
- provides grants to public schools to support innovative educational programs that are not part of the regular academic program in order to achieve the goals of the Bridge to Excellence in Public Schools Act of 2002, or to public school teachers to assist in the cost of certification coursework.

The amount of credits that the Maryland State Department of Education may award in each year may not exceed the amount of money appropriated to a reserve fund established by the bill. The bill takes effect

July 1, 2011, and applies to tax year 2012 and beyond. BOAST legislation has been considered in each session since 2008.

Dedicated State Funds Protection Act

HB 926 amends the Maryland Constitution to restrict the use of dedicated State funds to the specific purposes that are set forth in law and to prohibit the transfer of dedicated State funds to the general fund. The bill creates exceptions to the prohibition on dedicated State fund transfers but only for specified defense or relief purposes. It calls for the amendment to be on the general election ballot in November 2012.

HEALTH CARE AND HEALTH INSURANCE

Imaging and Radiation Therapy Services - Accreditation

Committees heard testimony recently on companion bills (**SB 808/HB 782**) that modify current law exempting a radiologist group practice or an office consisting solely of one or more radiologists from the prohibition on self-referrals for “in-house ancillary services” (*i.e.*, magnetic resonance imaging (MRI), radiation therapy, or computed tomography (CT) scan services). Specifically, the bills extend the exemption’s applicability to instances in which the individual furnishing the services is employed and directly supervised by the referring practitioner or a practitioner in the same group practice during the regular office hours maintained by and in the same building where the practitioner provides services. A health care entity must meet specified national accreditation requirements to be eligible for the exemption. Finally, the bill requires a health care practitioner who makes the referral to disclose to the patient his or her beneficial interest in the entity to which the patient is being referred. If this disclosure is made in a written statement, it must include identifying information for nearby health care entities that are capable of providing the service for which the patient is being referred.

Decabrominated Diphenyl Ether (DecaDBE) - Trace Amounts

Bills concerning DecaDBE have been amended and have crossed over to the opposite chambers. The amendments to **SB 221/HB 54** include an exemption for certain aircraft from the application of a prohibition on the manufacture, lease, sale, or distribution for sale or lease of certain products that contain DecaDBE. **SB 221** was also amended to indicate that the products covered by the bill are considered by “mass of the product as a whole,” while **HB 54** makes reference to the products “by mass,” thus making the bills slightly different. The bills’ provisions allow for trace amounts of DecaDBE in

certain products (0.1%) but do not make any changes to the phase-out dates prescribed in current law.

Autism Spectrum Disorders

[SB 759/](#)[HB 783](#) require insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for the diagnosis and evidence-based, medically necessary treatment, including applied behavior analysis, of autism spectrum disorders. The bills take effect January 1, 2012 and apply to all policies and contracts issued, delivered, or renewed in the State on or after that date. Similar measures were considered in the 2009 and 2010 sessions.

Dining Out Growth Act of 2011

[HB 941](#), under consideration by a House committee this week, authorizes a restaurant with an outdoor dining area to allow a patron's dog to accompany the patron in the outdoor dining area during hours designated by the restaurant owner. Additionally, the bill specifies that the restaurant owner must provide written notice to the local health department (LHD) at least 30 days before the owner intends to allow accompanying dogs and must permanently display written notice according to the bill's specifications.

Under the bill's provisions, the Department of Health and Mental Hygiene (DHMH) and the Restaurant Association of Maryland must report the following information by October 1, 2013:

- the number of restaurants that have notified LHDs that dogs will be allowed in outdoor dining areas;
- the number and nature of complaints received by LHDs regarding dogs in outdoor dining areas;
- the number and nature of sanitation issues regarding dogs in outdoor dining areas; and
- increases in the number of patrons at restaurants that allow dogs in outdoor dining areas.

TRANSPORTATION

Texting While Driving

The House passed [HB 196](#) that prohibits a driver from reading any text message while in the travel lane of a roadway, whether or not the car is in motion. A companion bill, [SB 424](#), passed in the Senate.

Cell Phone Use

Late in the week, the House passed [HB 222](#) that changes cell phone use while operating a motor vehicle from a secondary offense to a primary offense. The bill states that a driver in the travel portion of the roadway may not

use the driver's hands to use a handheld telephone other than to initiate or terminate a wireless telephone call or to turn on or to turn off the handheld telephone.

Ignition Interlock Systems

Testimony was given in committee this week on several measures to expand the State's existing Ignition Interlock System Program ([HB 318](#), [HB 360](#), [SB 803/](#)[HB 1012](#), and [HB 1276](#)). Specifically, [HB 318](#) and [SB 803/](#)[HB 1012](#) require, rather than allow, the Motor Vehicle Administration (MVA) to implement the program for drunk drivers and impose a prison sentence for participants who violate the rules of the program. [SB 803/](#)[HB 1012](#) further require the drunk driver to pay a fee to cover the costs of participation, set a minimum amount of time for participation, and impose participation on some drivers who have had their licenses suspended for refusing to take a blood or breath test. [HB 360](#) and [HB 1276](#) require a drunk driver to participate in the program if ordered to do so by the court, and [HB 1276](#) further authorizes individuals to participate in the program if:

- they seek to regain a license that has been suspended or revoked due to drunken or drugged driving;
- a blood or breath test shows an alcohol concentration of .15 or more;
- they have had a similar conviction within five years; or
- they were under age 21 at the date of a drunken driving violation.

Similar bills have been introduced since 2006 but have not passed.

Drunk Drivers - Licensing

Bills were under consideration in a House committee this week related to drunk drivers. Under [HB 657](#), the court may require a driver convicted three or more times of drunk or drugged driving to display for five years a yellow license plate carrying the letters "DUI" in red. A related bill, [HB 1069](#), requires the MVA to cancel the driver's license of a repeat drunk or drugged driver. If the driver meets requirements to receive a new driver's license, the license and any subsequent licenses must carry a note that the driver has been convicted for multiple offenses of drunk or drugged driving.

Blood or Breath Testing

Crossfiled measures [SB 408/](#)[HB 957](#), heard this week, require that a person who is stopped for suspicion of an alcohol- or drug-related driving offense must agree to a blood or breath test if he or she has been stopped for a similar offense in the past and refused the test. The bills

provide that a driver who does not comply is liable for a fine of up to \$1,000 or imprisonment for up to one year, or both.

Overtaking and Passing School Buses

[HB 462](#) allows a county school board to install monitoring cameras on school buses to record the license plates of vehicles that pass the bus illegally. If the monitoring camera records a violation, the owner of the bus must turn over the image to local law enforcement officials. The law enforcement agency may mail either a warning or a citation to the vehicle owner. The person who receives the citation may pay a fine or choose to contest the charge in District Court. Proposed penalties are similar to a parking violation. The Maryland State Department of Education, during a statewide survey in February of this year, reported 7,028 violations in a single day.

Black and White License Plate

[HB 697](#), which is awaiting a vote in committee, gives individuals the choice of returning to the old black and white license plate that preceded the current standard issue War of 1812 registration plate, if they are willing to pay a fee set by the MVA to cover the cost of the black and white license plate.

Driver Licensing for Adults

[HB 1185](#), to be heard by a committee next week, eases the requirements for responsible adults who are seeking a first-time driver's license. Current law makes no distinction between teenage and adult applicants who have a learner's permit. The proposed legislation would retain the requirement for 30 hours of classroom instruction, 6 hours behind the wheel on a highway, and 3 hours of drug and alcohol education, but for those over age 18 cut the waiting period to 45 days, eliminate the requirement for 60 hours of practice with a licensed driver, and allow the classroom instruction to be completed over the Internet.

Smoking in Cars

Under [HB 737](#), heard this week by a committee, a driver with a passenger under age eight may not smoke inside the vehicle and may not allow any other passenger to smoke. A violator is subject to a fine up to \$50.

Transportation Procurement and Holocaust Deportations

[SB 479](#), passed by the Senate this week, requires all bidders on a procurement contract for MARC train service to disclose whether they have any records on the deportation or the belongings of prisoners sent to Nazi death camps between January 1, 1942, and December

31, 1944. Companion bill [HB 520](#) remains in a House committee.