



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

---

Issue 12-10

March 12-16, 2012

---

*(Click on Issue above for previous Wrap-Ups)*

## COMMITTEE REPORTS AND CHAMBER CROSSOVERS

The number of bill introductions for 2012 has reached 1,097 in the Senate (993 in 2011) and 1,472 in the House (1,352 in 2011). There are also 7 Senate Joint Resolutions and 15 House Joint Resolutions. The 2011 resolution count was 6 in the Senate and 11 in the House.

At this time in each session, committee and floor actions begin to take on increased significance as bill deadlines approach:

- The Committee Reporting Courtesy Date is March 20, the 70th day of the session, by when each chamber's committees are to report their own bills; and
- The Opposite Chamber Bill Crossover Date is March 26, the 76th day of the session. Opposite chamber bills received after this date are subject to referral to the Rules Committees.

---

## COURTS AND CIVIL PROCEEDINGS

### *Judicial Salaries*

Accepting Senate amendments and adopting none of their own, the House passed [SJ 3](#), which maintains current judicial salaries for fiscal 2013 and phases in over the next three fiscal years a \$14,081 salary increase for each judge of the Court of Appeals, Court of Special Appeals, District Court, and circuit court. Each year's raise is approximately 3% of the judges' current salaries, which range from \$127,252 for an associate judge of a District Court to \$181,352 for the Court of Appeals Chief Judge.

### *Perjurers - Testimony*

[SB 673](#), as amended and passed in the Senate, repeals the current State law that prohibits a convicted perjurer from testifying in court proceedings.

### *SLAPP Suits*

[SB 221](#) (failed) received an unfavorable vote on third reading in the Senate. The bill would have redefined a

strategic lawsuit against public participation (SLAPP suit) to mean a claim arising from a statement made in connection with an issue under consideration or review by a government body, or to the public in connection with an issue of public concern. Other provisions would have authorized the Office of the Attorney General, or any government body to which the moving party's communication was directed, to intervene to defend or support the moving party, and specified procedural requirements regarding a motion to discuss a SLAPP suit.

### *Civil Right to Counsel*

Legislation died in committee that would have established a task force to study the issues, requirements, and costs involved in providing counsel at public expense to low-income individuals in basic human needs cases, such as those involving shelter, sustenance, safety, health, or child custody ([SB 280](#), failed).

---

## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

### *Diminution Credits*

The House passed [HB 650](#), a recommendation of the Task Force on Prisoner Reentry that makes available to prisoners an additional type of diminution credit. Under the bill, an inmate may be allowed a deduction of 60 days from the prisoner's term of confinement for certain diplomas, degrees, or certificates earned while in prison. A prisoner serving time for first or second degree murder or attempted murder is ineligible for the deduction.

### *Compliance Credits*

[SB 691](#) requires the Department of Public Safety and Correctional Services to establish a program to implement earned compliance credits that reduce the period of active supervision for certain individuals on probation, parole, or mandatory release by 20 days for every month that the individuals meet certain good behavior requirements. This week the Senate gave preliminary approval to the bill, which takes effect

January 1, 2013, and a House committee took testimony on the companion bill, [HB 670](#).

#### *Ava's Law*

[HB 1334](#), dubbed "Ava's Law," increases the maximum penalty for causing a life-threatening injury by motor vehicle or vessel while impaired by a controlled dangerous substance from a \$3,000 fine and two years imprisonment to a \$5,000 fine and three years imprisonment. The penalty now mirrors that for causing life-threatening injury by motor vehicle or vessel while under the influence of alcohol. The companion bill is [SB 944](#).

#### *Domestic Violence - Strangulation*

The felony crime of first degree assault is expanded to include strangulation under [SB 612/HB 1074](#). The maximum penalty is 25 years in prison. According to various studies, 23% to 68% of female victims of domestic violence have experienced at least one strangulation assault by a male partner during their lifetime.

#### *Electronic Communication - Harassment*

The Senate gave preliminary approval to [SB 175](#), which expands the current prohibition against the use of electronic mail with the intent to harass. The bill, amended to be identical to cross-filed [HB 8](#) that the House passed last month, prohibits maliciously engaging in a course of conduct, through the use of electronic communication, including transmission of data, that alarms or seriously annoys another person under certain circumstances, and eliminates the requirement that the recipient of the transmission be identified by a unique address.

#### *Crimes against Animals*

[SB 203](#), which authorizes a court to order a defendant convicted of animal abuse, neglect or cruelty, as a condition of sentencing, to pay all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant, in addition to any other fines and costs, passed the Senate. The companion is [HB 484](#), and similar bills are [SB 445/HB 336](#).

#### *Phylicia's Law*

[SB 1045/HB 1120](#), or "Phylicia's Law," require a law enforcement agency to coordinate volunteer search teams as part of its duty to immediately institute appropriate intensive search procedures relating to a missing child. For children who have disappeared from or are thought to be located in the State, the legislation

also requires the State Clearinghouse for Missing Children, operated by the State Police, to:

- coordinate local law enforcement agencies, national missing children's organizations, missing children experts, and the family of a missing child to locate the missing children;
- oversee search efforts; and
- publish the names of and relevant available information on missing children and specified missing children updates and annual statistics.

Additionally, a law enforcement agency must take specified action if the agency determines that a missing child is under the age of 17, rather than 14 as current law dictates.

#### *Sex Offenders and Child Porn*

Legislation further restricting activities of registered sex offenders includes [HB 1351](#) that prohibits a registrant from participating in any Halloween or Halloween alternative activity involving children. [SB 871/HB 591](#) prohibit a registrant from entering onto real property that is owned or operated by a community-based organization that provides recreational activities for children. The prohibitions are misdemeanors, with a maximum penalty of a \$5,000 fine and five years in prison.

The statute of limitations for the prosecution of possession of child pornography, a misdemeanor, is extended from one to two years under [HB 349](#), as amended and passed in the House.

---

## **ECONOMIC AND BUSINESS ISSUES**

#### *Maryland Innovation Initiative*

[SB 239](#), an amended Administration bill poised for a third reading vote, creates an Innovation Initiative within the Maryland Technology Development Corporation. The goal is to promote technology transfer from Maryland's research institutions to the private sector via start-up companies and entrepreneurs to generate economic growth. The companion bill is [HB 442](#).

#### *Retail Pet Stores*

[SB 317/HB 131](#) passed their respective chambers with amendments. The bills institute remedies available to consumers who purchase from a retail pet store a dog that is found to have an undisclosed disease, illness, or prior condition. As amended, the bills exempt non-profit organizations operating within a retail pet store from the bills' provisions. The enforcement agency is now the Attorney General's Consumer Protection Division.

Violators are subject to the penalties outlined under the Maryland Consumer Protection Act.

#### *Amusement Park Safety Warnings*

The House passed [HB 299](#), requiring the State Amusement Ride Safety Advisory Board and the State Traumatic Brain Injury Advisory Board to develop recommendations on amusement park safety warnings. The boards must determine whether amusement parks should be required to warn passengers who have suffered a concussion of the dangers of riding certain amusement attractions, which rides necessitate such warnings, and the delivery method of such warnings.

#### *Alcoholic Beverage Licensing*

Bills creating a farm brewery manufacturer's license passed their chambers of origin ([SB 579/HB 1126](#)). Under the measures, licensees are permitted to sell and deliver beer produced on the farm, as well as provide samples, sell certain foods, and store, brew, and bottle beer.

[HB 595](#), authorizing certain manufacturer license holders to obtain additional licenses for the same or a different class for the same location or additional premises passed the House. Affected license classes include distillery, rectifying, winery, limited winery, or brewery licenses.

#### *Labor and Employment*

[SB 433](#) that prevents employers from requesting electronic account information, such as user names and passwords, from employees or potential employees passed the Senate. The companion bill is [HB 964](#). With similar provisions, [HB 364](#) (failed) received an unfavorable committee vote.

---

## **EDUCATION**

#### *Online Privacy in Higher Education*

The Senate passed an amended [SB 434](#), which prohibits an institution of higher education from requiring a student or applicant for admission to provide access to a personal Internet site or electronic account. Amendments specify that a personal account or service does not include those provided to a student by an institution of higher education and also limit the scope of the bill to prohibit only requiring the disclosure of a user name, account name, password, or other means for accessing a personal account or service. However, a student may do so voluntarily. The original language prohibiting the installation of tracking software on student devices was deleted. The House companion was withdrawn ([HB 746](#), failed).

#### *Charter Schools*

Since 1991, 40 states and the District of Columbia have enacted laws that authorize public charter schools. Maryland passed its public charter school law in 2003. Currently, there are 50 charter schools in the State and an additional seven charter schools are planning to open in fall 2012. Legislation with recent hearings ([HB 1217](#) and [HB 1218](#)) reorganizes the charter school mandate to alter chartering authorities, application requirements, and funding. [HB 1218](#) also includes a provision to provide for facility funding.

#### *Prekindergarten Programs*

In Maryland, targeted populations of students from disadvantaged backgrounds are provided access to publicly funded prekindergarten programs. In 2011, the Maryland State Department of Education (MSDE) received a federal Race to the Top Early Learning Challenge Grant of \$50 million over the course of four years. Bills before the General Assembly include:

- [HB 1241](#) to establish a "Preschool for All" program requiring local school systems to make publically funded prekindergarten available to all four-year-old children by the 2015-2016 school year, with funding from an adjustment to the State education aid formula and to the calculation of minimum required county funding for public schools; and
- [SB 878](#) with the same language to establish a Preschool for All program, and with funding from the alteration of the Education Trust Fund Account and funding from table games to be offered at video lottery terminal licensed locations. The implementation of table games is contingent on voter approval.

#### *Failed Measures*

Preventing dating violence, the subject of [SB 863](#) (failed), would have added "dating violence" to the list of incidents that must be reported by a local board of education to MSDE. The companion bill, [HB 1110](#), remains in a House committee.

Public Information Act permissible denials, the subject of [SB 592/HB 62](#) (both failed), would have allowed a custodian of a public record at an institution of higher education to deny certain public information requests.

---

## **ELECTIONS AND ETHICS**

Election bills from the House that have moved to the Senate address:

- Voter Registration Agencies – Electronic Signatures ([HB 173](#));
- Citizens Who Have Not Lived in the United States – Right to Vote ([HB 226](#));
- Voter's Rights Protection Act of 2012 ([HB 314](#)); and
- Subsequent Election Absentee Ballot List ([HB 657](#)).

Ethics legislation now in the House addresses financial disclosure statements concerning mutual funds ([SB 146](#)) and annual meetings with the Legislative Ethics Counsel for legislators ([SB 951](#)).

---

## **ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE**

### *Natural Resources – Boats*

[SB 127](#), with preliminary approval from the Senate, prohibits a marine gathering, defined after amendment to be the intentional congregation of at least 100 vessels in State waters, without a permit issued by the Department of Natural Resources (DNR). Other amendments extend the application date and add safety requirements.

Testimony was heard this week on [HB 1307](#), a departmental bill that increases existing vessel registration fees based on vessel length, requires sailboats to be registered unless they are under 16 feet long, and increases existing fees for boat dealers. The bill also creates a new nonmotorized vessel decal and establishes related requirements.

[SB 101](#) (failed), which would have prohibited DNR from placing a tracking device on a vessel without a court order, has received an unfavorable committee vote, as has [HB 478](#) (failed), which would have required DNR to remove and dispose of any abandoned fishing nets in State waters within one day of the net being found or reported.

### *Hunting*

[HB 1419](#), heard by a committee this week, increases some hunting license fees, establishes new hunting stamps and fees, and creates a consolidated hunting and trapping license. The bill clarifies that the State Wildlife Management Protection Fund may be used only for the scientific investigation, protection, propagation, and management of wildlife and administrative costs directly related to the Fund.

### *Hydraulic Fracturing in the Marcellus Shale Formation*

Legislation ([HB 1204](#) and [HB 1123](#)) now on the House floor is scheduled to be considered by the full body early next week. [HB 1204](#) establishes fee and filing

requirements that apply to gas interests in real property underlain by the Marcellus Shale, to be paid into the Oil and Gas Fund within the Maryland Department of the Environment (MDE) and used only to fund the cost of conducting the ongoing study of the Marcellus Shale required by Executive Order 01.01.2011.11. [HB 1123](#) establishes a presumptive impact area around a deep shale gas well and establishes conditions for restoration and compensation to a property owner. The Senate companions are [SB 798](#) and [SB 636](#), respectively.

Several bills related to the use of hydraulic fracturing in drilling for gas in the Marcellus Shale Formation in Western Maryland received unfavorable committee votes this week. Some of the legislation would have established various specific lease requirements and created a lease registry: [HB 403](#), [HB 732](#), [HB 1033](#), [HB 1034](#), [HB 1040](#), [HB 1172](#) (all failed). One bill would have required the holder of a drilling permit to keep specific records, [HB 1170](#) (failed), and another measure, [HB 296](#) (failed), would have prohibited shipping or transporting into the State, or storing, treating, discharging, or disposing of in the State, wastewater resulting from hydraulic fracturing activities occurring in another state.

### *Reduction of Lead Risk in Housing*

Legislation that would have altered the State's Lead Poisoning Prevention Program received unfavorable committee votes ([HB 955](#) and [HB 977](#), both failed).

### *State Development Plan*

This week Senate and House committees voted unfavorably on a number of bills intended to change the process for development and approval of the State Development Plan, or to reduce its possible impact on local development plans: [HB 35](#), [SB 692/HB 47](#), [SB 701](#), [SB 826](#), [SB 829](#) (all failed) and similar [HB 931](#), [SB 832](#), [SB 835](#), [HB 654](#), and [HB 932](#) (all failed).

---

## **FISCAL MATTERS**

### *Fiscal 2013 Budget Proposal*

Following lengthy discussions and amendments offered during Wednesday's double floor sessions and on Thursday morning, the Senate approved four bills linked together as the fiscal 2013 budget proposal:

- *Budget Bill (Fiscal Year 2013)* ([SB 150](#)) appropriates \$35.9 billion, reflecting a reduction of approximately \$500 million from the Governor's budget as submitted, meets the Spending Affordability Committee recommendation to reduce the deficit by 50%, provides a closing balance of

\$170 million, and maintains 5% in the Rainy Day Fund;

- *Budget Reconciliation and Financing Act of 2012 (SB 152)*, or the BRFA, helps balance the State budget by transferring or redirecting special fund balances or revenues to the general fund, adjusting mandated spending levels, and enhancing revenues. Significantly, the State will begin to share retirement costs for school boards with the counties, which will pay normal cost retirement phased in over four years. Currently, the State pays the entire cost of the pensions. Under the BRFA, the cost to county school boards would be \$68.3 million in fiscal 2013 and \$254.8 million by fiscal 2016. The costs would be offset in part by State aid, including the closing of a loophole in the State's recordation tax, expected to generate \$39 million in revenue;
- *State and Local Revenue and Financing Act of 2012 (SB 523)* makes changes to Maryland's income tax brackets and increases rates based on income, expands the refundable earned income tax credit, requires out-of-state sellers to collect the State sales tax on internet sales, and increases tax rates on other tobacco products (OTPs), among other provisions. A floor amendment raises the proposed tax rate for anyone making over \$500,000 from 5.5% to 5.75% for every dollar earned. The new provision would raise an additional \$30 million in new revenue earmarked for aging schools and municipalities; and
- *Education - Maintenance of Effort (SB 848)*, an emergency bill, addresses maintenance of effort (MOE), which under current law requires counties to meet specified targets in education spending. The Senate bill details the MOE waiver process and requirements going forward. Provisions also allow withholding of income tax collections from counties that fail to keep up required spending levels and directing those funds to the local school board, and allow county governments to override local tax caps, such as those in Anne Arundel and Prince George's counties, to fund education.

#### *Gas Tax*

This week the Governor testified before a Senate and two House committees on his bills ([SB 971/](#)[HB 1302](#)) that apply the sales tax to gasoline in increments for three years, generating about \$613 million annually to be dedicated to the State's Transportation Trust Fund. Maryland's 23.5 cents per gallon gas tax has not been raised since 1992.

## **GAMING, RACING, AND SPORTS**

### *Gaming*

A number of gaming bills covering fantasy competitions, video lottery terminals (VLTs), and table gaming were heard this week. These include:

#### *Fantasy Competitions*

[HB 7](#) explicitly exempts a specified "fantasy competition" from prohibitions against betting, wagering, and gambling in State law. "Fantasy competition" is any fantasy or simulated game or contest such as fantasy sports, online or otherwise, in which:

- participants own, manage, or coach imaginary teams;
- all prizes and awards offered to winning participants are established and made known to participants in advance of the game or contest; and
- the winning outcome of the game or contest reflects the relative skill of the participants and is determined by statistics generated by actual individuals (e.g., professional sports players and teams).

Winning outcomes may not be based solely on the performance of an individual athlete and may not be based on the score, point spread, or any performances of any single real-world team, or combination of real-world teams.

#### *Table Games*

[HB 1169](#) authorizes table games in Maryland. This bill allows those who hold a video lottery operation license to offer table games determined suitable by the State Lottery Commission. If approved by the General Assembly, the legislation will appear on the ballot for Maryland voters to consider at the 2012 election in November. A very similar bill, [SB 26](#), was heard in a Senate committee in February.

Another bill, [HB 1265](#), authorizes additional VLT machines in a specified location in Prince George's County, as well as the introduction of table games to any holder of a VLT license. The bill is subject to voter referendum if it passes the General Assembly. The Senate counterpart, [SB 892](#), was heard last month.

---

## **HEALTH CARE AND HEALTH INSURANCE**

### *Kathleen Mathias Chemotherapy Parity Act*

[HB 243](#), the Kathleen Mathias Chemotherapy Parity Act, received House approval. The bill, as amended to conform to [SB 179](#), the crossfiled measure, prohibits insurers, nonprofit health service plans, and health

maintenance organizations that provide coverage for both orally administered and intravenous or injected cancer chemotherapy treatments under certain policies or contracts from imposing certain limits or cost sharing on coverage for orally administered cancer chemotherapy that are less favorable to an insured or enrollee than the limits or cost sharing on coverage for cancer chemotherapy that is administered intravenously or by injection. The bill now heads to the Senate for consideration.

#### *Public Health - TRIS*

Several public health measures have been discussed during House hearings. [HB 107](#) prohibits a person from selling or offering for sale any child care product that contains “TRIS,” which, under the bill, means tris (2-chloroethyl) phosphate (TCEP). A “child care product” is a consumer product – including a baby product, toy, car seat, nursing pillow, crib mattress, or stroller – intended for use by a child younger than age four. The bill does not apply to the sale or distribution of a child care product that is resold, offered for resale, or distributed by a consumer for consumer use. Violators are subject to a civil penalty of up to \$1,000 for a first violation and \$2,500 for each subsequent violation. In addition, a court is authorized to enjoin any action prohibited by the bill.

#### *Artificial Trans Fat*

[HB 627](#) prohibits 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. This prohibition does not apply to food served directly to patrons in the original sealed manufacturer’s package prior to October 1, 2014, but prohibits food containing artificial trans fat from being sold in the original sealed manufacturer’s package by a retail establishment on or after October 1, 2014.

#### *Chemicals of Concern*

In a joint public health and environmental measure, [HB 727](#) requires the Maryland Department of the Environment (MDE), in consultation with DHMH, by January 1, 2014, to publish on its website a list of chemicals of concern, which MDE may update as often as necessary; and a list of chemicals of high concern, which MDE may update by January 1, 2015, and every two years thereafter. The bill applies to child car seats and containers or packaging for food or beverages that are specifically marketed or intended for use by a minor age 12 or younger.

## **TRANSPORTATION**

#### *Child Safety*

[SB 559](#), which the Senate passed this week, prohibits a driver or passenger from smoking in a vehicle containing a child under age 8. After vigorous debate, proposed floor amendments failed. Violation carries a maximum fine of \$50. A similar bill, [HB 621](#), remains in a House committee.

[SB 185](#), which passed in the Senate with amendments, repeals an exemption for the use of child safety seats. Under the bill, a child under age 8 who weighs more than 65 pounds is no longer exempt from riding in a car seat. The exemption remains for a child under age 8 who is 4 feet 9 inches or taller. The companion bill, [HB 313](#), remains in a House committee.

#### *Licensing and Registration*

Registration bills that moved to the opposite chamber include:

- [SB 25](#), making the “historic” designation more accessible for antique vehicle enthusiasts;
- [HB 358](#), providing for notation of veteran status on driver’s licenses or identification cards. Its crossfile, [SB 276](#), passed the Senate with a technical amendment; and
- [SB 111](#), making all driver’s licenses and identification cards valid for eight years rather than five.

Several bills that would have permitted changes to regulations regarding license plates or registrations received unfavorable committee reports this week. The failed bills include:

- [SB 1](#) (failed), making available a reproduction of the State’s 1910 black and yellow license plate;
- [SB 50](#) (failed), forwarding information on driver’s license or identification applications to the Selective Service System;
- [HB 541](#) (failed), making available a license plate honoring the armed forces; and
- [HB 550](#) (failed) increasing to 25 years the age for a vehicle to qualify as historic. The crossfile, [SB 846](#), remains under consideration in a Senate committee.