



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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BILL INTRODUCTIONS AND SENATE DEADLINE

The bill count for the 2013 session has risen to 591 in the Senate and 686 in the House. To date there is also one Senate joint resolution and one House joint resolution. In order to meet the Senate bill introduction deadline, all Senate bills must be given to the Secretary of the Senate's office by 5:00 p.m. on Monday, February 4. As required by Senate Rule 32(b), bills introduced after this date will first be referred to the Senate Rules Committee and then must be referred to a standing committee to progress in the legislative process.

STATE OF THE STATE

At a joint session of the General Assembly and with numerous Maryland officials and dignitaries in attendance, Governor Martin O'Malley delivered his State of the State address at noon on Wednesday, January 30. The Governor began with the observation that "faced with the adversity of the national recession ... Maryland's story is the story of better choices and better results." He highlighted the achievements that have brought the State to #1 rankings nationwide in public education, innovation and entrepreneurship, research and development, businesses owned by women, and in median family income, as well as in other areas. Going forward, the Governor stated that "our #1 priority should be the creation of jobs." He asked for the passage of Administration legislation this session dealing with off-shore wind power, employment for veterans, and life-long learning and earning. Additionally, the State should continue to develop initiatives to boost "Career & Technology Education" and a modern transportation network, both of which he believes bolster job creation.

The Governor reminded the audience that, "The most fundamental responsibility of any government is public safety," leading to his belief that passage of his 2013 legislation to ban assault weapons supports that end. He also called for letting go of practices he believes do not work, namely the imposition of the death penalty.

Throughout the address, the Governor introduced remarkable Marylanders from all walks of life. These

included: Dr. James Gates, to whom President Obama will award the National Medal of Science for his achievement in physics; Mervin Savoy, who is the Tribal Chair of the Piscataway Conoy Tribe, recognized for the first time in 380 years by the State; Crisfield Mayor P. J. Purnell, who worked tirelessly to help Crisfield through the Hurricane Sandy crisis despite the flooding of his own home; Jack Andracka, who at 15 years old is the winner of the MDForward contest and of Intel's top International and Science and Engineering prize for his discovery of a tool for early detection of pancreatic and ovarian cancer; and Paul Zanecki, CEO of Nexus Energy Homes (homes designed to consume net zero energy), a recent national home builder of the year.

DELEGATE HATTIE N. HARRISON

Delegate Hattie N. Harrison, whom Speaker Mike Busch called the "godmother" of the House of Delegates, passed away on Monday, January 28. A school teacher by profession and a long-time community activist, she had represented the constituents of Baltimore's 45th legislative district since 1973 and was the longest-serving member of the House at the time of her death.

Delegate Harrison was the first African American woman to chair a legislative committee, serving as chair of the House Rules and Executive Nominations Committee from 1979 to 2013. She was named Chair Emeritus at the beginning of the current legislative session. The House Rules Committee, which includes the Speaker, the majority and minority floor leaders, the chairs of the principal standing committees, and other members of the leadership, considers proposals concerning the rules, organization, and procedures of the House or the legislature. The committee reviews legislation introduced after the bill introduction deadline and decides whether to re-refer those bills to the appropriate principal standing committees and considers the executive nominations that the House of Delegates is mandated to address.

Among her many accolades, Delegate Harrison was awarded the Casper R. Taylor Founders Award in 2005, which is presented to a sitting member of the House of

Delegates for steadfast commitment to public service and the integrity of the House of Delegates. On February 7, there will be a viewing for Delegate Harrison at St. Anne's Episcopal Church, Church Circle, in Annapolis before the viewing and services are held in Baltimore.

COURTS AND CIVIL PROCEEDINGS

Pit Bulls

A House committee took lengthy testimony on [HB 78](#), that, as introduced, responds to the recent Court of Appeals' decision in the case *Tracey v. Solesky*, which held that pit bulls and mixed-breed pit bulls (later amended to apply only to purebred pit bulls) are inherently dangerous, and their owners and others who have the right to control the dog's presence on the premises (such as landlords) are strictly liable for the resulting damages caused to anyone who is attacked by the dog.

In place of this strict liability standard, [HB 78](#) establishes that in an action for damages against an owner of a dog for personal injury or death caused by the dog, evidence that the dog caused the personal injury or death creates a rebuttable presumption that the owner knew or should have known that the dog had vicious or dangerous propensities.

Rebuttable presumptions generally exist in two varieties: they allocate the burden of persuasion and/or the initial production of evidence, or they assist a party in a civil case or a criminal defense by shifting the burden of the production of evidence to an opposing party. Under the second type of rebuttable presumption, the existence of a basic fact (*e.g.*, the defendant's dog caused the personal injury or death) creates the presumption of the existence of a presumed fact (*e.g.*, the defendant/dog owner knew or should have known that the dog had vicious or dangerous propensities). The burden of establishing the nonexistence of this presumed fact falls to the defendant/dog owner.

[HB 78](#) expresses the intent of the General Assembly that the bill's provisions abrogate the holding of the Court of Appeals in *Tracey v. Solesky*, No. 53, September Term 2011. The companion bill, [SB 160](#), will be heard by a Senate committee next week. The bills are emergency measures that must pass with three-fifths of the membership and become effective immediately upon approval by the Governor.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Sexual Abuse of Minors

Two similar bills, [HB 14](#) and [HB 31](#), expand the definition of persons in authority who are prohibited from sexual contact with minors who are students in the schools where these persons are employed. [HB 14](#) removes the existing limitation to "full time permanent employee" and adds coaches to the list of school employees who are barred from sexual contact with students. [HB 31](#) and its companion bill, [SB 377](#), also remove the "full time permanent employee" limitation and include contractors as individuals who are barred from sexual contact with students.

Synthetic Marijuana

Several bills introduced this session address synthetic cannabinoids. [SB 109/HB 267](#) codify in State law a list of chemical compounds that bind with cannabinoid receptors, producing effects on the human brain and behavior similar to, but more severe than, the effects of marijuana. In addition, the bills enable facilities to conduct research with Schedule I controlled dangerous substances if the facilities are approved by a federally registered institutional board or institutional animal care and use committee.

Another measure, [HB 1](#), codifies in State law the 26 cannabimimetic agents listed in the federal Synthetic Drug Abuse Prevention Act of 2012 (SDAPA) as Schedule I controlled dangerous substances. The bill also defines cannabimimetic agents used in the SDAPA, which is limited to chemicals that bind with cannabinoid receptor one. Substances listed on the federal Schedule I are also listed on the State's Schedule I unless the Department of Health and Mental Hygiene objects. Thus, this bill is a formality stating explicitly that use and distribution of these substances is a violation of State law.

Animal Cruelty

Testimony was heard this week on [SB 37](#), which authorizes a court to order a defendant convicted of animal cruelty to pay reasonable costs of removing, housing, treating, or euthanizing an animal confiscated from the defendant. The order is a condition of sentencing and the payment is in addition to any other fines and costs imposed by the court. The applicable offenses are: animal abuse or neglect; felony aggravated cruelty to animals (general); felony aggravated cruelty to animals (dogfighting); and felony aggravated cruelty to animals (cockfighting). The bill can help local government if the court-ordered payments defray costs

incurred by local government entities that care for confiscated animals.

ECONOMIC AND BUSINESS ISSUES

Enterprise Fund and Invest Maryland Program

Emergency legislation that makes changes to the Enterprise Fund and the Invest Maryland Program within the Department of Business and Economic Development (DBED) was heard by a Senate committee this week ([SB 70](#)). The Invest Maryland Program, a state-supported venture capital program, allows the State to provide funds to venture firms that can make distributions for any purpose. The measure allows venture firms more flexibility by altering the conditions that must be met before a venture firm can make distributions. In addition, the measure allows DBED to acquire a larger percentage of company ownership when making Enterprise Fund equity investments.

Telephone Companies—Charges for Directory Assistance

[SB 142](#) requires the Public Service Commission to authorize telephone companies to impose charges for directory assistance calls subsequent to the first two calls per month. Charges are not to be imposed on customers that have a disability that prevents them from using a telephone directory. Similar legislation introduced in the 2012 session passed the House chamber but did not progress in the Senate.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

[SB 61](#) has passed in the Senate and has moved to the House. As amended, the bill requires the Maryland Department of the Environment (MDE), beginning on October 1, 2014, to satisfy the public hearing notice requirement associated with the adoption of new regulations under the Ambient Air Quality Control Title of the Environment Article by publishing notice on the MDE website. The notice also must contain an option for a person to receive future notices by first-class mail or electronic mail.

REAL PROPERTY, ESTATES, AND TRUSTS

The following bills were heard in committee recently. The bills concern:

- *balcony inspections* – [SB 18](#) requires a political subdivision to require an inspection of every multifamily dwelling with a balcony at least once

every 10 years in order to ensure that each balcony meets the requirements of the applicable local housing code or the Minimum Livability Code. An initial inspection of each multifamily dwelling with a balcony that is at least 10 years old is required by October 1, 2014. A political subdivision may charge a property owner a fee for each periodic balcony inspection. If a political subdivision already conducts balcony inspections, no change is required. The companion bill is [HB 469](#);

- *blighted property* – [SB 28](#) requires the owner of a blighted property, on notification from local government, to remedy the property's code violations. If an owner fails to take the appropriate actions, the local government may declare the property a nuisance and order the owner to promptly abate the nuisance. The local government must grant the owner a six-month extension to abate the nuisance if the owner lists the property for sale in a specified manner. If the owner fails to abate the nuisance and does not sell the property, the bill authorizes the local government to fine the owner three times the amount of the local property tax imposed on the property; and
- *solar energy* – [SB 136](#) expands the Solar Energy Grant Program to include grants to cooperative housing corporations, councils of unit owners of condominiums, and homeowners associations to cover a portion of the costs of acquiring and installing photovoltaic and solar water heating equipment.

Other legislation, also before committees recently, relates to the Maryland Insurance Administration (MIA):

- [HB 71](#) establishes a process for the MIA to review and approve filings before an insurer may refuse to issue or renew a homeowner's insurance policy solely because the subject of the risk or the applicant's or insured's address is located in a certain geographic area of the State; and
- [HB 114](#) establishes the Task Force to Study Recovery Efforts Following Residential Fires with staff support from the MIA. A report is due by October 2013 to the Governor and the General Assembly.

The Senate passed two measures changing the law related to the Maryland's Home Improvement Commission. The commission licenses and regulates home improvement contractors, subcontractors, and salespersons for home improvement work. The commission investigates complaints by homeowners, awards monetary damages against licensed contractors,

and prosecutes violators of the home improvement law and regulations. The bills make the following changes in the operation of the commission:

- **SB 66**, as amended, increases the membership of the commission by adding an additional consumer member and an additional industry member. In addition to other administrative adjustments, the bill requires the commission to report annually to the General Assembly regarding attendance at commission meetings and the status of the claims backlog, if any; and
- **SB 78**, as amended, increases from \$5,000 to \$15,000 the maximum claim amount against the Home Improvement Guaranty Fund for which the commission may issue a proposed order without a hearing. The fund, established by assessments to contractors, compensates homeowners for monetary losses due to poor workmanship or failure to perform a home improvement contract but is applicable only to work done by licensed contractors. The maximum amount that a homeowner may recover through the fund is the amount paid to the contractor, up to \$20,000. If the total amount of all claims against a particular contractor equals more than \$100,000, then each homeowner's award is pro-rated based upon the total amount awarded to each claimant.

The bills now move to the opposite chamber for consideration.

STATE GOVERNMENT

Legislation to add a new State symbol to Maryland law was before committees this week. **SB 26/HB 13** designate the soft-shell crab sandwich as the State sandwich. Proponents, including Senate President Mike Miller, testified that the sandwich is a unique Maryland delicacy and that the designation is an opportunity to support Maryland's seafood industry and Maryland watermen, just as the designation in 2008 of the Smith Island cake as the State dessert has created a market for the cake all over the country and the world. Soft-shell crabs are blue crabs, which have shed their shells in the process of molting.

Several other measures aim to designate new commemorative days. With the first committee hearings held this week, the measures designate a German-American Heritage Day (**SB 17/HB 34**), an Irish American Heritage Day (**SB 7/HB 77**), a Maryland Centenarians Day (**SB 175/HB 37**), a Young Heroes Day (**SB 118**), a Youth Awareness Day (**SB 152**), a Rare

Disease Day (**SB 255**), and a Food Allergy Awareness Week (**SB 390/HB 9**).

Other companion measures also before committee members require the Governor annually to proclaim November 1 as Maryland Emancipation Day in recognition of the emancipation of the slaves in the State (**SB 42/HB 167**). On November 1, 1864, Maryland adopted a constitution that abolished slavery, making it the first state to voluntarily free its slaves by popular vote. Lincoln's Emancipation Proclamation of 1863 had only freed slaves in rebel states, of which Maryland was not one.

TRANSPORTATION

Kara's Law

HB 150, also known as Kara's Law, was heard in a House committee this week. Current law requires a driver to submit to a test of blood or breath, or both, as directed by a police officer if the driver is involved in a motor vehicle accident that results in death or life-threatening injury to another person. The bill repeals the requirement that the police officer must have reasonable grounds to believe the person committed an alcohol-and/or drug-related driving offense if the person was involved in an accident that results in death or life-threatening injury before directing that the person submit to a test. A person who refuses a test in spite of this direction is subject to administrative sanctions.

The legislation responds to an accident that took place in 2011. Kara Micciche was struck and killed by a vehicle while crossing a road in Anne Arundel County. The driver of the vehicle that struck Kara was not required to submit to drug or alcohol testing, although it was later suspected that the driver was under the influence of a controlled dangerous substance.