



The Legislative Wrap-Up

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SPEAKER'S SOCIETY PRESENTATIONS

The Speaker's Society, which met in Annapolis on February 6, was established in 1995 for current and former delegates to meet annually. In conjunction with the Society, three awards were created to recognize Marylanders of merit.

- The Speaker's Medallion is given in memory of Thomas Kennedy, a former member of the House, for his courageous stand on principle. Through Kennedy's efforts, in 1826 the General Assembly extended the same rights and privileges enjoyed by Christians to people of the Jewish faith. The 2013 recipient is John M. Colmers, Vice President of Health Care Transformation and Strategic Planning for Johns Hopkins Medicine.
- The Casper R. Taylor, Jr., Founders Award is presented to a sitting delegate to honor steadfast commitment to public service and to the integrity of the House. The 2013 honoree is Delegate Veronica L. Turner, (D, District 26, Prince George's County), who has served in the House since 2003.
- The Thomas Kennedy Award honors former House members for personal courage and dedication to the principles of liberty and freedom. This year's recipients are the late Honorable Howard P. (Pete) Rawlings and the late Honorable Jean B. Cryor. Former Delegate Rawlings (D, District 40, Baltimore City) was a member of House from 1979 to 2003 and served as Chair of the Appropriations Committee, 1992-2003. Former Delegate Cryor (R, District 15, Montgomery County) served in the House from 1995 to 2007.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Firearm Safety Act of 2013

A crowd estimated at nearly 1,000 from Maryland and out of state rallied in Lawyer's Mall at the foot of the Maryland State House midweek, most in opposition to the Governor's proposed gun legislation (**SB 281/ HB 294**). Many testified before a Senate committee during a

marathon eight-hour hearing on the Senate bill. The House companion bill has not yet been scheduled for a committee hearing.

The legislation proposed by the Governor modifies and expands the regulation of firearms and ammunition in the State and strengthens mental health-related restrictions on the possession of firearms. The legislation addresses four major areas: assault weapons, handguns, ammunition, and mental health issues. An examination of all of the provisions of **SB 281** and background information on current State and federal gun laws is contained in the bill's fiscal and policy note available at http://mgaleg.maryland.gov/2013RS/fnotes/bil_0001/sb0281.pdf.

Assault Weapons. Current law prohibits the sale and possession only of certain pistols. The new bill expands the prohibitions to all assault weapons including "assault pistols" and "assault long guns," which are on the list of 45 regulation firearms that are not handguns under current law, and "copycat weapons," which include semiautomatic rifles, pistols, and shotguns, as well as shotguns with a revolving cylinder.

Licensed dealers who legally possess assault long guns or copycat weapons before October 1, 2013, may continue to sell and transport them, and individuals who already legally possess such weapons may keep them as long as they register each weapon with the Secretary of State Police before November 1, 2013.

Handguns. Current law already requires an application and waiting period for purchase of a handgun. The new bill sets up a licensing system under the authority of the Department of State Police. A person who wishes to purchase, rent, or receive a handgun must apply for a "handgun qualification license" at a cost of \$100. The applicant must apply for a State and national criminal history records check, including fingerprinting, submit a signed statement that the applicant is not prohibited under federal or State law to possess a handgun, and show proof of completion of an approved firearms safety training course.

The license is good for five years and may be renewed in five-year increments. If the application for a license or for a renewal is denied, the applicant may request a

hearing to review the decision. In addition, any new resident of the State who brings in regulated firearms must register them within 30 days.

Ammunition. Under the bill, a person who is prohibited from possessing a regulated firearm is also prohibited from possessing ammunition. The bill reduces the allowable detachable magazine capacity from 20 to 10 rounds of ammunition for a firearm. The same limits on magazine capacities apply to penalties for use of an assault weapon in the commission of a felony or crime of violence.

Mental Health Provisions. [SB 281](#) strengthens mental health requirements. It prohibits possession of a regulated firearm by a person who has been found incompetent to stand trial or not criminally responsible in a criminal case; has been a patient in a mental health facility or has been determined by a court to be unable to safely possess a firearm; is under the protection of a court-appointed guardian; or has a protective order against him or her issued by a court.

A person who is disqualified from possessing a regulated firearm for mental health reasons may apply to the Department of Health and Mental Hygiene to be reauthorized to possess a firearm. If rejected, the person may request a hearing to attempt to prove fitness to possess a firearm.

Additional mental health provisions in the bill cover the responsibility of courts and mental health facilities to report certain information to the National Instant Criminal Background Check System (NICS). Courts must report the date of a finding and the person's identifying information to NICS when a person has been found incompetent to stand trial, not criminally responsible, or in need of a guardian.

Mental health facilities must report to NICS the name and identifying information of a person admitted or committed to a facility, the date of admission or commitment, and the name of the facility, as well as whether the person has been admitted or committed for 30 consecutive days or more and if the court has determined that the person cannot safely possess a firearm.

Rifles and Shotguns. Rifles and shotguns also come under new restrictions in the bill. If a person has been convicted of certain crimes, is a fugitive from justice, is a habitual drunkard or habitual user of banned substances, has a protective order against him or her, or (if under age 30) has been adjudicated delinquent by a juvenile court for something that would be a disqualifying crime if committed as an adult, that person

may not possess a rifle or shotgun. The one exception to this regulation is an antique firearm.

Firearms in Crime of Violence or Felony

[SB 228](#) builds upon the State's prohibition of using a firearm while committing a crime of violence by providing that a violation of that prohibition is not subject to the standard one-year statute of limitations and may be prosecuted at any time. Crimes of violence include crimes such as abduction, assault, burglary, murder, sexual assault, and attempts to commit such crimes. The companion bill is [HB 575](#).

Regulated Firearms – Dealer's License

[SB 266](#) establishes recordkeeping and reporting requirements for State-regulated firearm dealer licensees. One of the bill's provisions requires the Secretary of State Police to disapprove an application for a State-regulated firearms dealer's license if it is determined that the applicant intends that a person not qualified for a license or whose license has been revoked or suspended will participate in the management or operation of the business or hold an interest in the business. [HB 375](#) is the House companion bill.

Synthetic Marijuana

Two anti-drug bills were heard by a committee early in the week. [HB 482](#) details certain synthetic cannabinoids that are included on Schedule I of controlled dangerous substances, and goes on to require that any botanical or herbal substance that contain substances similar to synthetic cannabinoids must be labeled with the chemical compounds contained therein and the date of manufacture. [HB 483](#) adds a hallucinogen known as "N-bomb" to Schedule I.

Court Order – Location of Cell Phones

While the Supreme Court has addressed the use of GPS devices and beepers, the use of cell phone location data by law enforcement is becoming increasingly common. Under [HB 377](#), a person is prohibited from receiving real-time location information transmitted by a "mobile communications device" from a common communications carrier without first obtaining a court order. Exceptions and additional restrictions are identified in the bill that provides imprisonment for up to one year and/or a fine of up to \$5,000 for violations.

No-knock Search Warrants

Companion bills, [SB 259/HB 219](#), address no-knock search warrants served in counties by law enforcement officers from outside the jurisdiction. Unless there is a written agreement between the law enforcement officers and the county's primary law enforcement agency that

waives this requirement, the outside law enforcement officers must notify the county's law enforcement of a search warrant to be executed in the county.

Shopping Cart Theft

Committees took commentary recently on companion bills, [SB 191/HB 156](#), to increase the criminal penalty for theft of a wheeled shopping cart or other similar device provided for the use of store patrons from \$25 to \$100. State law does permit a person to abandon a wheeled cart or other similar device on the parking facilities of the store or market from which the cart was obtained.

ECONOMIC AND BUSINESS ISSUES

Maryland Offshore Wind Energy Act of 2013

For the third year, Governor O'Malley has proposed legislation ([SB 275/HB 226](#)) to establish a market for offshore wind energy in the State. A qualified offshore wind project means a wind turbine electricity generation facility that is:

- located in a leased area on the outer continental shelf of the Atlantic Ocean and between 10 and 30 miles off the coast of the State;
- interconnects to the Pennsylvania, New Jersey, Maryland Interconnection grid at a point located on the Delmarva peninsula; and
- is approved by the Public Service Commission (PSC). Among other requirements, the PSC may not approve an application unless that project demonstrates positive net economic, environmental, and health benefits to the State, and the projected rate impact does not exceed \$1.50 per month for the average residential customer in 2012 dollars and does not exceed 1.5% of nonresidential customers' total annual electric bills.

The legislation creates a "carve-out" for energy derived from offshore wind in the State Renewable Energy Portfolio Standard. Beginning in 2017, State electricity sales are required to include an amount derived from offshore wind energy. The bill also provides funding from various sources for administrative costs and to support financial and business development assistance to businesses participating in the offshore wind industry.

Maryland Employment Advancement Right Now (EARN)

Recently, Governor O'Malley testified before a Senate committee on his bill ([SB 278](#)) to establish the EARN Program within the Department of Labor, Licensing, and Regulation (DLLR). The goal is to create industry-led

partnerships to advance the skills of the State's workforce, grow the State's economy, and increase employment. Grants will be available on a competitive basis to approved strategic industry partnerships, which are formed through a collaboration of a regional group of businesses, education institutions, and government agencies to identify common workforce shortages and implement strategies to meet those shortages based on regional needs.

Grants may also be awarded for workforce training programs consistent with an approved strategic industry partnership plan and for job-readiness and skills training that result in a credential or an identifiable skill. Additionally, DLLR must implement a State employment advancement strategy to identify State government positions in need of skilled employees and mechanisms to provide training to State employees that may result in advancement.

A "Train Maryland" website promoting available training programs in the State must also be developed. The companion bill, [HB 227](#), is scheduled for a House hearing next week.

Veterans Full Employment Act of 2013

The Governor also presented testimony on another Administration bill ([SB 273](#)) to facilitate professional licensing for active military personnel, veterans, and their spouses through the expedited issuance of licenses, registrations, and certificates. The State's occupational licensing boards and health occupations boards may issue expedited temporary licenses, and the State Superintendent of Schools is required to expedite educator certification for qualified applicants.

Also, credits would be given by various agencies for specified military training and education completed by a service member toward licensure or certification requirements. Additionally, the Maryland Higher Education Commission must adopt guidelines for awarding academic credit for a student's military training, coursework, and education. The companion bill, [HB 225](#), will be heard by a House committee later this month.

Gas Companies – Infrastructure Replacement Surcharge

Amended bills ([SB 8/HB 89](#)) have passed their original chambers to authorize gas companies to file a plan with the PSC requesting authorization to include a surcharge on customers' bills to recover specified costs of eligible infrastructure replacement projects. The bills establish a limit on the surcharge of \$2 per month for each residential gas customer. The surcharge for a nonresidential customer must not be less than the fixed annual surcharge applicable to a residential customer

account, but must be capped at a level proportionate to the residential surcharge. The PSC has in the past been asked to consider such a mechanism and has not yet approved one. The bills seek to provide a framework for a surcharge mechanism, including caps by which the PSC is not currently limited. The bill takes effect June 1, 2013.

Amendments to the bills clarify the following:

- the PSC may require any information it deems necessary to evaluate the plan;
- surcharges may not include depreciation and taxes associated with retired infrastructure;
- the surcharge is capped for all customer classes;
- costs recovered under the surcharge schedule may relate only to projects within the plan approved by the commission; and
- the gas company is required to file an annual reconciliation to adjust the amount of the surcharge to account for any difference between actual costs of a plan and the amount recovered.

Directory Assistance

The Senate passed and sent the House [SB 142](#) that “requires” the PSC to authorize telephone companies to charge for any more than two directory assistance calls made by residential customers per month. Current law “allows” the commission to authorize telephone company charges on calls made subsequent to the first two calls. The PSC retains the authority to regulate the amount of any directory assistance charge. An identical bill, [HB 124](#), will be before the House later this month.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

A bill that requires penalties and fines paid into the Maryland Clean Water Fund be used to restore the area associated with the penalty or fine, or a similar area, was before a committee this week. [HB 44](#) also limits the amount that may be spent for administrative purposes. Testimony will be heard on a similar bill, [SB 575](#), in several weeks.

A well-attended committee hearing this week highlighted [HB 106](#). The bill repeals the Sustainable Growth and Agriculture Preservation Act of 2012 (also known as the Septic Bill) and the requirements placed on local jurisdictions to create four growth tiers to define areas within the jurisdictions’ development and zoning plans. Areas of disagreement on the repeal of the 2012

law center on local autonomy versus environmental impact concerns. The companion bill is [SB 391](#).

FISCAL MATTERS

Sales Tax – Textbooks

Three bills, [SB 704/HB 52](#) and [HB 58](#), propose to exempt from the State sales tax the purchase of textbooks required for courses at institutions of higher education and purchased by full or part-time students. The bills define a textbook as a book written, designed, and produced for educational or instructional purposes. An individual may establish student status by producing a valid student identification card at the time of purchase.

[SB 704/HB 52](#) establish two annual 14-day sales tax-free periods for the purchase of required college textbooks by students. [HB 58](#) exempts the purchase of required college textbooks by students from the State sales tax during the entire year.

Build Maryland Tax Credit Act

[SB 138](#) creates a tax credit against the State income tax for qualified commercial real estate investment expenses incurred within a priority funding area. The amount of credits that may be awarded each year may not exceed the amount of money appropriated to a reserve fund established by the bill. The bill takes effect July 1, 2013, and applies to tax year 2013 and beyond.

Coal Tax Credit

[HB 11](#) and [HB 102](#) (Budget Reconciliation and Financing Act of 2013) accelerate the termination date for the Maryland-mined coal tax credit from tax year 2021 to tax year 2013. Currently, public service companies in Maryland may claim a \$3 per ton credit for the amount of Maryland-mined coal purchased in a calendar year. This nonrefundable tax credit may be claimed against the public service company franchise tax and may not exceed the State tax liability for that tax year.

Certain co-generators and electricity suppliers that are not subject to the public service company franchise tax may also claim a \$3 per ton credit for the amount of Maryland-mined coal purchased in a calendar year. This nonrefundable credit may be claimed against the State income tax. [HB 11](#) and the provision in [HB 102](#) take effect July 1, 2013, and apply to tax year 2013 and beyond.

Transportation Trust Fund

Six bills have been introduced thus far to restrict the transfer of funds from the Transportation Trust Fund (TTF) and to require that certain revenues dedicated to transportation purposes continue to be dedicated for those purposes ([HB 176](#), [SB 643/HB 524](#), [HB 1046](#), [SB 253](#), and [SB 829](#)). All of the bills except [HB 1046](#) are proposed constitutional amendments, which would give the TTF constitutional status.

[SB 643/HB 524](#), entitled “End the Gridlock,” in addition to providing constitutional protection to the TTF, authorize the General Assembly to submit a transportation investment program to referendum with a list of proposed projects and may include a revenue source. All of the bills except [HB 1046](#) and [SB 253](#) permit the transfer of funds from the TTF in an emergency declared by the Governor and require the transferred funds be repaid to the TTF.

HEALTH CARE AND HEALTH INSURANCE

Medical Marijuana – Caregivers

A House committee heard testimony this week on [HB 180](#) that creates an affirmative defense for caregivers who are prosecuted for the possession of marijuana that the caregiver intended for medical use by an individual with a debilitating medical condition. The defense may not be used if the caregiver was using or assisting in the use of marijuana in public, or was in possession of more than one ounce.

A caregiver is defined as an individual designated in writing by the patient to provide the patient with physical or medical assistance including assistance with the medical use of marijuana. The caregiver must be a spouse, partner, or immediate family member who is at least 21 years old, resides in the State, and has not been convicted of certain crimes. A caregiver may not attend to more than one patient and must have been designated by the patient in writing as the patient’s only designated caregiver. A Senate committee will hear the companion bill, [SB 580](#), later this month.

STATE GOVERNMENT

Several bills under consideration this session concern Maryland’s Open Meetings Act. Current law, with limited exceptions, provides that a public body must provide adequate notice of the time and location of meetings and meet in open session in a location that is reasonably accessible to attendees. A public body is any entity that consists of at least two individuals and is

created by the Maryland Constitution, State statute, a county or municipal charter; an ordinance; a rule, resolution, or bylaw; or an executive order of the Governor or of the chief executive authority of a political subdivision.

Exclusions from the definition of public body include juries, the Governor’s cabinet and Executive Council. The State Open Meetings Law Compliance Board, which handles complaints alleging violations of the Open Meetings Act, advises that, in fiscal 2012, it received 28 complaints alleging violations. Currently, the opinions of the board are advisory only and the board may not require or compel a public body to take any specific actions. This week a committee listened to testimony on legislation that:

- requires the State Open Meetings Law Compliance Board, in conjunction with the Office of the Attorney General, to develop and offer an online training program on the requirements of the open meetings law to employees, officers, or members of a public body ([HB 139](#)); and
- requires the Attorney General, in collaboration with the State Open Meetings Law Compliance Board, to adopt regulations to establish a range of penalties (in addition to existing penalties) for violations of the Act so that any penalty accounts for the nature and severity of the violation ([HB 140](#)).

Another bill ([HB 331](#)) before the committee changes procedures related to violations of the open meetings law by providing that, if the board determines that a violation has occurred, a member of the public body must, at the public body’s next open meeting after the board has issued its opinion, announce the violation and orally summarize the opinion and a majority of the public body’s members must sign a copy of the opinion.

The bill repeals a prohibition on using a written opinion of the board as evidence in a proceeding conducted before a circuit court. Also increased is the civil penalty for meeting in violation of the law from up to \$100 to up to \$1,000 for the first violation and up to \$10,000 for each subsequent violation occurring within three years of the first violation (The Senate companion bill is [SB 826](#)).

Legislators will hear testimony from the public on additional bills ([SB 825](#), [HB 484](#), and [HB 485](#)) addressing the open meetings law in the coming weeks.

TRANSPORTATION

Sailboats and Alcohol

The Senate approved a departmental bill ([SB 74](#)) to add provisions to current law concerning alcohol- or drug-related offenses by operators of nonmotorized sailboats. Prior to the enactment of Chapter 307 of 2010 ([SB 475](#)), State law governing the operation of vessels while under the influence of, or impaired by, alcohol and/or drugs applied to all vessel operators. When [SB 475](#) was amended to exempt rafting and kayaking from the law, it inadvertently exempted non-motorized sailboat operators.

Cell Phones and Motor Vehicles

Recently considered by a committee, [SB 193](#) establishes as a primary offense the use of a handheld telephone while operating a motor vehicle if a child under the age of 8 years is a passenger. Under current law, an adult driver of a motor vehicle that is in the travel portion of the roadway may not use a handheld telephone, but the violation is a secondary offense and law enforcement officers may only issue a citation to a driver for this offense if another violation has occurred. Other legislation ([SB 339/HB 753](#)) makes it a primary offense for a driver to use a cell phone while in the travel portion of the roadway. These companion bills ([SB 339/HB 753](#)) will be the subject of public hearings in several weeks.

Speed Limits – State Highways

Heard by a committee this week, [HB 223](#) increases the maximum speed limit on State highways from 65 to 70 miles per hour and establishes a maximum speed limit on the Intercounty Connector (ICC) highway of 70 miles per hour. The ICC is a planned 18.8 mile tolled highway extending from the I-270/I-370 corridor in Montgomery County to the I-95/US 1 corridor in Prince George's County. An emergency measure heard in committee this week, [SB 206](#), raises the speed limit from 55 to 60 miles per hour on the ICC. A hearing date has not yet been set for the companion bill, [HB 619](#).