



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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## **SPEAKER'S MEDALLION, FOUNDER'S AWARD, AND THOMAS KENNEDY AWARD**

This week, on behalf of the House of Delegates, the Speaker honored the recipients of three House awards that are given annually. The honorees are:

- Mr. Kevin A. Plank, founder and CEO of Under Armour, a \$1.5 billion Maryland business that employs 5,000 employees worldwide and 2,000 within the State, who is the youngest recipient of the Speaker's Medallion, given for outstanding service to Maryland;
- Delegate Brian K. McHale, D-Baltimore City, a member since 1990, who received the Casper R. Taylor, Jr. Founder's Award for exemplifying the spirit of the House of Delegates; and
- Senator George C. Edwards, R-Allegany, Garrett, and Washington Counties, with service in the House from 1983 to 2007 before his election to the State Senate, who received the Thomas Kennedy Award that honors personal courage and dedication to the principles of liberty and freedom.

At the same floor session, the House membership also presented Speaker Michael E. Busch, D-Anne Arundel County, with a replica of the Samuel Chase Reading Desk to honor the Speaker in his tenth year of service in that office, which makes him the longest-serving Speaker in the history of the House of Delegates.

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## **COURTS AND CIVIL PROCEEDINGS**

### *Judicial Compensation Commission*

The Commission's recommendations, contained in [SJ 3/HJ 4](#) and discussed in committee hearings this week, call for no salary changes for judges in fiscal 2013 and a \$29,000 increase in all judicial salaries phased in over the next three fiscal years. Current salaries range from \$181,352 for the Court of Appeals Chief Judge to \$127,252 for an associate judge of a District Court. Judges received their last raise in fiscal 2009.

The recommended salaries take effect automatically unless within 50 days of its introduction the General

Assembly amends the resolution to decrease the salaries or the resolution is rejected.

### *Right to Counsel*

Legislation to establish a Task Force to Study Implementing a Civil Right to Counsel in Maryland ([SB 280](#)) received a hearing this week. The task force will 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. Findings and recommendations are due by October 1, 2013. The companion bill is [HB 265](#).

### *Same-Sex Marriages*

A House committee heard testimony on [HB 438](#), an Administration bill that establishes that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in this State. The bill legalizes same-sex marriage in Maryland and includes expanded religious exemptions. The companion bill, [SB 241](#), had a hearing last week in the Senate.

Also heard this week were [HB 474](#), which adds a new section to the Maryland Constitution to establish that a marriage between one man and one woman shall be the only domestic legal union valid or recognized in the State, and a similar bill, [HB 728](#).

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## **CRIMES, CORRECTIONS, AND PUBLIC SAFETY**

### *Caylee's Law*

Legislation that requires a parent or other person who has permanent care or custody or responsibility for the supervision of a minor to report the death or disappearance of the child ([HB 18](#), [HB 20](#), and [HB 122](#)) had hearings this week. The bills impose reporting deadlines that are governed by the age of the child and impose criminal penalties for failure to report.

Dubbed "Caylee's Law," the measures are in response to a 2008 Florida case where a woman was acquitted of the charge of murder of her two-year-old daughter, Caylee, after she waited a month to tell police that the girl was

missing and lied to investigators about Caylee's whereabouts. [SB 139](#) is the companion bill to [HB 122](#).

#### *Child Abuse*

Bills to criminalize the failure to report child abuse or neglect also had hearings this week. [SB 63](#) and [SB 140](#) make it a misdemeanor for certain professionals and others to fail to provide notice or to report suspected child abuse or neglect. [SB 140](#) imposes a criminal penalty that could include a fine and prison time. [SB 63](#) imposes a criminal penalty of a fine only, adds medical examiners and parole and probation agents to the list of professionals required to report, and makes a person who fails to report civilly liable for damages. [HB 496](#), similar to [SB 140](#), is scheduled to be heard by a committee next week.

With a March hearing, [SB 626](#) imposes a civil penalty on professionals who fail to report and establishes a Child Abuse Prevention Fund to provide grants to programs for the purpose of preventing abuse and neglect.

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## **ECONOMIC AND BUSINESS ISSUES**

#### *Maryland Innovation Initiative*

Recently, the public weighed in on [SB 239](#), an Administration bill that 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 Initiative may award grants to support pre-commercial research, defray the costs to start-ups and assess intellectual property issues. Another provision requires the University System of Maryland (USM) to undertake "high impact development activities," or transactions and initiatives that maximize job creation and workforce development in Maryland. USM institutions may invest in, finance, or operate entities that support high impact economic activity. The crossfiled bill is [HB 442](#).

#### *Retail Pet Stores*

[SB 317/HB 131](#) institute remedies available to customers who purchase from a retail pet store a dog that is found to have an undisclosed disease, illness, or prior condition. Detailed disclosures and records must be made available, and customers may be entitled to a remedy for up to one year after the purchase. If found in violation of the bill's provisions, owners or operators of the pet store are liable for a penalty of up to \$500 for a first offense and \$1,000 for each subsequent offense.

## **EDUCATION**

#### *Core Content Areas – Accountability Program*

In May 2011, the Maryland High School Assessment in government was administered for the final time because funding for administering the test was not included in the State budget. Students must still earn a credit in a local, State, and national government course.

[SB 293](#) requires the State Board of Education and the State Superintendent of Schools to design and implement assessment programs in social studies to be administered annually beginning with the 2014-2015 school year for elementary, middle, and high school students. Additionally, each local school system's comprehensive master plan must include, among other existing requirements, a description of how the local board of education intends to ensure and measure academic proficiency of students in the core academic subject areas of reading, writing, mathematics, science, and social studies at various points in the students' education continuum.

#### *Student Health and Nutrition*

Concern exists nationwide that school-aged children are increasingly giving way to obesity and related serious health problems. A legislative committee gathered testimony this week on bills that address this issue:

- [HB 196](#) normalizes, statewide, the amount of time students in grades K-5 must dedicate to physical activity to total 150 minutes per week, including a minimum of 90 minutes per week of physical education. Time not spent in physical education may be achieved through moderate to vigorous activity (including recess) coordinated by a physical education leadership team. Currently, each local school system has its own minimum and maximum weekly requirements for physical education, which range from a minimum of 30 minutes to a maximum of 125 minutes; and
- [HB 201](#) requires each public school to list calorie counts next to each item on its published menu.

#### *Higher Education – Academic Freedom*

The Maryland Public Information Act enables persons to have access to public government records, with statutory exceptions, without unnecessary cost or delay. Custodians of certain information such as adoption records, welfare records, and certain hospital records, may deny public inspection of these documents. [HB 62](#) authorizes a custodian of a public record to deny inspection of a part of the record that contains data or other information of a proprietary nature that:

- was produced or collected by or for faculty or staff of a public institution of higher education;
- was produced or collected as a result of study or research on medical, scientific, technical, or scholarly issues; and
- has not been publicly released, published, or copyrighted.

The custodian may also deny inspection of correspondence or research produced by faculty on public policy issues. The companion bill is [SB 592](#).

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

### *Agriculture*

Arsenic as a component of chicken feed was discussed at a hearing this week. [HB 167](#) prohibits the use, sale, or distribution of specified commercial feed intended for use as poultry feed that contains roxarsone or any other additive that contains arsenic. Testimony will be heard on the crossfiled bill, [SB 207](#), February 14.

Testimony was also heard on [HB 159](#), which establishes a Maryland standard of identity for honey and authorizes a person to bring civil action in court for damages resulting from a violation. The crossfiled bill, [SB 193](#), will be heard February 14.

### *Plastic Bags and Recycling*

Testimony was heard this week on bills meant to encourage recycling of plastic bags. [HB 169](#) requires store operators to establish an at-store recycling program for plastic carryout bags and requires manufacturers of plastic carryout bags to develop educational materials to encourage the reuse, recycling, and reduction of plastic carryout bags. [HB 229](#) requires the Maryland Department of the Environment to establish a registration program for plastic carryout bag manufacturers in order to promote the recycling of plastic carryout bags. The bill terminates September 30, 2020. The crossfiled bill, [SB 164](#), will be heard on February 15.

A related measure, [SB 511](#), which requires a store to collect a fee of five cents for each disposable carryout bag the store provides to a customer, among other provisions, will come before a committee on February 28.

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## **FISCAL MATTERS**

### *Family Farm – Estate Tax*

A number of bills seek to lessen or eliminate the estate tax on family farms. [SB 294/HB 444](#) exempt from the State's estate tax up to \$5 million of qualified agricultural property, if the property passes from a decedent to a qualified recipient who enters into an agreement to use the property for farming purposes after the decedent's death. In addition, the bills generally limit the estate tax imposed on qualified agricultural property included in an estate to 5% of the value of the qualified agricultural property that exceeds \$5 million. The legislation takes effect July 1, 2012, and applies to decedents dying after December 31, 2011.

Other bills before committees next week ([SB 324/HB 154](#), [SB 410](#), [SB 324/HB 154](#)) have similar provisions. One of these, [SB 410](#), excludes all property used primarily for farming purposes from the State estate tax with a provision requiring the recapture of the tax if the property ceases to be used primarily for farming purposes during the life of the recipient.

### *Transportation Trust Fund (TTF)*

[HB 146](#), the Transportation Trust Fund Protection Act, proposes to amend the Maryland Constitution to include the TTF and to establish rules for its operation and funding, including placing constitutional restrictions on transfers from the TTF and use of TTF money. Funds in the Gasoline and Motor Vehicle Revenue Account must be distributed in accordance with the statutory formula in effect on October 1, 2008. Similar proposed constitutional amendments that will be heard by committee members next month are [SB 403](#) and [SB 441](#). However, [HB 146](#) and [SB 441](#) permit borrowing from the TTF for certain purposes if an emergency is declared, while [SB 403](#) prohibits borrowing from the TTF.

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

### *Gaming by Charitable Organizations*

Nine Eastern Shore counties in Maryland currently allow an eligible nonprofit organization to license and operate up to five slot machines at the organization's principal meeting location. A Senate committee took testimony this week on [SB 31](#) that expands the existing provision for the Eastern Shore counties to all Maryland counties.

Another measure, [SB 11](#), authorizes the Maryland State Lottery Agency to issue a license for up to five instant ticket lottery machines to an eligible veterans' organization in all but the nine Eastern Shore counties that are already authorized to allow eligible nonprofit organizations to license up to five slot machines. After deduction of any commission and validation prize

payout, a licensed veterans' organization must credit remaining receipts to the State Lottery Fund. After June 30, 2013, 10% of remaining money in the State Lottery Fund from proceeds of ticket sales by licensed veterans' organizations will be paid monthly by the Comptroller into the Maryland Veterans Trust Fund. The crossfiled bill is [HB 330](#).

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## **HEALTH CARE AND HEALTH INSURANCE**

### *Tanning Beds and Minors*

[SB 213/HB 207](#), heard in their respective committees this week, prohibit owners, employers, and operators of tanning facilities from allowing minors to use tanning devices. Current law requires minors to obtain written parental or guardian consent in the presence of the owner, employer, or operator of the tanning facility. Additionally, current law allows for local jurisdictions to implement more stringent provisions than those in State law. Howard County currently prohibits individuals younger than age 18 from using tanning devices without a written prescription from a physician.

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## **REAL PROPERTY, ESTATES, AND TRUSTS**

### *Ground Rents*

Two recent court cases have challenged the constitutionality of laws enacted in 2007 that changed the ground rent system in the State. Among other things, plaintiffs have claimed that the laws illegally allow the State to take private property without just compensation. A recent decision by the Court of Appeals invalidated a 2007 provision that extinguished a ground lease holder's reversionary interest for failure to register a ground lease with the State Department of Assessments and Taxation (SDAT). However, the court did hold that the registration requirements were valid. Another case pending in the Circuit Court for Anne Arundel County challenges a measure that eliminated the remedy of ejectment for failure to pay ground rent.

In response, [SB 135/HB 177](#), heard by committees recently, require a holder of a ground lease to comply with an existing requirement to register with SDAT before the holder may collect any ground rent payments; bring a civil action against the leasehold tenant for the ground rent due; or obtain a lien on the property. Additionally, the legislation expands the required time frame and information contained in the notice and bill that must be mailed to the leasehold tenant. As well, the provisions in existing law invalidated by the court are repealed, and any extinguishment certificates issued by SDAT for failure to register are void.