

# WEEKLY SESSION NOTES

SENATE REPUBLICAN POLICY COMMITTEE – DAVID G. ARGALL, CHAIRMAN

## Monday, April 16, 2018

[Senate Bill 880](#) (Langerholc) would amend Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes to increase the total outside width of a vehicle by six inches and make additional changes. Section 4908 would be amended to repeal language concerning single truck trailers. Section 4908.1, concerning the operation of motor homes on interstate and certain other highways, would be repealed.

Section 4921, concerning the width of vehicles, would increase the total outside width of a vehicle by six inches to eight feet, six inches. The section would also add an exemption from the measurement of width of a motor vehicle for devices that are consistent with 23 C.F.R., Part 658, Appendix D (concerning devices that are excluded from measurement of the length or width of a commercial motor vehicle). Section 4923, concerning the length of vehicles, would clarify that the length of a single trailer being towed by a truck or truck trailer must not exceed 53 feet. The section also adds an exemption from the measurement of length of a motor vehicle for devices that are consistent with 23 C.F.R., Part 658, Appendix D.

Section 6109, concerning specific powers of department and local authorities, would permit local authorities to restrict the operation of truck tractors beyond the access limitations prescribed under 23 C.F.R., Part 658.19 without conducting an engineering and traffic investigation. **Passed: 50-0.**

[Senate Resolution 260](#) (Vulakovich) is a concurrent resolution extending the due date until November 30, 2018 for a report of a special bipartisan, bicameral legislative commission on improving the delivery of emergency services. **Adopted: 50-0.**

[Senate Resolution 313](#) (Hughes) recognizes the month of April 2018 as “Jazz Appreciation Month” in Pennsylvania. **Adopted by Voice Vote.**

[Senate Resolution 314](#) (Eichelberger) recognizes the month of April 2018 as “School Library Month” in Pennsylvania. **Adopted by Voice Vote.**

[Senate Resolution 315](#) (Scavello) designates April 16, 2018 as “Pocono Raceway Day” in Pennsylvania. **Adopted by Voice Vote.**

[House Bill 1341](#) (Pyle) would amend the Bituminous Coal Mine Safety Act to provide for emergency medical responders and advanced emergency medical technicians. Under the legislation, either an emergency medical responder, emergency medical technician or advanced emergency medical technician would have to be employed at every mine site. The Department of Health would be required to promulgate regulations to prescribe procedures necessary to certify emergency medical responders, emergency medical technicians, advanced emergency medical technicians and paramedics. **Passed: 50-0.**

**Tuesday, April 17, 2018**

[Senate Bill 742](#) (Greenleaf) would amend the Sexual Assault Testing and Evidence Collection Act to provide sexual assault victims with the right to a forensic examination and information relating to the examination. The legislation would add to the rights of sexual assault victims by providing:

- The right to a medical forensic examination free of charge;
- The right to have a rape kit or its probative contents preserved without charge for the duration of the maximum applicable statute of limitations (in cases where the victim has consented to the testing of evidence);
- The right to be informed in writing of policies governing the collection and preservation of rape kits;
- The right, upon written request, to receive written notification no later than 60 days before destruction of the evidence;
- The right to consult with a sexual assault counselor;
- The right to information concerning availability of protective orders and policies related to the enforcement of protective orders; and
- The right to information concerning the availability of, and eligibility for, victim compensation and restitution.

The measure would require the appropriate official with custody of the rape kit to collaborate with a sexual assault counselor to employ best practices when notifying a victim of pertinent information. The Attorney General, State Police, and Victim Advocate would be required to develop a standard protocol for notifying a victim about evidence relating to them.

**Passed: 50-0.**

[Senate Bill 915](#) (Greenleaf) would amend Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes to establish requirements for criminal defendants who seek post-conviction relief and to initiate contact with victims and witnesses after trial. The bill would define “defense-initiated victim or witness outreach” as any effort by a criminal defendant’s counsel to directly or indirectly contact a victim or witness or a parent, guardian, or family member of a victim or witness on behalf of the criminal defendant or defendant’s counsel through a victim liaison, victim outreach specialist, social worker, investigator, or other person designated by the defendant or defendant’s counsel. The measure would require a person engaged in defense-initiated outreach to victims and witnesses to communicate in an honest manner without deception or misrepresentation and unambiguously provide the person’s name, employer, and the name of the defendant convicted of the offense. An additional provision would permit a petition for post-conviction relief when the petitioner has completed a sentence of imprisonment, probation, or parole for the crime and is seeking relief based on DNA evidence.

The bill would also extend the time period from 60 days to one year for the filing of post-conviction relief petitions based on newly-discovered facts that could not have been discovered earlier by the exercise of due diligence. **Passed: 50-0.**

**Senate Bill 916** (Greenleaf) would amend Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes to provide for expanded post-conviction DNA testing. Among other provisions, the legislation would:

- Eliminate the requirement that a petitioner for post-conviction DNA testing be currently serving a term of imprisonment or awaiting execution because of a sentence of death. Petitioners could file a petition for DNA testing at any time for the purpose of demonstrating innocence, even if the petitioner is no longer incarcerated or under probation or parole supervision;
- Require a request for DNA testing to be made in a written petition and filed with the clerk of courts of the district where the sentence was imposed. A plea of guilty to a crime of violence or a confession given by an applicant would not prohibit the applicant from asserting actual innocence or the court from ordering DNA testing;
- Require the petitioner to make a sworn statement subject to the penalties of perjury and false swearing that the petitioner is actually innocent and seeking DNA evidence to establish actual innocence;
- Provide that a DNA testing order constitutes a final order that may be appealed by a petitioner or the Commonwealth. The court would have to include in its order, granting or denying DNA testing, an explanation of how the requested testing has met or fails to meet the required standard established in the statute;
- Provide for a testing laboratory to be selected by the court if the Commonwealth and the petitioner are unable to agree on a laboratory;
- Require, to the extent possible, that a portion of the sample be preserved for replication of testing; and
- Provide that the petitioner bears the burden of ensuring that any private testing laboratory is accredited to perform DNA testing according to FBI standards. Profiles obtained from the testing would have to be uploaded to the FBI database. **Passed: 50-0.**

**Senate Bill 1078** (Tomlinson) would amend the Sunshine Act to allow an agency to discuss, plan or review matters and records related to public safety and security in executive session. **Passed: 50-0.**

**Senate Resolution 316** (Hughes) honors the 40<sup>th</sup> anniversary of Cheyney University's 1977-1978 men's Division II National Championship Basketball Team. **Adopted by Voice Vote.**

[Senate Resolution 317](#) (Farnese) designates the month of April 2018 as “Pennsylvania Donate Life Month.” **Adopted by Voice Vote.**

[Senate Resolution 318](#) (Raffery) recognizes April 17, 2018 as “Architect’s Day” in Pennsylvania. **Adopted by Voice Vote.**

[Senate Resolution 319](#) (McGarrigle) designates the month of April 2018 as “Sikh Awareness and Appreciation Month” in Pennsylvania. **Adopted by Voice Vote.**

[Senate Resolution 320](#) (Scavello) designates April 17, 2018 as “WEDnetPA Day” in Pennsylvania. **Adopted by Voice Vote.**

[Senate Resolution 321](#) (Laughlin) recognizes the week of April 15 through 21, 2018 as “Osteopathic Medicine Week” in Pennsylvania. **Adopted by Voice Vote.**

[House Bill 595](#) (R. Brown) would amend Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes to provide for alternative dispute resolution to resolve disputes in condominiums, cooperatives, and planned communities. The measure would also authorize the Bureau of Consumer Protection (BCP) in the Office of Attorney General to investigate and mediate complaints regarding certain violations which relate to meetings, quorums, voting and proxies, and association records. Condominiums, cooperatives, and planned communities established after the effective date of the act would be required to adopt bylaws establishing procedures for voluntary alternative dispute resolution (ADR) for disputes between unit owners, or a unit owner and the association. Condominiums, cooperatives, and planned communities established prior to the effective date of the section could adopt bylaws in compliance with the section. Costs and fees associated with ADR would be assessed equally against all parties to a dispute.

Unit owners in good standing would be permitted to file a complaint with BCP in the event of a violation by the association of the applicable sections concerning meetings, quorums, voting, proxies, and association records. However, if an ADR procedure is available to the unit owner under the association’s bylaws, rules or regulations, a complaint could not be filed with BCP until the earlier of: (1) the unit owner exhausting the ADR procedure without a resolution, or (2) at least 100 days have passed since the unit owner commenced ADR and no agreement has been reached. A complaint could be filed immediately if: 1) an ADR procedure is not available under the association’s bylaws, rules or regulations, or 2) the association refuses ADR. Nothing under the section could be construed to affect or impair the right of a unit owner, declarant or association to pursue a private cause of action or seek other relief. **Passed: 50-0.**

[House Bill 866](#) (Dunbar) would make various amendments to the Local Tax Enabling Act. Contingency fees for audits done by a private collection agency would be prohibited. For residents of other states who work in Pennsylvania, political subdivisions would be required to credit that person for earned income taxes (EIT) paid in their home state only if that other state reciprocates by allowing the same for Pennsylvania residents.

The bill would clarify that a “nonresident” is a person who works in a political subdivision for at least 90 or more consecutive days, but does not live there. Taxpayers who make periodic estimated tax payments would not be subject to any penalties as long as they made four equal timely estimated payments equal to 100 percent of the prior year’s tax, less any withholding, or 90 percent of the current year’s tax, less any withholding. In collecting income taxes, political subdivisions would use uniform forms, policies, and procedures that are promulgated by the Department of Community and Economic Development. Annual audits of taxes received and disbursed would be conducted for the year ending December 31. DCED would be given oversight of all tax collection committees, tax collectors and tax collection offices.

For a temporary employee who works less than 90 days in a location, the employer would withhold and remit the greater of the resident tax or the nonresident tax based on the location of the permanent home office. For an employee who works 90 days or more in a location, the employer would withhold and remit the greater of the resident tax or the nonresident tax based on the location of the job. Employees working in Philadelphia who are subject to the Sterling Act would be exempt from this provision. [Passed: 44-6.](#)

### *Executive Session*

Nominations to Various Boards and Commissions. [Confirmed: 50-0.](#)

### **Wednesday, April 18, 2018**

[Senate Bill 653](#) (Browne) would amend the Local Tax Enabling Act to consolidate the collection of non-real estate taxes within the tax collection districts established under Act 32 of 2008, which consolidated the collection of the earned income tax. The measure would change the weighted voting system for the tax collection committees to be based on the aggregate of all taxes collected instead of just income taxes. Further, the measure would establish that an appeals board established under the act would be the appropriate venue for the appeal of any tax provided for under the act except the realty transfer tax, the property tax and a tax levied on payroll generated as a result of business activity. When an appeal is filed in the manner prescribed by a tax collection committee, a copy of the appeal would have to be filed with the taxing jurisdiction named in the appeal. The bill would permit a political subdivision to retain its tax collection authority over a mercantile or business privilege tax. [Passed: 39-10.](#)

[Senate Bill 837](#) (Ward) would designate the portion of State Route 981 in Westmoreland County from Fort Street, Smithton Borough to Dutch Hollow Road, South Huntingdon Township as the Specialist 4 William J. Kolenc Memorial Highway. [Concurrence in House Amendments: 49-0.](#)

[Senate Bill 844](#) (White) would amend Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes to grant standing to any individual to file an action for any form of physical or legal custody of a child if the individual establishes by clear and convincing evidence that:

- He or she has assumed or is willing to assume responsibility for the child,
- He or she has a sustained, substantial, and sincere interest in the welfare of the child, which may be demonstrated by factors involving the nature, quality, extent, and length of involvement by the individual in the child's life, including financial support or a previous in loco parentis relationship to the child; and
- Neither parent has any form of care and control of the child.

The third party standing would not apply in certain cases as listed in the legislation. The measure would also allow grandparents and great-grandparents to file an action for partial physical custody or supervised physical custody if the parents of the child have commenced a proceeding for custody, and the parents do not agree as to whether the grandparents or great-grandparents should have custody. The provisions regarding third party standing would apply to all custody proceedings irrespective of whether the proceeding was commenced before, on, or after the effective date of the section. [Concurrence in House Amendments: 49-0.](#)

[Senate Bill 877](#) (White) would amend Sections 645-A and 646-A of the Insurance Department Act of 1921 to allow an insurance producer to offer or give to an insured or prospective insured, on an annual aggregate basis, any favor, advantage, object, valuable consideration or anything other than money that has a cost or redeemable value of less than or equal to \$100. The Insurance Commissioner could increase the limit upon publication of notice in the Pennsylvania Bulletin. An insurance producer could not make the receipt of anything of value contingent on the purchase of insurance. Nothing in Sections 645-A and 646-A could be construed as 1) permitting any unfair method of competition or an unfair or deceptive act or practice under the Unfair Insurance Practices Act of 1974; or 2) prohibiting an insurance producer from offering or giving to an insured, for free or at a discounted price, services or other offerings that relate to loss control of the risks covered under the policy. [Concurrence in House Amendments: 49-0.](#)

[Senate Bill 878](#) (White) would amend Section 346 of the Insurance Company Law of 1921 to allow an insurance company, association or exchange, its officers, members or attorney-in-fact or any other party to offer or give to an insured or a prospective insured, on an annual aggregate basis, any favor, advantage, object, valuable consideration or anything other than money that has a redeemable value of less than or equal to \$100. The receipt of anything of value could not be contingent on the purchase of insurance. The Insurance Commissioner could increase the limit upon publication of notice in the Pennsylvania Bulletin. Nothing in the section could be construed as 1) permitting an unfair method of competition or an unfair or deceptive act or practice under the Unfair Insurance Practices Act of 1974; or, 2) prohibiting an insurance company, association or exchange, by itself or by its officers or members, attorney-in-fact or by any other party from offering or giving to an insured or a prospective insured, for free or at a discounted price, services or other offerings that relate to loss control of the risks covered under the policy. [Concurrence in House Amendments: 49-0.](#)

[Senate Bill 961](#) (Rafferty) would amend Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes regarding the operating privilege and driving under the influence.

Section 1505, regarding learner's permits, would be amended to prohibit the adult driver accompanying the person learning to drive from being under the influence of alcohol or a controlled substance. Section 1543, regarding driving while operating privilege is suspended or revoked, would be amended to add additional penalties for a second and third violation. The sentencing provisions under Section 3732, homicide by vehicle, and Section 3732.1, aggravated assault by vehicle, would be amended to mandate that any person convicted of homicide by vehicle or aggravated assault by vehicle and who is also convicted of driving without a license or driving while operating privilege is suspended or revoked may be sentenced to an additional term of confinement, not to exceed five years. Under Sections 3732 and 3732.1, the Pennsylvania Commission on Sentencing would be required to provide for a sentencing enhancement for an offense under the sections when an individual was also convicted of a violation of Sections 1501 (drivers required to be licensed) or 1543 (driving while operating privilege is suspended or revoked).

Section 3735 (homicide by vehicle while driving under the influence) would be amended to increase the grading and mandatory minimum prison term for violations by repeat offenders. A first violation would be a felony of the second degree subject to a minimum prison term of three years with a consecutive three-year term of imprisonment for each victim whose death is the result of a violation of Section 3802 (DUI). The grading would increase to a felony of the first degree if, before sentencing on the present violation, the person incurred one prior conviction for another offense related to DUI and is subject to a minimum prison term of five years with a consecutive five-year term of imprisonment for each victim. A person who is convicted of a second or subsequent violations of driving under the influence of alcohol or a controlled substance would be guilty of a felony of the first degree and subject to a prison term of not less than seven years if the person has incurred at least two prior convictions of certain DUI-related offenses. A consecutive seven-year term of imprisonment would be imposed for each victim.

Section 3735.1 (aggravated assault by vehicle while driving under the influence) would be amended to add an additional term of imprisonment, not to exceed two years, for a person convicted of aggravated assault by vehicle while driving under the influence who also is convicted of a violation of Section 1501 (drivers required to be licensed) or Section 1543 (driving while operating privilege is suspended or revoked).

Section 3742.1 (accidents involving death or personal injury while not properly licensed) would be amended to create a penalty for a person who is not properly licensed and is involved in an accident. Section 3803 (grading) would also be amended by creating new grading for certain DUI offenses. **Passed: 45-4.**

**Senate Bill 1090** (Corman) would amend Title 18 (Crimes and Offenses) and Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes to create the Timothy J. Piazza Antihazng Law. The measure would amend the Crimes Code to add Chapter 28 (Antihazng), which would establish the offenses of hazng, aggravated hazng, organizational hazng and institutional hazng. Hazng, as defined in the legislation, would be a summary offense, unless it results in or could result in bodily injury in which case it would be a third degree misdemeanor. Aggravated hazng would be defined as hazng that results in serious

bodily injury or death and would be graded as a third degree felony. An organization would commit the offense of organizational hazing if it intentionally, knowingly or recklessly promotes hazing or aggravated hazing. In addition to any other sentence imposed, the organization could be subject to forfeiture of assets. An institution which intentionally, knowingly or recklessly promotes or facilitates hazing or aggravated hazing would be subject to the fines outlined in the legislation. It would not be a defense to any of the offenses under the chapter if consent of the student or minor was sought or obtained or the conduct was sanctioned or approved by the institution, secondary school or organization.

Each institution and each governing body of a secondary school would be required to adopt a written policy against hazing and to adopt rules prohibiting students or other persons associated with an organization from engaging in hazing or an offense under the chapter. Each institution and secondary school would have to provide a copy of the policy and rules to each organization within the institution or secondary school and post a copy on its website. Beginning with the 2018-2019 academic year, and each academic year thereafter, an institution would be required to maintain a report of all violations of the institution's antihazing policy or federal or state laws relating to hazing that are reported to campus authorities or local law enforcement. The initial report would have to include information concerning violations reported for the five years prior to the effective date of the legislation to the extent the institution retained the information. The report would not include the personal identifying information of an individual. An institution would have to post its initial report by January 15, 2019, update the report biannually on January 1 and August 1, and retain reports for five years. The legislation would also establish safe harbor provisions for individuals involved in an incident who seek assistance for another to prevent death or serious bodily injury. An additional provision would make a conforming change to the Judicial Code to provide for asset forfeiture for organizational hazing. **Passed: 49-0.**

**Senate Resolution 278** (Browne) adopts a temporary rule of the Senate relating to amendments to the General Appropriation Bill and other appropriation bills for the fiscal year beginning July 1, 2018, including any amendments offered to or for supplemental appropriations for prior fiscal years. The temporary rule requires any amendment offered on the floor of the Senate to the 2018-2019 Budget that proposes spending from the General Fund or any special fund at a level different from the amount contained in the 2018-19 Budget as reported from the Appropriations Committee to contain sufficient revisions or reductions so that the amendment does not result in a net increase in total spending and yields a balanced budget based on current and projected revenues. The rule could be temporarily suspended only by a vote of the majority of the members elected to the Senate. The rule expires upon enactment of a General Appropriation Act for the fiscal year beginning July 1, 2018. **Adopted: 49-0.**

**Senate Resolution 323** (Brooks) designates the month of April 2018 as "Child Abuse Prevention Month" in Pennsylvania. **Adopted by Voice Vote.**

**Senate Resolution 324** (McIlhinney) recognizes the month of April 2018 as "Limb Loss Awareness Month" in Pennsylvania. **Adopted by Voice Vote.**



[Senate Resolution 325](#) (Browne) recognizes the week of April 16 through 20, 2018 as the “Week of the Young Child” in Pennsylvania and supports high-quality early childhood education as the right choice for young children in the Commonwealth. [Adopted by Voice Vote.](#)

(2018-044)