



Legislation Becomes Law in the First Six Months

The first six months of the 2011-12 session of the Pennsylvania House have been busy ones with a considerable amount of accomplishment -- not the least of which was the FY 2011-12 State Budget passed on time for the first time in eight years. Additionally, there were a number of new laws passed which will directly affect the lives of many Pennsylvanians. Below are brief summaries of some of those laws.

ACT 7 – Bath Salts – fast- tracked into law

Due to the many recent emergency room incidences of patients admitted in serious condition from smoking or inhaling artificial marijuana and/or herbal bath salts, Pennsylvania legislators decided to fast-track a bill making these substances illegal. Senate Bill 1006 became **Act 7 of 2011** and took effect Aug. 22.

Synthetic marijuana has been sold under the misnomer “herbal bath salts”; when smoked, it produces symptoms that include dizziness, nausea, agitation, exceedingly fast heartbeat, and hallucinations. Bath salts have created in some users, extreme paranoia, delusional and erratic behavior, and even suicidal thoughts.

All of this so-called herbal incense is now defined and included in the amended *Controlled Substance, Drug, Device and Cosmetic Act in PA*. Salvia Divinorum, Salvinorin A, Divinorin A, synthetic marijuana, synthetic cocaine/heroin (also known as concentrated bath salts) and psychedelic phenethylamines (referred to collectively as 2C or the 2C family) have been added to the list of substances on Schedule I of the Act. These controlled substances are listed as having a high potential for abuse, no currently accepted medical use in the United States, and a lack of accepted safety for use under medical supervision.

An added amendment also makes all chemical substances analogous to the substances currently found in bath salts and in 2C and the 2C family illegal. Those chemical substances that are generated or synthesized by essentially the same synthetic chemical reactions and procedures are also prohibited by law.

ACT 10 – the Castle Doctrine (cosponsored by Rep. Watson)

With reference to “your home is your castle,” lawmakers adopted legislation based on English Common Law designating one’s home (or, any place legally occupied, such as one’s car or porch, deck or patio) as a place where an individual can enjoy protection from illegal trespassing and violent attack. **Act 10** gives the legal right to use deadly force to protect oneself from this type of attack without first requiring retreat or flight.

Dubbed “*The Castle Doctrine*,” the legislation addresses the use of deadly force in two situations: in a person’s dwelling, residence or occupied vehicle; and in any other place where the individual has a right to be. It allows deadly force to be justified even if the person does not comply with the demands from one who is threatening them. The law is based on the presumption that an attacker who is in the process of unlawfully and forcefully entering a house, residence or occupied vehicle, intends to do great bodily harm to the occupants. The person inside the house is presumed to have a reasonable belief that the use of deadly force is necessary in order to protect the occupant(s) against death, serious bodily injury, kidnapping or rape.

The presumption also applies if a person is trying to unlawfully remove an occupant against the occupant’s will, from his/her dwelling, residence or occupied vehicle. Exceptions do apply, however, and there is no presumption if any of the following are true:

- If the person entering the dwelling, residence or occupied vehicle is another resident of the dwelling, residence or occupied vehicle;
- If the person is a parent, grandparent or other guardian removing a child from the dwelling, residence or occupied vehicle; or
- If the person is a peace officer performing his official duties, and the person using force knew or should have known that the person was a peace officer.

Finally, the presumption will not apply if the person utilizing the protective force is engaged in criminal activity or is using the dwelling, residence or occupied vehicle in conducting any criminal activity.

Regarding the use of force outside the person’s dwelling, or occupied vehicle, this law provides that a person who is not engaged in criminal activity and who is attacked in any place where the individual has a right to be, has no duty to retreat and has the right to stand his ground. Therefore, that person can use deadly force if:

- The person has a right to be in the place where he was attacked;
- The person believes the use of force is immediately necessary to protect against death, serious bodily injury, kidnapping or rape; and
- The person against whom the force is used displays or otherwise uses a firearm or replica or any weapon capable of lethal use.
- The person is not illegally in possession of a firearm.
- The person against whom the force is used is not a peace officer that the person using the force knew or should have known was a peace officer.

Basically this law eliminates a person’s duty to retreat before using lethal force outside of his dwelling, residence or occupied vehicle. This legislation took effect in September.

ACT 18 – PennWATCH (cosponsored by Rep. Watson)

ACT 17 – the Fair Share Act (cosponsored by Rep. Watson)

The Fair Share Act, Act 17, dramatically changes Pennsylvania civil suits so that a defendant found negligent or strictly liable for an injury will be responsible for his or her share, and only his or her share, of the total damages awarded to compensate the plaintiff. The following are exceptions to the law:

- An intentional misrepresentation.
- An intentional tort.
- Where the defendant is held liable for not less than 60 percent of the liability apportioned to all parties.
- An action related to the release or threatened release of a hazardous substance under the Hazardous Sites Cleanup Act OR
- An action brought under Section 497 of the Liquor Code.

The provisions of **Act 17** apply to causes of action which accrue on or after the effective date of this legislation which is June 28, 2011.

The net effect will be to improve the legal climate in the state, and help businesses feel more confident doing business here because they have predictability in forecasting risk. Lawsuit abuse in the Commonwealth will be reduced, and employers, health care providers, and others will be protected from frivolous lawsuits as a result of the passage of the *Fair Share Act*.

Considered a priority reform initiative by the Corbett Administration, the governor signed House Bill 15 into law on June 30. This law provides for a searchable budget database-driven Internet website detailing certain information concerning expenditures and investments using taxpayer dollars. Work on constructing the database was to begin immediately after enactment.

The PennWATCH (*Pennsylvania Web Accountability, Transparency, and Contract Hub*) Act will be developed, implemented, and maintained by the Governor's Office of Administration (OA). It allows the public to search for information at no cost.

The following information must be included in PennWATCH:

- Expenditures paid to a Commonwealth agency or other entity from federal or state funds. It must include the name and address of the agency or other entity receiving funding; the amount of the funding or expenditure; the agency initiating the funding action; and the appropriation from which the funding action or expenditure is paid. It must also have a counter to show the number of visitors to the site and it must show the funding source.
- Monthly revenue received and deposited in the State Treasury during the previous month.
- Performance measures developed by Commonwealth agencies that are required to develop such measures.
- By Dec. 31, 2012, a link to each agency's website, where available.
- By Dec. 31, 2012 and on the first of each month, the total number of individuals employed by each Commonwealth agency as of the 15th of the previous month, and the name, position and current salary of each individual employed by the agency.
- Beginning in January 2013, the name, position and total compensation of each individual employed by a Commonwealth agency.
- By Dec. 31, 2014, a description of the appropriation under which the funding action or expenditure is made and the expected and achieved performance outcomes from the funding action or expenditure.
- All information for a fiscal year must remain on PennWATCH for at least eight years.

All Commonwealth agencies are required to cooperate with the Office of Administration by providing all appropriation and funding action or expenditure information at the time it is paid by the State Treasury and also provide employee compensation and complement information.

The Office of Administration must submit to the General Assembly and the governor an annual report on the usage and performance of PennWATCH.

ACT 21 – Amending PACE and PACENET (cosponsored by Rep. Watson)

House Bill 463 amends the State Lottery Law by helping senior citizens enrolled in the PACE and PACENET programs maintain eligibility. (These are Pennsylvania's prescription assistance programs for older adults, offering low-cost prescription medication to qualified residents age 65 or older.)

Frequently, individuals transition out of PACE and PACENET programs as a result of their annual Social Security Cost-of-Living Adjustment. **Act 21** creates a moratorium on removing participants from the program because they have received a slight increase in their income due to a Social Security cost-of-living adjustment. Any individual enrolled in PACE or PACENET as of Dec. 31, 2010, shall remain eligible if their maximum income limit is exceeded solely due to a Social Security cost-of-living adjustment. This eligibility shall expire on Dec. 31, 2013.

Act 21 takes effect immediately.

Visit me online at KathyWatson14

ACT 25 (similar to House Bill 1326 cosponsored by Rep. Watson)

Property tax increase exceptions for school districts were passed as part of the final budget plan for 2011-12. **Act 25** provides relief for taxpayers from property tax increases above the state-set inflationary index. The legislation further reduces the number of exceptions school districts can use to avoid the referendum process, when enacting their local school budget. Based on significant data from districts and taxpayers across the state, the tenets of this bill have been a priority for many lawmakers. The new law will eliminate the majority of the original 10 school district exceptions found in **Act 1 of 2006**. The only exceptions remaining from the original 10 will be for: pensions; grandfathered/electoral debt; and special education.

Act 25 of 2011 has two main components:

- The first relates to public referendum requirements for increasing certain taxes. It repeals several of the current exceptions that allow for increasing property taxes over the inflationary index, and amends the language of the special education and pension exceptions. This legislation gives taxpayers more oversight over their local school districts. It forces the district to control costs and demonstrate to taxpayers why the proposed tax increases are warranted. School districts will be required to provide proof of the financial need for the exceptions before approval is granted by the state Department of Education. This provision is effective immediately, and applicable to the school district fiscal years which begin after Jan. 2, 2012.

- The second component of the law requires school boards of a second-, third- or fourth-class school district to enact a resolution which permits small businesses to remit school property taxes in installments. This component of developing a resolution is effective immediately.

This resolution must be enacted by June 30, 2012, and go into effect for the 2012 calendar year and each year thereafter. A small business is defined as a business located in the state that has no more than 50 employees.

This aspect of the law will provide property tax relief to small businesses by permitting them to pay their taxes in installments, as opposed to one lump sum. Their obligation can be spread out over a minimum three-month period.

ACT 33 (cosponsored by Rep. Watson)

To provide consistency in the punishment for the crime of driving a vehicle under the influence of alcohol or operating a watercraft while under the influence of alcohol, legislation has been signed into law that toughens the penalties for those found guilty of homicide while boating under the influence.

Act 33 increases the grading and penalty for the offense of homicide by watercraft while operating under the influence of alcohol or drugs. It also makes a conviction or guilty plea for driving under the influence count toward a second or subsequent conviction of boating under the influence.

Additionally, the law provides that a conviction or guilty plea under Title 75 (Transportation) Section 3802 (relating to driving under the influence of alcohol or controlled substances) shall be considered a first conviction for the purpose of computing whether a subsequent conviction for operating a watercraft under the influence shall be considered a second, third or subsequent conviction.

Gov. Corbett signed the bill into law on July 7. It takes effect in early September.

ACT 38

(cosponsored by Rep. Watson)

Military veterans from Southeastern PA can now be buried in Washington Crossing National Cemetery with full military honors. **Act 38** provides for the Department of Military and Veterans Affairs (DMVA) to arrange for Honor Guard burial details at the Washington Crossing National Cemetery, located in Bucks County.

Honor guard burial details are currently contracted for services at Fort Indiantown Gap National Cemetery and the National Cemetery of the Alleghenies. DMVA will contract with veterans' service organizations to perform these duties for services to all veterans who are buried at a National Cemetery. This law takes effect in early September.

ACT 39 – The Penglase Parkway

(authored by Rep. Watson)

George A. Penglase, formerly of New Britain Township, who before his death in January 2005, worked tirelessly throughout Bucks County on numerous service projects and causes for almost four decades, is most noted for his passionate 35-year dedication to seeing the Route 202 Bypass come to fruition. He and a group of concerned citizens founded "Support the Bypass for Route 202." He led the push for this critical infrastructure project from its inception in 1969, until his death.

With this naming bill, a section of the Route 202 Parkway on the official State Route 202, connecting State Route 63 in Montgomery Township, Montgomery County, and State Route 611 in Doylestown Township, Bucks County, will be designated as the George A. Penglase Memorial Parkway. This legislation, now known as **Act 39**, was approved by the Governor on July 7 and takes effect in 60 days.

ACT 46

(cosponsored by Rep. Watson)

Fighting fires is a dangerous occupation – made worse by the inherent threat of the unknown and unseen risk of cancer. With the passage of House Bill 797, firefighters who have served for at least four continuous years in firefighting have protection against cancer as an occupational disease.

Act 46 amends the “Workers’ Compensation Act” and designates cancer as an occupational disease. It also provides that the cancer must be caused by exposure to a known carcinogen recognized as a Group 1 carcinogen by the International Agency for Research on Cancer. Under the new law, in order to receive compensation for cancer, a firefighter must:

- 1) Have four or more years of continuous firefighting service.
- 2) Establish direct exposure to a Group 1 carcinogen.
- 3) Pass a physical exam prior to asserting a claim, or prior to engaging in firefighting duties, which reveal no evidence of cancer.

The new law stipulates that the presumption created by this act only applies to a firefighter who files a claim within the first 300 weeks of the last date of employment, although a claim may be filed within 600 weeks. It also provides that the presumption may be rebutted by substantial competent evidence which shows that the firefighter’s cancer was not caused by the occupation of firefighting.

This act takes effect immediately.

ACT 59

Under this new law, testing for HIV on individuals between the ages of 13 and 64 will be included as part of routine medical care as recommended by the Centers for Disease Control and Prevention (CDC). Pennsylvania law will now be consistent with the CDC and will not require separate written permission for testing.

Act 59 makes prevention, education, and treatment a high priority. By having less restrictive testing requirements, infected patients will be identified earlier and improved outcomes for the patient and less transmission in the general population will occur. Post-test counseling will be provided for positive test results and will include: face-to-face counseling; how to prevent transmission of HIV; the benefits of locating and counseling others who may have exposed the patient to HIV and those whom the patient may have exposed to HIV; and any available medical, emotional, social, and support services.

Act 59 also establishes that a health care provider may offer written opt-out consent for those individuals who do not wish to be tested for HIV. The patient’s informed consent or refusal to be tested for HIV will be documented in the patient’s medical record.

This act takes effect in early September.

ACT 64

Military service members who are on leave or have recently returned from overseas deployment may now obtain reduced-fee hunting licenses from any Commonwealth licensing agency. Until now, only the Game Commission or county treasurer could sell them at a reduced rate.

Act 64 allows all Commonwealth license issuing agents to sell reduced-fee Military personnel hunting licenses, PA National Guard hunting licenses, and Reserve component of armed forces hunting licenses. This law takes effect in early September.

ACT 66

If a person is underage, drinking illegally with others, and something goes terribly wrong with one of the participants, a call should be made to get emergency help. Sadly, that call for help often is not made because the underage drinker fears legal repercussions. He/she weighs making that call against the legal consequences the call might have for them.

With the passage of **Act 66**, underage drinkers are now immune from prosecution for that crime, if their alcohol consumption is discovered as a result of seeking medical assistance for someone else. This Act provides for immunity from prosecution under certain circumstances.

This “immunity from prosecution” applies for a person under the age of 21 for the possession or consumption of alcoholic beverages if law enforcement, including campus safety police, have been made aware of the situation as a result of a call for help. The immunity applies only if they identify themselves to authorities; reasonably believe they are the first to call for assistance; and stay with the individual needing assistance until emergency help arrives.

This law becomes effective in early September.

