



# The Judiciary Review

## Report from the Senate Judiciary Committee (D)

JAY COSTA JR., DEMOCRATIC CHAIRMAN

(717) 787-7683

October 2002

### SENATE JUDICIARY COMMITTEE MOVES BILLS COMBATING: *Large-Scale Theft and Fraud; Drunk Drivers while Senate Moves Hershey Trust Legislation*

#### CRIMINAL LAW

##### ■ Senate Bill 1517 Printer's No. 2260

The legislation amends section 3903 of Title 18 to increase the grading of theft offenses when those offenses involve large sums of money or are committed against local government agencies, school districts or charitable organizations.

- Makes it a felony of the first-degree involving an amount in excess of \$500,000—maximum penalty—20 years imprisonment.
- Makes it a felony of the second degree involving between \$100,000 and \$500,000—maximum penalty—10 years imprisonment.
- Makes it a felony of the third degree involving between \$2,000 and \$100,000—maximum penalty—7 years imprisonment.
- Provides additional five-year sentencing enhancement involving the breach of a fiduciary duty or funds of a local government agency, school district or charity.

*Current status: Senate Calendar  
Second Consideration.*

##### ■ Senate Bill 1518 Printer's No. 2261

The legislation amends section 4107 of Title 18 to increase the grading of deceptive or fraudulent business practices when those offenses involve large sums of money or are committed against local government agencies, school districts or charitable organizations.

- Makes it a felony of the first-degree involving an amount in excess of \$500,000—maximum penalty—20 years imprisonment.
- Makes it a felony of the second degree involving between \$100,000 and \$500,000—maximum penalty—10 years imprisonment.
- Makes it a felony of the third degree involving between \$2,000 and \$100,000—maximum penalty—7 years imprisonment.
- Provides additional five-year sentencing enhancement involving the breach of a fiduciary duty or funds of a local government agency, school district or charity.

*Current status: Senate Calendar  
Second Consideration.*

##### ■ House Bill 976 Printer's No. 4442

The bill was amended in the Senate Judiciary Committee to authorize the use of regional digital collection equipment by the Pennsylvania State Police to receive information from telecommunications companies that assist with wiretap investigations. As part of a wiretap application, the district attorney must be of the county where the suspected criminal activity is occurring or has occurred. The amendment makes a limited exception to this rule as the regional centers and the wiretap may not be made from the county where the suspected activity is occurring.

*Current Status: Senate Calendar  
Second Consideration.*

#### DUI CHANGES

##### ■ Senate Bill 709 Printer's No. 796

The legislation amends section 3731 of the Motor Vehicle Code reducing the blood alcohol content from 1.0% to 0.08%.  
*Current Status: Senate Calendar  
Third Consideration.*

##### ■ Senate Bill 1212 Printer's No. 2291

The legislation makes several changes relating to habitual offender license revocation and driving under the influence offenses in the Motor Vehicle Code. First, it extends the "look-back" period for prior offenses from five (5) years to seven (7) years. Additionally, the period of revocation for a habitual offender would be extended to ten (10) years under the following circumstances:

- Three driving under the influence convictions within seven (7) years; or
- Three convictions for certain motor vehicle offenses within seven (7) years with one conviction for Homicide by Vehicle while DUI or Aggravated Assault by Vehicle while DUI.

Amends section 3731 by increasing the grade of the offense from a misdemeanor of the first degree to a felony of the third degree:

- For a fourth or subsequent offense within the last seven years; or
- The offender has a previous conviction for Homicide by Vehicle

while DUI or Aggravated Assault by Vehicle while DUI within the last seven years.

The bill increases the grading of Homicide by Vehicle while DUI and Aggravated Assault by Vehicle while DUI for a second offense occurring within seven years from a felony of the second degree to a felony of the first degree.

Current status: Senate Calendar Second Consideration.

RELIGIOUS FREEDOM

Senate Bill 1421 Printer's No. 2259

The bill provides the Religious Freedom Protection Act. Under the legislation, no government agency of the Commonwealth or any political subdivision may enact or enforce any law or ordinance that substantially burdens any person's free exercise of religion. This applies to any law or ordinance adopted before or after the enactment of the RFPA.

If an enactment or ordinance is found to substantially burden a person's free exercise of religion, the government must show that it is necessary in furtherance of a compelling state interest and that it is the least restrictive means of furthering that compelling state interest.

Current status: Senate Calendar Second Consideration.

SENATE ADOPTS MEASURES PREVIOUSLY REPORTED IN JUDICIARY REVIEW

House Bill 2060 Printer's No. 4466

The bill was amended in the Senate Rules Committee to address issues relating to the Hershey Trust. A fiduciary is required to consider an asset's special relationship or value to the purposes of trust and to one or more of the beneficiaries, the special relationship and integration of the asset and its economic impact as a principal business enterprise on the community.

Added requirements for diversification of charitable trusts holding a

controlling interest in certain publicly traded business corporations in PA:

- Fiduciary must serve notice upon the Attorney General 60 days prior to the change in control and direct that 30 days' notice of the execution of the change in control be provided to employees of the corporation held by the trust located in the Commonwealth before consummating investment or management decision or executing a change in the trust's control of that corporation by sale, merger, or consolidation.
Attorney General may obtain judicial review of change in control. Fiduciary must prove necessity of change by clear and convincing evidence. If approved the court shall ensure that the provisions relating to severance pay for employees and labor contracts apply to the execution of the change in the trust's control.
Diversification requirements do not apply to any trust that became irrevocable prior to December 25, 1999. Diversification requirement will not apply to any revocable trust that has not been amended after December 24, 1999.

The act would take effect immediately. Current status: Governor's Desk

Senate Bill 1431 Printer's No. 2013

The legislation increases the maximum penalties for the possession, manufacture or delivery of the controlled substance commonly known as Ecstasy.

Current status: Adopted by Senate Referred to House Judiciary Committee

Senate Bill 1466 Printer's No. 2298

Establishes an advisory committee, under the Pennsylvania Commission on Crime and Delinquency to be known as the Targeted Community Revitalization and Crime Prevention Advisory Committee.

Current status: Adopted by Senate Referred to House Judiciary Committee

Senate Bill 1469 Printer's No. 2299

Provides for the institution of a petition for redetermination of the fair market value of property sold in connection with execution proceedings in a deficiency judgement action where the real property collateral lies in multiple counties.

Current status: Adopted by Senate Referred to House Judiciary Committee

STATE SENATOR JAY COSTA, JR.

Serving the 43rd District

OFFICES TO SERVE YOU

FOREST HILLS 1501 Ardmore Blvd. • Suite 403 • Pittsburgh, PA 15221 • (412) 241-6690

CARRICK 2306 Brownsville Road • Pittsburgh, PA 15210 • (412) 488-6111

HOMESTEAD 314 East 8th Avenue • Homestead, PA 15120 • (412) 565-7536

HARRISBURG Senate Box 203043 • Harrisburg, PA 17120-3043 • (717) 787-7683

E-MAIL costa@dem.pasen.gov

WEBSITE www.SenatorCosta.com