

CHAPTER 141  
FORMERLY  
SENATE BILL NO. 156  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND THE LAWS OF DELAWARE AND TITLE 4, TITLE 6, TITLE 10, TITLE 11, TITLE 15, TITLE 16, TITLE 19, TITLE 24, TITLE 25, AND TITLE 29 OF THE DELAWARE CODE RELATING TO TECHNICAL CORRECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fourths of all members elected to each house thereof concurring therein):

Section 1. Amend § 512, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512. Licenses ~~for taprooms, hotels, restaurants, motorsports speedways, concert halls, beer gardens, or clubs; food concessionaires at horse racetracks or multi-purpose sports facilities; dinner theater performances; bowling alleys; movie theaters; caterers; removal of partially consumed bottles from premises; beverages for personal consumption at racetracks; air passenger carriers; names of licensed establishments.~~

(d) Any person who has purchased a bottle of alcoholic liquor other than beer from a premises licensed for the sale and consumption on the premises where sold ~~beer garden~~ licensed under this title, and who has partially consumed the contents of such bottle on the licensed premises, may, if the bottle is capped, remove it from the licensed premises for the purpose of consumption off the licensed premises.

Section 2. Amend § 512B, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512B. Brewery-pubs.

(b) The following conditions and restrictions shall apply to the holder of each brewery-pub license:

(8) The provisions of § 506 of this title to the contrary notwithstanding, it shall be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a farm winery, microbrewery, and/or craft distillery licensed under this chapter and actually located in this State, provided that the total domestic sales of beer of all affiliated suppliers or manufacturers shall not exceed ~~6 million~~ million barrels in a calendar year.

Section 3. Amend § 512C, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512C. Microbrewery.

(c) Notwithstanding any provision of this title to the contrary, a microbrewery license shall allow the licensee:

(6) The provisions of § 506 of this title to the contrary notwithstanding, to be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a farm winery, brewery-pub, and/or craft distillery licensed under this chapter and actually located in this State, provided that the total domestic sales of beer of all affiliated suppliers or manufacturers shall not exceed 6 million barrels in a calendar year.

Section 4. Amend § 512G, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512G. Shipment of alcoholic beverages between commonly-owned entities.

(a) Any entity licensed in this State pursuant to § 512A, § 512B, § 512C or § 512E of this title, or any out-of-state supplier licensed pursuant to § 501 of this title who, as determined by the Commissioner, would meet the requirements of § 512A, § 512B, § 512C or § 512E of this title if it were located in this State, is permitted to sell or ship alcoholic beverages they manufacture to an entity licensed in this State pursuant to § 512A, § 512B, § 512C or § 512E of this title subject to all of the following conditions:

(6) If a licensee's total domestic sales of beer for all affiliated suppliers or manufacturers is between 2 million and 6 million barrels of beer in a calendar year, transfers authorized by this section from licensees pursuant to § 501 and § 512C of this title to commonly owned licensees pursuant to § 512B of this title for the purpose of sales to consumers for consumption on the brewery-pub premises may be made only if the brands transferred for on-premise consumption are produced under the same trade name approved by the Commissioner for the licensee pursuant to § 512B of this title. Licensees pursuant to § 512B of this title may sell product to consumers produced by affiliated licensees under different trade names for consumption on the brewery premises if such product is purchased from a licensee pursuant to § 522 of this title.

Section 5. Amend § 9-406, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9-406. Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.

(i) *Inapplicability.* — This section does not apply to:

Subsection (f) does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of, a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes, to the extent that the statute is inconsistent with subsection (f): Section 9011 of Title 11 (prohibiting assignment of victim awards and recoveries); ~~Section 2728 of Title 18 [repealed]~~ Section 4915 of Title 10 (restricting transferability of benefits, rights, privileges or options accruing under certain annuity contracts); Section 6863 of Title 18 (prohibiting assignment of medical negligence compensation claims); Section 2355 of Title 19 (prohibiting assignment of workers' compensation claims or payment for compensation due or to become due); and Section 4808 of Title 29 (prohibiting assignment of lottery prizes).

Section 6. Amend § 9-408, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9-408. Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.

(e) *Inapplicability.* — This section does not apply to:

Subsection (c) does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following

statutes, to the extent that the statute is inconsistent with subsection (c): Section 9011 of Title 11 (prohibiting assignment of victim awards and recoveries); ~~Section 2728 of Title 18 [repealed]~~ Section 4915 of Title 10 (restricting transferability of benefits, rights, privileges or options accruing under certain annuity contracts); Section 6863 of Title 18 (prohibiting assignment of medical negligence compensation claims); Section 2355 of Title 19 (prohibiting assignment of workers' compensation claims or payment for compensation due or to become due); and Section 4808 of Title 29 (prohibiting assignment of lottery prizes).

Section 7. Amend § 7704, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7704. Nonemergency hearings.

(d) If the Superior Court finds by a clear and convincing evidence that the respondent poses an immediate and present danger of causing physical injury to self or others by owning, possessing, controlling, purchasing, having access to, or receiving a firearm, the Court shall issue ~~an emergency~~ a lethal violence protective order requiring the respondent to relinquish to a law-enforcement agency receiving the Court's order any firearms or ammunition owned, possess, or controlled by the respondent. The Court may also do any of the following through its order:

Section 8. Amend § 9702, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9702. Establishment of the Delaware Police Accreditation Commission.

(a) The Delaware Police Accreditation Commission (hereinafter "the DPAC") is hereby created.

(b) ~~There shall be~~ The DPAC is comprised of the following 12 members serving by virtue of position, or a designee appointed by the member, as follows:

(1) The Attorney ~~General;~~ General.

(2) The President Pro Tem of the State ~~Senate;~~ Senate.

(3) The Speaker of the House of ~~Representatives;~~ Representatives.

(4) The Chairperson, Delaware Police Chiefs' ~~Council;~~ Council.

(5) The Superintendent, Delaware State ~~Police;~~ Police.

(6) The Colonel of the New Castle County ~~Police;~~ Police.

(7) The Chairperson, Sussex County Chiefs ~~organization;~~ organization.

(8) The Chairperson, Kent County Chiefs ~~organization;~~ organization.

(9) The Chief of Police, City of ~~Dover;~~ Dover.

(10) The Executive Director, Delaware League of Local ~~Governments;~~ Governments.

(11) The Secretary of the Department of Safety and Homeland Security will serve as Chair, but may not vote unless necessary to break a ~~tie; and tie.~~

(12) The Chief of the Wilmington Police Department.

(c) ~~Members of DPAC are members by virtue of position, but may appoint a designee within their respective agency or organization to serve in their stead and at their pleasure. A designee of a member serves at the pleasure of the member that appointed the designee.~~

(d) The Chairperson of the DPAC may form subcommittees consistent with the needs of the DPAC to address police accreditation issues ~~included, but not limited to~~ including technical support, operations support, and training support. The subcommittees may include individuals who are not members of the DPAC, but who have an interest or expertise in police accreditation issues. Each subcommittee shall be chaired by a member of the DPAC.

Section 9. Amend § 1701, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1701. Qualifications for registration as qualified voter.

(a) Every applicant for registration shall be a qualified voter if such applicant is a citizen of this State of the age of 18 years and upwards, or who will be 18 years old on or before the day of the general election next succeeding the applicant's registration, and is a bona fide resident of this State. No person in the military, naval or marine service of the United States shall become a resident of this State by being stationed in any garrison, ~~barrack~~ barrack, or military or naval place or station within this State; and no person adjudged mentally incompetent, person ~~convicted of a crime deemed by law a felony~~ who is ineligible to vote under Chapter 61 of this title, or person ~~who shall have been~~ rendered incapable of voting by reason of violating § 7 of Article V of the Constitution of this State for 10 years next following that person's conviction and sentence thereunder, shall be a qualified voter. For purposes of this chapter, the term "adjudged mentally incompetent" refers to a specific finding in a judicial guardianship or equivalent proceeding, based on clear and convincing evidence that the individual has a severe cognitive impairment which precludes exercise of basic voting judgment.

Section 10. Amend § 4944, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4944. Vote for candidates for President and ~~Vice President~~ Vice President as vote for their electors.

A vote for the candidates of a political party for President and ~~Vice President~~ Vice President of the United States shall be a vote for all the electors of President and ~~Vice President~~ Vice President of such party, the names of whom are on file with the ~~Secretary of State~~, State Election Commissioner and shall be as effective as if the vote was given directly for the electors.

Section 11. Amend § 5706, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5706. Form of certificates.

(a) The certificates of the Court of the results of the election in its county may be according to the following form:

"The State of Delaware,..... County, ss.

Be it Remembered, that at the general election held on the Tuesday next after the first Monday in November, in the year of our Lord Two Thousand and.....for.....County, according to the Constitution and laws of the State of Delaware (here insert, to wit: If the certificate be of an election of electors of President and ~~Vice President~~, Vice President, of Governor and Lieutenant Governor, of Senator in the Senate of the United States, of Representative in Congress, of Attorney General, of Insurance Commissioner, of State

Treasurer, of Auditor of Accounts, the number in words at length of votes given for each person voted for, for such respective offices; if the certificate be of an election of Senator or Representative in the General Assembly, or, of clerk of the peace, of register of wills, of recorder, of Levy Court Commissioner or Commissioners, of receiver of taxes and county treasurer, of sheriff, of county executive, of county council member, the names of the persons elected), which is manifest by calculating and ascertaining the aggregate amount of all votes given for each person voted for in all the election districts of the county, according to the provisions made by law in this behalf.

(b) The manner of making the insertion may be as follows:

In case of Electors of President and ~~Vice President~~ Vice President  
votes were given for..... for Elector

Section 12. Amend Subchapter II, Chapter 59, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter II. Electors for President and ~~Vice President~~ Vice President.

Section 13. Amend § 5921, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5921. Notice of contest; specification.

Any person intending to contest the election of any one declared by the Governor to have been chosen an elector of President and ~~Vice President~~ Vice President of the United States, shall, within 10 days after such declaration by proclamation of the Governor, give written notice of such intention to the person whose election the contesting person intends to contest and also to the Governor, and within 5 days after the delivery of such notice, shall deliver to the person whose election the contesting person contests and to the Governor written specification of the grounds upon which the contesting person intends to contest the election of the person so declared to have been elected. If 1 of the grounds shall be that illegal votes were given at such election for the person declared to have been elected then such specification shall particularly set forth the name of each alleged illegal voter, with the several objections to the legality of that voter's vote, and shall also distinctly set forth and state the election district at which the alleged illegal vote was cast.

Section 14. Amend § 5927, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5927. Superior Court for Kent County declared a special board of canvass to hear contest.

The Superior Court for Kent County is continued and declared to be a special board of canvass to hear and determine all contests of elections of electors of President and ~~Vice President~~ Vice President with power to regulate and determine the mode of procedure, and all other matters pertaining thereto as may be necessary in carrying out the provision of this subchapter and the Act of Congress fixing the day of the meeting of electors. The Governor whenever a notice of contest is served upon the Governor shall immediately make proclamation convening such Superior Court in special session at the Courthouse in Dover on a day to be by the Governor named, which shall not be later than December 20, next succeeding the day of the election in the year in which the election was held.

Section 15. Amend Subchapter III, Chapter 73, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 73. VACANCY IN OFFICE OF REPRESENTATIVE IN CONGRESS, UNITED STATES SENATOR OR PRESIDENTIAL ELECTOR.

Subchapter III. Electors of President and ~~Vice President~~ Vice President.

Section 16. Amend § 7331, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7331. Procedure in case of failure to elect electors.

If upon examining the certificates of the boards of canvass it shall appear to the Governor that there has been a failure to choose 1 or more of the electors of a President and ~~Vice President~~ Vice President of the United States to be appointed in this State or, if from any cause such electors shall fail to be chosen, the Governor shall immediately issue writs for convening the General Assembly, at Dover, on the fourth Monday of the same November, and the elector or electors to be appointed in this State for the election of a President and ~~Vice President~~ Vice President of the United States and not chosen at the general election shall be appointed by ballot by the General Assembly so convened in joint meeting of the Senate and House of Representatives.

Section 17. Amend § 122, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 122. Powers and duties of the Department of Health and Social Services.

The Department shall have the following general powers and duties:

(3) Adopt, promulgate, amend, and repeal regulations consistent with law, which regulations shall not extend, modify, or conflict with any law of this State or the reasonable implications thereof, and which shall be enforced by all state and local public health officials, to:

p. Establish standards for quality assurance in the operation of freestanding birthing centers, freestanding surgical centers, and freestanding emergency departments; and to grant licenses for the operation of such facilities to persons, associations or organizations meeting those standards and paying the appropriate license fee established by the Department. Upon receipt of an application for license and the application fee of \$150 for freestanding birthing centers, \$250 for freestanding surgical centers, and \$250 for freestanding emergency departments, the Department shall issue a license if the facility meets the requirements established under this chapter. A license unless sooner suspended or revoked, shall be renewed annually upon filing by the licensee and payment of an annual licensure fee of \$75 for freestanding birthing centers, \$150 for freestanding surgical centers, and \$150 for freestanding emergency departments. A provisional license as authorized by the Department shall be issued when health requirements are not met and a licensure fee of \$75 for freestanding birthing centers, \$150 for freestanding surgical centers, and \$150 for freestanding emergency departments has been submitted. Only licensed facilities may use the terms birthing, surgical or emergency in their name or advertising as approved by the Department. For each facility which has been issued a provisional license, there shall be resubmission of the application fee for reinspection prior to the

issuance of an annual license. When appropriate, the Department should use the established standards for Medicare reimbursement in setting standards; provided, however, that nothing contained in this subparagraph shall be construed to authorize the Department to expand or limit the scope of practice afforded to professionals under other chapters of this title or other provisions of Delaware law or lawful regulations of the Department. For the purpose of this chapter, the following definitions shall apply to those facilities:

2. "Freestanding emergency department" means a facility, physically separate from a hospital, which is established, maintained and operated for the purpose of providing immediate and emergent care to individuals suffering from a life-threatening medical condition, and which is subject to the following requirements:

B. The freestanding emergency department shall maintain the services, staff, equipment and drugs necessary to provide an initial evaluation and stabilization of a patient of any age who presents with symptoms as noted herein.

VI. Each freestanding emergency department shall provide on-the-premises clinical laboratory services and diagnostic radiology services to meet a patient's emergency needs, including provision of results, during all hours of operation.

(A) Radiological services ~~shall include:~~ must include X ray, computed ~~tomog~~ including scan tomography scan, and ultrasound.

(B) Clinical laboratory services ~~shall~~ must include ~~collection,~~ collection and processing and provision of results to meet a patient's emergency laboratory needs.

Section 18. Amend § 1144, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1144. Influenza immunizations.

(a) Nursing and assisted living facilities shall annually offer, beginning no later than October 1 and extending through March 1 of ~~2019~~ a calendar year, onsite vaccinations for influenza vaccine to all employees with direct contact with patients at no cost and contingent upon availability of the vaccine.

Section 19. Amend § 1904, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1904. Notice.

(a) An employer may not order a mass layoff, plant ~~closing~~ closing, or relocation if ~~any of the above~~ the mass layoff, plant closing, or relocation will cause an employment loss unless, at least 60 days before the order takes effect, the employer gives written notice of the order to all of the following:

(1) Affected employees and the representatives of affected employees.

(2) The Delaware Department of Labor Division of Employment and Training, WARN Act Administrator.

(3) The Delaware Workforce Development Board established pursuant to the federal Workforce Innovation Opportunity Act (P.L. 113-128) for the locality in which the mass layoff, plant closing or relocation will occur.

Section 20. Amend § 3903, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3903. License required. [Effective June 11, 2019]

(c) *Exemptions.* —

(3) Licensure of social workers employed on June 11, ~~2018~~, 2019, by a state agency or private or nonprofit agency is voluntary. However, an individual who is newly employed or employed in a new position by a state agency or private or nonprofit agency on or after June 11, ~~2023~~, 2024, must be licensed under this chapter if the individual provides services as a social worker. Individuals to whom this paragraph applies and who choose to seek licensure must do so under the grandfathering provisions of § 3907B of this title.

Section 21. Amend § 3907B, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3907B. Qualifications of applicant; grandfathering. [Effective June 11, 2019]

(a) Grandfathering period.

(1) The Board shall issue a license to an applicant who meets all the applicable requirements under this section and has submitted a completed, signed application and the applicable fee by June 11, ~~2020~~ 2021.

(2) If the applicant does not provide all of the information that the Board has requested by June 11, ~~2020~~ 2021, the application for licensure is considered ineligible for grandfathering and is closed.

Section 22. Amend § 7042, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7042. Delaware Manufactured Home Relocation Trust Fund.

(g)(1)a. The Board shall set a monthly assessment for deposit in the Trust Fund for each rented lot in a manufactured home community ~~and the initial amount of the assessment is \$3.00.~~ The Board may adjust, eliminate, or reinstate the assessment, and shall notify landlords and tenants of each adjustment, elimination, or reinstatement under Board regulations.

b. One-half of the monthly assessment set under paragraph (g)(1)a. of this section is the obligation of the tenant of rented lot, and 1/2 of the assessment is the obligation of the landlord.

~~b. c.~~ Beginning on December 11, 2019, the landlord portion of the monthly assessment is ~~reduced by \$0.50~~ credited 50 cents for each rented lot.

~~c. d.~~ Beginning on December 11, 2019, 50 cents of the tenant portion of the monthly assessment for each rented lot is redirected to the Delaware Manufactured Home Owner Attorney Fund under § 7046 of this title.

(2)a. The monthly assessment set under ~~paragraph (g)(1) of this section~~ this subsection must be paid as follows:



1. ~~One half of the~~ The tenant's portion of the monthly assessment under paragraph ~~(g)(1)a.~~ (g)(1)d. of this section ~~and the \$0.50 under paragraph (g)(1)e.~~ is the obligation of the tenant of the rented lot.

2. ~~One half of the portion~~ The landlord's portion of the monthly assessment under paragraph ~~(g)(1)a., after the \$0.50 reduction under paragraph (g)(1)b.,~~ (g)(1)c. of this section is the obligation of the landlord.

b. The landlord shall collect the tenant's portion of the assessments under this section on a monthly basis as additional rent. The landlord shall remit to the Trust Fund both its portion and the tenant's portion of the assessments on a quarterly basis. The landlord is responsible for safeguarding all assessments it collects. Failure by a tenant to pay to the landlord the tenant's portion of the assessment as additional rent is grounds for termination of the rental agreement under § 7016 of this title. An assessment is not due or collectable for a vacant lot.

Section 23. Amend § 704, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 704. Powers respecting elections and election contests.

(c) ~~Whenever there shall be a failure to choose 1 or more of the electors of President or Vice-President at any general election, the General Assembly shall convene and choose such elector or electors and certify the appointment of the elector or electors so chosen as prescribed by subchapter III of Chapter 73 of Title 15. [Repealed].~~

Section 24. Amend Section 10, Chapter 392, Volume 81 of the Laws of Delaware by making deletions as shown by strike through and insertions as shown by underline as follows:

Sections 5 through 8 of this Act expire 3 years after ~~enactment into law~~ having become effective unless otherwise provided by a subsequent Act of the General Assembly.

Section 25. Section 22 of this Act takes effect 1 day after House Bill No. 46 of the 150<sup>th</sup> General Assembly takes effect.

Approved July 23, 2019