



SPONSOR: Sen. McBride & Rep. Schwartzkopf
Sens. Henry, Poore, Simpson, Lavelle; Reps. Longhurst,
Viola, D. Short, Hudson

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 4

AN ACT TO AMEND TITLE 4, TITLE 16, TITLE 18, TITLE 19, TITLE, 24, TITLE 29, AND TITLE 31 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):

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

3 § 512A. Farm wineries.

4 (a) Upon proper application and subject to the provisions, restrictions and prohibitions of this title, the
5 Commissioner may grant a license to any person who is the owner or lessee of a farm winery to manufacture, ferment,
6 blend, age, store and bottle wine, mead, and cider on the premises designated in the license. For purposes of this title, a
7 "farm winery" is defined as an establishment at which the basic ingredients, including but not limited to the harvesting of
8 grapes, to make wine are grown and where wine, mead, ~~and~~ or cider are fermented or manufactured. Notwithstanding any
9 provisions of this title to the contrary, a farm winery licensee shall be authorized to sell, deliver and ship such wine, mead,
10 and cider in barrels, bottles or other closed containers to persons licensed under the provisions of this title to import wine,
11 mead, and cider; and to sell and ship wine, mead, and cider to persons outside of the State in accordance with this title.

12 Section 2. Amend § 4798, Title 16 of the Delaware Code by making deletions as shown by strikethrough and
13 insertions as shown by underline as follows:

14 § 4798. The Delaware Prescription Monitoring Program.

15 (r) A person ~~or persons~~ authorized to have prescription monitoring information pursuant to this section who
16 knowingly discloses this information in violation of this section is guilty of a class G felony and, upon conviction, shall be
17 fined not more than \$5,000 nor imprisoned more than 2 years, or both.

18 Section 3. Amend § 4798, Title 16 of the Delaware Code by making deletions as shown by strikethrough and
19 insertions as shown by underline as follows:

20 § 4798. The Delaware Prescription Monitoring Program.

21 (t) A person ~~or persons~~ not authorized to have prescription monitoring information pursuant to this section who
22 ~~obtain~~ obtains such information fraudulently is guilty of a class E felony and, upon conviction, shall be fined not more than
23 \$10,000 nor imprisoned more than 5 years, or both.

24 Section 4. Amend § 2304, Title 18 of the Delaware Code by making deletions as shown by strikethrough and
25 insertions as shown by underline as follows:

26 § 2304. Unfair methods of competition and unfair or deceptive acts or practices defined.

27 The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business
28 of insurance:

29 (24) Discriminatory practices against victims of abuse regarding life and health insurance. — A person or
30 entity engaged in the business of life and/or health insurance in this State may not:

31 a. Deny, refuse to issue, refuse to renew, refuse to reissue, cancel or otherwise terminate an insurance
32 policy or restrict coverage on any individual because that individual is, has been or may be the subject of
33 abuse or seeks, has sought or should have sought, medical or psychological treatment for abuse,
34 protection from abuse or shelter from abuse;

35 b. Add any surcharge or rating factor to a premium of an insurance policy because of an individual's
36 history of, status as, or potential to be subject to abuse;

37 c. Exclude or limit coverage for losses or deny a claim incurred by an insured as a result of abuse or
38 the potential for abuse; or

39 d. Ask an insured or an applicant for insurance whether that individual is, has been or may be the
40 subject of abuse, or seeks, has sought or should have sought medical or psychological treatment
41 specifically for abuse, protection from abuse or shelter from abuse.

42 (25) Discriminatory practices against victims of abuse regarding homeowner's and private passenger
43 motor vehicle insurance. — A person or entity engaged in the business of homeowner's and/or private passenger
44 motor vehicle insurance in this State may not:

45 a. Deny, refuse to issue, refuse to renew, refuse to reissue, cancel or otherwise terminate a
46 homeowner's and/or private passenger motor vehicle insurance policy or restrict coverage on any
47 individual solely because that individual or a member of that individual's family or household is, has been
48 or may be the subject of abuse or seeks, has sought or should have sought, medical or psychological
49 treatment for abuse, protection from abuse or shelter from abuse. Nothing in this section shall be
50 construed to prohibit a person from denying, refusing to issue, renew or reissue, cancelling or otherwise

51 terminating an insurance policy based on any existing insurance statute, provided that the insurer
52 routinely underwrites individuals in the same manner without regard to the individual's abuse status,
53 abuse history or abuse-related claim history and that any such action does not have the purpose or effect
54 of treating abuse status as an underwriting criterion, is not based on any actual or perceived correlation
55 between a type of claim or other underwriting information and abuse and is otherwise permissible by law.

56 b. Add any surcharge or rating factor to a premium of a homeowner's insurance policy solely because
57 of a history of, status as or potential to be a subject of abuse of the applicant or insured or of a member of
58 the family or household of the insured. Nothing in this section shall be construed to prohibit a person
59 from rating or surcharging a policy in accordance with any existing insurance statute provided that the
60 insurer routinely rates or surcharges individuals in the same manner without regard to the individual's
61 abuse status, abuse history or abuse-related claims history, and any such action does not have the purpose
62 or effect of treating abuse status as an underwriting criterion, is not based on any actual or perceived
63 correlation between a type of claim or other underwriting information and abuse and is otherwise
64 permissible by law.

65 c. Deny coverage for property damage claims or medical payment coverage for an insured, if such
66 coverage is available and purchased under the policy, as a result of abuse, even if such losses are caused
67 by the intentional act, the fraudulent or criminal act or the failure to act of a co-insured and would
68 otherwise have come under a policy's intentional act, criminal act, family, household or similar exclusion,
69 unless:

70 1. The claim or coverage is ordinarily denied in the same manner to an insured or claimant who
71 is not a victim of abuse;

72 2. There is collusion or fraudulent acts by the party seeking the insurance coverage or benefits;
73 or

74 3. The innocent co-insured refuses to cooperate with any law enforcement investigation, the
75 results of which would be made available to the insurer to verify that the claim for loss resulted
76 from a co-insured's wrongful act or omission.

77 The innocent co-insured shall, at a minimum, be entitled to recover a pro-rata share of the loss of real or
78 personal property and the entire amount of additional living expenses, as the policy may so provide.

79 Nothing in this subsection shall be construed to prohibit a person from refusing to defend or indemnify
80 the perpetrator of the wrongful act or omission against any claim for liability arising from such

81 individual's wrongful act or omission. The insurer shall retain the right to subrogate against the
82 wrongdoer for any losses incurred by the injured party, including a wrongdoer who was a co-insured with
83 the victim.

84 d. Ask an insured or an applicant for homeowner's and/or private passenger motor vehicle insurance
85 whether that individual is, has been or may be the subject of abuse or seeks, has sought or should have
86 sought medical or psychological treatment specifically for abuse, protection from abuse or shelter from
87 abuse.

88 e. A person shall not be held civilly or criminally liable for any cause of action which may be
89 brought because of compliance with this section. Nothing herein shall preclude any action or
90 investigation against an insurer to enforce this paragraph. Nothing in this section shall preclude a person's
91 obligations to report suspected fraudulent activities to the Insurance Department Fraud Prevention Bureau
92 pursuant to Chapter 24 of this title.

93 Nothing in paragraphs (24) and (25) of this section shall be construed to prohibit a person from declining to issue an
94 insurance policy insuring the life of an individual who is or has been the subject of abuse if the perpetrator of the abuse is
95 the applicant or would be the owner of the insurance policy. Nothing in paragraphs (24) and (25) of this section shall be
96 construed to prohibit a person from underwriting or rating a risk on the basis of a preexisting physical or mental condition,
97 even if such condition had been caused by abuse, provided that:

98 The person routinely underwrites or rates such condition in the same manner with respect to an insured or an
99 applicant who is not a victim of abuse;

100 No person shall refuse to insure, refuse to continue to insure, limit the amount, extent or kind of coverage available
101 to an individual, or charge a different rate for the same coverage solely because of a physical or mental condition, except
102 where the refusal, limitation or rate differential is based on sound actuarial principles;

103 The fact that an individual is, has been or may be the subject of abuse may not be considered a physical or mental
104 condition; and

105 Such underwriting or rating is not used to evade the intent of this law or any other provision of law. A person shall
106 not be held civilly or criminally liable for any cause of action which may be brought because of compliance with
107 paragraphs (24) and (25) of this section.

108 (26) Failure to respond to regulatory inquiries. — No person shall, with such frequency as to indicate a
109 general business practice, fail to provide preliminary substantive responses to inquiries from the Department of
110 Insurance regarding the denial of claims, cancellation, nonrenewal, or refusal of benefits, refusal to pre-authorize

111 benefits, or violations of this title, within 21 calendar days of such inquiry. A response in compliance with this
112 paragraph shall not preclude the provision of additional information responsive to the inquiry.

113 (27) Use of credit scoring. — No person may use consumer reports or credit scores in any manner
114 prohibited by Chapter 83 of this title.

115 (28) Volunteer firefighters and ambulance personnel. — No insurance carrier shall take any negative
116 underwriting action against a policyholder, including, but not limited, to adjustment of rates or termination of a
117 policy, based solely on the membership of a person covered by the policy in a volunteer fire company certified by
118 the Delaware State Fire Prevention Commission or its successor or in a nonprofit organization that provides
119 ambulance and/or rescue services within this State, including, but not limited to, organizations such as volunteer
120 fire companies, the Veterans of Foreign Wars and the American Legion. This paragraph shall not prevent a carrier
121 from taking underwriting action that is permitted by contract and applicable law, provided that the stated basis for
122 such underwriting action is not a pretense for violating this paragraph.

123 ~~Nothing in this section shall be construed to prohibit a person from declining to issue an insurance policy insuring the life~~
124 ~~of an individual who is or has been the subject of abuse if the perpetrator of the abuse is the applicant or would be the~~
125 ~~owner of the insurance policy. Nothing in this section shall be construed to prohibit a person from underwriting or rating a~~
126 ~~risk on the basis of a preexisting physical or mental condition, even if such condition had been caused by abuse, provided~~
127 ~~that:~~

128 ~~The person routinely underwrites or rates such condition in the same manner with respect to an insured or an~~
129 ~~applicant who is not a victim of abuse;~~

130 ~~No person shall refuse to insure, refuse to continue to insure, limit the amount, extent or kind of coverage available~~
131 ~~to an individual, or charge a different rate for the same coverage solely because of a physical or mental condition, except~~
132 ~~where the refusal, limitation or rate differential is based on sound actuarial principles;~~

133 ~~The fact that an individual is, has been or may be the subject of abuse may not be considered a physical or mental~~
134 ~~condition; and~~

135 ~~Such underwriting or rating is not used to evade the intent of this law or any other provision of law. A person shall~~
136 ~~not be held civilly or criminally liable for any cause of action which may be brought because of compliance with this~~
137 ~~section.~~

138 Section 5. Amend § 3302, Title 18 of the Delaware Code by making deletions as shown by strikethrough and
139 insertions as shown by underline as follows:

140 § 3302. Short title.

141 This ~~chapter-subchapter~~ may be cited as the "Uniform Health Policy Provisions Law."

142 Section 6. Amend § 3342, Title 18 of the Delaware Code by making deletions as shown by strikethrough and
143 insertions as shown by underline as follows:

144 § 3342. Obstetrical and gynecological coverage.

145 (h) Each such policy or contract shall provide notice to female enrolled participants, policyholders, subscribers and
146 beneficiaries regarding the coverage required by this ~~chapter-section~~. The notice shall be in writing, printed in type not less
147 than 8-point, and prominently positioned in any literature or correspondence, including benefit handbooks and enrollment
148 materials. Policies or contracts shall include an explanation of any voluntary process of preauthorization of services
149 available to female enrollees and obstetrician-gynecologists. The enrollee handbook explanation shall include information
150 regarding any limitation to direct access, including, but not limited to, a closed network of providers, or any limitation on
151 access to an obstetrician-gynecologist based on a female's choice of primary care provider.

152 Section 7. Amend § 3325, Title 19 of the Delaware Code by making deletions as shown by strikethrough and
153 insertions as shown by underline as follows:

154 § 3325. Recoupment of overpayments of benefits.

155 Any person who has received any sum as benefits under this chapter to which it is finally determined that the
156 person was not entitled shall be liable to repay in cash said overpayment, to the Department for the Unemployment
157 Compensation Fund, or to have such sum deducted from future benefits payable to the person under this chapter. The
158 person shall be so liable regardless of whether such sum was received through fraud or mistake, or whether that person was
159 legally awarded the payment of benefits at the time but on appeal was subsequently found not to be entitled thereto. If the
160 person becomes eligible for benefits before such sum is completely repaid, the Department shall deduct the remaining
161 balance of such sum from such benefits. Except where the person obtained the overpayment by fraud, the Department may,
162 in its discretion, elect not to require repayment of such sum in cash, and elect to only deduct such sum from subsequently
163 awarded benefits. For nonfraud overpayments, the deduction from subsequently awarded benefits shall be only 50% of the
164 payable weekly benefit amount until the overpayment is completely repaid, while 100% of the payable weekly benefit
165 amount shall be deducted from subsequently awarded benefits until the overpayment is completely repaid when the
166 overpayment was the result of fraud. Discretionary decisions by the Department of how or by what means it elects to collect
167 nonfraud overpayments, that is, either by cash or deduction from subsequently awarded benefits, or by any other means, are
168 administrative collections decisions made by the executive branch of government and are not subject to review by quasi-
169 judicial or judicial tribunals of this State. In addition to the methods of collection authorized by this chapter, the
170 Department may collect overpayments, interest, penalties, and other liabilities due under this chapter as provided in § 545

171 of Title 30, ~~§ 5402 of the Federal Internal Revenue Code (26 U.S.C. § 5402), § 503(m) of the Social Security Act (42~~
172 ~~U.S.C. § 503(m)), § 6402 of the Federal Internal Revenue Code (26 U.S.C. § 6402), § 303(m) of the Social Security Act~~
173 ~~(42 U.S.C. § 503(m))~~, and any other means available under federal or state law.

174 The Department shall issue a notice of overpayment and an order for recoupment, stating its grounds therefor,
175 before initiating action to collect the overpayment. Unless the person files an appeal to an Unemployment Insurance
176 appeals referee within 10 days after such order was mailed to the person at the person's last known address, the order shall
177 be final and recoupment shall be made in accordance with such order. Appeal from an Unemployment Insurance appeals
178 referee decision to the Unemployment Insurance Appeal Board must be filed within 10 days after such decision was mailed
179 to the person. Appeal from the Unemployment Insurance Appeal Board decision to Superior Court may be made in the
180 same fashion as an appeal of the Appeal Board's benefit decisions.

181 In the absence of fraud, in any case under this section in which a claimant is liable to repay to the Department any
182 sum for the Unemployment Compensation Fund, such sum shall be collectible without interest in the name of the
183 Department. Where, however, the Department determines that a claimant who is liable to repay any sum committed fraud in
184 order to obtain benefits, the claimant shall be required to repay the sum due to the Department as well as interest thereon.
185 Benefit overpayments paid to a claimant as the result of fraud shall be repaid with interest at the same rate as provided for
186 past due assessments and reimbursement payments in lieu of assessments in § 3357 of this title and Department of Labor
187 Regulation No. 45. Interest collected pursuant to this section shall be paid into the Special Administration Fund. In
188 addition, a monetary penalty of 15.0% of the amount received by a claimant as the result of fraud shall be assessed. The
189 monetary penalty collected pursuant to this section shall be paid into the Unemployment Compensation Fund as referenced
190 in § 3161 of this title.

191 Any employer who makes a deduction from a back wage award to a claimant because of the claimant's receipt of
192 unemployment benefits, for which the claimant has become ineligible by reason of such award, shall be liable to pay into
193 the Unemployment Compensation Fund an amount equal to the amount of such deduction. When the employer has made
194 such payment into the Unemployment Compensation Fund, the amount of such payments shall be considered when
195 determining, if applicable, said employer's entitlement to rehire credit.

196 The Department may write off in whole or in part an overpayment debt after a period of 3 years, when it has
197 ascertained after investigation and after reasonable attempts at collection that the overpayment debt is wholly or partly
198 uncollectible. The Department may prescribe the appropriate accounting methods by which the uncollected portion of the
199 debt shall be written off its accounts instead of being carried indefinitely as an uncollected debt. No action shall be taken by
200 the Department to collect an overpayment of benefits to any person after a period of 5 years from the end of the benefit

201 year, as defined in § 3302(3) of this title, with respect to which such benefits were paid, unless during this 5 year period, the
202 Department has brought a civil action in a court of competent jurisdiction against the claimant. Any payment on account by
203 a claimant on an overpayment, by any means, except the offset of subsequently awarded benefits, by the Department shall
204 be credited against the outstanding indebtedness of the claimant in the following manner; first, principal on fraud
205 overpayments in oldest to newest outstanding indebtedness order; second, interest on fraud overpayments; third, monetary
206 penalty on fraud overpayments; fourth, principal on nonfraud overpayments in oldest to newest outstanding indebtedness
207 order; and, fifth, court costs. Any collection of an overpayment by the offset of subsequently awarded benefits by the
208 Department shall be credited only against the principal of the outstanding indebtedness of the claimant in accordance with §
209 ~~303(a)(5) of the Social Security Act (42 U.S.C. § 303)~~ § 303(a)(5) of the Social Security Act (42 U.S.C. § 503) and §
210 3304(a)(4) of the Federal Unemployment Tax Act (26 U.S.C. § 3304). Such offsets shall be credited first to fraud
211 overpayment principal and second to non-fraud overpayment principal in oldest to newest outstanding indebtedness order.

212 Section 8. Amend § 3360, Title 19 of the Delaware Code by making deletions as shown by strikethrough and
213 insertions as shown by underline as follows:

214 § 3360. Assessments, penalties and interest as debt to Fund; reduction to judgment; other means of collection.

215 (b) In addition to the methods of collection authorized by this chapter, the Department may collect overpayments,
216 interest, penalties, and other liabilities due from any employer under this chapter as provided in § 545 of Title 30, ~~§ 5402 of~~
217 ~~the Federal Internal Revenue Code (26 U.S.C. § 5402), § 503(m) of the Social Security Act (42 U.S.C. § 503(m)), § 6402~~
218 of the Federal Internal Revenue Code (26 U.S.C. § 6402), § 303(m) of the Social Security Act (42 U.S.C. § 503(m)), and
219 any other means available under federal or state law.

220 Section 9. Amend § 3384, Title 19 of the Delaware Code by making deletions as shown by strikethrough and
221 insertions as shown by underline as follows:

222 § 3384. Receipt of benefits by misrepresentation.

223 Whoever, by reason of the nondisclosure or misrepresentation by that person or by another of a material fact
224 (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent), has received any sum as
225 benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in that
226 person's case or while that person was disqualified from receiving benefits shall, in the discretion of the Department, either
227 be liable to have such sum deducted from any future benefits payable to that person under this chapter or shall be liable to
228 repay to the Department for the Unemployment Compensation Fund a sum equal to the amount so received by that person,
229 and such sum shall be collectible in the manner provided in § 3358 of this title for the collection of past-due assessments, or
230 shall be liable to have such sum collected by the Department as provided in § 545 of Title 30, ~~§ 5402 of the Federal Internal~~

231 ~~Revenue Code (26 U.S.C. § 5402), and § 503(m) of the Social Security Act (42 U.S.C. § 503(m)). § 6402 of the Federal~~
232 ~~Internal Revenue Code (26 U.S.C. § 6402), and § 303(m) of the Social Security Act (42 U.S.C. § 503(m)).~~

233 Section 10. Amend § 1799F, Title 24 of the Delaware Code by making deletions as shown by strikethrough and
234 insertions as shown by underline as follows:

235 § 1799F. Acupuncture detoxification specialist (ADS); license required.

236 (b) Waiver of requirements. — The Acupuncture Advisory Council, by the affirmative vote of 3 of its members
237 and with the approval of the Board, may waive the requirements of ~~paragraph (a)(4)~~ subsection (a) of this section if it finds
238 all of the following by clear and convincing evidence:

239 Section 11. Amend § 2101, Title 24 of the Delaware Code by making deletions as shown by strikethrough and
240 insertions as shown by underline as follows:

241 § 2101. Definition of practice of optometry.

242 (a) "Practice of optometry" means the examination or measurement by any subjective or objective means including
243 automated or testing devices for the diagnosis, treatment, and prevention of conditions of the human eye, lid, adnexa, and
244 visual system as outlined below.

245 (3) "Practice of optometry," as it relates to pharmaceutical agents, means as follows:

246 a. Includes the use of pharmaceutical agents for the diagnosis and treatment of diseases, disorders, and
247 conditions of the eye and adnexa based on the licensing requirement that satisfies the requirement for graduate
248 level coursework that includes general and ocular pharmacology as follows:

249 1. Prescription for controlled substances.

250 A. Schedule II controlled substances containing Hydrocodone, with a limitation on maximum
251 72-hour supply.

252 B. Schedules III, IV, and V controlled substances, with a limitation on maximum 72-hour
253 supply.

254 2. Prescription for the use of an oral steroid with a limitation not to exceed a single 6-day
255 methylprednisolone dose pack.

256 b. Includes the use of an epinephrine auto-injector to counteract anaphylaxis.

257 c. Excludes prescription for oral immuno-suppressives except for the use of oral steroids ~~reference 7(b)~~
258 under § 2101(a)(3)a.2 of this title.

259 d. Excludes the prescription of oral antifungals.

260 e. Excludes the prescription of oral antimetabolites.

261 f. Excludes the prescription of any substance delivered intravenously or by injection.

262 g. Excludes any medication used solely for the treatment of systemic conditions outside the scope of an
263 optometrist.

264 Section 12. Amend § 6102, Title 29 of the Delaware Code by making deletions as shown by strikethrough and
265 insertions as shown by underline as follows:

266 § 6102. Composition of General Fund; Delaware Higher Education Loan Program Fund.

267 (g) All revenue collected by the Division of Child Support Services, as established under the Social Services
268 Amendments of 1974 (P.L. 93-647, 42 U.S.C. § 651 et seq.) pursuant to its functions under the Division of Child Support
269 Services and Paternity Program, except for an amount to be specified annually in the budget act as an appropriated special
270 fund which shall be considered an incentive payment to enable the Division to increase child support collections, shall be
271 deposited into a special fund account known as the ~~Delaware Child Support Enforcement~~Division of Child Support
272 Services Account. The revenue deposited into the ~~Delaware Child Support Enforcement~~Division of Child Support Services
273 Account shall not be a part of the General Fund of the State and shall only be handled in accordance with § 457 of the
274 Social Services Amendments of 1974 (42 U.S.C. § 657). Further, such portions of these funds deposited to the credit of the
275 ~~Delaware Child Support Enforcement~~Division of Child Support Services Account, as shall be periodically determined to
276 belong to the State, shall be deposited to the credit of the General Fund of the State.

277 Section 13. Amend § 8017A, Title 29 of the Delaware Code by making deletions as shown by strikethrough and
278 insertions as shown by underline as follows:

279 § 8017A. Delaware Council on Greenways and Trails.

280 (e) The Secretary shall determine which applications eligible for funding under § 5423 of Title 30 shall be subject
281 to review by this Council. ~~Application reviewed and approved by the Council in paragraph (b)(3) of this section shall not be~~
282 ~~subject to the provisions of [former] § 7506(11) [repealed] of Title 7.~~ Greenways projects shall qualify as projects under the
283 provisions of § 5423 of Title 30.

284 Section 14. Amend § 504, Title 31 of the Delaware Code by making deletions as shown by strikethrough and
285 insertions as shown by underline as follows:

286 § 504. Assignment and collection of support payments; powers and duties of Family Court.

287 (a) Any law of the State to the contrary notwithstanding, the application and/or receipt of public assistance under §
288 503(d) of this title shall act as an automatic and immediate assignment of all rights of support for the applicant and/or
289 recipient and any dependent child. Such assignment shall have the full force and effect of law to the State and shall be
290 collectible by the Division of Child Support Services. All money collected pursuant to such assignment shall be deposited

291 directly to the credit of the ~~Child Support Enforcement~~ Division of Child Support Services Account for distribution in
292 accordance with § 457 of the Social Services Amendments of 1974 (42 U.S.C. § 657).

SYNOPSIS

In January 2017, the Code Revisors provided the General Assembly with a list of potential technical corrections that they identified as they revised the Delaware Code to reflect legislation that was enacted by the 148th General Assembly in 2016. While technical in nature, these changes are beyond the authority of the Code Revisors to make and can only be done by the General Assembly through legislation.

Section 1. HB 227 revised the Farm Wineries law to permit Farm Wineries to make and sell mead and cider in addition to wine to align with federal rules. As written, Farm Wineries would need to manufacture wine, mead, and cider to meet the definition of a Farm Winery. This Section changes the language to allow Farm Wineries to make wine, mead, or cider as intended by HB 227.

Section 2. When reviewing the error identified by the Superior Court in § 4798(t) of Title 16 a technical error was found subsection (r) of this section. Under § 304 of Title 1, words in the singular number include the plural. This corrects that error.

Section 3. The Superior Court discovered an error in the subject and verb agreement of § 4798(t) of Title 16. In reviewing this error, an additional technical error was identified. Under § 304 of Title 1, words in the singular number include the plural. This corrects that error.

Section 4. This issue was discovered by the Code Revisors without relation to current legislation. There are 5 paragraphs after § 2304(28) of Title 18 that actually apply to §§ 2304(24) and (25). Section 2304(24) prohibits “discriminatory practices against victims of abuse regarding life and health insurance” and was added by SB 128 in 1995 and contained those 5 paragraphs. Section 2304(25) prohibits “discriminatory practices against victims of abuse regarding home owner’s and private passenger motor vehicle insurance” and was added by SB 433 in 1995.

The 1998 and 1999 printed volumes of the Delaware Code had the 5 paragraphs after (25) because both (24) and (25) apply to issuing insurance to victims of abuse and these 5 paragraphs apply to issuing insurance to victims of abuse. Subsequently, in 2005, HS1 for HB 90 added § 2304(26) relating to regulatory inquiries; in 2007, SS1 for SB 31 added § 2304(27) relating to credit scoring; and in 2008 SB 239 added § 2304(28) relating to volunteer firefighters. These 3 subsections, (26), (27), and (28) were added in error above those 5 paragraphs. This Section clarifies that the 5 free-standing paragraphs at the end of § 2304 apply to subsections (24) and (25).

Section 5. HB 381 amended Chapter 33 of Title 18 by redesignating what had been Chapter 33 as Subchapter I and creating a new Subchapter II. There were references to this "chapter" throughout what is now Subchapter I and the Code Revisors asked if they were correct to leave the term "chapter." In § 3302, the term "chapter" should now be "subchapter." This Section makes the necessary change.

Section 6. HB 381 amended Chapter 33 of Title 18 by redesignating what had been Chapter 33 as Subchapter I and creating a new Subchapter II. There were references to this "chapter" throughout what is now Subchapter I and the Code Revisors asked if they were correct to leave the term "chapter." In § 3342(h), "chapter" should now be "section." This Section makes the necessary change.

Sections 7 through 9. HB 160 amended Title 19 to allow the Department of Labor to collect over payments due under additional state and federal laws. In the list of those laws in §§ 3325, 3360, and 3384, there is a citation to § 5402 of the Federal Internal Revenue Code (26 U.S.C. § 5402). This is the definition of a brewery. The correct citation is to § 6402 of the Federal Internal Revenue Code (26 U.S.C. § 6402), which allows states to recover unemployment compensation debt, which is consistent with this section. In these 3 Code provisions, there is also a citation to § 303 of the Social Security Act (42 U.S.C. § 303). This is also incorrect and the correct citations are to § 303 of the Social Security Act (42 U.S.C. § 503). This Section makes the necessary changes.

Section 10. HB 387 added a reference to “paragraph (a)(4) of this section” in § 1799F of Title 24 but there is no paragraph (a)(4) in § 1799F of Title 24. The correct reference should be to "subsection (a) of this section". This Section makes the necessary change.

Section 11. SS 1 for SB 143 updated the definition of the practice of optometry. There is a reference in § 2101(a)(3)c. to “7(b).” There is no 7(b) and the correct reference should be to § 2101(a)(3)a.2. This Section makes the necessary change.

Sections 12 & 14. HB 331 changed the name of the Bureau of Child Support Enforcement and the Division of Child Support Enforcement to the Division of Child Support Services. The name of the accounts used by the Division of Child Support Services were not updated to reflect this new name. This Section makes the necessary changes.

Section 13. HS 1 for HB 262 adopted the Joint Sunset Committee recommendations to update the Open Space Council. In making this update, § 7506 of Title 7, a vacant statute, now provides the powers and duties of the Open Space Council. Section 8017A of Title 29, regarding the Delaware Council on Greenways and Trails, references § 7506 of Title 7 and that reference had been marked by Code Revisors as “[repealed]”. The reference to the new § 7506 of Title 7 is not relevant so this Act removes that sentence.

Author: Senator McBride