

## **Senate Environment & Energy Committee**

Draft Minutes

151th General Assembly

Wednesday, March 10<sup>th</sup>, 2021

1:00pm-2:20pm

Virtual Meeting

### **Meeting Attendance**

#### **Committee Members**

Senator Stephanie Hansen  
Senator Trey Paradee  
Senator Marie Pinkney  
Senator Laura Sturgeon  
Senator Gerald Hocker  
Senator David Wilson

[Stephanie.Hansen@delaware.gov](mailto:Stephanie.Hansen@delaware.gov)  
[Trey.Paradee@delaware.gov](mailto:Trey.Paradee@delaware.gov)  
[Marie.Pinkney@delaware.gov](mailto:Marie.Pinkney@delaware.gov)  
[Laura.Sturgeon@delaware.gov](mailto:Laura.Sturgeon@delaware.gov)  
[gerald.hocker@delaware.gov](mailto:gerald.hocker@delaware.gov)  
[david.l.wilson@delaware.gov](mailto:david.l.wilson@delaware.gov)

#### **Staff**

Jenn Parrish  
Matt Revel  
Michael Soyka VI  
Mark Cutrona  
Meghan Mullennix

[Jennifer.Parrish@delaware.gov](mailto:Jennifer.Parrish@delaware.gov)  
[Matthew.Revel@delaware.gov](mailto:Matthew.Revel@delaware.gov)  
[Michael.soyka@delaware.gov](mailto:Michael.soyka@delaware.gov)  
[mark.cutrona@delaware.gov](mailto:mark.cutrona@delaware.gov)  
[Meghan.Mullennix@delaware.gov](mailto:Meghan.Mullennix@delaware.gov)

#### **Attendees**

Attendees listed in Appendix A

### **Agenda**

Senator Hansen commenced the meeting by conducting attendance.

Senator Hansen asked committee members to review the minutes.

Senator Hocker motioned to approve the minutes

Senator Pinkney seconded this motion.

The minutes were unanimously approved at 1:03 pm.

Jenn Parrish, Senate staff, provided an instructional overview of technological logistics and public participation.

- I. Senate Bill 24 (Hansen): AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE LITTER CONTROL LAW.

*Synopsis: The intent of this Act is to reduce the amount of waste that ends up in the environment and to raise awareness of the need to properly dispose of balloons. To that end, this Act imposes a civil penalty for the violation of intentionally releasing 5 or more balloons filled with air or lighter-than-air gases, to prevent litter which blights our communities and environment and causes harm to wildlife and marine animals. The release of multiple balloons at 1 time is a single offense under this Act. This Act also establishes that intentionally releasing 1 to 4 balloons at 1 time is littering. Exceptions are provided for the following: - A balloon that is released for scientific or meteorological purposes, on behalf of a governmental agency, or under a governmental contract. - A hot air balloon that is recovered after launching. - A balloon that is released and remains indoors. - A balloon that is filled with water for recreational purposes and recovered after recreation. - A balloon that is negligently or unintentionally released. Under this Act, the intentional release of 1 or more balloons is a civil violation, penalized as follows: - The first violation is subject to a civil penalty of at least \$25. - A second or subsequent violation within 2 years of the first is subject to a civil penalty of \$75 and up to 8 hours of community service for a second violation within 2 years of the first violation. The mass release of balloons is penalized as follows: - A first violation is subject to a civil penalty of at least \$250 and up to 8 hours of community service. - A second or subsequent violation within 2 years of the first is subject to a civil penalty of at least \$350 and up to 25 hours of community service. Under this Act, a retail or wholesale establishment that sells balloons must post a notice for customers that the intentional release of balloons is unlawful. This Act also makes a technical correction to conform existing law to the standards of the Delaware Legislative Drafting Manual. All law enforcement agencies in Delaware, including enforcement personnel of the Department of Natural Resources and Environmental Control, have the authority to enforce this chapter. The Justice of the Peace Court has jurisdiction over violations of this chapter.*

Senator Hansen reviewed the legislation, including its origin and development. Senator Hansen spoke on the Anti-Dumping and Anti-Littering Solutions Task Force and involved stakeholders' work on the issue, including letters sent to municipalities and funeral directors asking for discouragement of balloon releases. Senator Hansen discussed the detrimental impacts of released balloons on marine life. Senator Hansen discussed the other states and jurisdictions that have banned balloon releases, citing Queen Anne's County, MD's law. Senator Hansen stated that intentionally releasing a balloon was already considered littering, and this law would create a new determination for mass balloon releases. Senator Hansen discussed the penalties for different littering, recognizing the educational element of implementation. Senator Hansen stressed the importance of informing communities about the measure and being cognizant of not causing distress for grieving families. Senator Hansen stated that they had met with members of the African American Infrastructure and Environmental Subcommittee and had determined that there would be a one-year penalty free warning period for individuals, noting that this did not apply to organizations. Senator Hansen also mentioned that the wording in the synopsis would be changed in a substitute bill, relating to enforcement powers of DNREC officers.

Senator Pinkney discussed the legislation's possible disproportionate impact on the African American community, where balloon releases are often used in celebratory and mourning events.

Senator Pinkney recognized the importance of reducing pollution. Senator Pinkney thanked the sponsor and committee for being open to discussion. Senator Pinkney discussed the importance of considering how communities find out about the legislation and the necessity of working to inform individuals.

Senator Hansen opened the floor to public comment.

Robert Overmiller expressed support for the bill but expressed concern over the lack of exemptions for biodegradable balloons.

Senator Hansen responded that they had looked into biodegradable balloons and found that these balloons were not fully biodegradable and still caused serious harm.

Matthew Sarver, Delaware Ornithological Society, expressed support for the bill and discussed their impact on sea birds. Mr. Sarver cited a 2019 study showing that balloons were 32x more likely to cause deaths of sea birds than hard plastics, elaborating that in the thousands of birds studied balloons were 5% of ingested items but 40% of deaths.

Senator Lawson stated that balloons could be found in many wildlife areas and this litter appeared to be very pervasive problem throughout Delaware. Senator Lawson requested to be added to the bill as a cosponsor. Senator Lawson asked whether the legislation applied to small paper hot air balloons.

Senator Hansen read the pertinent part of the definition and posited that the bill did not apply to such lanterns.

Matt Gove, Delaware Surfrider Foundation, stated that his organization did beach clean ups and often recovered many balloons. Mr. Gove agreed that biodegradable balloons were not a good solution. Mr. Gove expressed support for the legislation.

Jacob Ross, Oceana, introduced his organization and their community work on ocean conservation. Mr. Ross discussed the extent of plastic pollution's danger to marine animals. Mr. Ross also cited studies showing the negative impact on tourism of plastic pollution, the danger to marine animals. Mr. Ross expressed support for the legislation.

Senator Hansen returned to Senator Lawson's question and stated that she was reevaluating whether paper lanterns are included. Senator Hansen stated that she had asked the attorney.

Charlie Garlow, League of Women Voters of Delaware, expressed support for SB 24, echoing the environmental concerns of others.

Emily Knearl, Delaware Nature Society, discussed the harm of pollution from balloon littering and its impact on animals, both in the wild and in domesticated settings. Ms. Knearl expressed support for SB 24.

Willet Cole spoke in support of SB 24, citing personal experiences seeing balloon pollution and agreeing with the issues of protecting wildlife.

Adrienne Wingate stated that her child's 5<sup>th</sup> class at the Sussex Academy of Arts and Sciences was studying pollution and had tuned in to hear the discussion. Ms. Wingate discussed her experiences finding balloon pollution near the water in Lewes, expressing support for the legislation.

Olivia Nehrbas, a 5<sup>th</sup> grader at Sussex Academy of Arts and Sciences, expressed strong support for SB 24, citing the negative impacts on animals.

Suzanne Thurman, Marine Education, Research & Rehabilitation Institute, introduced her organization and stated that virtually all birds that the organization rescues, about 300 a year, have been injured by human pollution. Ms. Thurman discussed the dangers of balloons to species and the environment, including fatal entanglements of ribbons and exposure to toxic chemicals. Ms. Thurman also recognized the work of 5<sup>th</sup> graders at Academy in contributing to her organization's research.

Dee Durham, Plastic Free Delaware, discussed balloon littering's impact on farm animals and other domesticated animals. Ms. Durham also mentioned that balloons can cause power outages. Ms. Durham also explained that helium was an unsustainable resource. Ms. Durham stressed that the product label "biodegradable" was not regulated and did not significantly reduce the environmental damages of released balloons. Ms. Durham reviewed some of the alternatives for celebrations of life. Discussing the damages of balloon littering, Ms. Durham cited the quantity of balloons different Delaware clean-up efforts regularly find. Ms. Durham also mentioned that she believed lanterns were already outlawed by the Delaware Fire Marshall.

Kim Kendall expressed support of SB 24, citing personal experiences picking up large quantities of balloons on the beaches of Delaware.

II. Senate Bill 54 (Paradee): AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE VOLUNTARY CLEAN ENERGY FINANCING PROGRAM BASED ON PROPERTY ASSESSMENTS (D-PACE) OR OTHER LOCAL ASSESSMENT STATUTE.

*Synopsis: This bill makes certain technical amendments to the Delaware Voluntary Clean Energy Financing Program Based on Property Assessments (D-PACE) Act. The amendments are based upon comments received from New Castle County and the lending community. The bill clarifies the interplay between the Act and existing tax and foreclosure sale statutes and that the lien for the energy improvements will remain with the property following a tax monition sale and mortgage foreclosure. It also clarifies the authority of the Sustainable Energy Utility and third-party capital providers to enforce the lien for delinquent assessments for clean energy improvements.*

Senator Paradee introduced the legislation and reviewed its background. Senator Paradee stated that SB 54 was a follow up to a previous bill on the Delaware Property Assessed Clean Energy (PACE) program. Senator Paradee explained that the Delaware Sustainable Energy Utility allows property owners to finance energy improvements that will lead to cost savings with the program, financed through a voluntary assessment on property tax bills. Senator Paradee stated that no tax dollars were utilized for program. Senator Paradee described the government's role as a facilitator to utilize private investment for these projects. Senator Paradee lauded Mr. Tony DePrima's work in obtaining the support of all three counties for the program. Senator Paradee stated that the bill clarified some elements, such as the authorities and application to foreclosed properties.

Tony DePrima stated that all three counties had approved the PACE program. Mr. DePrima elaborated on the foreclosure process and how the program interacts with it, noting that the language makes a number of clarifications.

Senator Hansen invited public comment. There was none.

III. Senate Bill 70 (Lawson): AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO WEARING OF HUNTER ORANGE ON PUBLIC LAND.

*Synopsis: Currently, under § 718 of Title 7 of the Delaware Code, it is unlawful for an individual to hunt any wildlife, except migratory game birds, during deer season without displaying at least 400 square inches of hunter orange material. This Act requires the wearing of hunter orange by all individuals who are on public land designated for deer hunting during deer season by the Department of Natural Resources and Environmental Control or the Department of Agriculture. Failure to wear hunter orange as required by this Act is a class D environmental violation, which is subject to a \$50 to \$100 fine for a first offense under § 1304(g) of Title 7 of the Delaware Code. This Act requires a greater than majority vote for passage because § 28 of Article IV of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to create a new crime within the jurisdiction of the Justice of the Peace Court.*

Senator Lawson introduced the legislation. Senator Lawson stated that SB 70 was a safety bill applying to hunting areas. Senator Lawson explained that pedestrians in hunting areas during hunting season could lead to a dangerous situation without visibility precautions. Senator Lawson stated that all people in hunting areas in hunting season would be required to adhere to safety protocol in their gear under the legislation.

Senator Hansen asked how individuals are aware they are entering a hunting zone.

Senator Lawson stated that there are generally postings and individuals should have an access pass.

Senator Hansen stated that she believed there are state lands where individuals can enter from many places and might be unaware.

Senator Lawson stated that the onus of awareness was on the individual entering the area. Senator Lawson stated that his focus was not punitive, but safety. Senator Lawson read relevant parts of the legislation

Secretary Shawn Garvin, DNREC, expressed support for the legislation and conveyed the agency's interest in addressing problems in the interaction of different types of recreation. Sec. Garvin stated that DNREC was looking into the problem and the locations where the danger might be greater. Sec. Garvin stated that DNREC was reviewing conflicts in past years and would potentially consider limiting land access.

Senator Sturgeon stated that the fact that zero people had been shot in the past twenty years in this situation potentially spoke to the lack of need to penalize hikers. Senator Sturgeon expressed interest in addressing the problem with better signage and awareness.

Senator Hocker expressed support for the legislation, citing personal experiences hunting and the safety benefits of a bright orange vest. Senator Hocker stated that a hunter focused on a deer may be unaware of individuals nearby.

Senator Hansen asked about the penalties in the legislation.

Senator Lawson stated that a violation would be a class D environmental offense with a penalty of \$50-\$100, the same as the penalty for hunters. Senator Lawson stated that not all confrontations are reported to DNREC, expressing interest in addressing the problem before there was a serious incident.

Senator Hansen asked if the requirement of 400 square inches on the head, chest, and back was cumulative, stating that this might need to be clarified in the language.

Senator Lawson confirmed that the requirement was cumulative and stated that the statute with the language was already in effect for hunters.

Senator Hansen asked Sec. Garvin if all entrances to state parks were marked and whether that signage indicated hunting season.

Sec. Garvin stated that there were many unofficial and informal entrances to state parks. Sec. Garvin stated that DNREC worked to control safety of hunters and other visitors through a number of efforts, including managed hunts where parks might be closed to other visitors. Sec. Garvin confirmed that there was overlap between hunters and other visitors during hunting season.

Senator Hansen expressed concern that people would not know they should be wearing orange. Senator Hansen asked if the signage indicated the requirements.

Sec. Garvin stated that there were no signs currently, although the legislation's passage might prompt the agency to do so.

Ray Bevins, DNREC, reviewed different efforts by the state park management to control the safety of visitors.

Senator Hansen asked about how many visitors state parks received annually.

Mr. Bivens, DNREC, responded that parks received 6 million visitors every year, noting that this statistic was increasing and he expected this trend to continue. Mr. Bivens cited full parking lots and camping grounds during the off season.

Senator Hansen stated that it might be more feasible to promote safety by closing the lands to others when hunting is occurred.

Senator Lawson stated that hunting season was in the park's off season, when visitor numbers were at their lowest. Senator Lawson also cited the excise tax on hunters' purchases, stating that this revenue funded park operations and public land purchases. Senator Lawson compared this investment to the costs paid by other recreational users. Senator Lawson stated that asking other visitors to wear the safety vest for four months was a low burden to ask of these other users.

Rob Hossler, DNREC, stated that the bill would effect three types of state property: state parks, state wildlife areas, and state forests. Mr. Hossler stated that all firearm hunting occurs in about four months. Mr. Hossler stated that closing these lands for four months might cause conflict with other visitors.

Sec. Garvin discussed agency efforts to limit conflict between hunting and other recreational activities, such as limiting hunting on Sunday to accommodate equestrian activities. Sec. Garvin recognized Senator Lawson's point about unreported incidents. Sec. Garvin conveyed the agency's commitment to finding a balance between recreation types.

Senator Lawson agreed that balance was important. Senator Lawson emphasized that the light vest and hat were not a large inconvenience for safety. Senator Lawson expressed concern that waiting for an incident would be a mistake.

Senator Paradee asked for clarification on the statistic of zero shootings recorded in recent history.

Sec. Garvin confirmed this statistic.

Senator Paradee asked for clarification on Senator Lawson's intention to ask individuals to wear a piece of cloth for safety.

Senator Lawson confirmed and expressed dissatisfaction with the question.

Senator Hansen invited public comment.

Mr. Robert Overmiller spoke in favor of the legislation

#### IV. Conclusion

Senator Sturgeon motioned to adjourn

Senator Hocker seconded the motion.

The meeting was adjourned at 2:19 pm.



## **Appendix A: Attendee List**

Ray Bivens, Delaware State Parks  
Natalie Criscenzo, Office of the Governor  
Abrielle Leonard, Sussex Academy  
Trish Baines, MERR  
Tom Collins, Delaware Bankers Association  
Jackie Mette, Governor's Office  
Ransom Cole, Sussex Academy Elementary School  
Olivia Nehrbas, Student  
Penny Hayes, MERR  
Adrienne Wingate, Sussex Academy student tutor  
Thomas DeMarco, M.E.R.R.  
Jacob Ross, Oceana  
Sheena Gossett, Town of Dewey Beach  
Hafsah Mansoori, Division of Research  
John Nehrbas, Student  
Iskeisha Stuckey  
Peggy Schultz, League of Women Voters of Delaware  
Elisia Griffith, Sussex Academy  
Kim Willson, RWA  
James Esq., Parkowski, Guerke & Swayze, P.A.  
Ben Gillotti, Ruggerio, Willson And Associates, Llc  
David Koppeser, Wilmington Trail Club  
Matthew Sarver, Delaware Ornithological Society  
Javier Horstmann, Office of Governor John Carney  
Janet Fisher, MERR  
Chris DiPietro, CDi Consulting Services LLC  
Shawn Garvin, DNREC  
Connie Hendricks, Sussex Academy Elementary  
Susan Giordano, MERR Institute  
N. Brady, DDA  
Willet Cole, Sussex Academy Elementary  
Kendall Rhodes, Sussex academy elementary  
Bryon Short, Delaware Contractors Association  
Patrick Emory, DNREC  
Keri Rapa, Delaware General Assembly - Dover, DE  
Anne Allen, MERR  
Chuck Wagner  
Emily Knearl, Delaware Nature Society  
Julie Fedele, CGO  
Rob Rector, Marine Education, Research and Rehabilitation Institute, Inc.  
Representative Paul Baumbach, Delaware General Assembly  
Jacob Ross, Oceana  
Kim Kendall  
Robert Overmiller, GACEC / DAASPD  
Amanda Hale, Sussex Academy  
Judith Stout, MERR  
Jana Johnston, Surfrider Foundation Delaware Chapter  
Sandra Vitale, MERR  
Samantha Hemphill, PSC  
Maya Langroudi, Sussex academy  
Amanda Kelly Thompson, Delaware Association of REALTORS  
Peyton Humphreys, Sussex Academy Elementary  
Wyatt Musil, Sussex Academy

Rob Hossler, DNREC - Div Fish and Wildlife  
Bailey Brooks, RWA  
Matt Gove, Surfrider Foundation  
Charlie Garlow, LWV  
Lisa Borin Ogden, DNREC  
Donald Ott, Sussex Academy Art and Science  
Gretchen Maughan, Sussex Academy  
Leslie Reese, DNREC  
Grace Brubacker  
Sally Cole, Osher Lifelong Learning Institute  
Sara Poore, Delaware State Senate  
Macy Wheatley, Sussex Academy  
Mary Davis  
Joan Tracy  
Michele Roberts, EJHA  
Kylie Taylor, OMB  
Anita Pastan, List 4 Less LLC  
Carrie Cole, ByrdGomes  
Rebecca Ghabour, Wilmington University  
Megan Nehrbas, student  
Charles Garlow  
Walter Lukaszewski, MERR