



# WRAP-UP

The Newsletter of the West Virginia Legislature

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## Common Legislative Myths Examined, Exposed and Even Busted

by Sarah Leonard

The legislative process is surrounded by a number of misconceptions, or myths. One such myth is that all lawmakers are also lawyers, and this is far from the truth. Members of the 78th Legislature come from all walks of life and work in a variety of professions.

### Myth: All lawmakers are also lawyers

West Virginia has a part-time legislature, unlike some other states, where legislating is a full-time profession and legislators are unable to have a job outside of their position at the statehouse. What many people do not know, however, is that when not in regular legislative session, members of the West Virginia Legislature go back to their everyday lives and occupations. While several members are indeed lawyers, only about 14 percent of the legislators this session practice law. An equal percentage of members are currently or formerly educators, and the most commonly listed occupation for members is businessperson. Other occupations represented in the Legislature include doctors, pharmacists, farmers, insurance agents, engineers, school bus drivers, accountants, construction workers, public relations specialists and a mortician.

**BUSTED**

### Myth: Anyone can introduce a bill

Anyone can bring an idea for a bill or resolution to a member of the Legislature, but only a member can officially introduce it. If a person were to seek changes in the law, he or she, or the group must contact their lawmakers for sponsorship. Once introduced, a bill or resolution is referred to a committee by either the Speaker of the House or the Senate President.

An example of this process in action is exhibited by a resolution that would name the Timber Rattlesnake as the official reptile of West Virginia. This idea came from a West Virginia eighth grade classroom, showing that everyone can



### Crossover Deadline Sees a Flurry of Bills Advanced

Lawmakers spent several busy, late nights at the State Capitol this week as the deadline for issuing legislation out of their house of origin approached. To date, over 345 bills have advanced to the opposite chamber with more to follow, as the deadline does not apply to budget and supplementary appropriation bills.

photos: Martin Valent & Max Hunt

participate in the legislative process at some level.

**PLAUSIBLE**

### Myth: Lawmakers only work 60 days a year

While it is true that the regular legislative session is 60 days long, lawmakers work for the House and Senate in one capacity or another throughout the year.

After the regular session, lawmakers continue to meet in order to pass the budget. Many bills that pass during session impact the budget. For this reason, the Legislature must meet to calculate the total financial implications of all the bills passed during the regular session.

Delegates and senators also participate in interim meetings three days a month when the Legislature is not in regular session. During these meetings, committees conduct and review studies

as well as work on drafting legislation for the upcoming session.

The Governor may also call members of the Legislature into special session. The Governor may call a special session at any time of the year; however, lawmakers can overrule the request, though this is very rare. Special sessions are actually quite common. The last year in which there was not a special session called was 1995. These "extraordinary" sessions are typically called to address unique circumstances such as natural disasters or special circumstances that arise while the Legislature is not in session.

Finally, members' contact information is available to the public, and they are constantly working with constituents, answering questions and fielding requests.

**BUSTED**

See **Capitol Myths**, pg. 4



# In the House

As of 4:00 p.m., Wednesday, February 27, 2008, the 50th day of the 2008 Regular Session, 1,345 bills have been introduced in the House. Of those, 174 have passed the House and sent to the Senate for consideration. These include:

**House Bill 2739** would require county clerks to provide three free certified copies of a veteran's death certificate to family members or dependants.

**House Bill 4023** would deny or revoke driving privileges for teenage drivers who misbehave or are not meeting satisfactory attendance standards in high school. Students would have to make satisfactory progress toward graduation, not have more than 10 consecutive or 15 total unexcused absences for the current semester and the past semester and not have more than 10 days of suspension during the current semester and the past semester to be eligible for a driver's license.

**House Bill 4047** would prohibit the use of a cell phone, text-messaging or other wireless electronic communication devices while operating a motor vehicle.

Exceptions include when the vehicle is parked or stopped on the berm of the road, in case of an emergency, when using a hands-free device, or when the person is a law enforcement officer or an emergency services personnel operating an emergency vehicle. Those in violation would be fined \$25 and this could only be enforced as a secondary offense.

**House Bill 4134** would prohibit the sale of cigarettes in packages with fewer than 20 in anything besides the original factory-wrapped packaging. The bill also would require posting federally mandated warnings on all cigarettes sold. A person or business found in violation would be charged with a misdemeanor penalty and fined \$250.

**House Bill 4132** would prohibit employers from mandating captive meetings or sending communications to employees regarding political issues not related to the employee's job duties. If an employer disciplines or penalizes employees who refuse to participate in a mandated meeting, the employee can file a lawsuit.

**House Bill 4364** would make various changes regarding motor vehicle dealers. The Department of Motor Vehicles would be able to enter into agreements with other states to permit out-of-state dealers to issue and transfer vehicle registrations for West Virginia purchasers. This bill would also increase the bond required of applicants for dealer licenses from \$10,000 to \$25,000 and require licensees seeking renewal to have sold at least 18 vehicles during the preceding year.

**House Bill 4368** would allow a school principal to transfer a student who has been excluded from a classroom, school or school bus for a second time during a single semester for disruptive behavior to an alternative learning center. The bill would also establish a Bill of Rights and Responsibilities for Students and School Personnel.

**House Bill 4406** would require the State Board of Education to include the duration of one-way school bus transportation in their transportation standards. Under the bill, elementary school children would have a recommended one-way transportation time of less than 30 minutes. Middle school students would be recommended to travel no more than

45 minutes and high school students would be recommended to travel one-way for less than an hour beginning July 1, 2008. The bill would also prohibit, in certain circumstances, the creation of a new bus route for students in grades Pre-K through 5 that exceeds the elementary school wait-time limit by more than 15 minutes unless the State Board of Education receives permission.

**House Bill 4418** would require the West Virginia Health Care Authority to establish an Infection Control Advisory Panel. This panel would implement a system for state hospitals to report health care associated infections based upon Center of Disease Control guidelines.

**House Bill 4472** would prohibit a county board of education from declaring a position vacant and posting a job opening sooner than 10 days following the death of an individual who was employed in that position.

**House Bill 4476** would permit the state to enter into agreements with private entities to construct and improve transportation facilities.

**House Bill 4477** would require the State Board of Education to develop and administer a program to fund the exam fee for individuals seeking their GED. The State Board of Education would be required to include the program's eligibility requirements.

**House Bill 4496** would permit some members of the Teachers' Defined Contribution System (TDC) to transfer their assets to the State Teachers Retirement System (TRS). Only those who were actively contributing to the TDC by December 31, 2007, would be able to vote in the election to transfer. At least 70 percent of those who actively contribute must vote yes during the May 2008 election to enable the transfer. If approved, individuals will receive 75 percent of the service credit they earned in the TDC.

**House Bill 4527** would allow county commissions to regulate subdivisions and land development by creating a planning commission instead of a comprehensive plan.

**House Bill 4624** would provide a per diem pay of \$50, plus mileage and expenses, for individuals who drive veterans to hospitals

## The West Virginia Legislature's Reference and Information Center

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## In the Senate

As of 4:00 p.m., Wednesday, February 27, 2008, the 50th day of the 2008 Regular Session, 787 bills have been introduced in the Senate. Of those, 172 have passed and been sent to the House for consideration. These include:

**Senate Bill 60** would include the threatened use, not just the use, of a firearm or other deadly weapon for a person to be found guilty of first-degree robbery.

**Senate Bill 65** would establish a school uniform incentive plan pilot program that would provide \$10,000 to each of the first 10 public elementary schools that apply and meet the criteria by implementing school uniform policies. Allowed uses for the money include improving school safety, renovating the playgrounds and purchasing school equipment.

**Senate Bill 194** would establish that by state colleges and universities must provide alternative instructional materials such as material in Braille, large print digital text or audio for blind, visually impaired or dyslexic students. A fine of up to \$250 would be imposed for a violation.

**Senate Bill 265** would provide a way for assessing the value of all aircraft owned or leased by commercial airlines, charter or private carriers and private companies or firms for property tax purposes effective July 1, 2009. The value of the special aircraft property would be determined by its salvage value. The county assessor in the county where the item is located would determine whether the item is special aircraft property and, if it is, would notify the Tax Commissioner and provide appropriate information.

**Senate Bill 286** would provide personal immunity from civil liability for adult protective services workers and child protective service workers for acts, errors or omissions that occurred during the course of their employment and official duties. This bill would not protect those workers

from liabilities caused by intentional misconduct.

**Senate Bill 287** would establish research endowment programs at Marshall University and West Virginia University to promote research and economic development. These programs would be funded by eligible private donations of at least \$50,000, and would be matched by the state from the newly established West Virginia Research Trust Fund.

**Senate Bill 462** would raise the age of consent for refusal of mental health treatment from 12 to 18 years of age.

**Senate Bill 465** would eliminate the business franchise tax effective January 1, 2013.

**Senate Bill 493** would grant emergency powers to the Secretary of State to implement a method to ensure all eligible voters have the opportunity to cast a ballot in case of a natural disaster, terrorist attack or other emergency.

**Senate Bill 514** would allow uniformed service members to submit an absentee ballot via e-mail. Ballots received by e-mail would be processed the same as faxes under current law.

**Senate Bill 556** would require prior written authorization from private property owners for the towing of motor vehicles without the owner's consent. Legal repossession are exempt. This bill would also require criminal background checks for drivers of tow vehicles.

**Senate Bill 565** would reduce the required period for notice of increased assessed valuation of real property from 15 days to 10 days prior to the first meeting in February at which the county commission meets as the board of equalization and review. This bill would also provide that the increase in the assessed valuation must be at least \$1,000 before the notice is required to be sent.

**Senate Bill 567** would prohibit all-terrain vehicles (ATVs) on all paved roads in West Virginia. Penalties for doing so would result in a misdemeanor and a fine of up to \$100. An ATV would be able to move from one trail or field to another via a paved road if the distance traveled on the paved road does not exceed 10 miles and the ATV is operated on the shoulder or on the far right of the paved road if a shoulder does not exist. This bill would allow counties to regulate ATVs by permitting or prohibiting them on any paved or unpaved road in the county by notifying the Division of Motor Vehicles and the Governor's Highway Safety Program. This bill would become effective July 1, 2008.

**Senate Bill 590** would extend protections that are currently afforded to public service personnel to health care workers and protective services workers. These protections include enhanced criminal penalties for crimes committed against these workers. A health care worker is any nurse, nurse practitioner, physician, physician assistant or technician at health care facilities such as a hospital or physician's office. A protective services worker means a Department of Health and Human Resources employee that is employed, or contracted as a child or adult protective services worker.

**Senate Bill 628** would allow persons involved in motor vehicle accidents to receive pertinent information such as the name and address of each driver involved in the accident; location, time and date of the accident; and insurance information for each driver involved in the accident at no charge and in a timely manner so they are able to file a timely insurance claim.

**Senate Bill 653** would permit the sales of life, accident or sickness insurance over the Internet by exempting electronic insurance applications from any face-to-face transaction requirements.

**Senate Bill 722** would require that the state Board of Pharmacy have regulatory power over free and reduced-cost health clinics. The bill would also require those clinics to have a pharmacist in charge to supervise the dispensing of prescription drugs. This bill specifies that the pharmacist in charge could be a volunteer pharmacist.

### West Virginia Legislature's Web site

Designed to strengthen your connection to West Virginia's legislators and the laws that govern this state, the West Virginia Legislature's Web site provides you with access to various resources, including contact information, legislation and educational materials. The Legislature's online Bulletin Board maintains prompt information during legislative sessions through the Legislature's Calendars, Meetings, Abstracts, Indexes and Journals. Citizens also can view the entire West Virginia Code, interactive district maps, committee agendas and membership information at: <http://www.legis.state.wv.us>

**Myth: A person must be at least 25 years old to be a state legislator**

This slight misconception likely stems from the fact that in order to be a member of the U.S. House of Representatives, a person must be at least 25 years old and to be a member of the U.S. Senate a person must be at least 30 years old. In state government, however, a person must only be eligible to vote to be a member of the House of Delegates and 25 years old to be a member of the Senate. The members of the 78th Legislature represent a wide age range, with the youngest member of the 78th Legislature being 23 years old, and the oldest member being 77 years old.

**PLAUSIBLE**

Though there may be more misconceptions regarding the legislative process, it is important to understand that knowledge is valuable. Additional information is available at the Legislature's Web site, <http://www.legis.state.wv.us>.

that are more than 30 miles from their home or local Veteran's Affairs office.

**House Bill 4628** would allow qualified employers who create new full-time, permanent jobs that pay at least \$32,000 per year and provide benefits to claim the Economic Opportunity Tax Credit.

**House Bill 4637** would create the Broadband Deployment Council under the West Virginia Infrastructure and Jobs Development Council that would develop a strategy and mechanism to extend broadband internet service to every West Virginian. The council would be authorized to provide consulting services to broadband deployment projects, apply for grant funding, and perform other necessary activities.

**House Bill 4670** would permit the Public Employees Insurance Agency to charge employers 2.5 percent interest per year on premiums not paid on time.

**Senate Bill 747** would create a summer internship program for PROMISE scholars. This internship program would require each PROMISE scholar to register at a Workforce West Virginia Center beginning July 1, 2008. The Governor's Office would recruit businesses, government and nonprofit organizations to participate in the program, which would provide paid summer internships for PROMISE scholars.

**Senate Bill 770** would reduce landfill solid waste assessment fees from \$1.75 to \$1.30 per ton or fraction of a ton for solid waste deposited in landfills that receive more than 570,000 tons of waste during a consecutive three-month period.

**Senate Bill 775** would designate West Virginia's official state parks and forests in the State Code and clarify that statutory authorization is required to close, change the name or designated use of a state park or forest.