

eLoop eXtra

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Tennessee Commission on Aging and Disability

March 2009

Aging Legislative Report

COMMERCIAL LAW

SB1393/HB0914 Charitable Solicitations - As introduced, excludes nursing homes from the charitable solicitation statute. - Amends TCA Title 48. **Caption Bill.**

CRIMINAL LAW

SB0021/HB0081 Elderly Persons - As introduced, establishes a program for senior alert system in Tennessee within the department of safety in cooperation with local law enforcement agencies for assistance in locating certain disabled persons who are missing. - Amends TCA Title 38.(S: B. Marrero/ H: L DeBerry)

SB0532/HB0627 TN Senior Alert Act. Requires the TBI in cooperation with appropriate law enforcement agencies to develop and implement a state-wide alert system to be activated on behalf of missing disabled adults (S: McNally; H: Hackworth)

HB 2081 Safety gun courses after 65. State Summary: Firearms and Ammunition - As introduced, authorizes persons over 65 to obtain a gun carry permit without having to complete a handgun safety course. - Amends TCA Title 39, Chapter 17, Part 13. (H: Towns)

SB1441/HB0457 Tennessee Bureau of Investigation

- As introduced, establishes the Silver Alert system within the TBI to provide statewide information distribution regarding missing person suffering from dementia or other cognitive impairment. - Amends TCA Title 38, Chapter 6, Part 1. Sponsored by Haynes/McDonald

GOVERNMENT ORGANIZATION

SB1171/HB1410 Tennessee Department of Aging Act of 2009. Establishes department of aging to plan, develop and administer programs and services for disabled persons and older persons in this state, including all state activities related to the Older Americans Act. Transfers the duties of the commission on aging and disability to the department. Broadly captioned (13 pp.). (S: Finney L.; H: Ferguson)

SB1048/HB1038 Sunset - TN Alzheimer's disease task force. Sunsets the Tennessee Alzheimer's disease task force on June 30, 2010. (S: Johnson J.; H: Lynn)

SB0455/HB0632 Placement of nursing homes on probation for noncompliance. Specifies that the department of health, through the board for licensing health care facilities, has the authority to place nursing homes on probation for noncompliance. Requires documentation to show that community-based alternatives to long-term care are not desired by an individual or the individual's legal representative prior to nursing facility admission. (S: Overbey; H: Tindell)

SB0459/HB0936 Assessing financing of Option program and long-term care. Requires the select oversight committee on long-term care to annually assess the financing of the Option program and the programs under the Long-Term Care Community Choices Act of 2008 and report to the house and senate standing finance committees. Requires the fiscal review committee to report annually to the oversight committee on long-term care on the financial

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ENVIRONMENT & NATURE

SB2202/HB2345 Game and Fish Laws - As introduced, increases the one-time fee for a lifetime senior citizen sportsman license from \$200 to \$250. - Amends TCA Section 70-2-201. (S: Stewart; H: Fraley)

ESTATES & TRUSTS

SB0444/HB0608 Guardianship or protective proceedings. Enacts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. Clarifies procedures for appointing guardianships. (S: Overbey; H: Stewart M.)

SB0742/HB0168 Guardianship - As introduced, decreases compensation payable to guardians from not more than 7 percent to not more than 5 percent of the amount of moneys received during the period covered by the account. - Amends TCA Title 34. (S: Beavers; H: Casada; . **Caption Bill**

SBHB0170 Wills - As introduced, increases amount of personal property that can be distributed by means of a nuncupative will from \$1,000 to \$10,000 and from \$10,000 to \$50,000 for persons in military service during time of war. - Amends TCA Title 32. (S: Black; H: Casada). **Caption Bill**

HEALTH CARE

SB0015 Elderly Persons - As introduced, establishes a missing senior alert program in Tennessee. - Amends TCA Title 38. Sponsored by Black

HB0201/SB0031 General Assembly, Studies - As introduced, extends the reporting date from February 1, 2009, to February 1, 2010, for the committee to study the effects of litigation on the nursing home industry. - Amends 2008 Public Chapter 1138. Sponsored by: Curtiss/Henry Sontany, Sargent, Black

SB0009 Nurses, Nursing - As introduced, certifies medication technicians who can administer certain medications in nursing homes under the supervision of licensed nurses. - Amends TCA Title 63, Chapter 7, Part 1. Sponsored by Black

SB0277/HB0093 Hospitals and Health Care Facilities - As introduced, requires criminal background checks to be conducted for direct care employees "prior to employment" instead of "prior to employment or within seven days of employment". - Amends TCA Section 68-11-256. (S: Haynes; H Moore)

SB0212/HB0093 ID required receiving prescription drugs. Requires a pharmacist or pharmacy to obtain identification prior to dispensing or delivering a

prescription drug to a person. Also requires pharmacies to maintain a database of persons authorized to pick up the prescriptions of individuals for whom the pharmacist or pharmacy dispenses a prescription. Prohibits a pharmacist or pharmacy from dispensing or delivering a prescription drug to an individual under the age of 18. Allows a physician to sign a waiver authorizing an individual under the age of 18 for whom medication has been prescribed to pick up that prescription. (S: Stewart E.; H: Matheny)

SB0277/HB0093 Criminal background checks for direct care employees. Requires nursing homes to initiate a criminal background check on direct care employees prior to employment. Current law permits the nursing home to conduct such background check prior to employment or within seven days of employment. (S: Haynes J.; H: Moore)

Additional Information:

Additional information on any of the bills in this publication can be found at <http://www.capitol.tn.gov/>.

Bill numbers (ex. SB0015) can be typed into "Find Legislation" field and additional information will be available including the full bill.

SB0209/HB0368 Medical Marijuana Act of 2009. Enacts the "Medical Marijuana Act of 2009" requiring the department of health to establish and maintain a voluntary program for issuance of identification cards to qualified terminal patients who satisfy specific requirements for medical marijuana. Requires the department of health to maintain a 24-hour toll-free number intended to allow state and local government law enforcement officers to have immediate access to information necessary to verify the validity of an identification card, until a web-based system can be developed for this purpose. Declares that no person designated as primary caregiver in possession of a valid identification card will be subject to arrest for possession of medical marijuana unless reasonable cause to believe that the information on the card is false. Requires a person who seeks an identification card to pay a fee. Declares that an identification card is valid for a period of one year. Creates a Class B misdemeanor for first offense by a physician in regards to discussion or recommendation of unlawful use of marijuana to a patient. Creates Class A misdemeanor for second offense of the same kind. Subjects a person to the same punishments for fraudulently representing a medical condition or fraudulently providing any material misinformation to a physician. (S: Marrero; H: Richardson)

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SB0455/HB0632 Placement of nursing homes on probation for noncompliance. Specifies that the department of health, through the board for licensing health care facilities, has the authority to place nursing homes on probation for noncompliance. Requires documentation to show that community-based alternatives to long-term care are not desired by an individual or the individual's legal representative prior to nursing facility admission. (S: Overbey; H: Tindell)

SB0459/HB0936 Assessing financing of Option program and long-term care. Requires the select oversight committee on long-term care to annually assess the financing of the Option program and the programs under the Long-Term Care Community Choices Act of 2008 and report to the

and program impacts of the nursing home bed tax. (S: Black; H: Ferguson)

SB0464/HB0450 Random drug testing requirement for nursing home staff. Requires nursing homes to conduct random drug testing for direct care staff at least once a year in addition to conducting initial criminal background checks. (S: Harper; H: Pruitt) Caption Bill

SB0465/HB0448 Personal needs allowance increased. Raises the amount of personal needs allowance to \$50.00 from \$40.00 for long-term nursing home residents. Sponsored by Harper/ Pruitt

SB0466/HB449 Hospitals and Health Care Facilities As introduced, requires the commissioner of health to submit an annual report to the governor and the speakers of the general assembly by February 1 each year regarding nursing home inspection and enforcement activities and to make recommendations to improve the quality of care and quality of life in nursing homes. - Amends TCA Title 4; Title 7; Title 29; Title 33; Title 67; Title 68 and Title 71. Sponsored by Harper/Pruitt **Caption Bill**

SB0774/HB1110 Calculation of out-of-pocket costs for prescription drugs. Establishes a methodology and disclosure duties for health insurance entities and pharmacy benefits managers concerning calculation of out-of-pocket costs for prescription drugs. (S: Overbey; H: Shepard)

SB0914/HB1268 Exemptions to the Long Term Care Community Choices Act. Exempts the Greater Nashville Council of Governments and the Upper Cumberland Development District from being included in the fully integrated risk-based long-term Care system developed under the Long Term Care Community Choices Act of 2008 for HCBS Medicaid waiver services and case management services. (S: Burks; H: Fincher)

SB1146/HB1596 Accreditation of home medical equipment provider. Deletes requirement that a home medical equipment provider be accredited by the joint commission on accreditation of health care organizations. (S: Gresham; H: Lynn)

SB1213/HB1106 Qualifying for hospice care. Clarifies that existing residents as well as new admissions qualify for hospice care in an assisted-care living facility. Clarifies that hospice services are pursuant to a patient care plan. (S: Black; H: J. DeBerry)

SB1426/HB1706 Healthcare Freedom of Conscience Act. Enacts the "Healthcare Freedom of Conscience Act." Allows health care providers to choose not to participate in the performance of a health care act that violates their conscience. Clarifies that such health care acts includes, but is not limited to, abortions, euthanasia, fetal experimentation, and physician-assisted suicide. Prohibits discrimination against individuals or institutions that decline to perform certain medical procedures or acts. (S: Stanley; H: Hensley)

SB1462/HB1559 Nashville facility for deaf and hard of hearing. Directs the department of finance and administration to work with deaf and hard of hearing organizations to provide a suitable facility in Nashville for deaf and hard of hearing persons. (S: Haynes J.; H: West)

SB 1523/HB1276 In-line oxygen arresters for nursing homes. Requires in-line oxygen arresters to be installed in a nursing home or assisted-living facility when the fire marshal determines in a fire risk assessment such arresters would be useful and practical in promoting fire safety. Requires in-line oxygen arresters to be installed within six months of determination by fire marshal. (S: Burchett; H: Ferguson)

SB1991/HB2078 Administering medication in assisted care living facilities. Requires the board for licensing health care facilities to develop rules and regulations for a program for training, certifying and regulating certified medication technicians to administer medications to residents of assisted care living facilities and residential homes for the aged. (S: Marrero; H: Ferguson)

SB2019/HB1737 Services for elderly persons. Requires department of health to submit to governor and general assembly no later than March 1 an annual report on nursing home inspection and enforcement activities. Requires department of human services to submit to governor and general assembly no later than March 1 an annual report on the department's adult protection activities. Broadly captioned. (S: Faulk; H: Fincher)

SB2071/2337 Requirements for home health companies. State Summary: Health Care - As introduced, establishes requirements for home health companies to provide assistance with medication to clients; requires background checks of employees, recordkeeping, and waiver. - Amends TCA Title 63, Chapter 7 and Title 68. (S: Burks; H: Winningham)

SB2072/HB2004 Protective services for disabled adults. State Summary: Disabled Persons - As introduced, revises standards under which the department of human services must seek authorization to provide protective services for disabled adults. - Amends TCA Title 34 and Title 71, Chapter 6. (S: Burks; H: Curtiss)

HJR 0113 Caregiving and cognitive modules for the 2010 BRFSS. Urges department of health to add caregiving and cognitive modules to the 2010 BRFSS. (H: Armstrong)

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HJR 0113 Caregiving and cognitive modules for the 2010 BRFSS. Urges department of health to add caregiving and cognitive modules to the 2010 BRFSS. (H: Armstrong)

TAXES GENERAL

HJR0003 Constitutional Amendments - - Proposes an amendment to clarify the constitutional language that currently prohibits the levying of a tax on any class of income, other than income derived from stocks and bonds, and to prohibit any tax levied on or measured by employer payrolls. Sponsored by: Kelsey Lundberg, Shipley, Williams, Ford, Hill, Harrison, Montgomery, Haynes, Niceley, Brooks H, Watson, Bell, Brooks K, Swafford, McCormick, Floyd, Dean, Cobb J, Faulkner, Weaver, Maggart, Matheny, Carr, Harwell, Lynn, Sargent, Casada, Evans, Johnson C, Hensley, Dennis, McDaniel, Eldridge, Johnson P, Halford, Rich, Todd, McManus, Coley, Lollar,

SB0082/HB0984 Hall income tax exemption increased. Increases the Hall income tax exemption for taxpayers 65 years of age or older from \$16,200 to \$36,000 of income from all sources for single filers. Also increases the Hall income tax exemption for taxpayers 65 years of age or older from \$27,000 to \$60,000 of income from all sources for taxpayers filing jointly. (S: Stanley; H: McManus)

SB0082/HB0345 Hall income tax exemption for certain persons over 70. Exempts from the Hall income tax a person who is 70 years or older having a total annual income derived from all sources that is less than one-half of the per capita income in Tennessee for the prior calendar year. Also exempts from the tax any persons who file a joint return and either spouse is 70 years of age or older having a total joint income derived from any and all sources that is less than one-half of the per capita income in Tennessee for the prior calendar. (S: McNally; H: Hackworth)

SB0561/HB0953 Hall income tax deduction. Authorizes a Hall income tax deduction for premiums paid by the taxpayer for long-term care insurance for the taxpayer or the taxpayer's spouse or dependent. (S: Norris; H: Harwell)

SB0574/HB0594 Inheritance tax - maximum single exemption. Increases from \$1 million to \$3.5 million the maximum single exemption allowable for determining the net taxable estate for inheritance tax purposes for 2009 and subsequent years. (S: Jackson; H: Coleman)

SB0696/HB1540 Phasing out of inheritance tax. Phases out the inheritance tax over a four-year period beginning January 1, 2010, by incrementally reducing the amount of the tax each year. For decedents who died in 2014 and thereafter, no such tax applies. (S: Southerland; H: Litz)

SB0785/HB1878 Gift tax exemption. Eliminates distinction between Class A and Class B donees for gift tax purposes. Increases gift tax exemption by linking Tennessee law to federal gift tax exemption. Sets tax rate for all gifts to current rate for Class A (family member) donees. (S: Overbey; H: McDaniel)

SB1200/HB1209 Inheritance tax - federal exclusion. Adopts amount of federal exclusion as amount of inheritance tax exemption for decedents dying in 2009 and thereafter. (S: Tracy; H: Litz)

SB1699/HB1879 Revisions to gift and inheritance tax exemptions. Specifies that for the sole purpose of determining net gifts under the gift tax exemption provision, there must be allowed against the net gifts a maximum cumulative lifetime single exemption of an

amount equal to \$1,000,000. Clarifies that the maximum single exemption permitted under inheritance tax credits provisions must be reduced by an amount equal to the exemption in the gift tax to the extent that it was applied to reduce the decedent's net gifts. (S: Overbey; H: McDaniel)

TAXES PROPERTY

SB0187/HB0287 Freezing of property taxes. Creates a property tax freeze program for eligible taxpayers who are totally and permanently disabled. Requires applicants to meet requirements for total and permanent disability under the rules and regulations adopted by the state board of equalization. Creates a Class A misdemeanor for any taxpayer who knowingly provides false information concerning disability or other information relative to eligibility for the program. (S: Harper; H: Gilmore)

SB0517/HB0523 Tax relief program for low-income elderly homeowners. Increases the maximum allowable income for determining eligibility to participate in the tax relief program for elderly low-income homeowners or the tax relief program for disabled homeowners to \$26,500 beginning in tax year 2010. Broadly captioned. (S: McNally; H: Fitzhugh) Caption Bill

SB0755/HB1177 Eligibility for property tax relief for elderly, disabled. Provides that income attributable to a property owner for purposes of determining eligibility for property tax relief for elderly or disabled homeowners includes the income of a spouse if a joint federal income tax return was filed. (S: Johnson J.; H: Sargent)

HB0047 Taxes, Real Property - Amends TCA Title 67, Chapter 5, Part 7. - As introduced, enacts a property tax freeze for homeowners totally and permanently disabled. Sponsored by: Gilmore

TAXES SALES

SB710/HB0007 Taxes, Sales - Amends amend TCA Title 67, Chapter 6. - As introduced, reduces sales and use tax on food and food ingredients from 5.5 percent to 4.5 percent. (S: Stanley; H: Hardaway)

TENNCARE

SB0460 TennCare - As introduced requires the commissioner of finance and administration to report to certain legislative committees concerning effects of the nursing home transition initiative and authorizes the select oversight committee on long-term care to review outreach efforts relating to the Options program for community-based long-term care. - Amends TCA Title 68 and Title 71. (S: Black; H:L. Finney)

SB0763/HB0546 Federal waiver for personal health accounts program. Directs the commissioner of finance and administration to submit to the federal Centers for Medicare and Medicaid services a waiver amendment to the existing TennCare waiver or to submit a new waiver to use personal health accounts. Sponsored by Crowe; Kelsey/Hensley

SB0851/HB1114 Providing of home health care services. Requires home health care services to be provided in the recipient's home and also requires such service to follow the recipient into the community for purposes of outpatient medical appointments, educational functions, employment and religious services. (S: Black; H: Shepard)

SB2100/HB2167 Funding available for healthcare services to hospitals. Sets the 2007-2008 fiscal year funding level as a floor beneath which total funds available for healthcare services to hospitals through the TennCare program may not fall. (S: Burchett; H: Armstrong)

TORT LIABILITY

SB0076/HB0289 Tort Liability and Reform - As introduced, replaces the term "medical malpractice" with "health care liability action" and revises provisions concerning damages, attorney fees, and other matters in such actions. - Amends TCA Title 29, Chapter 26, Part 1(S: Stanley; H: Kelsey

SB2160/HB2243 Tort actions involving long-term care facilities. State Summary: Tort Liability and Reform - As introduced, requires a survey of patients and families concerning satisfaction with performance of a long-term care facility; imposes certain requirements on tort actions involving a long-term care facility. - Amends TCA Title 29 and Title 68. (S: Tracy; H: Lundberg)

SB2109/HB2233 Noncompliance - medical malpractice filings. Adds the necessity of showing by clear and convincing evidence to the extraordinary good cause needed for a court to excuse noncompliance with certain requirements for medical malpractice filings. (S: Overbey; H: Coleman)

TRANSPORTATION

SB1067/HB1372 Expedited driver services to disabled or frail or pregnant. Requires driver service centers to provide expedited services, upon request, to the extent reasonably possible to persons who are physically disabled or visibly pregnant or frail. (S: Marrero; H: Kernell)

