



Capital Eye

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Three Weeks Down, Five To Go

As the session nears the halfway point, the “bold” frantic pace that characterized its first 2 weeks has slowed to a more deliberate tempo. With this much time lapsed, the world wonders why the overweight coal truck issue hasn’t been addressed.

And, while most of the legislative world watched the tort reform, workers’ comp and tobacco tax issues, two of the most self-serving special interest groups plotted and schemed new legislation.

Coal is expected to “sneak” a yet to-be-introduced bill through the Senate making it impossible to pass state environmental laws stricter than federal minimums. In such a scenario, our state could not decide that it wanted its streams to have a higher water quality than, say, New Jersey. We would also be subject to reclamation standards applicable to Wyoming or Illinois. Air quality laws would sink to the lowest national common denominator, thus ignoring our unique topography and tight river valleys prone to weather inversions. It’s states’ rights in reverse and the irony is that it is being promoted by those usually carrying the state sovereignty banner.

Also, watch for the gambling industry to introduce bills that increase the scope and magnitude of legal “gaming” next week.

Thanks for your e-mails, calls and notes they are welcome and sustaining. Stay tuned.

This Just In.....

The Senate Finance Committee will hold a **Public Hearing** on the **Medical Malpractice** bill this **Monday, February 3** at 4 PM. Please e-mail or call Chairman Helmick to let him know how you feel about this issue and ask him to remember that consumers and victims have rights, too, not just insurance companies and doctors.

WV-CAG To Appeal Bond Case

Monday night, after consulting with lawyer Larry Harless, the WV-CAG Board voted to appeal its bond case to the state Supreme Court. The decision to appeal the \$200 million bond GRANTS for economic development was made with the caveat that the action would be made within a week. This will underscore the fact that the appeal is based on the case's merits and not as a tactic to delay certain time-sensitive projects. Our lawsuit has always been based on the constitutional issues of separation of powers, due process and the legality of public money gifted to private concerns. Never was it intended to be a vehicle to kill projects by delay.

The board's decision was difficult as some CAG members have expressed opposition and others support of the suit. Even among our Wheeling and Charleston members no apparent consensus exists. Late last week the Kanawha County Commission filed suit against WV-CAG asking for the posting a \$25 million bond if we appealed. Interestingly enough, after negative media reaction and the realization that such a bond requirement would probably cause further delays, the county dropped its suit the next working day. It is the Board's hope that the Supreme Court quickly hears our appeal.

Workers' Comp Rally

The West Virginia AFL-CIO is having a rally at the Capitol on Monday, February 3 at 1 PM. The rally will address the Workers' Comp. bill and other issues facing West Virginia workers. Please come to the upper rotunda area in front of the Robert C. Byrd statue.

The proposed workers' comp. bill will take away benefits from injured workers and make permanent total disability benefits very difficult to obtain for deserving workers that are injured on the job. We cannot allow this debt to be balanced on the backs of working West Virginians.

“You can't straddle the fence and still keep your ear to the ground.”

James McSheehy, member of the San Francisco Board of Supervisors

Advocates Urge Passage of ATV Bill

House Bill 2121 - called the "All-Terrain Vehicle Safety Act" is now being considered by the full Senate. In its present form it:

- Requires helmets on all users under age 18 on both private and public land.
- Limits the roads that can be used to those without a center line.
- Gives the managers of parks, forests, rail trails, wildlife management areas, etc. authority to limit their use.
- Gives cities and counties the option of further regulating (or even banning) ATVs in their jurisdictions.
- Prohibits those under the age of 17 from having passengers. For others that can have passengers, they must have their feet secured on the foot board or runner. (This prohibits small kids that cannot reach the foot board, or kids sitting on laps.)
- Requires all operators under 18 have to go through safety training and receive a certificate.

The National Association of Social Workers and many children's advocates would like to see more stringent safety measures, but feel that this is the strongest bill that can pass and are urging its passage. **Action Needed:** Contact ALL members of the Senate, and urge them to vote YES on the Committee Substitute for HB 2121.

You can e-mail or print letters to legislators, as well as get updates on legislative issues, through the on-line Legislative Action Center on Children and Families (see site below).

Legislative Action on Children & Families

Try as we might there are just not enough eyes, ears, hands or feet here at WV-CAG to cover all the issues addressed at the legislature. For those interested in children's issues, we recommend the following web page from Prevent Child Abuse-WV directed by Julie Pratt, a long-time children's advocate. There you will find info on bills to improve CHIP insurance, ATV's, the fight to save the Cabinet of Children & Families and more...<http://capwiz.com/pca/wv>

Spin Docs & Insurance Bucks Push “Tort Reform” Through Judiciary: Bill goes from gawd awful to just awful

by Gary Zuckett, garyz@wvcag.org

Senate Judiciary toned down HB2122, (welfare for the insurance industry bill) from, in the words of one observer, “gawd awful to just awful,” and passed the bill on to Senate Finance. Finance will take up the bill next week.

Here are the “improvements”:

- The cap on “non-economic damages” raised from \$250,000 to \$500,000 in cases of wrongful death, permanent disability or loss of limb;
- Tightens the application of the \$500,000 “Trauma Cap” for emergency care in hospitals, but extends the cap to emergency squads;
- Eliminates the periodic payment requirement for large jury awards;
- Reduces the 50% threshold to 25% on the chances that the patient would have survived if not for the malpractice;
- Requires the funding of a “Patient Injury Compensation Fund” by the legislature before the rule eliminating “joint liability” goes into effect;
- Tinkers with the “collateral source” rule that allows jury awards to be reduced by the payments from the victims own insurance (adding insult to injury);
- Sunsets (eliminates) all caps and limits if doctors fail to set up their own Physician’s Mutual Insurance company by 9/04.

All in all, this is still a draconian bill that “blames the victim” for the docs problems in getting malpractice insurance. It does nothing to improve the quality of care or reduce malpractice. The Chair of Judiciary admits it will not reduce malpractice costs for docs. It does nothing to reform insurance regulation in WV, instead provides for windfalls to the industry in reduced costs without reducing rates.

The Senate Finance Committee is perceived as “business friendly” and may undo the moderate improvements of Judiciary. Its membership can be found on the legislative web page at www.legis.state.wv.us - look under the Senate on the left hand menu. Remember to send a message to your individual senators from our home page at www.wvcag.org or the victim’s rights page at www.wvcag.org/victimrights . The message can be

any or all of these: “Vote no on HB2122” “Don’t fix med mal on the backs of victims” “Eliminate caps on jury awards for injured patients” “Put ‘joint liability’ back in” “Don’t undo Judiciary’s amendments” “no more welfare for insurance companies” Take your pick.

Clean Elections “Ambassador” to Visit

by Julie Archer, julie@wvcag.org

Citizens for Clean Elections is very pleased to host a Clean Elections “ambassador” from Maine. Please join us at the University of Charleston on Sunday, February 2 at 7:30 pm for a reception and discussion on Clean Elections. The reception will be held in the 2nd Floor Art Gallery in the Geary Student Union. Our featured speaker will be Representative Boyd Marley (D), Maine.

Representative Marley was just re-elected to his second term in the Maine Legislature where he represents part of Portland, Maine’s largest city. Boyd was one of the first Clean Elections candidates to be elected to public office. He is a special education teacher and serves on the Legislature’s Transportation Committee. Boyd has served on numerous local boards and has been honored for his work both as an educator and a legislator. These awards include 2002 Transportation Safety Champion Award, 2001 Legislator of the Year by the Maine Bicycle Coalition and 1997 Teacher of the Year Community Recognition Award. During his 2002 campaign, Representative Marley was endorsed by a wide variety of organizations including the Maine League of Conservation Voters, the Maine Council of Senior Citizens-Alliance for Retired Americans, Maine Education Association, Maine AFL-CIO, Maine NOW and the Maine Bank PAC.

Please join us for this exciting event. Light refreshments will be served and information will be available on the West Virginia Clean Elections Act, SB 158 and HB 2527. If you can’t make it, listen for Representative Marley on TalkLine with Hoppy Kercheval starting at 11:30 am on Monday, February 3, or see him on Legislature Today on West Virginia Public Television at 6:30 pm or 11:30 pm.

Coal Truck Legislation Update

by Julie Archer, julie@wvcag.org

There have been five bills introduced this session relating to coal trucks and commercial vehicles. HB 2067, that would require law-enforcement officers investigating accidents involving commercial vehicles to include the weight of those vehicles in the accident report, and HB 2193 which would require coal companies to report the weights of the trucks they load to the Department of Transportation are still pending in the House Judiciary Committee. HB 2493, Delegate Caputo's comprehensive bill to provide for increased enforcement and other regulatory provisions for coal trucks is pending in the House Committee on Roads and Transportation.

Two other bills introduced last week have also been assigned to Roads and Transportation. HB 2458, sponsored by Delegates Dale Manuel and Greg Butcher provides for mandatory covering of any vehicle hauling coal, gravel, wood chips or other similar materials, in order to prevent these materials from escaping. Truck owners and operators who fail to contain their loads could be fined up to \$250. HB 2462, sponsored by Delegate Sally Susman, would require commercial vehicles to have the name of the company prominently displayed. This legislation would make it easier for other drivers to file complaints, either with the company or with enforcement agencies, against bad or wreckless drivers.

Bottle Bill Update

by Linda Mallet, linda@wvcag.org

This week we continued to work with Delegate Doyle and Senator McCabe to get co-sponsors for the WV Container Recycling and Litter Control Act of 2003, AKA the WV Bottle Bill. We have lined up several sponsors including Senators Hunter and Unger and Delegates Canterbury, Frich, Poling and Webster, and plan to get more co-sponsors signed on soon. We expect the bill to come out of drafting next week and once we have a bill number we will let you know! Remember, to sign our on-line petition in support of a WV Bottle Bill, please log on to www.wvcag.org/bb_petition.htm

Announcements/Events

"Bowling For Columbine" - A Michael Moore Film about Columbine High School and Violence in America, **February 4**, 6:30 pm & 9:00 pm (2 showings) \$6.00 a person. Old Capitol Theatre, 123 Summers Street, Charleston, WV. Come out and see what will probably be the only public screening of this film in West Virginia.

Contact Your Legislators:

To e-mail your legislators or the governor, simply go to www.wvcag.org, scroll down on the left side of the home page and follow the steps. It's simple! Or you can call your legislators and the governor toll-free at 1-888-438-2731 or 1-877-565-3447.

Come to the Capitol on Tuesday, **February 25** for the West Virginia Environmental Council's annual **E-Day!** event. There will be displays from environmental organizations from across the state. Please take this opportunity to come to the Capitol to talk to your legislators about what's important to you!

Coal Bucket Outlaw, February 27, 7PM, John W. Eye Conference Center, Mountain State University, Beckley. Free. Discussion to follow. This film details how the Kentucky coal industry fares under a 120,000 lb. weight limit (strangely enough, it sounds a lot like the story in West Virginia).

Now is a great time to renew your membership or send in a little something extra to help get us through the Session. Remember, it's easy to donate on-line at www.wvcag.org. Or clip and snail mail to 1500 Dixie St., Charleston, WV 25311:

Name: _____

Address: _____

Here's my donation of \$ _____

Send me action alerts at my e-mail: _____

What's the Buzz?

by Phanny High There! Our Eye On Gossip

Sometimes writer's block creeps in, especially when one is working under a deadline. Could it be possible that there isn't any gossip to relay to my readers? With a downward-spiralling economy, a Commander-in-Chief with some score-settling in mind, and some of us not feeling all that proud to be an American, do you care about the sordid bits of human interest news I pass along? Last year I talked about hawks vs. squirrels and world leaders choking on snack foods. This year those types of things don't seem as important somehow.



But, in follow-up to my catty "baldness" theme over the last couple of issues, here are some tips I'd like to pass along. In the First Century, many believed that boiling snakes and rubbing the broth into bald areas would cause hair to grow. Not quite so far back, in 17th-century Scotland, pharmacists were taught that if a someone washed his head with dog urine, he would no longer be bald. Hey, couldn't hurt! Let us know if you have any success.

In the "Is It Really A Word and If It Is, Should It Be?" category, HB 2796, introduced this week, would create the crime of possession of **burglarious** tools.

And, as you probably know, George Bush is advocating "tort reform" on a national level. His leadership on this issue is decisive, as shown in this statement he made last year regarding the McCain-Kennedy patients' bill of rights: "I haven't had a chance to talk, but I'm confident we'll get a bill that I can live with if we don't." If anyone can figure out what he means, please let us know.

West Virginia Citizen Action Group (WV-CAG) publishes Capital Eye during the Legislative Session. You can visit our website at www.wvcag.org, call us at 304-346-5891 or e-mail us at linda@wvcag.org to give us your comments and suggestions and to become a member. Since 1974, WV-CAG has been a nonprofit membership organization dedicated to increasing citizen participation in economic and political decision-making. By educating people about key public interest issues and involving them in the decisions that affect their lives, WV-CAG works for progressive changes in federal, state and local policies - ranging from environmental protection and consumer rights to good government and health care reform. Thank you for your support!