

Local Preemption Bill Summaries

2021/2022 Legislative Session

Distracted Driving Prohibition

[House Bill 37](#), introduced by Representative Rosemary Brown, would amend Title 75 (Vehicles) prohibiting the physical use of an interactive wireless telecommunication device while driving.

This bill would expand the definition of “interactive wireless telecommunication device” to include playing games, taking or sending pictures, recording or broadcasting videos, sharing social media or other means of sending or receiving electronic data. The definition would not include devices being used for emergency and commercial purposes.

Drivers operating a vehicle on a highway or trafficway would be prohibited from physically using an interactive wireless telecommunication device. Exceptions would be provided for hands free ability to place a call or send a text message, such as through blue tooth. The bill would further set penalties for violating the prohibition, and provide for a six month warning period. It would also require new drivers receive distracted driving training, as well as including at least one distracted driving question on the driver’s license exam.

Lastly, this bill would include a provision preempting and superseding all municipal ordinances with regard to the use of interactive wireless communication devices by any driver of a vehicle.

Preempting Municipalities from Enacting Rent Control

[House Bill 136](#), introduced by Representative Greg Rothman, would amend the Landlord and Tenant Act preempting local governments from enacting rent control.

This bill would prohibit municipalities from enacting, maintaining or enforcing an ordinance, rule or resolution that would: have the effect of controlling the amount of rent charged for leasing private residential or commercial property; have the effect of establishing a maximum sales price for a privately produced unit or residential building lot; and have the effect of prohibiting or limiting the right of a landlord, owner, agent or other person operating or managing a residential rental property, or a resident party to a lease contract, from declining to enter into a new lease contract at the end of the current lease contract's term.

A municipality may enact, maintain or enforce any zoning regulation or ordinance in effect or created on or after the effective date of this bill. This bill would not limit a municipality from the right to manage and control a property in which it has a property interest, and a municipality would be able to develop an incentive program for low-cost residential and commercial properties.

Lastly, this bill would not apply to properties in a land bank program or to a property with any requirements adopted by a municipality as a part of a development agreement entered into before the bill's effective date.

Restriction on Local Regulation of Agritourism Act

[House Bill 216](#), introduced by Representative Todd Polinchock, would create the Restriction on Local Regulation of Agritourism Act.

An "agritourism activity" would be defined as a farm-related tourism or entertainment activity that takes place on agricultural land that allows members of the public to tour, explore, observe, learn about, participate in or be entertained by an aspect of agricultural production, harvesting, husbandry or rural lifestyle on the farm. The term would not include overnight accommodations, weddings, concerts or provisions for food and beverage.

The bill would restrict a local government from prohibiting the use of agricultural land for any of the following: agricultural purposes or construction of structures for agricultural purposes; an agritourism activity; a limited seasonal event; an activity that requires a limited license; a retail food facility; a wedding; or a musical event accompanying any of the previously listed activities. Local governments would be able to regulate the size of the structure used for an activity, the size of the parking lot, the property line setback for the activity's structure, and where necessary, to ensure a safe egress and ingress for the public.

Preemption of Local Firearm Control

[House Bill 979](#) and [Senate Bill 448](#), introduced by Representative Matthew Dowling and Senator Wayne Langerholc respectively, would amend Titles 18 (Crimes and Offenses) and Title 53 (Municipalities Generally) preempting local regulation of firearms.

A municipality would be prohibited from imposing firearm regulations in a more restrictive manner than state law. In addition to this preemptive language, a third party individual or member organization adversely affected by such an ordinance would be able to seek relief by providing 60 days notice of intent to file a claim. If the court rules in favor of the third party individual or member organization, the municipality would be responsible for paying their reasonable expenses, including but not limited to attorney fees, expert witness fees, court costs and compensation for loss of income.

Single-Use Plastic Straw Ban

[House Bill 1194](#), introduced by Representative Mary Daley, would amend Title 27 (Environmental Resources) prohibiting single-use plastic straws.

Food establishments and retailers, as defined in the bill, would be prohibited from selling or providing single-use plastic straws except upon specific request from a customer. The Department of Environmental Protection (DEP) would provide a process for receiving complaints for violating the bill and provide for penalties for each violation by a food establishment or retailer. DEP would make regulations necessary to implement the bill.

Lastly, the bill would preempt any ordinance or resolution adopted by a municipality to the extent that the ordinance or resolution conflicts or is inconsistent with this bill.

Public Utility Preemption of Local Government

[House Bill 1947](#) and [Senate Bill 275](#), introduced by Representative Tim O’Neal and Senator Gene Yaw respectively, would amend Title 53 (Municipalities Generally) preempting municipalities regarding utilities and sources of energy.

A municipality would be prohibited from adopting a policy that restricts, or has the effects of restricting or prohibiting: the connection or reconnection of a utility service based on the type or source of energy; the ability of an individual or entity within the municipality to use an authorized utility services provider; and municipal policy may not discriminate against a utility service provider based on the nature or source of the utility service provided to consumers.

This bill would also include language that would preserve municipal authority to manage or operate a publicly owned utility; reduce greenhouse gas emissions from municipal facilities and operations; and to exercise land use authority in accordance with the Municipalities Planning Code. Senate Bill 275 is companion legislation and has similar language.

House Bill 1947 was voted out the Local Government Committee on October 26. Chairman Robert Freeman attempted to amend the bill to narrow its language and remove the term “policy” and replace it with municipal ordinance or resolution. The proposed amendment ultimately failed and the bill was reported out of Committee in a party line vote. Please view the [recording](#) of the meeting and specifically view Chairman Freeman’s comments (at the 20 minute mark) regarding why House Bill 1947 is unnecessary.

Constitutional Amendment: Tax and Fee Ballot Questions

[House Bill 2432](#), introduced by Representative David Rowe, is a Joint Resolution that would amend the Constitution requiring a question be placed on each primary ballot regarding the increase, expansion or new taxes or fees enacted since the previous primary election by the Commonwealth, a municipality or an authority. The Commonwealth, a municipality or an authority may not establish the new tax or fee, or increase or expand an existing tax or fee if the electorate disapproves. The General Assembly may override the disapproval of the electorate with a two thirds vote.

This legislation is a Joint Resolution. This means that it must pass the General Assembly in two separate legislative sessions and be advertised upon each passage in every county in the Commonwealth, followed by acceptance by the voting electorate at a primary, general or municipal election to successfully amend the Constitution.

Public Monument Protection and Preemption

[Senate Bill 293](#), introduced by Senator Doug Mastriano, would amend Title 18 (Crimes and Offenses) would prohibit the permanent removal of a public monument, including state or

municipal monuments established with state funds, unless the removal of the monument is approved by the General Assembly.

The bill would set a range of penalties for the desecration of a public monument. If a monument is desecrated or removed, the district attorney would have prosecutorial authority for a monument located on municipal property and the Attorney General would have prosecutorial authority for a monument on state property. A person convicted of desecrating a public monument, in addition to the penalty and other fees, would be responsible to pay restitution in an amount equal to the property damage.

The bill includes a provision stating that a municipality may not adopt a policy that prohibits the enforcement of the bill, and if a municipality does not enforce the bill, the municipality would forfeit any monies from the State Treasury including state grants. State funding would be reinstated only if a municipality agrees to enforce the bill.

Banning Car Boots and Locking Devices

[Senate Bill 796](#), introduced by Daniel Laughlin, would amend Title 53 (Municipalities Generally) adding preemptive language prohibiting municipalities from adopting or enforcing an ordinance or resolution authorizing the municipality to place locking devices on either a vehicle's wheels or steering wheel within its jurisdiction.

App-Based Workers Benefits and Protections Act

[Senate Bill 949](#), introduced by Senator Devlin Robinson, would create the App-Based Workers Benefits and Protections Act and fund.

The fund would be established in the Department of Treasury and members of the fund would be composed of the delivery and transportation network companies in the Commonwealth. These networks must register with the Public Utilities Commission and pay an initial \$20,000 fee to do business in the state. The payment of the fee would enroll the network as a member of the fund. Each network shall make a quarterly contribution to the fund in an amount equal to two percent of the annual workers' earnings.

The bill would also establish the Portable Benefits Fund Board, which would be responsible for creating a system for delivery of portable benefits to network couriers and drivers detailed in the bill, such as income replacement, workplace insurance and legal protection from discrimination.

Any local law, ordinance, rule or regulation governing the relationship between a network and app-based worker would be preempted.

Highly Automated Vehicles

[Senate Bill 965](#) and [House Bill 2398](#), introduced by Senator Wayne Langerholc and Representative Donna Oberlander Respectively, would amend Title 75 (Vehicles) allowing for the testing and deployment of highly automated vehicles (HAV) and directs PennDOT to develop regulations and guidelines consistent with the legislation.

Current law prohibits HAVs from operating without a licensed driver in actual physical control of a vehicle. These bills would remove this barrier by allowing a HAV, including commercial vehicles, to be operated with or without a driver on board. Specifically, the bills would authorize the operation of a HAV by either a human driver, a human driver in a remote location or exclusively through automation.

Before operating a HAV with or without a driver on a highway, the vehicle's owner would be required to obtain no more than \$5 million in insurance. Additionally, the bills provide requirements for reporting accidents involving a HAV, as well as specifying how law enforcement would cite a HAV with or without a driver. The bill also incorporates international standards from the Society of Automotive Engineers regarding the design, safety and operation of HAVs.

Lastly, local governments would be preempted from adopting a policy, rule or ordinance that regulates the operation of HAVs.