

Michigan Legislation Update

RECENTLY ENACTED MICHIGAN LAWS



Karen M. Daley

Expansion of Off-Road Vehicle Use

A new law now allows all 83 counties in Michigan to adopt an ordinance allowing for the operation of off-road vehicles (ORVs) on the shoulders of state highways located within their jurisdiction. To be eligible, a local unit of government would have to submit, and have granted, a request to the Michigan Department of Transportation (MDOT). If a local unit

of government is granted permission and adopts such an ordinance, a person may operate an ORV with the flow of traffic on either the right shoulder of the highway, or if there is not a right shoulder or the shoulder is not wide enough, on the right unmaintained portion of the highway.

A township that has authorized the operation of ORVs on a county road does not have a duty to maintain the county road in a condition reasonably safe and convenient for the operation of ORVs. The state also does not have a duty to maintain a highway in a condition reasonably safe and convenient for the operation of ORVs. A board of county road commissioners, a county board of commissioners, or a municipality does not have a duty to maintain a county road or street under its jurisdiction in a condition reasonably safe and convenient for the operation of ORVs, except for the operation of the following: (a) ORVs registered as motor vehicles; and (2) ORVs operated by the permanently disabled.

Hunting and Fishing Fee Hikes

Michigan hunters and anglers will see their first significant fee increase in more than 15 years under a law recently signed by Governor Snyder. The fees, which are expected to generate 40 percent more revenue, will start March 1, 2014 and include a new "base" hunting license costing \$11 for in-state residents,

with lower rates for youths and seniors. Out-of-state hunters will be charged \$151. The base license will pay for hunting waterfowl, migratory birds and small game like rabbits.

When the new fees take effect, Michigan will have 42 hunting and fishing license fees instead of the 227 it has currently. In-state residents will be able to buy a combination license that includes a base hunting license, two deer licenses and an all-species fishing license for \$75 or \$265 for out-of-state resident. Anglers will no longer choose between a restricted or all-species license – all fishing licenses will be all-species. A 24-hour fishing license will increase from \$7 to \$10, while the fee for a seasonal all-species license will drop from \$28 to \$25 for Michigan residents, but rise from \$42 to \$75 for out-of-state anglers.

LEGISLATION TO WATCH

Emergency Cost Recovery for Municipalities

Legislation recently considered by the House would allow a municipality to charge certain specified costs of emergency and rescue services to an individual who was rescued during a state of emergency when the rescue was required due to grossly negligent conduct by the individual.

House Bill 4856 specifies that if a municipality or the governor declares that a state of emergency exists in a municipality, and emergency and rescue services are provided to rescue an individual during that state of emergency for conduct by that individual that is grossly negligent, then the municipality may charge that individual for the cost of providing those emergency and rescue services.

House Bill 4857 specifies that a municipality may only charge an individual for the cost of providing the following emergency

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Michigan Legislation Update (cont.)

and rescue services in relation to the rescue event: salaries, wages, or other compensation of fire department and emergency medical service personnel for time spent in responding to and providing firefighting, rescue, and emergency medical services; and the medical supplies lost or expended during the rescue.

The bills are tie-barred to each other, which means neither can take effect unless both are enacted into law. The bills have been referred to the Committee on Local Government for analysis.

Protecting Child Care Centers

Currently, sex offenders are prohibited from working or loitering within 1,000 feet of a school. New legislation will expand this prohibition to include child care centers. Under the bills unanimously approved by the Senate, sex offenders could go near a child care center if they are taking their child to the center or meeting with an employee regarding their child. Violators would be subject to up to one year in jail and fines. The legislation now heads to the House for consideration.

Refusal of Adoptions Based on Religious Beliefs

Under a bill recently passed by a state House committee, private adoption agencies could refuse to place children in homes based on sincerely held religious beliefs. House Bill 4928 would amend the Michigan Adoption Code to specify that a child placing agency is not required to perform, assist, counsel, recommend, facilitate, refer, or participate in a placement for adoption that violates its written religious or moral convictions or policies.

If passed, the legislation would prohibit the state from refusing to provide taxpayer funds or grants to those agencies that choose to reject adoptions on those grounds. The bills, which mirror others passed by the Senate Health Policy committee

allowing medical professionals and hospitals to refuse service based on religious or moral beliefs, now move to the full House for consideration.

Pharmacy Regulations

New legislation has been proposed to more closely regulate 470 compounding pharmacies in Michigan after a deadly outbreak of meningitis infected 264 Michigan residents. A measure recently announced would require pharmacies to undergo regular inspections and criminal background checks. They also would have to maintain accurate records and appoint a "pharmacist in charge" to ensure laws and regulations are followed.

Work for Welfare

Two new bills could make it more difficult to receive government assistance. The Department of Human Services provides temporary assistance to families who are making efforts to achieve independence. Unless an individual is exempt, he or she is required to participate in a work participation program in order to receive cash assistance. The current work participation program activities include paid employment, efforts to obtain employment, or unpaid work assignments.

A community service bill would require people receiving food stamps or other welfare benefits to perform community service in order to get the money. A drug-testing bill would deny unemployment benefits for people who either refused to take a drug test required by an employer or tested positive. The drug testing bill (HB 4952) now moves to the full House of Representatives, while the community service bill (SB276) was referred to the Committee on Families, Children, and Seniors for analysis.

Karen M. Daley is an attorney in our Livonia office where she concentrates her practice on appellate law and municipal law. She can be reached at (734) 261-2400 or kdaley@cmda-law.com.

Attorney Recognized by the NFL Alumni Detroit Chapter

Jim Acho, a senior attorney in our Livonia office, and his family were the guests of the Detroit Chapter of the NFL Alumni at the September 29th Detroit Lions football game. At the game, Mr. Acho was recognized by the former players for the legal work he has done on their behalf throughout the past decade.

Former NFL players recently reached a multi-million dollar settlement with the NFL in the highly-publicized concussion lawsuit. The settlement will compensate thousands of former NFL players who suffered brain-related injuries as a result of hits sustained throughout their playing careers. Mr. Acho served as an advisor to the players early on in this case.



Jim with his wife Shari and their daughter Meghan at the Lions suite.



Jim with former NFL players Mel Farr, Lem Barney and Bennie Blades.

Attorneys Selected as *DBusiness* Top Lawyers 2014

We are pleased to announce that nine CMDA attorneys have been named to *DBusiness* magazine's list of **Top Lawyers 2014**. The attorneys were selected through a process that included a peer review survey that polled more than 21,000 private attorneys in the five county area- Oakland, Wayne, Macomb, Washtenaw, and Livingston counties. Attorneys were asked to identify the top attorneys in a particular practice area (no more than three names permitted), among a set of 48 specialized practice areas. *DBusiness* is one of the most widely read business magazines in Southeast Michigan, with an estimated readership of 150,000.



Pictured left to right: (back row) Ethan Vinson, Christopher G. Schultz, T. Joseph Seward, Robert J. Hahn, Jeffrey R. Clark (front row) Eileen K. Husband, Timothy Young, Gerald C. Davis, Linda Davis Friedland

Congratulations to the following CMDA attorneys named to *DBusiness* magazine's **Top Lawyers 2014** list:

- Gerald C. Davis**- Commercial Law
- T. Joseph Seward**- Insurance Litigation
- Timothy Young**- Insurance Law
- Robert J. Hahn**- Commercial Law
- Jeffrey R. Clark**- Municipal Law
- Christopher G. Schultz**- Corporate Law & Trusts and Estates
- Eileen K. Husband**- Labor and Employment Law
- Ethan Vinson**- Labor and Employment Law
- Linda Davis Friedland**- Trusts and Estates

LEGAL TERMS MADE SIMPLE

Understanding legal terminology can be tricky. If you are looking to retain the services of an attorney or just enjoy a crime drama on television, understanding the language of the law is helpful. In this month's newsletter, we will explain the legal term "affidavit."

Affidavit: A written statement of facts voluntarily made by an affiant under an oath or affirmation administered by a person authorized to do so by law.

An affidavit is a written statement of facts made under oath that is based on the knowledge of the person signing the affidavit. Being under oath means the person is swearing their statements are true. Lying while under oath is called perjury and carries heavy fines and can lead to imprisonment.

Affidavits are used to present evidence in various types of legal proceedings, in and out of court, and come in many formats to fit the context in which the statement is being used.

Any person having the intellectual capacity to take an oath or make an affirmation and who has knowledge of the facts that are in dispute can make an affidavit. There is no age re-

quirement for an affiant. As long as the person understands the facts and the significance of the oath or affirmation being made, the affidavit is valid.

Any public officer authorized by law to administer oaths and affirmations, such as city recorders, court clerks, notaries, county clerks, commissioners of deeds, and court commissioners, may take affidavits.

There is no standard form or language to be used in an affidavit as long as the facts contained within it are stated clearly and definitely. Unnecessary language or legal arguments should not appear in an affidavit.

If an affidavit is being recorded by someone else, take care to read it over carefully. Since the document is accompanied with a legally binding oath, it is important to make sure the facts are clearly and accurately represented. If there are errors in the document, they need to be corrected before it is signed.

Look for additional legal terminology explanations in future newsletters.



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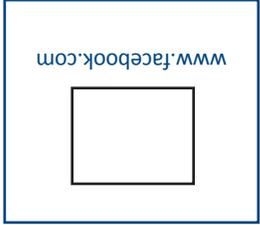
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Our Vision

To meld our legal expertise, professional support staff, technical resources and variety of locations to deliver first rate legal services at a fair value to a full range of business, municipal, insurance and individual clients.



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