

**LAWS**  
*OF THE*  
**STATE OF DELAWARE**

*ONE HUNDRED AND THIRTY-SIXTH*

*GENERAL ASSEMBLY*

*FIRST SESSION COMMENCED AND HELD AT DOVER*

**On Tuesday, January 8, A.D.**  
**1991**

*SECOND SESSION COMMENCED AND HELD AT DOVER*

**On Tuesday, January 14, A.D.**  
**1992**

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**Part II**

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## CHAPTER 191

FORMERLY

SENATE BILL NO. 130  
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29, DELAWARE CODE RELATING TO RULES AND REGULATIONS ESTABLISHED BY STATE AGENCIES BY ESTABLISHING APPROPRIATE PROCEDURES FOR ASSESSING WHETHER OR NOT RULES AND REGULATIONS MAY RESULT IN TAKING OF PRIVATE PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 6, Title 29, Delaware code by adding thereto a new section to read as follows:

"§605. Promulgation of Rules and Regulations by State Agencies - Review by Attorney General To Determine Affect on Private Property Right

- a) No rule or regulation promulgated by any state agency shall become effective until the Attorney General has reviewed the rule or regulation and has informed the issuing agency in writing as to the potential of the rule or regulation to result in a taking of private property.
- b) Judicial review of actions taken pursuant to this section shall be limited to whether the Attorney General has reviewed the rule or regulation and has informed the issuing agency in writing.
- c) The term "taking of private property" as used under this section shall mean an activity wherein private property is taken such that compensation to the owner of that property is required by the Fifth and Fourteenth Amendments to the Constitution of the United States or any other similar or applicable law of this State.
- d) Nothing in this section shall affect any otherwise available judicial review of agency action."

Section 2. This Act shall apply to all Rules and Regulations promulgated after the effective date of the Act, excluding those Rules and Regulations which do not purport to restrict the uses to which property could be put.

Approved January 24, 1992.

## CHAPTER 192

FORMERLY

## HOUSE BILL NO. 316

AN ACT TO AMEND CHAPTER 27, TITLE 21, DELAWARE CODE, RELATING TO QUALIFICATIONS FOR SCHOOL BUS DRIVERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2708(a)(8), Chapter 27, Title 21, Delaware Code, by striking said paragraph in its entirety and substituting in lieu thereof the following:

"(a)(8) The applicant shall never have been convicted of manufacture, delivery, possession, possession with intent to deliver, or trafficking a controlled substance or a counterfeit controlled substance classified in Schedule I, II, III, IV, or V of Chapter 47, Title 16 in this State or any other jurisdiction."

Approved January 24, 1992.

## CHAPTER 193

136TH GENERAL ASSEMBLY

## HOUSE BILL NO. 223

AN ACT TO AMEND SUBCHAPTER IV, TITLE 31 OF THE DELAWARE CODE RELATING TO PRIVATE CHILD WELFARE AGENCIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Amend Subchapter IV, Title 31, Delaware Code by repealing Sections 365 - 368 inclusive.

Approved January 24, 1992.

## CHAPTER 194

FORMERLY

## HOUSE BILL NO. 286

AN ACT TO AMEND CHAPTER 9, TITLE 10, OF THE DELAWARE CODE RELATING TO FAMILY COURT MASTERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 9, Title 10, Delaware Code by deleting the number "10" from subsection (d) of §913 as it appears in two places after the word "within" and before the word "days" and inserting in both places the number "15".

Section 2. Amend Chapter 9, Title 10, Delaware Code by adding at the end of subsection (d) of §913 the following:

"The time period for requesting a review de novo shall not begin to run until the Master has entered the order in writing and Family Court has issued said order to the parties and attorneys. If either party has requested a new trial, reargument, to alter or amend judgment, the time period for requesting a review de novo shall not begin to run until the Master has ruled on said request in writing and Family Court has issued that ruling to the parties and attorneys. If any order or ruling is sent by mail, an additional 3 days to request a review de novo shall be allowed."

Approved January 24, 1992.

CHAPTER 195

FORMERLY

HOUSE BILL NO. 260  
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND SUBPART I, SUBCHAPTER III, CHAPTER 5, TITLE 11, OF THE DELAWARE CODE ESTABLISHING THE OFFENSE OF CRIMINAL IMPERSONATION, ACCIDENT RELATED.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by adding a new §907A to read as follows:

"§907A. Criminal Impersonation, Accident Related: Class G Felony.

A person is guilty of criminal impersonation, accident related when after being in a motor vehicle accident involving serious physical injury or death to any person:

- (1) a driver knowingly pretends to have been someone other than the driver of the vehicle he was operating; or
- (2) any person knowingly pretends to have been a driver of one of the vehicles involved in the accident.

Criminal impersonation, accident related is a Class G Felony. The driving privileges of anyone convicted of violating subsection (1) shall be suspended by the Division of Motor Vehicles for a period of two (2) years."

Approved January 24, 1992.

## CHAPTER 196

## FORMERLY

HOUSE BILL NO. 304  
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 81, PART V, TITLE 10 OF THE DELAWARE CODE RELATING TO LIMITATION FROM CIVIL LIABILITY FOR CERTAIN VOLUNTEERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Paragraph (2), Subsection (a), Section 8133, Chapter 81, Part V, Title 10 of the Delaware Code by deleting therefrom the words "is organized and exempted from federal income tax" and inserting in lieu thereof the following:

"was organized and exempted from federal income tax, and in the case of a governmental entity described in Subparagraph (5)b, in furtherance of the exercise of any governmental function".

Section 2. Amend Paragraph (5), Subsection (a), Section 8133, Chapter 81, Part V, Title 10 of the Delaware Code by deleting therefrom paragraph (5) in its entirety and inserting in lieu thereof the following:

"(5) 'Organization' shall include:

a. Any not-for-profit organization exempt from federal income tax under §501(c) of the Internal Revenue Code (26 U.S.C. §501(c)) as amended or other act of Congress and engaged in any activity within the State in furtherance of a purpose for which it was organized; and

b. Any governmental entity, including the United States, the State and any board, commission, division, office, task force or other agency of the State or the United States, exempt from federal income tax under §115 of the Internal Revenue Code (26 U.S.C. §115) as amended or other acts of Congress and engaged in any activity within the State in furtherance of the exercise of any governmental function."

Approved January 24, 1992.

## CHAPTER 197

## FORMERLY

## SENATE BILL NO. 192

AN ACT TO AMEND CHAPTER 17, TITLE 24 OF THE DELAWARE CODE RELATING TO PHYSICIANS' RECORDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend §1761, Title 24, Delaware Code by designating the current §1761 as subsection (a) thereof and by adding thereto a new subsection (b) as follows:

"(b) Whenever a physician licensed to practice under this Chapter dies and has not transferred his or her records to another physician and has not made provisions for such a transfer to occur at his/her death, the personal representative of the physician's estate shall notify his/her patients of record for the past 3 years by publication in a newspaper of general circulation in the area where the physician practiced. All patients of record who have not requested their records 30 days after publication shall be notified by first class mail by the personal representative of the estate to permit the patients to procure their records."

Section 2. Amend §1761, Title 24, Delaware Code by inserting before the phrase "notification of patients" in the section heading thereof the phrase "death of a physician;"

Approved January 24, 1992.

CHAPTER 198

FORMERLY

SENATE BILL NO. 193  
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND DELAWARE CODE, TITLE 29, CHAPTER 58, REGARDING THE CONDUCT OF OFFICERS AND EMPLOYEES OF THE STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Delaware Code, Title 29, Section 5805 by inserting a new Subsection (h) to read as follows:

"(h) Except for transportation supervisors for any school district within this state, nothing in this Section shall prohibit an employee or his or her spouse or children (natural or adopted) from contracting for the transportation of school children. Such transportation contracts may be entered into by an employee or his or her spouse or children without public notice and competitive bidding as is provided in Section 6916 of this Title."

Approved February 5, 1992.

CHAPTER 199  
FORMERLY  
SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 63  
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 7, DELAWARE CODE, TO PERMIT RECREATIONAL DRIFT GILL NET FISHING FOR SHAD IN THE DELAWARE RIVER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §915, Chapter 9, Title 7, Delaware Code by adding thereto a new subsection (j) to read as follows:

"(j)(1.) It shall be lawful for any person who has appropriate food fishing equipment permits for gill nets and a recreational drift gill net permit issued by the Department to fish any drifting gill net, subject to the provisions of this subsection."

(2.) It shall be unlawful for any recreational finfishermen who has been issued a recreational drift gill net permit by the Department to fish a drift gill net in any waters of the State except in a section of the Delaware River, not including any tributaries thereto, located to the south of a line beginning at the tip of the southern most jetty at the mouth of the C & D Canal and extending due east and to the north of a line beginning at Liston Point and continuing due east during a period of time beginning at 12:01 a.m. on March 15 and ending at 12:00 p.m. on May 10 next ensuing each year.

(3.) It shall be lawful for any recreational finfisherman who has been issued a recreational drift gill net permit for gill nets and appropriate food fishing equipment permit for gill nets by the Department to fish a single drift net provided it does not exceed 300 feet in length.

An application for a recreational drift gill net permit may be submitted annually to the Department on a form supplied by the Department. Each application shall provide credible evidence that the person applying for the recreational drift gill net permit fished a drift gill net prior to 1984 in the Delaware River for American shad. Applications shall be submitted to the Department prior to 4:30 p.m. on the last Friday in February. The Department shall hold a public drawing of the applicants no later than 4:30 p.m. on first Friday in March. The first 10 applications drawn will be issued a recreational drift net permit to be valid until midnight on May 10 next ensuing. If any of the 10 selected applicants fail to obtain his/her recreational drift gill net permit from the Department by 4:30 p.m. on the second Friday in March, applicants drawn in numerical order after the first 10 shall be authorized to be issued a recreational drift gill net permit."

Section 2. Amend §903(e)(1) by adding a new paragraph (f) to read as follows:

"(f) Restrict the mesh size of recreational drift gill nets that may be fished for American shad in the Delaware River."

Approved February 5, 1992.

CHAPTER 200

FORMERLY

HOUSE BILL NO. 246

AN ACT TO AMEND CHAPTER 1, TITLE 16 OF THE DELAWARE CODE RELATING TO THE STATE BOARD OF HEALTH.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Amend Chapter 1, Subchapter II, Title 16, Delaware Code, §122(3), by adding a new paragraph "r." to read as follows:

"r. Provide for the sanitary control, specifically addressing drinking water, human waste disposal, and control of other vectors of human disease, of mobile/manufactured home parks and other housing of similar usage, which consist of more than three dwelling units or lots located on the same or adjacent properties served by a common water and/or sewage disposal system, and which are held out to the public for rent or lease."

Approved February 5, 1992.

CHAPTER 201

FORMERLY

SENATE BILL NO. 260

AN ACT TO AMEND TITLE 30, 5, 8, AND 18 OF THE DELAWARE CODE RELATING TO TAX PREFERENCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 30 of the Delaware Code by striking §105 thereof, entitled "Sunset repeal of tax preferences.", in its entirety.

Approved February 5, 1992.

## CHAPTER 202

## FORMERLY

HOUSE BILL NO. 415  
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 5

AN ACT TO AMEND CHAPTERS 11 AND 20 OF TITLE 30 AND CHAPTER 11 OF TITLE 5 OF THE DELAWARE CODE AND 64 DELAWARE LAWS CHAPTER 460 AS AMENDED BY 67 DELAWARE LAWS CHAPTER 120 AND 68 DELAWARE LAWS CHAPTER 6 RELATING TO TAX CREDITS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2010, Title 30 of the Delaware Code by striking the year "1992" as the same appears in subsections (4) and (5) thereof and substituting in lieu thereof the year "1997".

Section 2. Amend §12 of 64 Delaware Laws, Chapter 460, as amended by 67 Delaware Laws, Chapter 120, and 68 Delaware Laws, Chapter 6, by striking the year "1992" as the same appears in said section and substituting in lieu thereof the year "1997".

Section 3. Amend §2011, Title 30 of the Delaware Code by adding thereto new subsections (h), (i) and (j) to read as follows:

"(h) Any taxpayer (other than a public utility as defined in Chapter 1 of Title 26) engaged in a qualified activity that, for any taxable year ('the current year') ending after December 31, 1991 or before January 1, 1994, has an average number of employees employed by the taxpayer in full-time employment in this State during said tax year in excess of the average number of employees employed by the taxpayer during the period January 1, 1991 through December 31, 1991 ("the base year") shall be allowed a credit against the tax imposed for the current year by Chapter 19 or Chapter 11 by virtue of §1115 or §2024 of this title.

The amount of such credit for such current year shall equal \$250 times the average number of employees employed by the taxpayer in full-time employment within this State during the current year minus the average number of employees employed by the taxpayer in full-time employment within this State during the base year, rounded down to the next full number, such difference to be defined as 'new employment'. Employees who are employed in this State by the taxpayer for a continuous period of fewer than six months shall not be considered in calculating the credit provided under this subsection. However, employees employed for a continuous period of at least six months during the base and current year which includes a period of less than six months in either the base year or the current year shall be considered in calculating the credit under this subsection. Employees of a taxpayer employed at the same facility in substantially the same capacity by a different taxpayer during all or part of the base year shall not be considered in computing employment during the current year under this subsection.

(i) In the case of any taxpayer qualifying for credits under subsection (a) or (h) of this section or §2021 of this title who provides health care benefits as defined in §2010(15) of this title during any tax year ending after December 31, 1991 or before January 1, 1994, the credits provided by subsections (b)(1) or (h) (but, in the case of any taxpayer, not both) of this section or §2021 of this title shall be increased by \$250.

(j) Notwithstanding the provisions of §2011 of this title, credits provided by subsections (h) and (i) of this section may be earned and applied only in tax years beginning after December 31, 1991, and ending before January 1, 1994, subject to carryover under the provisions of §2011(f) of this title."

Section 4. Amend §2010(3)e., Title 30 of the Delaware Code by designating said paragraph e. as paragraph h. of §2010(3), and by striking the letter and punctuation "d." as they appear in said paragraph and substitute in lieu thereof the letter and punctuation "g."

Section 5. Amend §2010(3), Title 30 of the Delaware Code by striking the word "or" as it appears at the end of paragraph d. thereof, and by adding to

§2010(3) new paragraphs e., f., and g. to read as follows:

"e. Any activity more than 50% of whose annual gross receipts are derived from computer processing or data preparation or processing services, including data entry (but not word processing) and making data processing equipment available on an hourly or time-sharing basis;

f. Any activity more than 50% of whose annual gross receipts are derived from engineering services including providing and supervising the taxpayer's engineering staff on temporary contract to other firms. The term 'engineering services' does not include businesses providing engineering personnel but not general supervision; nor does it include businesses primarily engaged in architectural or photogrammetric engineering;

g. Any activity more than 50% of whose annual gross receipts are derived from consumer credit reporting services, including adjustment and collection services and credit reporting services. Adjustment and collection services are establishments primarily engaged in the collection or adjustment of claims, other than insurance. Credit reporting services are establishments primarily engaged in providing mercantile and consumer credit reporting services; or

Section 6. Amend §2010(3), Title 30 of the Delaware Code, by striking paragraph d. in its entirety and substituting in lieu thereof the following:

"d. The administration, management, or support operations, including marketing, of any activity described in paragraphs a. through g. of this subdivision;"

Section 7. Amend §1105, Title 5 of the Delaware Code by designating existing §1105 as subsection (a) of said section and by adding to said section new subsections (b) and (c) to read as follows:

"(b) For taxable years beginning after December 31, 1991, and ending before January 1, 1994, there shall be allowed as a credit against the tax imposed under subsection (a) of this section the applicable amounts provided in §2011(h) or (1) (or both) of Title 30 as if the definition of 'Taxpayer' in §2010(13) and the definition of 'qualified activity' of §2010(3) of Title 30 also included, solely for purposes of the credit provided in this subsection, banks subject to tax under this section, provided the taxpayer meets the qualifications set forth in said §2011(h) or (1). Notwithstanding the provisions of this subsection, credits arising solely by virtue of §2011(a) shall not be allowed against the tax imposed by this chapter.

(c)(1) The amount of credit allowable under subsection (b) of this section shall not exceed 50% of the amount of tax imposed upon the taxpayer by subsection (a) of this section for such taxable year; and (2) The amount of the credit determined under subsection (b) of this section for any taxable year that is not allowable for such taxable year solely as a result of the limitation contained in paragraph (1) of this subsection shall be a credit carryover to each of the succeeding nine years in the manner described in §2011(f) of Title 30."

Section 8. Amend §2010, Title 30 of the Delaware Code by adding to said section new subsections (14) and (15) to read as follows:

"(14) 'Full-time employment' means employment of one individual for at least 35 hours per week, not including absences excused by reason of vacations, illness, holidays or similar causes.

(15) 'Health care benefits' means financial protection against the medical care cost arising from disease and accidental bodily injury for which cost the employer pays at least 50% for employees employed by the employer for a continuous period of six months or more."

Section 9. Amend Section 2020(1), Title 30 of the Delaware Code by adding a new subparagraph e. to read as follows:

"e. When socio-economic data becomes available from the 1990 Census, the Director of the Delaware Development Office in conjunction with the Secretary of Finance shall evaluate all census tracts using the following criteria: percent of persons below poverty level; percent of