



**ARIZONA POLICE ASSOCIATION  
END OF SESSION LEGISLATIVE REPORT  
49<sup>TH</sup> LEGISLATURE – 2<sup>ND</sup> REGULAR SESSION**

**END OF SESSION BRIEFING**

The second regular session of the 49<sup>th</sup> Legislature adjourned *sine die* on April 29, 2010. The Legislature approved 352 of the 1233 bills introduced. Legislation will become effective on the general effective date of July 29, 2010, unless otherwise specified within the language of the bill.

The sixth special session of the 49<sup>th</sup> Legislature passed legislation and a referendum calling a special election May 18, 2010 to allow voters to levy an additional, temporary 1% transaction privilege tax (TPT) and use tax for three years. This tax will not be distributed to counties, municipalities or other governmental entities. It is also important to note that the FY10-11 state budget, which included no cuts to state shared revenues or funding to the Department of Public Safety, is completely contingent on this proposition passing. To note, should the state sales tax referendum fail, it is likely that state shared revenues, the Department of Public Service and all other resources will be back on the table for consideration.

The Arizona Police Association worked diligently on a number of bills throughout the session, whether it was ensuring the passage of APA backed legislation, amending legislation of potential consequence to APA members, or testifying on behalf legislation introduced by other groups that were favorable to APA members.

**APA LEGISLATION**

*At the completion of the 2<sup>nd</sup> Regular Session of the 49<sup>th</sup> Legislature, the following list contains legislation introduced or adopted as part of the Arizona Police Association 2010 Legislative Agenda. Included for each bill is the bill sponsor, a brief explanation of the language, and the significant action taken by the Legislature.*

**SB1029 law enforcement officers; disciplinary actions**

Sponsor: Senator Russell Pearce

Prohibits a law enforcement officer (Officer) from being subject to disciplinary action except for just cause unless specified criteria are met.

Passed Senate Third Read:  
February 15, 2010

Passed House Third Read:  
April 7, 2010

Signed by Governor:  
April 16, 2010

**SB1030 driver's license violations; suspensions (PLEA Primary)**

Sponsor: Senator Russell Pearce

Permits the Dept of Transportation to issue a restricted driving privilege to persons convicted of driving on a suspended or revoked driver license. The restricted privilege permits driving between stated destinations, e.g., between the person's residence and place of employment or school or physician, etc. SB1030 removes from statute the mandatory 48-hour jail time for persons convicted of driving on a suspended or revoked license due to an initial DUI conviction. Also removes from statute the mandatory fines for failure to appear in court or failure to pay court fines. Effective Jan. 1. 2011.

Passed Senate Third Read:  
March 25, 2010

Passed House Third Read:  
April 20, 2010

Signed by Governor:  
April 27, 2010

**SB1070**                      **immigration; law enforcement; safe neighborhoods**

Sponsor: Senator Russell Pearce

Passed House Third Read:

April 13, 2010

Passed Senate Final Read:

April 19, 2010

Signed by Governor:

April 23, 2010

Various measures related to enforcement of immigration laws. No governmental entity or official may adopt a policy that limits or restricts enforcement of federal immigration law to the full extent permitted. Any Arizona resident may bring an action in superior court to challenge any jurisdiction that adopts a policy that restricts the enforcement of immigration laws. In all contact by an agent of law enforcement with a person who is reasonably suspected of being an illegal alien, a reasonable attempt must be made to determine the person's immigration status whenever practicable. A list of acceptable forms of ID is provided, including any non-Arizona governmental ID but only if proof of legal presence was required for issuance. A person who is not lawfully present in this country commits the crime (minimum class 1 misdemeanor) of willful failure to complete or carry an alien registration document. The criminal classification increases to felony status if the person is connected with drug trafficking, is in possession of a deadly weapon or had been previously deported. A schedule of fines is implemented for violators. To enforce law pertaining to illegal human smuggling, law enforcement is permitted to stop any vehicle on a "reasonable suspicion" the vehicle committed a violation of any civil traffic law. It is a class one (highest) misdemeanor to stop a vehicle on a public roadway or for a person to enter a vehicle stopped on a public roadway for the purpose of securing employment to perform work at a different location if the vehicle blocks or impedes the flow of traffic. It is a class one misdemeanor for a person who is in violation of a criminal offense to transport an illegal, conceal or harbor an illegal, or encourage or induce an alien to come to this state. Law enforcement is not required to secure a warrant to arrest an illegal alien. The state's employer sanctions law is modified to provide for an affirmative defense based on entrapment. Employers are required to maintain a record of verification or lawful presence for all employees for the longer of three years or the person's term of employment. A person who is furthering the illegal presence of an alien or who is concealing or harboring an illegal is subject to having his/her vehicle immobilized or impounded.

Passed Senate Third Read:  
March 29, 2010

Passed House Third Read:  
April 8, 2010

Signed by Governor:  
April 16, 2010

**SB1108**                      **weapons; concealed carry (APA legislation added from HB2629)**

Sponsor: Senator Russell Pearce

Allows anyone over the age of 21 to carry a concealed deadly weapon without a permit. Concealed weapons permit holders must carry the permit only when specifically required by law. Law enforcement cannot confiscate a weapon that is otherwise lawfully possessed by a permittee whose permit is suspended, but are authorized to take temporary custody of a firearm during contact with a person in possession of a firearm.

Requirements to obtain a concealed weapons permit are modified. It is misconduct involving weapons to carry a concealed deadly weapon in the furtherance of a serious offense, violent crime, or other felony offense; to fail to accurately answer a law enforcement officer asking whether the person is carrying a concealed weapon, or for a person under 21 years of age to carry a concealed weapon. Exempts minors carrying on property owned by the minor's parent, grandparent, or legal guardian; minors who are a member of a sheriff's volunteer posse or reserve organization that has passed firearms training; and minors carrying firearms in visible holsters or scabbards, in luggage, or in a case, holster, scabbard or pack carried in a means of transportation or storage compartment in a means of transportation. Allows forfeited weapons to be sold to any business authorized to sell firearms under federal, state and local law. (Substituted for HB2347).

**SB1261**                      **families of fallen officers fund (AHPA Primary)**

Sponsor: Senator John Nelson

The list of required functions that must be undertaken by the nonprofit organization that sponsored a special license plate dedicated to honor the families of fallen law enforcement officers in order for that organization to receive monies from the donation portion of the special license plate fee is expanded to include providing training to law enforcement agencies on survivor victimization issues and educating the public on the need to support law enforcement and the families of fallen officers. Control of the fund is transferred to the Dept of Public Safety from the Dept of Transportation.

Passed House Third Read:  
April 8, 2010

Passed Senate Final Read:  
April 19, 2010

Signed by Governor:  
April 23, 2010

Passed House Third Read:  
March 22, 2010

Passed Senate Final Read:  
April 14, 2010

Signed by Governor:  
April 20, 2010

**HB2062      aggravated assault; peace officers (Primary AHPA)**

Sponsor: Representative Andy Tobin

Increases the classification for aggravated assault committed on a peace officer engaged in official duties to a class 5 felony, from class 6. Increases the classification for aggravated assault resulting in physical injury to the peace officer to a class 4 felony, from class 5.

**HB2067      PSPRS; omnibus**

Sponsor: Representative Tom Boone

Various changes to the Public Safety Personnel Retirement System statutes, including expanding the definition of compensation to include payments made directly or indirectly by the employer to the employee for work performed for a third party, on a contracted basis, between public agencies for criminal traffic and crime suppression activities or where the employer supervises the employee's performance of law enforcement, criminal, traffic and crime suppression activities, training, fire, wildfire, emergency medical or emergency management activities.

Passed Senate Third Read:  
April 14, 2010

Passed House Final Read:  
April 19, 2010

Signed by Governor:  
April 23, 2010

**HB2143      department of liquor license; continuation**

Sponsor: Representative Laurin Hendrix

Liquor retailers no longer have additional restrictions on the sale of alcoholic beverages (for either on-site or off-site consumption) for Sunday sales. Permitted hours for liquor sales are the same for the entire week: from 6:00 a.m. to 2:00 a.m. Similarly, the additional restrictions previously placed on servicing hotel mini-bars on Sundays are deleted. Also, the statutory life of the Dept of Liquor Licenses and Control is extended five years to July 1, 2015. Retroactive to July 1, 2010.

Passed House Third Read:  
April 5, 2010

Passed Senate Final Read:  
April 28, 2010

Signed by Governor:  
May 6, 2010

**HB2162      illegal immigration; border security commission**

Sponsor: Representative Warde Nichols

Makes changes to S1070 (immigration; law enforcement; safe neighborhoods) from this session [signed and chaptered as Laws 2010, Chapter 113) including: (1) the requirement that law enforcement may ask a person to confirm his/her immigration status only after "lawful contact" is changed to after "lawful stop, detention or arrest" made in the enforcement of either state law or local ordinance; (2) race, color or national origin may not be considered at all in the law officer's decision to make a lawful stop; previously race, etc could not be the sole determinant; (3) the monetary penalty imposed on persons apprehended for a first violation of statute prohibiting unlawful presence in this county is reduced to \$100 from \$500, and the maximum jail sentence is limited to no more than 20 days; (4) stipulates that only local law enforcement that are authorized by the federal government [presumably per 287(g) agreements] or ICE officials may ascertain a person's immigration status. Establishes a Joint Border Security Advisory Committee to analyze border crime and border crossing statistics and to recommend measures to increase border security. Authorizes the governor to select counsel other than the Attorney General to represent the state in any legal challenge to Laws 2010, Chapter 113. In a civil action brought pursuant to the state's prohibition against illegal aliens receiving public benefits, the court may award costs and attorney fees to the prevailing party. The definition of "state or local public benefit" is expanded to include "services widely available to the general population as a whole."

Passed House Final Read:  
April 29, 2010

Passed Senate Final Read:  
April 29, 2010

Signed by Governor:  
April 30, 2010

## LEGISLATION OF INTEREST

*At the completion of the 2<sup>nd</sup> Regular Session of the 49<sup>th</sup> Legislature, the following list contains legislation with potential to impact the Arizona Police Association, which was approved by both the Senate and House chambers and passed on to receive positive action from the Governor. Included for each bill is the bill sponsor, a brief explanation of the language, and the significant action taken by the Legislature. These bills were actively worked by members of the APA Legislative Team*

### **SB1018 photo enforcement procedures; justice courts**

Sponsor: Senator Russell Pearce

Photo enforcement systems must not be located within 600 feet of a speed change except in school zones. A sign clearly stating the speed limit must be posted between the two photo enforcement warning signs currently required. An action stemming from detection by a speed enforcement system must commence within 120 days of the alleged violation. A county is authorized to add a processing fee to the \$165 penalty assessed for a photo enforcement violation. Retroactive from July 1, 2009, until the effective date of this bill, state photo enforcement citations can only be included in judicial productivity credit calculations if the citation resulted in a finding of responsibility or guilt. Allows, instead of requires, the Department of Public Safety to enter into a contract for a state photo enforcement system. Clarifies that only complaints resulting from the state photo enforcement system must be personally served before being filed in court. In FY2010-11, 40% of monies in the Photo Enforcement Fund after paying all expenses and court costs, and to a max of \$7 million, are transferred to the Public Safety Equipment Fund.

Passed House Third Read:  
April 29, 2010

Passed Senate Final Read:  
April 29, 2010

Signed by Governor:  
May 7, 2010

### **SB1122 prison contraband wireless communication; monitoring**

Sponsor: Senator Al Melvin

The statutory definition of "contraband" as it applies in statutes related to prisons is expanded to include wireless communications devices and multimedia storage devices. Language is added to exempt items of contraband otherwise prohibited if the item has been authorized by correctional facility policies and used with the permission of prison officials.

Passed Senate Third Read:  
February 15, 2010

Passed House Third Read:  
April 8, 2010

Signed by Governor:  
April 14, 2010

Passed Senate Third Read:  
February 15, 2010

Passed House Third Read:  
April 7, 2010

Signed by Governor:  
April 14, 2010

### **SB1123 prisoners; community corrections; monitoring**

Sponsor: Senator Al Melvin

The Community Corrections Enhancement Fund (CCEF) is established comprised of monies from various sources, including the fee (which is increased to \$65 per month from \$30) paid by prisoners who have been released on parole or community supervision. Distribution of proceeds is altered so that 70% is deposited in the Victim Compensation and Assistance Fund (VCAF) and 30% is deposited in the CCEF. Formerly, the VCAF received all proceeds from this fee. A monthly home arrest supervision fee of \$65 is assessed with proceeds accruing to the CCEF. The Department of Corrections administers the CCEF and is authorized to expend fund monies to defer the costs associated with community corrections.

### **HB2166 law enforcement; officer representation**

Sponsor: Representative Andy Biggs

An employer of a law enforcement officer that does not comply with statutory

Passed Senate Third Read:  
April 19, 2010

Passed House Final Read:  
April 21, 2010

Signed by Governor:  
April 27, 2010

requirements to give the officer the opportunity to have a representative present during an interview that the officer believes may lead to disciplinary action cannot use evidence obtained during the interview at a hearing, except on a showing of good cause.

**HB2534 traffic complaints; social security number**

Sponsor: Representative David Gowan

Traffic complaints are prohibited from containing a person's social security number. Copies of the complaint retained by law enforcement and the courts are exempt.

Passed House Third Read:  
March 4, 2010  
Passed Senate Third Read:  
April 21, 2010  
Signed by Governor:  
April 26, 2010

**HB2543 firearms; regulation; state preemption**

Sponsor: Representative David Gowan

Passed House Third Read:  
March 29, 2010  
Passed Senate Third Read:  
March 30, 2010  
Signed by Governor:  
April 5, 2010

Expands the prohibition on political subdivisions regulating firearms to include firearm storage, licensing or registration. Expands the articles protected under this statute to include all firearm related accessories (not defined). Prohibits political subdivisions from enacting firearm regulations with greater penalties than state law. Deletes language that previously allowed political subdivisions to limit

firearm possession in parks of one square mile or less to concealed weapons permit holders. (Substituted in Senate for identical SB1168).

**HB2788 campaign finance; independent expenditures**

Sponsor: Representative Kirk Adams

A corporation or labor union that makes an independent campaign expenditure at a stated threshold amount advocating for or against a candidate or ballot issue must register with the proper filing officer (secretary of state for statewide or legislative office). Registration thresholds are: an aggregate of \$5,000 in statewide races; an aggregate of \$2,500 in legislative races; and an aggregate of \$1,000 in local races. Disclosure statements are required in any advertisement.

Violators are subject to a civil penalty of up to treble the amount of the expenditure. False filing is a class 1 (highest) misdemeanor. (Substituted in Senate for identical SB1444).

Passed House Third Read:  
March 24, 2010  
Passed Senate Third Read:  
March 29, 2010  
Signed by Governor:  
April 1, 2010

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*This list contains brief explanations of proposed legislation with the potential to impact the Arizona Police Association which did not obtain approval of both Chambers of the Legislature or was vetoed by the Governor. The actions noted opposite the bill name illustrates the APA's position on the bill as presented.*

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**SB1109 S/E: disciplinary; personnel file; definition**

**APA Position: Oppose**

Sponsor: Senator David Braswell

Prohibits an oral or written disciplinary warning issued to a law enforcement officer from being an appealable action by the agency and from being included in the officer's personnel file.

*SB1109 was struck in the House Military Affairs Committee with another strike everything amendment dealing with city or town annexation.*

**SB1242**                    **employer protections; labor relations**

Sponsor: Senator Russell Pearce

**APA Position: Oppose pending****APA proposed amendments**

Unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference with lawful exercise of business activity, and engaging in a secondary boycott (terms are defined) are illegal and are subject to fines. Injunctions against harassment may be filed against these activities, and any person conducting these activities is liable to any person injured by these activities for damages (including lost sales and profits), prejudgment interest, litigation costs, and reasonable attorney fees. The Secretary of State is directed to establish and semiannually publish a “no trespass public notice list” identifying employers in Arizona who have established private property rights to their establishment.

*SB1242 failed to be heard in the House Committee of the Whole.*

**SB1443**                    **photo enforcement; procedures**

Sponsor: Senator Linda Gray

**APA Position: Support**

Various changes related to photo enforcement. Photo enforcement systems cannot be placed within 600 feet of a posted speed limit change, except around a school crossing. A speed limit sign must be placed between the two photo enforcement notification signs. A citation may not be issued unless a vehicle is traveling at least 11 miles over the posted speed limit. An annual report on traffic statistics and amount of revenue produced from photo radar shall be submitted to the governor and Legislature by the Governor's Office of Highway Safety by Aug. 1. Local jurisdictions that install photo radar must use a minimum of 35% of after-costs revenue for law enforcement purposes. A photo radar citation must be filed within 120 days (formerly 60 days) of the alleged violation. Off duty law enforcement officers are authorized to serve photo radar citations. The civil penalty for a violation detected by photo enforcement is \$165 and is not subject to surcharges, except the clean elections surcharge.

*SB1443 failed to be heard by the House Committee of the Whole prior to session ending.*

**HB2327**                    **juvenile interrogations; electronic recording**

Sponsor: Representative Cecil Ash

**APA Position: Oppose**

Any statement made by a juvenile during interrogation by law enforcement must be electronically recorded in its entirety and kept without alteration until the final disposition of the juvenile's case.

*HB2327 failed to receive a hearing in the chamber of origin.*

**HB2332**                    **homicide interrogations; electronic recording**

Sponsor: Representative Cecil Ash

**APA Position: Oppose**

Any statement made by a person accused of homicide during a “custodial interrogation” (defined) must be electronically recorded in its entirety and preserved until a conviction is final and all appeals are exhausted.

*HB2332 failed to receive a hearing in the chamber of origin.*

**HB2344**                    **public employees, lobbying; political activities**

Sponsor: Senator Antenori

**APA Position: Oppose pending****APA proposed amendments**

Public employees are prohibited from lobbying a governmental entity or engaging in any political activity during the hours of employment. Does not apply to employees who are registered as a public lobbyist who lobby for the employer as part of their official duties. Public entities cannot use taxpayer monies to fund any part of a rally, protest, or lobbying effort.

*HB2344 failed to receive a Rules Committee hearing in the chamber of origin.*

**HB2629      misconduct involving weapons; medically retired officers**

**APA Position: Support**

Sponsor: Representative David Stevens

Allows medically retired law enforcement officers who meet certain criteria to carry a concealed deadly weapon without a concealed carry weapons permit (CCW).

*HB2629 was drafted and backed by the APA. The bill moved through the House unanimously, but when assigned to Senate Judiciary Committee, the Chairman requested APA assist with the passage of SB1108 which included the language from HB2629. SB1108 was signed by the Governor on April 16, 2010.*

This recap was approved for dissemination by Brian L. Livingston Executive Director of the APA.

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