(The veto of House Bill 452 was overridden by the General Assembly on April 14, 1986, and became Act 1986-27.)

Veto No. 1986-1

HB 452 February 21, 1986

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning without my approval House Bill 452, Printer's No.2832, which permits insurance companies to adopt and utilize sexually discriminatory automobile insurance rates.

Since 1971, the Constitution of Pennsylvania has provided that equality of rights under the law shall not be denied or abridged because of the sex of an individual. Pursuant to this constitutional mandate, in 1980 the Insurance Commissioner reviewed the manner in which sex is utilized in determining automobile insurance rates and found that current practices unfairly discriminated against individuals based upon sex. This decision of the Insurance Commissioner was upheld by the Commonwealth Court in 1982 and by the State Supreme Court in 1984. Following the Supreme Court's decision, the Insurance Department conducted extensive hearings regarding the appropriate method to prevent unfair discrimination based upon sex. At the conclusion of these hearings, in March 1985, the Insurance Commissioner entered an order requiring all insurance companies to file, for review and approval, gender neutral automobile insurance rates. The Insurance Department is currently prepared to approve gender neutral rates for use by insurance companies beginning on June 1, 1986.

While I recognize that there is considerable controversy regarding the best method to be used in devising nondiscriminatory automobile insurance rates, I cannot support legislation which affords less protection against unfair sexual classifications than is afforded against unfair classifications based upon race, religion or national origin. The Pennsylvania Constitution equally protects individuals from unfair treatment based upon race, religion, national origin and sex. This legislation, however, while absolutely prohibiting insurance rate classifications based upon race, religion and national origin, even if "supported by sound actuarial principles," expressly permits automobile insurance classifications based upon sex.

Rather than pemitting rates to be based on sexual classifications, even where actuarially sustainable, I feel that we should identify the underlying rating factors which better reflect actual variations in driving and safety records of many males and females. While such factors might coincide with the sex of the insured, rates should be based on those underlying factors and not per se on sex.

Insurance companies have primarily responded to the commissioner's order requiring gender neutral automobile rating plans by removing gender from the numerous rating factors which have been used in the past to determine rates. I do recognize, however, that other parties could devise reason-

able alternatives which would determine risk by placing greater emphasis on certain rating factors which might better reflect the actual driving habits of individuals, male and female. As an alternative to the bill which I veto today, therefore, I am prepared to support legislation which temporarily suspends the imposition of gender neutral rates and establishes a procedure whereby a joint legislative-executive inquiry is conducted concerning the best alternative methods available to determine automobile insurance rates for young drivers based upon factors other than sex.

Without any such clear legislative direction, however, and without a definite timetable for the elimination of gender based rating practices, I cannot support any further delay in the implementation of the orders of our Insurance Commissioner and State Supreme Court.

DICK THORNBURGH

Veto No. 1986-2

SB 180 July 10, 1986

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I have before me Senate Bill 180, Printer's No.2234, which, as originally introduced, would have granted child abuse victims an extended period of time for filing compensation claims pursuant to the Crime Victim's Compensation Act.

The bill was subsequently amended to significantly expand the compensable coverage available under this act. While I believe these provisions have merit, I am advised by the Crime Victim's Compensation Board that clarifying language is needed to maximize a victim's recovery for serious and legitimate losses, while minimizing administrative processing requirements.

During the legislative process, amendments to allow "agency shop" for public employes were added to the original bill.

Presently, a public employe working for State or local government in Pennsylvania pays union dues if he or she wishes to belong to a union bargaining unit. As provided for in this bill, agency shop could be implemented through the collective bargaining process, requiring every public worker in the bargaining unit to pay union dues whether he or she chose to belong to the union.

If allowed to become law, agency shop would substantially expand the collective bargaining tools of public employe unions beyond those already provided for in Act 195, the Public Employe Relations Act of 1970. Yet, the evidence demonstrates that public employe unions in Pennsylvania have sufficient tools under this law to appropriately represent and maintain their membership.

Public employe unions, unlike their private sector counterparts, were actually encouraged to organize as a matter of public policy through enactment of Act 195. They are not faced with the ability of their employers — i.e., State government, local government and school districts — to shut down operations and move to another state, as are their private counterparts.

In addition, Pennsylvania now affords public employe unions the ability to have employers collect dues from members through the payroll system and to prevent employes from stopping payment of dues except during a brief, fixed time. These union security provisions in Pennsylvania are stronger than those available to public employe unions in 35 states.

Further, Act 195 provides public employe unions the right to strike, a tool not permitted public employe unions in 39 other states.

Under present law, more than 70 percent of eligible public employes routinely have chosen membership in union bargaining units, and there appears to be no compelling threat to the viability of public employe unions in the Commonwealth.

Absent such, it is inappropriate to take away from an individual the freedom of choice to financially support an organization. Indeed, the exercise of individual choice tends to act as an incentive for leadership to effectively represent membership since, under present law, a member can protest poor performance or policies of the union with which he or she disagrees by choosing to leave the union and stop paying dues. This right would be taken away should this legislation become the law of the Commonwealth. Furthermore, there is already a strong incentive for union membership since only union members have a say in the collective bargaining process which determines wages and benefits.

For these reasons and because of the need for clarifying language regarding the crime victim's provisions, I return this legislation without my signature.

DICK THORNBURGH

Veto No. 1986-3

HB 843 October 10, 1986

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning without my signature, House Bill 843, Printer's No.3755.

This legislation, as originally introduced and approved by the House of Representatives, was designed to attack the serious problem of underage drinking. It is imperative we combat this problem. Alcohol abuse must not be allowed to claim victims because individuals are not old enough to exercise discretion. And the statistics show that persons under 21 are twice as likely as someone over 21 to be involved in auto accidents while drinking, a major cause of auto accidents in our State. One of the best ways to combat this phenomenon is to stop underage drinking in the first place.

Therefore, I applaud the spirit and intent of this legislation. Unfortunately, however, I believe it contains a fatal flaw which must be remedied before enactment.

The bill would penalize an individual for non-traffic related drinking offenses by taking away the person's driver's license for at least 90 days and up to two years. This mandatory penalty allows a judge no discretion for exceptional circumstances.

As a general principal of law, I believe the punishment should be tailored to fit the crime. However, it is clear that the suspension of a driver's license would be a highly effective deterrent to underage drinking even though it does not involve the use of an automobile in any way. A driver's license is a privilege, not a right, and one which can be circumscribed with appropriate conditions.

However, when utilizing mandatory sentences and the unusual measure of a punishment not directly related to the crime, we must be especially careful that we have not eliminated discretion in those instances where the exercise of discretion is truly appropriate and just. While falsification of identification to purchase alcohol clearly should lead to mandatory suspension, this bill would also apply a mandatory penalty in other instances where, in my view, judicial discretion should be exercised. Consumption, possession or transport of any amount of alcohol would lead, under this bill, to automatic mandatory suspension of a driver's license. Thus, for example, a 19-year-old construction worker with two children who shares a beer with a neighbor on his front porch would, under present wording, be subject to mandatory suspension of his driver's license. The law simply casts its net wider than intended or appropriate.

Applicable sections of this bill must therefore be redrafted to provide for implementaton of maximum possible penalties, but to provide as well for the exercise of judicial discretion so as to avoid unintended consequences. I

pledge the full cooperation of my administration in such an effort and in securing passage of corrected legislation.

In doing so, I would urge that this legislation be toughened and improved as well. When this bill was being considered in the General Assembly, my administration unsuccessfully sought amendments to close certain loopholes under existing drunk driving laws. Those under 18 who are adjudicated delinquent of traffic law violations related to drinking presently are not required to attend alcohol-highway safety school. Moreover, their offenses are not included in the Court Reporting Network and therefore do not show up in any subsequent search for prior convictions. In addition, we sought the imposition of a mandatory one-year license revocation for persons under the age of 21 adjudicated delinquent or convicted of drunk driving. Such a provision would serve further notice to the youth of this Commonwealth that driving is a privilege that must be exercised in a responsible manner.

While the original purpose of this bill was to address the problem of underage drinking, the Senate unexpectedly added, during floor debate, an entirely new section on the unrelated subject of regulating abortion clinics through the Certificate of Need (CON) process.

Abortion clinics are currently regulated by the Department of Health as provided for in the Abortion Control Law, which I approved in 1982. While I believe I understand the intent and motivation behind this new provision, it should be noted that I have called for an end to the entire CON process itself.

This legislation comes at a time when the CON process is winding down. Federal funding for the local Health Systems Agencies, which have been the first step in the CON review process, ran out on September 30. Last week I urged passage of legislation which would eliminate certain CON reviews immediately and phase out the process within three years.

The CON system was established to address the out-of-control growth in health care costs in the previous decade. Since that time, we have taken numerous steps to reduce costs in the health care system which have resulted in savings to the State government of more than $1 billion and additional cost savings to business, industry and individuals.

Since the CON process itself is due to end, it is evident that implementation of these provisions of the bill, if ever enacted, would have no lasting impact.

DICK THORNBURGH

Veto No. 1986-4

SB 1412 December 19, 1986

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I hereby disapprove and publicly proclaim my objections to Senate Bill 1412, Printer's No.2529. This legislation amends the Industrial and Commercial Development Authority Law to clarify the right of development authorities to issue both taxable and tax-exempt bonds. The bill does not change current law, but merely codifies a long-recognized interpretation of the law.

I am not disapproving this legislation because I oppose its intent or the issuance of taxable bonds. The issuance of taxable bonds can often be a vital component of an overall economic development strategy. Counsel for the Department of Commerce has assured me that, regardless of any action I may take regarding this legislation, industrial and commercial development authorities would retain the legal authority to issue such bonds.

I am disapproving this legislation only because counsel for authorities not governed by the Industrial and Commercial Development Authority Law have expressed the fear its enactment may imply that other types of authorities do not have the power to issue taxable bonds. Upon the recommendations, made subsequent to its final passage, by the original sponsors and advocates of this legislation, I am vetoing the bill to make absolutely certain that the marketability of taxable bonds being sold by authorities not governed by the Industrial and Commercial Development Authority Law is not impaired.

Accordingly, I hereby file my objections to Senate Bill 1412, Printer's No.2529, with the Secretary of the Commonwealth and publicly proclaim my disapproval of this bill.

DICK THORNBURGH

Veto No. 1986-5

SB 377 December 19, 1986

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I have before me Senate Bill 377, Printer's No.2499, which, as originally introduced, would have allowed the boarding of domesticated pets at health care facilities if the general well-being of the facility's residents would be enhanced. The bill was subsequently amended to include one of my legislative initiatives which would require that health care facilities report to the appropriate State health board regarding medical malpractice or misconduct that impacts on the privileges or employment of various health professionals. I believe that these provisions of the bill clearly have merit.

Late in the legislative process, however, Senate Bill 377 was amended to make major programmatic changes in the licensing of personal care boarding homes, including the transfer of responsibility for inspection and licensing of these homes from the Department of Public Welfare to the Department of Health.

No legislative committee ever examined this amendment, and no public hearings were held before it was approved by the General Assembly.

Since then, various organizations have expressed their opposition to Senate Bill 377. The Mental Health Association in Pennsylvania called the hasty and premature adoption of this legislation a "quick fix" to the long-term care issue, while the Pennsylvania Association of Non-Profit Homes for the Aging stated that the bill "will not significantly improve the quality of personal care homes in the Commonwealth."

This administration has developed a program to provide financial assistance in the form of low-interest loans to personal care boarding homes and these loans are now available to repair, reconstruct and rehabilitate personal care boarding homes for the purpose of securing compliance with applicable safety standards.

In addition, measures to regulate personal care boarding homes were instituted early in this administration and were then established statutorily in Act 105 of 1980. Since that time, the Department of Public Welfare has promulgated and published regulations, which are currently being reviewed for further refinements, with the input of personal care home providers and the public. The Department of Public Welfare also has developed training programs for both personal home care providers and department inspectors, and, to further augment the enforcement process, the department is installing a computer monitoring system that will enable it to more clearly pinpoint and address compliance problems.

Furthermore, the Department of Public Welfare has taken necessary steps to close substandard personal care boarding homes, while providing that the

relocation of residents is properly coordinated through an interagency agreement with the Department of Aging.

Those provisions of Senate Bill 377 transferring the administrative responsibility for the licensure of personal care boarding homes to the Department of Health would disrupt the fully functional licensing program that now exists.

Although these provisions concerning personal care boarding homes may be well-intentioned, I am persuaded that the existing regulatory programs, as well as the studies currently underway to develop a continuum of care plan, including the personal care home as a vital component, offer a comprehensive and integrated solution to the provision of long-term care services in Pennsylvania. Those who are concerned about the current program would do better to work with the Department of Public Welfare for improvements, than to take the drastic action provided for in this amendment to Senate Bill 377.

In addition, I am concerned with a related provision of the bill that would appropriate $3.5 million for increases in State supplemental assistance, without delineating whether the money accrues to the direct benefit of the residents or to the providers of licensed personal care facilities. While this administration was responsible for extending the additional State supplement to residents of personal care boarding homes, who already received the Federal Supplemental Security Income (SSI) benefit, I believe that further increases in the State supplement should be considered and evaluated in conjunction with the Commonwealth budgetary process.

For the reasons stated above, pursuant to the provisions of the Constitution of Pennsylvania, I hereby disapprove Senate Bill 377, Printer's No.2499, and publicly proclaim and file my objections to the bill with the Secretary of the Commonwealth.

DICK THORNBURGH

Veto No. 1986-6

HB 942 December 19, 1986

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I have before me House Bill 942, Printer's No.4199, which, as originally introduced, would have required the Department of Community Affairs to provide services to certain distressed municipalities. Late in the legislative process, the bill was amended to include unrelated provisions which would provide $1.5 million of disaster relief for public facilities damaged by flooding during July 1986, and authorize the Department of Transportation to reconvey certain donated lands no longer needed for transportation projects to the donor or abutting land owners. I have no objections to these provisions, and in particular, I believe it would be in the Commonwealth's best interests for the General Assembly to promptly act upon legislation providing a comprehensive system of disaster relief to cover damages that are not reimbursed by other Federal and State assistance programs. Action on such legislation should clearly be a high priority in the upcoming legislative session.

Another amendment to this bill, however, would require the Department of Public Welfare to, in effect, duplicate our existing alcohol treatment service system. Currently, comprehensive treatment, case management and other services are provided by county drug and alcoholism programs financed and administered through the Department of Health. In addition, certain medical and hospital alcoholism services are provided to categorically and medically needy individuals through the State's Medical Assistance Program. This administration has demonstrated its commitment to the expansion of drug and alcohol abuse prevention, intervention, treatment and rehabilitation programs by increasing State funding for these programs by over sixty-four percent since 1979.

In addition, during the past year, plans have been developed for the consolidation of drug and alcohol services in one department. I am advised that such a plan would provide for an improved integration and coordination of services, thereby ensuring appropriate case management and follow-up care for individuals who need assistance. H.B.942, however, would work against such coordinated efforts and could seriously impede the delivery of existing services.

Furthermore, by significantly expanding the Medical Assistance Program to include this type of entitlement to services, House Bill 942 may inadvertently impair our ability to adequately provide other equally vital health care services. I, therefore, believe that budgetary decisions of this magnitude should be thoroughly reviewed and evaluated in the context of preparing the Commonwealth budget.

For the reasons outlined, I must hereby disapprove House Bill 942, Printer's No.4199, and publicly proclaim and file my objections to the bill with the Secretary of the Commonwealth.

DICK THORNBURGH