

January 27, 2017



PNA LEGAL UPDATE

LEGAL AND LEGISLATIVE ISSUES AFFECTING THE NEWS INDUSTRY

A supplement to Headlines & Deadlines

Editorial Round Up

[TribLive \(Pittsburgh\)](#)

Lance: to skirting the Pennsylvania Sunshine Act

Legislative Update

The House and Senate were in session this week, with numerous bills introduced and co-sponsorship memos circulated. Among the proposals on PNA's watch list is [SB 138](#), introduced by Sen. Yaw (R-Bradford), which would require access to oil and gas lease information for property owners, but not the public. PNA is also monitoring [HB 157](#), introduced by Rep. Metcalfe (R-Butler). Among other things, this bill would govern the Historical and Museum Commission and provide public access to records older than 75 years, even if an RTKL exemption applies.

Senator Folmer (R-Lebanon) introduced [SB 8](#), which is scheduled for a vote in the Senate Judiciary Committee next week. This bill proposes significant changes to civil asset forfeiture in the Commonwealth. Asset forfeitures are civil proceedings against property that allow law enforcement to take possession of property of certain persons suspected of crime. The bill would require district attorneys (DA) to provide annual audits of county forfeiture actions to the Attorney General, and the Attorney General would be required to file a report with the House and Senate based on the district attorney audits. DA audits are not public under the bill, and the Attorney General is required to create policies governing release of information in order to protect the confidentiality of forfeited property or proceeds used in ongoing law enforcement activities. Public access under the bill is not clear.

The House is in recess until Feb. 6, and the Senate returns on Monday. PNA will continue to monitor bills and work with legislators on issues affecting the media.

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Legal Hotline

Do you have a question for the Legal Hotline?

Contact 717-703-3080



LEGAL
QUESTION?
CALL
717-703-3080

The Legal Hotline is not meant to be legal advice.

Legal Update PDF

Visit the PNA website for a [printable PDF](#) of this week's Legal Update.

PNA Announcements

Holly Lubart joins PNA as Director of Government Affairs

The Pennsylvania NewsMedia Association is pleased to announce that Holly Lubart has joined the organization as its Director of Government Affairs. Holly can be reached at HollyL@pa-news.org or at (717) 703-3032. Read more [here](#)

Legal Issues from Around the Commonwealth

Newspaper's quest for parking records ends with success and questions

PennLive/The Patriot-News (Harrisburg) has received records related to parking enforcement in Harrisburg after a months-long quest, but is still left to wonder which agency is actually

responsible for providing the records in the future. Read more [here](#)

Council chooses candidate for vacant seat during private session

Members of the Allegheny County Council met during a private session to discuss and decide which candidate will fill an empty seat on council. Members of council argued that they have always filled vacancies in this manner, and their solicitor agreed. After the private meeting, council voted during public session to affirm the decision made privately. Read more from [TribLive \(Pittsburgh\)](#).

PNA note: [Section 708\(a\)\(1\)](#) of the Sunshine Act expressly prohibits using a personnel executive session to hold private discussions about filling a vacancy in elected office.

Beyond PA

News organization sues county clerk for delayed access to filings

Courthouse News has filed a First Amendment action against the Orange County Clerk's Office in California federal court over a policy that delays access to court filings. The clerk's office does not make filings available to the public on paper or via its website until administrative processing has been completed, which can take up to nine days. Judges in other federal courts in California, New York and Texas have found that such delays violate the First Amendment. Read more [here](#)

From the Hotline

Q: What are the rules when using terms like "Super Bowl," "Super Sunday," and NFL team names and logos in ads?

A: The terms "Super Bowl," "Super Sunday," as well as NFL team names and logos, are federally registered trademarks, and advertisers cannot use them without permission from the trademark holder.

A trademark is a word, symbol, design, phrase, or combination thereof that identifies and distinguishes the source of products or services provided. Trademark law establishes and vests the exclusive rights to use such marks in the trademark owner. The law is designed to protect the public from confusion and deception, as well as to provide the trademark owner with a unique way of marketing itself.

If a trademark is not owned by an advertiser or the advertiser has not gotten permission to use the trademark, the trademark owner can sue for an injunction against future printing. The newspaper is not liable for damages unless it ran the advertisement knowing that it would cause confusion or deceive purchasers. If the newspaper runs the ad with knowledge of a conflicting claim of trademark ownership, the paper is not only subject to an injunction against future printing, but may face liability for damages.

The NFL owns the trademark to a number of phrases related to professional football including "Super Bowl" and "Super Sunday." The NFL also owns the rights to NFL logos, as well as the Superbowl crest. Individual teams generally hold the trademarks for team names and logos. The NFL aggressively defends its trademarks and has brought actions against a number of businesses for using NFL trademarks without permission.

Advertisers can use non-protected phrases like "The Big Game," or "The Big Game in Houston," to promote events and products. Likewise, advertisers can refer to teams by geographic location such as "Good luck Atlanta!" or "Way to go New England!"

As always, this is not intended to be, and should not be construed as, legal advice. Please contact your newspaper's private attorney or the Legal Hotline at (717) 703-3080 with specific questions.

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