

Journal of the Senate

SECOND REGULAR SESSION

SIXTY-EIGHTH DAY—SUNDAY, MAY 7, 2000

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl Gauck offered the following prayer:

“The righteous....are in the hand of God.” (Ecclesiastes 9:1)

Heavenly Father, in what has seemed to be a short weekend, we are safely back here to work and bring to conclusion this session. There is much to be done this week, Lord, and we will need Your strong hand to guide us. And we pray for Your help to have the confidence of making the right decisions we are expected to make. Watch over us this week and provide us the energy and wherewithal we will need. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal for Friday, May 5, 2000, was read and approved.

Photographers from the Associated Press, KOMU-TV and KRCG-TV were given permission to take pictures in the Senate Chamber today.

The following Senators were present during the day's proceedings:

Present—Senators

Bentley	Bland	Carter	Caskey
Childers	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Quick	Rohrbach	Russell	Schneider

Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

Absent with leave—Senator Clay—1

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HS** for **HCS** for **SB 788**, entitled:

An Act to repeal section 105.055, RSMo 1994, and section 105.058, RSMo Supp. 1999, relating to whistleblower and related protections for employees, and to enact in lieu thereof ten new sections relating to the same subject, with an effective date for a certain section.

With House Amendment No. 1.

HOUSE AMENDMENT NO. 1

Amend House Substitute for House Committee Substitute for Senate Bill No. 788, Page 11, Section 3, Line 11, by deleting the word “**nine**” and inserting in lieu thereof the word “**eleven**”; and

Further amend said bill, Page 11, Section 3, Line 13, by deleting the word “**one**” and inserting in lieu thereof the word “**two**”; and

Further amend said bill, Page 11, Section 3, Line 13, by deleting the word “**a**” found on said line; and

Further amend said bill, Page 11, Section 3, Line 14, by deleting the word “**representative**” and inserting in lieu thereof the word “**representatives**”; and

Further amend said bill, Page 11, Section 3, Line 15, by deleting the word “**two**” and inserting in lieu thereof the word “**three**”.

In which the concurrence of the Senate is respectfully requested.

PRIVILEGED MOTIONS

Senator Maxwell moved that the Senate refuse to concur in **HS** for **HCS** for **SB 856**, as amended, and request the House to recede from its position and, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Johnson moved that the Senate refuse to concur in **HS** for **HCS** for **SB 788**, as amended, and request the House to recede from its position and, failing to do so, grant the Senate a conference thereon, which motion prevailed.

Senator Mathewson moved that the Conference Committee Report on **SCS** for **HS** for **HCS** for **HB 1742**, as amended, be returned to the House of Representatives for the purpose of adopting the emergency clause on the Conference Committee Substitute.

Senator Wiggins assumed the Chair.

Senator Johnson assumed the Chair.

Senator Singleton offered a substitute motion that the Conference Committee Report on **SCS** for **HS** for **HCS** for **HB 1742**, as amended, be sent back to the House of Representatives, which motion failed.

Senator Mathewson renewed his motion that the Conference Committee Report on **SCS** for **HS** for **HCS** for **HB 1742**, as amended, be returned to the House of Representatives for the purpose of adopting the emergency clause on the Conference Committee Substitute, which motion prevailed.

HOUSE BILLS ON THIRD READING

HS for **HB 1603**, with **SCS**, entitled:

An Act to repeal section 407.820, RSMo 1994,

and sections 407.815, 407.816, 407.822 and 407.825, RSMo Supp. 1999, relating to motor vehicle franchise practices, and to enact in lieu thereof seven new sections relating to the same subject.

Was called from the Informal Calendar and taken up by Senator Jacob.

SCS for **HS** for **HB 1603**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE SUBSTITUTE FOR HOUSE BILL NO. 1603

An Act to repeal sections 407.820, 407.850 and 407.870, RSMo 1994, and sections 407.815, 407.816, 407.822, 407.825 and 621.053, RSMo Supp. 1999, relating to motor vehicle franchise practices, and to enact in lieu thereof ten new sections relating to the same subject.

Was taken up.

Senator Jacob moved that **SCS** for **HS** for **HB 1603** be adopted.

Senator Jacob offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Substitute for House Bill No. 1603, Page 18, Section 407.826, Line 31, by inserting immediately after “2000” the following: “;

(4) Nothing in this section shall prohibit a factory from providing wholesale financing or dealer financing in the form of capital loans, revolving lines of credit and mortgage loans. Additionally, nothing in this section shall prohibit a factory from providing retail and lease financing of motor vehicles through its franchised motor vehicle dealers. Nor does this section prohibit a factory's wholly owned finance company from selling repossessed or off-lease vehicles at auction in Missouri to franchised motor vehicle dealers”.

Senator Jacob moved that the above amendment be adopted, which motion prevailed.

Senator Wiggins assumed the Chair.

Senator Stoll assumed the Chair.

Senator Russell offered **SA 2**, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Substitute for House Bill No. 1603, Page 3, Section 407.815, Line 65, by inserting after the word “vessels” the following: “using pontoon flotation systems or those”.

Senator Russell moved that the above amendment be adopted, which motion prevailed.

Senator Staples offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Substitute for House Bill No. 1603, Page 2, Section 407.815, Lines 38-39, by striking all of said lines after the words “301, RSMo” and inserting a semicolon “;”.

Senator Staples moved that the above amendment be adopted, which motion failed on a standing division vote.

Senator Childers offered **SA 4**:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Substitute for House Bill No. 1603, Page 2, Section 407.815, Lines 32-33, by deleting said lines and inserting in lieu thereof the following:

“vehicles or used motor vehicles taken in trade of new motor vehicles or used motor vehicles purchased”.

Senator Childers moved that the above amendment be adopted.

Senator Johnson assumed the Chair.

Senator Jacob offered **SSA 1** for **SA 4**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1
FOR SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Substitute for House Bill No. 1603, Page 2, Section 407.815, Lines 32-33, by deleting said lines and inserting in lieu thereof the following:

“vehicles or used motor vehicles taken in trade of new motor vehicles or used motor vehicles purchased”; and

Further amend said section, page 3, lines 62-66,

by deleting said lines.

Senator Jacob moved that the above substitute amendment be adopted.

Senator Flotron raised the point of order that the substitute amendment is out of order as it attempts to amend previously amended material.

Senator Mathewson assumed the Chair.

The point of order was referred to the President Pro Tem, who ruled it well taken.

SA 4 was again taken up.

Senator Childers moved that the above amendment be adopted.

Senator Kenney requested a roll call vote be taken on the adoption of **SA 4** and was joined in his request by Senators Childers, Flotron, Klarich and Mathewson.

SA 4 failed of adoption by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Childers
DePasco	Goode	House	Howard
Jacob	Rohrbach	Scott	Westfall—12

NAYS—Senators

Caskey	Ehlmann	Flotron	Johnson
Kenney	Kinder	Klarich	Mathewson
Maxwell	Mueller	Russell	Schneider
Sims	Singleton	Steelman	Stoll
Wiggins	Yeckel—18		

Absent—Senators

Quick	Staples—2
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Absent with leave—Senators

Clay	Graves—2
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Senator Mueller offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for House Substitute for House Bill No. 1603, Pages 16-17, Section 407.825(17), Lines 260-269, by striking all of said lines and inserting in lieu thereof the following: “**(17) To fail to timely compensate the franchisee for parts used to rectify the franchisor's product or warranty defects or parts used in the delivery and preparations obligations. For purposes of**

this subdivision, compensation for parts shall be at a rate agreed upon by the two parties. If no agreement can be reached, then the rate of compensation shall be the same as previously provided to the franchisee for warranty work;”.

Senator Mueller moved that the above amendment be adopted.

Senator Jacob requested a roll call vote be taken on the adoption of **SA 5** and was joined in his request by Senators Flotron, House, Howard and Mueller.

SA 5 failed of adoption by the following vote:

YEAS—Senators

Bland	Ehlmann	Flotron	Mueller
Rohrbach	Sims	Singleton	Westfall—8

NAYS—Senators

Bentley	Carter	Caskey	Childers
Goode	House	Howard	Jacob
Johnson	Kenney	Kinder	Klarich
Mathewson	Maxwell	Quick	Russell
Schneider	Scott	Steelman	Stoll
Wiggins	Yeckel—22		

Absent—Senators

DePasco	Staples—2
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Absent with leave—Senators

Clay	Graves—2
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Senator Bland offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Committee Substitute for House Substitute for House Bill No. 1603, Page 5, Section 407.817, Line 86, by inserting after all of said line the following:

“407.818. No franchisee shall have a posted labor rate for motor vehicle repairs of more than ten times the federal minimum wage.”; and

Further amend said title, enacting clause and intersectional references accordingly.

Senator Bland moved that the above amendment be adopted.

Senator Kinder requested a roll call vote be taken on the adoption of **SA 6** and was joined in his

request by Senators Caskey, Childers, House and Sims.

SA 6 failed of adoption by the following vote:

YEAS—Senators

Bland	Carter	DePasco—3
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NAYS—Senators

Bentley	Caskey	Childers	Ehlmann
Flotron	Goode	House	Howard
Jacob	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Quick	Rohrbach	Russell	Scott
Sims	Singleton	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

Absent—Senator Schneider—1

Absent with leave—Senators

Clay	Graves—2
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Senator Rohrbach offered **SA 7**:

SENATE AMENDMENT NO. 7

Amend Senate Committee Substitute for House Substitute for House Bill No. 1603, Page 1, In the Title, Line 4, by striking the word “ten” in said line and inserting in lieu thereof the word “**nine**”; and

Further amend said Bill, Page 1, Section A, Line 3, by striking the word “ten” and inserting in lieu thereof the word “**nine**”; and

Further amend said Bill, Page 2, Section A, Line 4, by deleting “407.817,” as it appears in said line; and

Further amend said Bill, Pages 2-3, Section 407.815(11), Lines 47-57, by striking all of said lines; and

Further amend said Bill, Pages 3-5, Section 407.817, Lines 1-86, by striking all of said lines.

Senator Rohrbach moved that the above amendment be adopted.

Senator Jacob requested a roll call vote be taken on the adoption of **SA 7** and was joined in his request by Senators Childers, Howard, Steelman and Westfall.

SA 7 failed of adoption by the following vote:

YEAS—Senators

Childers Mueller Rohrbach Singleton—4

NAYS—Senators

Bentley	Bland	Carter	Caskey
DePasco	Ehlmann	Flotron	Goode
House	Howard	Jacob	Johnson
Kenney	Kinder	Klarich	Mathewson
Maxwell	Quick	Russell	Scott
Sims	Steelman	Stoll	Westfall
Wiggins	Yeckel—26		

Absent—Senators

Schneider Staples—2

Absent with leave—Senators

Clay Graves—2

Senator Wiggins assumed the Chair.

At the request of Senator Jacob, **HS** for **HB 1603**, with **SCS**, as amended (pending), was placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on **HCS** for **SB 944**, as amended: Representatives Smith, Davis 122, Hollingsworth, McClelland, Patek.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has concurred in **SCA 1** to **HCS** for **HB 1434** and has again taken up and passed **HCS** for **HB 1434**, as amended.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SCS** for **HCS** for **HB 1142**, as amended, and has taken up and passed **CCS** for **SCS** for **HCS** for **HB 1142**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SRB 1001**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **SRB 1002**.

Bill ordered enrolled.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has adopted **SS** for **SCS** for **HB 1452** and has again taken up and passed **SS** for **SCS** for **HB 1452**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House of Representatives has adopted the Emergency Clause on **CCS** for **SCS** for **HS** for **HCS** for **HB 1742**.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt **SCS** for **HB 1948** and requests the Senate to recede from its position, or failing to do so, grant the House a conference thereon.

President Pro Tem Quick assumed the Chair.

REFERRALS

President Pro Tem Quick referred **HS** for **HCS** for **HB 1305**, with **SCS**; and **HCR 22** to the Committee on State Budget Control.

REPORTS OF STANDING COMMITTEES

Senator Mathewson, Chairman of the Committee on State Budget Control, submitted the following reports:

Mr. President: Your Committee on State Budget Control, to which were referred **HS** for **HCS** for **HBs 1215** and **1240**, with **SCS**; **HS** for **HCS** for **HB 1481**; **HS** for **HCS** for **HB 1762**, with **SCS**; **HS** for **HCS** for **HB 1797**, with **SCA 1**; **HS** for **HCS** for **HBs 1677**, **1675** and **1676**, with **SCS**;

HS for **HB 1615**, with **SCS**; and **HB 1443**, with **SCS**, begs leave to report that it has considered the same and recommends that the bills do pass.

Senator Mathewson, Chairman of the Committee on Local Government and Economic Development, submitted the following report:

Mr. President: Your Committee on Local Government and Economic Development, to which were referred **HB 1499** and **HB 1579**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Howard, Chairman of the Committee on Aging, Families and Mental Health, submitted the following report:

Mr. President: Your Committee on Aging, Families and Mental Health, to which was referred **HB 1946**, begs leave to report that it has considered the same and recommends that the bill do pass.

On motion of Senator DePasco, the Senate adjourned until 9:30 a.m., Monday, May 8, 2000.

Unofficial

SENATE CALENDAR

SIXTY-NINTH DAY—MONDAY, MAY 8, 2000

Journal
FORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 1045-Caskey, with SCS

SBs 1043, 1031, 580 &
671-Mathewson, with SCS

HOUSE BILLS ON THIRD READING

- | | |
|---|--|
| <p>1. HB 1443-Koller, with SCS (Johnson)</p> <p>2. HS for HB 1615-Hosmer, with SCS (Caskey)</p> <p>3. HS for HCS for HBs 1652 & 1433-Hoppe, with SCAs 1, 2, 3, 4, 5 & 6 (Caskey) (In Budget Control)</p> <p>4. HS for HCS for HBs 1677, 1675 & 1676-Riback Wilson, with SCS (Jacob)</p> | <p>5. HS for HB 1238-Hoppe, with SCS (Mathewson)</p> <p>6. HS for HCS for HB 1797-Gratz, with SCA 1 (Goode)</p> <p>7. HS for HCS for HBs 1172, 1501, 1633, 1440, 1634, 1177 & 1430-Davis (122nd), with SCS (Howard)</p> <p>8. HS for HCS for HB 1762-Williams (159th), with SCS (Caskey)</p> |
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9. HCS for HB 1144, with
SCS (Johnson)
10. HJR 43-Barry, et al
(House)
11. HS for HCS for HB
1481-Smith (Maxwell)
12. HCS for HB 1644, with
SCS (Scott)
13. HS for HCS for HBs
1215 & 1240-Smith,
with SCS (Caskey)
14. HB 1768-Ward, with
SCS (Staples)
15. HB 1326-Mays (50th),
with SCAs 1 & 2
(Goode)
16. HS for HB 1728-Backer,
with SCS (Flotron)
(In Budget Control)
17. HS for HCS for HBs 1489,
1488 & 1650-Kennedy,
with SCS (Maxwell)
(In Budget Control)
18. HS for HCS for
HB 1305-Rizzo,
with SCS (DePasco)
(In Budget Control)
19. HS for HCS for
HB 1254-Kissell,
with SCS (Caskey)
20. HB 1499 & HB 1579-
Hoppe, with SCS
21. HB 1946-Dougherty

INFORMAL CALENDAR
SENATE BILLS FOR PERFECTION

- | | |
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| <p>SBs 545, 628, 647, 728,
834 & 832-Staples,
with SCS (pending)</p> <p>SBs 584, 539, 630, 777,
796, 918 & 927-Bentley,
with SCS & SS for SCS
(pending)</p> <p>SBs 599 & 531-Schneider,
with SCS (pending)</p> <p>SB 604-Wiggins</p> <p>SB 697-Schneider, with
SCS & SA 1 (pending)</p> <p>SB 720-Caskey, with SS &
SA 3 (pending)</p> <p>SB 729-House, with SCS &
SA 8 (pending)</p> <p>SB 744-Klarich</p> <p>SB 748-Johnson, with SCS</p> <p>SB 803-Goode, et al, with
SCS</p> | <p>SBs 807, 553, 574, 614,
747 & 860-Jacob, with
SCS, SS for SCS & SA 2
(pending)</p> <p>SB 817-Stoll, with SCS</p> <p>SBs 818 & 564-Maxwell and
Kinder, with SCS</p> <p>SB 826-Jacob, et al, with
SCS, SS for SCS & SA 5
(pending)</p> <p>SB 827-Scott, et al, with
SS & SA 2 (pending)</p> <p>SB 866-Klarich</p> <p>SB 930-Jacob, with SCS</p> <p>SB 955-Mathewson, et al</p> <p>SB 957-Johnson and Quick,
with SCS, SA 2, SSA 1
for SA 2 & SA 3 to SSA
1 for SA 2 (pending)</p> <p>SB 980-Jacob, with SCS</p> |
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SB 1016-Jacob, et al,
with SS, SA 2 & point
of order (pending)

SB 1047-Rohrbach, with
SCS (pending)

SB 1048-Mathewson, with
SCS

SJR 45 & 41-House, with
SCS (pending)

SJR 46-Goode, et al, with
SCS (pending)

SJR 47-Quick, et al, with
SCS, SS for SCS, SA 1,
SSA 1 for SA 1 & point
of order (pending)

HOUSE BILLS ON THIRD READING

HS for HCS for HB 1076-
Relford, with SCS (Stoll)
HB 1082-Crump, with SCS &
SA 1 (pending) (Childers)
SCS for HB 1292-Auer
(Jacob) (In Budget Control)
SCS for HCS for HBs 1386
& 1086 (Maxwell)
(In Budget Control)

HS for HCS for HBs 1566 &
1810-Bray, with SCS (Scott)
HS for HB 1603-May (108th),
with SCS (pending) (Jacob)
HB 1706-Gambaro, et al,
with SCS (Clay)
HS for HCS for HJR 61-Van
Zandt, with SCS, SA 1
& SA 7 to SA 1
(pending) (Quick)

CONSENT CALENDAR

Senate Bills

Reported 2/15

SB 740-Wiggins

House Bills

Reported 4/11

HB 1085-Selby (Stoll)

Reported 4/13

HB 1875-Franklin
(Wiggins)

SCS for HB 1396-Farnen
(Johnson)
(In Budget Control)

BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES

In Conference

SS for SB 549-Quick, et al, with HS for HCS, as amended	HB 1591-Backer, with SCS (Howard)
SS for SB 813-House, with HCS, as amended	HS for HCS for HB 1742- Koller, with SCS, as amended (Mathewson)
SB 881-Wiggins, with HS for HCS, as amended	(House adopted CCR and passed CCS)
SB 944-Caskey, with HCS, as amended	HB 1808-O'Toole, with SS for SCS, as amended (Scott)
HCS for HB 1142, with SCS, as amended (Johnson) (House adopted CCR and passed CCS)	HB 1848-Treadway, with SCS (Carter)

Requests to Recede or Grant Conference

SB 788-Johnson, with HS for HCS, as amended (Senate requests House recede or grant conference)	HB 1948-Gratz, et al, with SCS (Staples) (House requests Senate recede or grant conference)
SB 856-Maxwell, with HS for HCS, as amended (Senate requests House recede or grant conference)	

RESOLUTIONS

SR 1204-Goode	SCR 33-Kinder, et al
SR 1373-Mathewson	

Reported from Committee

SCR 34-Bland, et al, with point of order (pending)	SCR 42-Rohrbach and Johnson, with SCA 1
SCR 40-House	HCR 22-Liese (House)
SCR 43-Maxwell	(In Budget Control)
SCR 41-Scott, with SCS	HCR 27-Ross, et al

HCR 4-Kennedy and
Thompson (Howard)
HCR 29-Graham (Jacob)

HCR 10-Auer, with SCA 1
(Jacob)
SCR 26-Howard

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