

# Journal of the Senate

FIRST REGULAR SESSION

FORTIETH DAY—TUESDAY, MARCH 13, 2001

The Senate met pursuant to adjournment.

Absent with leave—Senators—None

President Maxwell in the Chair.

The Lieutenant Governor was present.

Reverend Carl Gauck offered the following prayer:

“O give thanks to the Lord of lords...who alone does great wonders, for his steadfast love endures forever.” (Psalm 136:3-4)

Gracious Lord, we praise You for Your faithfulness and steadfast love that have been shown throughout all generations. Thank you for abiding with us and giving us the privilege to be a part of Your great universe. Keep us faithful as stewards as we serve in the kingdom of man and kingdom of God. And we pray for our doorkeeper, Bill Wyrick and his wife, Nancy, as they leave us and await her transplant operation; give them patience and heal her body. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

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

Present—Senators

Bentley	Bland	Carter	Caskey
Cauthorn	Childers	DePasco	Dougherty
Foster	Gibbons	Goode	Gross
House	Jacob	Johnson	Kenney
Kinder	Klarich	Klindt	Loudon
Mathewson	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—34		

## THIRD READING OF SENATE BILLS

**SB 442**, introduced by Senator Caskey, entitled:

An Act to amend chapter 301, RSMo, by adding thereto one new section relating to special license plates for Safari Club International.

Was called from the Consent Calendar and taken up.

On motion of Senator Caskey, **SB 442** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Cauthorn	Childers	DePasco	Dougherty
Foster	Gibbons	Goode	Gross
House	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Russell	Scott	Sims
Staples	Stoll	Westfall	Wiggins

Yeckel—29

NAYS—Senators

Rohrbach      Singleton      Steelman—3

Absent—Senators

Jacob      Schneider—2

Absent with leave—Senators—None

The President declared the bill passed.

On motion of Senator Caskey, title to the bill was agreed to.

Senator Caskey moved that the vote by which the bill passed be reconsidered.

Senator Stoll moved that motion lay on the table, which motion prevailed.

Senator Klarich assumed the Chair.

**SB 491**, with **SCS**, introduced by Senator Rohrbach, entitled:

An Act to repeal section 198.280, RSMo 2000, relating to nursing home districts, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

**SCS** for **SB 491**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 491

An Act to repeal section 198.280, RSMo 2000, relating to nursing home districts, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

Senator Rohrbach moved that **SCS** for **SB 491** be adopted, which motion prevailed.

On motion of Senator Rohrbach, **SCS** for **SB 491** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Cauthorn	Childers	DePasco	Dougherty
Foster	Gibbons	Goode	Gross
House	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

NAYS—Senators—None

Absent—Senator Jacob—1

Absent with leave—Senators—None

The President declared the bill passed.

On motion of Senator Rohrbach, title to the bill

was agreed to.

Senator Rohrbach moved that the vote by which the bill passed be reconsidered.

Senator House moved that motion lay on the table, which motion prevailed.

**SB 345**, introduced by Senator House, entitled:

An Act to repeal section 71.285, RSMo 2000, relating to removal of weeds, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

On motion of Senator House, **SB 345** was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Cauthorn	Childers	DePasco	Dougherty
Foster	Gibbons	Goode	Gross
House	Johnson	Kenney	Kinder
Klarich	Klindt	Loudon	Mathewson
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

NAYS—Senators—None

Absent—Senator Jacob—1

Absent with leave—Senators—None

The President declared the bill passed.

On motion of Senator House, title to the bill was agreed to.

Senator House moved that the vote by which the bill passed be reconsidered.

Senator Goode moved that motion lay on the table, which motion prevailed.

**SB 191**, with **SCAs 1** and **2**, introduced by Senator Goode, entitled:

An Act to repeal section 77.450, RSMo 2000, relating to certain municipalities, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

**SCA 1** was taken up.

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

**SCA 2** was taken up.

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

President Pro Tem Kinder assumed the Chair.

On motion of Senator Goode, **SB 191**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Bentley	Bland	Carter	Caskey
Cauthorn	Childers	DePasco	Dougherty
Foster	Gibbons	Goode	Gross
House	Jacob	Johnson	Kenney
Kinder	Klarich	Klindt	Loudon
Mathewson	Quick	Rohrbach	Russell
Schneider	Scott	Sims	Singleton
Staples	Steelman	Stoll	Westfall
Wiggins	Yeckel—34		

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

The President Pro Tem declared the bill passed.

On motion of Senator Goode, title to the bill was agreed to.

Senator Goode moved that the vote by which the bill passed be reconsidered.

Senator Kenney moved that motion lay on the table, which motion prevailed.

### SENATE BILLS FOR PERFECTION

Senator Gross moved that **SB 253** and **SB 260**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

**SCS** for **SBs 253** and **260**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILLS NOS. 253 and 260  
An Act to repeal section 516.097, RSMo 2000,

relating to certain tort actions, and to enact in lieu thereof two new sections relating to the same subject.

Was taken up.

Senator Gross moved that **SCS** for **SBs 253** and **260** be adopted.

Senator DePasco offered **SA 1**, which was read:

#### SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bills Nos. 253 and 260, Page 2, Section 537.800, Line 2, by deleting the words “or injuries” and inserting in lieu thereof the following: “, **injuries or death**”.

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

Senator Klarich offered **SA 2**:

#### SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bills Nos. 253 and 260, Page 1, Section 516.097, Line 6, by inserting after “completed” the following: “**only if any remaining improvements to real property occur within one year of the substantially completed portion. Otherwise, a ten year statute of limitations shall begin to run when the improvement of real property is completed. A written contract shall be provided to the property owner confirming the date the improvement to the real property will be completed. This date shall be no greater than six months from the date the improvement was substantially completed.**”.

Senator Klarich moved that the above amendment be adopted.

Senator Singleton assumed the Chair.

Senator Gross offered **SSA 1** for **SA 2**:

#### SENATE SUBSTITUTE AMENDMENT NO. 1 FOR SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bills Nos. 253 and 260, Page 1, Section 516.097.0, Line 4, by inserting after the word “condition” on said line, the words “of any improvement to real property”; and

Further amend said Section, Page 1, Line 5, by deleting the brackets on said line; and

Further amend said Bill, Section 516.097.6, Page 2, Line 31 of said page, by inserting after the word "improvement" the words "to real property" on said line; and

Further amend said Section, Page 2, Line 36 on said page, by inserting after the word "a" the word "licensed" on said line; and

Further amend said Bill, Section 537.800.4, Page 2, Line 15 of said page, by deleting the words "ninety-five" on said line and inserting in lieu thereof, the words "one hundred twenty" on said line; and

Further amend said Bill, Section 537.800.6, Page 3, Line 22 on said page, by inserting before the word "professional" the word "licensed" on said line; and

Further amend said line by inserting before the word "land" the word "licensed" on said line.

Senator Gross moved that the above substitute amendment be adopted.

Senator Klarich raised the point of order that **SSA 1** for **SA 2** is out of order, as it is not a true substitute amendment.

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

**SA 2** was again taken up.

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

At the request of Senator Gross, **SB 253** and **SB 260**, with **SCS**, as amended (pending), were 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 House has taken up and passed **HB 502**, entitled:

An Act to authorize the governor to convey certain property in St. Francois County which is

part of the Southeast Missouri Mental Health Center to the American Legion.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 779**, entitled:

An Act to authorize the conveyance of property interest owned by Northwest Missouri State University to the Missouri National Guard and the City of Maryville.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

On motion of Senator Kenney, the Senate recessed until 3:00 p.m.

### RECESS

The time of recess having expired, the Senate was called to order by President Pro Tem Kinder.

### RESOLUTIONS

Senator Yeckel offered Senate Resolution No. 328, regarding the Sesquicentennial Anniversary of the Missouri School for the Blind, which was adopted.

Senator Yeckel offered Senate Resolution No. 329, regarding Anthony Lawrence Adrignola, St. Louis County, which was adopted.

Senator Caskey offered Senate Resolution No. 330, regarding Marguerite "Lynne" Blakeman, Butler, which was adopted.

Senator Loudon offered Senate Resolution No. 331, regarding Melissa Gilmer, Bridgeton, which was adopted.

Senator House offered Senate Resolution No. 332, regarding Judith K. Loeffler, St. Charles, which was adopted.

Senator House offered Senate Resolution No. 333, regarding Nicholas William King, St. Peters, which was adopted.

Senator Westfall offered Senate Resolution No. 334, regarding James LaMont “Monty” Andreasen, Willard, which was adopted.

### THIRD READING OF SENATE BILLS

**SB 200**, introduced by Senator Sims, entitled:

An Act to repeal section 217.015, RSMo 2000, relating to the department of corrections, and to enact in lieu thereof one new section relating to the same subject.

Was called from the Consent Calendar and taken up.

On motion of Senator Sims, **SB 200** was read the 3rd time and passed by the following vote:

#### YEAS—Senators

Caskey	Cauthorn	Childers	Dougherty
Foster	Goode	Gross	Johnson
Kenney	Kinder	Klarich	Klindt
Mathewson	Quick	Russell	Scott
Sims	Staples	Stoll	Westfall
Wiggins	Yeckel—22		

#### NAYS—Senators—None

#### Absent—Senators

Bentley	Bland	Carter	DePasco
Gibbons	House	Jacob	Loudon
Rohrbach	Schneider	Singleton	Steelman—12

#### Absent with leave—Senators—None

The President declared the bill passed.

On motion of Senator Sims, title to the bill was agreed to.

Senator Sims moved that the vote by which the bill passed be reconsidered.

Senator Kenney moved that motion lay on the table, which motion prevailed.

### INTRODUCTIONS OF GUESTS

President Pro Tem Kinder introduced to the Senate, former Senator Albert M. Spradling, Jr., Cape Girardeau.

Senator Spradling assumed the dais and addressed the members of the Senate.

President Pro Tem Kinder assumed the dais.

### SENATE BILLS FOR PERFECTION

Senator Johnson moved that **SB 184**, with **SS** and **SA 2** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SA 2** was again taken up.

At the request of Senator Singleton, **SA 2** was withdrawn.

At the request of Senator Sims, **SS** for **SB 184** was withdrawn.

Senator Sims offered **SS No. 2** for **SB 184**, entitled:

#### SENATE SUBSTITUTE NO. 2 FOR SENATE BILL NO. 184

An Act to repeal sections 205.968, 205.969, 205.970, 205.971, 205.972 and 205.973, RSMo 2000, relating to sheltered workshops, and to enact in lieu thereof seven new sections relating to the same subject, with an emergency clause.

Senator Sims moved that **SS No. 2** for **SB 184** be adopted.

At the request of Senator Johnson, **SB 184**, with **SS No. 2** (pending), was placed on the Informal Calendar.

Senator Stoll moved that **SB 339**, with **SCA 1**, be taken up for perfection, which motion prevailed.

**SCA 1** was taken up.

Senator Stoll moved that the above amendment be adopted, which motion failed.

Senator Stoll offered **SS** for **SB 339**, entitled:

#### SENATE SUBSTITUTE FOR SENATE BILL NO. 339

An Act to repeal sections 34.140 and 313.835, RSMo 2000, relating to veterans, and to enact in lieu thereof two new sections relating to the same subject, with an emergency clause.

Senator Stoll moved that **SS** for **SB 339** be adopted.

Senator Scott offered **SA 1**:

#### SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Bill No.

339, Page 4, Section 313.835, Line 23, by inserting immediately after the word “organization” the following “**or municipal government agency**”.

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

Senator Stoll moved that **SS** for **SB 339**, as amended, be adopted, which motion prevailed.

On motion of Senator Stoll, **SS** for **SB 339**, as amended, was declared perfected and ordered printed.

Senator Sims moved that **SB 48**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SB 48**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 48

An Act to repeal sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 210.930 and 210.936, RSMo 2000, relating to dependent care, and to enact in lieu thereof nine new sections relating to the same subject, with penalty provisions.

Was taken up.

Senator Sims moved that **SCS** for **SB 48** be adopted.

Senator Sims offered **SS** for **SCS** for **SB 48**, entitled:

SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 48

An Act to repeal sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 210.930 and 210.936, RSMo 2000, relating to dependent care, and to enact in lieu thereof nine new sections relating to the same subject, with penalty provisions.

Senator Sims moved that **SS** for **SCS** for **SB 48** be adopted.

Senator Sims offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 48, Page 2, Section 210.900, Line 21 of said page, by inserting after “(6)” the following: ““**Employer**”, **any child care**

**provider, elder care provider, or personal care provider as defined in this section;**”; and further amend said section, by renumbering the remaining subdivisions accordingly; and further amend line 25, by striking “or”; and

Further amend said bill, Page 6, Section 210.909, Line 15 of said page, by striking the word “felony”; and

Further amend said bill, Page 8, Section 210.921, Line 10 of said page, by inserting before “Any” the following: “**With the exception of any agency licensed by the state to provide child care, elder care or personal care which shall receive specific information immediately if requested,**”.

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

Senator Klarich assumed the Chair.

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 48, Page 5, Section 210.906, Line 1, by adding after the word “employer” the following: “**under contract with the state**”.

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

Senator Sims moved that **SS** for **SCS** for **SB 48**, as amended, be adopted, which motion prevailed.

On motion of Senator Sims, **SS** for **SCS** for **SB 48**, as amended, was declared perfected and ordered printed.

Senator Kenney moved that **SB 400** be taken up for perfection, which motion prevailed.

Senator Kenney offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 400, Page 4, Section 407.817, Line 41, by inserting immediately after “section.” the following:

“**7. This section shall not apply to recreational motor vehicle franchisors and franchisees.**”; and

Further amend said bill, Page 16, Section 407.825, Line 300, by striking “subdivision” as it appears the second time on the line; and inserting in lieu thereof “**subdivisions**”; and further amend line 301, inserting after “(17)” the following: “**and (18)**”; and

Further amend said bill, Page 18, Section 407.826, Line 53, by inserting after all of said line the following:

**“4. The provisions of this section shall not apply to recreational motor vehicle franchisors and franchisees.”**

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

On motion of Senator Kenney, **SB 400**, as amended, was declared perfected and ordered printed.

Senator Steelman moved that **SB 374**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SB 374**, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 374**

An Act to amend chapter 643, RSMo, by adding thereto one new section relating to emissions banking and trading.

Was taken up.

Senator Steelman moved that **SCS** for **SB 374** be adopted, which motion prevailed.

On motion of Senator Steelman, **SCS** for **SB 374** was declared perfected and ordered printed.

Senator Childers moved that **SB 52** and **SB 91**, with **SCS**, **SA 1** and **SSA 1** for **SA 1** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

**SSA 1** for **SA 1** was again taken up.

Senator Goode moved that the above substitute amendment be adopted.

Senator Jacob requested a roll call vote be taken on **SSA 1** for **SA 1** and was joined in his request by Senators DePasco, Quick, House and Stoll.

**SSA 1** for **SA 1** failed of adoption by the

following vote:

YEAS—Senators

Bland	Carter	DePasco	Dougherty
Gibbons	Goode	House	Jacob
Quick	Schneider	Scott	Sims
Stoll	Wiggins	Yeckel—15	

NAYS—Senators

Bentley	Caskey	Cauthorn	Childers
Foster	Gross	Johnson	Kenney
Kinder	Klarich	Klindt	Loudon
Mathewson	Rohrbach	Russell	Singleton
Staples	Steelman	Westfall—19	

Absent—Senators—None

Absent with leave—Senators—None

**SA 1** was again taken up.

At the request of Senator Jacob, **SA 1** was withdrawn.

Senator Westfall offered **SA 2**:

**SENATE AMENDMENT NO. 2**

Amend Senate Committee Substitute for Senate Bills Nos. 52 and 91, Page 25, Section 307.375, Line 53, by inserting after all of said line the following:

“575.010. The following definitions shall apply to chapters 575 and 576, RSMo:

(1) “Affidavit” means any written statement which is authorized or required by law to be made under oath, and which is sworn to before a person authorized to administer oaths;

(2) “Government” means any branch or agency of the government of this state or of any political subdivision thereof;

(3) “**Highway**”, means any public road or thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(4) “Judicial proceeding” means any official proceeding in court, or any proceeding authorized by or held under the supervision of a court;

[~~(4)~~] (5) “Juror” means a grand or petit juror, including a person who has been drawn or

summoned to attend as a prospective juror;

[(5)] (6) "Jury" means a grand or petit jury, including any panel which has been drawn or summoned to attend as prospective jurors;

[(6)] (7) "Official proceeding" means any cause, matter, or proceeding where the laws of this state require that evidence considered therein be under oath or affirmation;

[(7)] (8) "Police animal" means a dog, horse or other animal used in law enforcement or a correctional facility, or by a municipal police department, fire department, search and rescue unit or agency, whether the animal is on duty or not on duty. The term shall include, but not be limited to, accelerant detection dogs, bomb detection dogs, narcotic detection dogs, search and rescue dogs and tracking animals;

[(8)] (9) "Public record" means any document which a public servant is required by law to keep;

[(9)] (10) "Testimony" means any oral statement under oath or affirmation;

[(10)] (11) "Victim" means any natural person against whom any crime is deemed to have been perpetrated or attempted;

[(11)] (12) "Witness" means any natural person:

(a) Having knowledge of the existence or nonexistence of facts relating to any crime; or

(b) Whose declaration under oath is received as evidence for any purpose; or

(c) Who has reported any crime to any peace officer or prosecutor; or

(d) Who has been served with a subpoena issued under the authority of any court of this state.

**575.145. It shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling on the highways of this state to stop on signal of any sheriff or deputy sheriff and to obey any other reasonable signal or direction of such sheriff or deputy sheriff given in directing the movement of traffic on the highways. Any person who willfully fails or refuses to obey such signals or directions or who willfully resists or opposes a sheriff or deputy sheriff in the proper discharge of his or her**

**duties shall be guilty of a class A misdemeanor and on conviction thereof shall be punished as provided by law for such offenses.";** and

Further amend the title and enacting clause accordingly.

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

Senator Goode offered SA 3:

#### SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bills Nos. 52 and 91, Page 1, Section A, Line 4, by inserting after all of said line the following:

**"210.104. 1. As used in sections 210.104 to 210.107, the following terms shall mean:**

(1) **"Child booster seat", a specially designed seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system;**

(2) **"Child passenger restraint system", a specially designed seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system;**

(3) **"Driver", a person who drives or is in actual physical control of a motor vehicle.**

2. Every person transporting a child under the age of [four] **sixteen** years shall be responsible, when transporting such child in a motor vehicle operated by that person on the streets or highways of this state, for providing for the protection of such child[. Such child shall be protected by a child passenger restraint system approved by the department of public safety.

2.] as follows:

(1) **Children less than four years of age, regardless of weight, or children weighing less than forty pounds, regardless of age, shall be properly restrained in a properly secured child passenger restraint system appropriate that child;**



**(2) Children at least four years of age but less than eight years of age or weighing at least forty pounds but less than eighty pounds, shall be properly restrained in a properly secured child passenger restraint system or booster seat appropriate for that child;**

**(3) Children at least eight years of age but less than 16 years of age, or at least eighty pounds, shall be properly restrained in the vehicle safety belt.**

**3. Any person who violates this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than [twenty-five] one hundred dollars and court costs. If a person receives a citation for violating this section, the court shall dismiss the charges if the person prior to or at his or her hearing displays evidence of acquisition of a child passenger restraint system or child booster seat to the court. Sufficient evidence shall include a receipt mailed to the appropriate clerk of the court which evidences purchase, rental transferral from another child seat owner (purchased by a notarized letter) or bailment from a bona fide loaner program of a child passenger restraint system or child booster seat.**

**4. Every car rental agency doing business in the state of Missouri shall inform its customers of the requirements of this section and shall provide for rental of an appropriate child passenger safety restraint system.**

[3.] **5.** The provisions of sections 210.104 to 210.107 shall not apply to any public carrier for hire.

210.107. The department of public safety shall initiate and develop a program of public information to develop understanding of, and ensure compliance with the provisions of sections 210.104 to 210.107. The department of public safety shall, within thirty days of [September 28, 1983] **August 28, 2001**, promulgate standards for the performance, design, and installation of passenger restraint systems for children [under four years of age] **less than sixteen years of age** in accordance with federal motor vehicle safety standards and shall approve those systems which meet such standards. [No rule or portion of a rule promulgated under the authority of sections

210.104 to 210.107 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**”; and

Further amend said bill, Page 8, Section 301.010, Line 268, by inserting after all of said line the following:

“302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 ..... 2 points

(except any violation of municipal stop sign ordinance where no accident is involved ... 1 point)

(2) Speeding  
In violation of a state law ..... 3 points

In violation of a county or municipal ordinance ..... 2 points

(3) Leaving the scene of an accident  
in violation of section 577.060, RSMo .... 12 points

In violation of any county or municipal ordinance ..... 6 points

(4) Careless and imprudent driving  
in violation of subsection 4 of section

304.016, RSMo ..... 4 points

In violation of a county or municipal ordinance ..... 2 points

(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:

(a) For the first conviction ..... 2 points

(b) For the second conviction ..... 4 points

(c) For the third conviction ..... 6 points

(6) Operating with a suspended or revoked license prior to restoration of operating privileges ..... 12 points

(7) Obtaining a license by misrepresentation ..... 12 points

(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs ..... 8 points

(9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of ten-hundredths of one percent or more by weight ..... 12 points

(10) For the first conviction for driving with blood alcohol content ten-hundredths of one percent or more by weight  
In violation of state law ..... 8 points  
In violation of a county or municipal ordinance or federal law or regulation ..... 8 points

(11) Any felony involving the use of a motor vehicle ..... 12 points

(12) Knowingly permitting unlicensed operator to operate a motor vehicle ..... 4 points

(13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025, RSMo ..... 4 points

**(14) For a conviction for failing to properly restrain a child pursuant to section 210.104, RSMo, and section 307.178 ..... 2 points**

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-

improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2), or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.";

Further amend said bill, Page 24, Section 304.580, Line 84, by inserting after all of said line the following:

"307.178. 1. As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles and trucks with a licensed gross weight of twelve thousand pounds or more.

2. Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this state, and persons less than eighteen years of age operating or riding in a truck, as defined in section 301.010, RSMo, on a street or highway of this state shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements; except that, a child less than [four] **sixteen** years of age shall be protected as required in section 210.104, RSMo. No person shall be stopped, inspected, or detained solely to determine compliance with this subsection. The provisions of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. Noncompliance with this subsection shall not constitute probable cause for violation of any other provision of law.

3. Each driver of a motor vehicle transporting a child four years of age or more, but less than sixteen years of age, shall secure the child in a properly adjusted and fastened [safety belt] **restraint appropriate for the child's age and weight as defined in section 210.104, RSMo. Enforcement of this subsection and section 210.104 shall be enforced as a primary action and the driver need not be cited or charged with a violation or some other offense.**

4. In any action to recover damages arising out of the ownership, common maintenance or operation of a motor vehicle, failure to wear a safety belt in violation of this section shall not be considered evidence of comparative negligence. Failure to wear a safety belt in violation of this section may be admitted to mitigate damages, but only under the following circumstances:

(1) Parties seeking to introduce evidence of the failure to wear a safety belt in violation of this

section must first introduce expert evidence proving that a failure to wear a safety belt contributed to the injuries claimed by plaintiff;

(2) If the evidence supports such a finding, the trier of fact may find that the plaintiff's failure to wear a safety belt in violation of this section contributed to the plaintiff's claimed injuries, and may reduce the amount of the plaintiff's recovery by an amount not to exceed one percent of the damages awarded after any reductions for comparative negligence.

5. Each driver who violates the provisions of subsection 2 or 3 of this section is guilty of an infraction for which a fine not to exceed ten dollars may be imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of this section. [In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for a violation of this section.]

6. The department of public safety shall initiate and develop a program of public information to develop understanding of, and ensure compliance with, the provisions of this section. The department of public safety shall evaluate the effectiveness of this section and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

7. If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the [driver and] passengers [are not in violation of this section] **who are unable to wear seat belts, shall sit on the rear passenger area of the motor vehicle unless the motor vehicle is designed only for a front-seated area.**"; and

Further amend the title and enacting clause accordingly.

Senator Goode moved that the above amendment be adopted.

Senator Singleton assumed the Chair.

At the request of Senator Childers, **SB 52** and **SB 91**, with **SCS** and **SA 3** (pending), were placed on the Informal Calendar.

Senator Klarich assumed the Chair.

**SB 239**, with **SCS**, was placed on the Informal Calendar.

Senator Staples moved that **SB 238** and **SB 250**, with **SCS**, be taken up for perfection, which motion prevailed.

**SCS** for **SBs 238** and **250**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILLS NOS. 238 and 250

An Act to repeal section 620.467, RSMo 2000, relating to tourism, and to enact in lieu thereof three new sections relating to the same subject, with an expiration date for a certain section.

Was taken up.

Senator Staples moved that **SCS** for **SBs 238** and **250** be adopted.

Senator Goode offered **SA 1**, which was read:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bills Nos. 238 and 250, Pages 2-3, Section 620.467, Lines 45-53, by striking all of the bold faced language on said lines.

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

At the request of Senator Staples, **SB 238** and **SB 250**, with **SCS**, as amended (pending), were 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 House has taken up and passed **HB 409**, entitled:

An Act to authorize the conveyance of certain properties between the Missouri national guard and the city of Joplin.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 452**, entitled:

An Act to repeal section 217.560, RSMo 2000, relating to vocational enterprises, and to enact in lieu thereof one new section relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

### REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on State Budget Control, to which were referred **SB 422**; **SCS** for **SB 317**; **SS** for **SB 220**; **SB 135**; **SB 76**; **SB 50**; and **SS No. 2** for **SCS** for **SBs 39** and **269**, begs leave to report that it has considered the same and recommends that the bills do pass.

Senator Westfall, Chairman of the Committee on Transportation, submitted the following reports:

Mr. President: Your Committee on Transportation, to which was referred **SB 623**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass and be placed on the Consent Calendar.

Also,

Mr. President: Your Committee on Transportation, to which was referred **SB 520**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass and be placed on the Consent Calendar.

Senator Bentley, Chairman of the Committee on Education, submitted the following reports:

Mr. President: Your Committee on Education, to which was referred **SB 319**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendment No. 1, and be placed on the Consent Calendar.

### SENATE COMMITTEE AMENDMENT NO. 1

Amend Senate Bill No. 319, Page 3, Section 160.518, Line 55, by striking the word “five” and inserting in lieu thereof the word “three”.

Also,

Mr. President: Your Committee on Education, to which was referred **SB 284**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass and be placed on the Consent Calendar.

Senator Steelman, Chairman of the Committee on Commerce and Environment, submitted the following report:

Mr. President: Your Committee on Commerce and Environment, to which was referred **SB 451**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

Senator Gibbons, Chairman of the Committee on Ways and Means, submitted the following reports:

Mr. President: Your Committee on Ways and Means, to which was referred **SB 460**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

Also,

Mr. President: Your Committee on Ways and Means, to which was referred **SB 307**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

### COMMUNICATIONS

President Pro Tem Kinder submitted the following:

March 13, 2001

Ms. Terry Spieler  
Secretary of the Senate  
State Capitol  
Jefferson City, MO 65101

Dear Ms. Spieler:

Please be advised that I am hereby appointing Senator Chuck Gross to serve on the State Records Commission (RSMo 109.250).

If I can be of any assistance please do not hesitate to contact me.

Sincerely,

/s/ Peter Kinder

PETER D. KINDER

President Pro Tem

### **INTRODUCTIONS OF GUESTS**

Senator Cauthorn introduced to the Senate, Eldon Jones, Macon.

On behalf of Senator Stoll and himself, Senator Klarich introduced to the Senate, Jennifer and James Berberich, High Ridge.

Senator Sims introduced to the Senate, Margaret Hsiang, St. Louis.

On behalf of Senator Russell and himself, Senator Westfall introduced to the Senate, Larry Shockley, Jim Blackburn and Lynette Miller, Buffalo.

Senator Childers introduced to the Senate, his cousin, Stacey Childers-Teeple, and John and Chris Harlan, Ozark County.

Senator Klindt introduced to the Senate, Jack Clapham and David Dennis, Princeton; Larry Buzzard and Charles Langewisch, Trenton; George Washburn, Gainesville; and James Hines, Mercer.

Senator Kinder introduced to the Senate, Kristi Wallis and Brooke Hendricks, Cape Girardeau.

Senator Russell introduced to the Senate, Donna Whited, Edwards; and her granddaughter, Brooke Hardin, Oklahoma City, Oklahoma; and Brooke was made an honorary page.

Senator Yeckel introduced to the Senate, Kara Penn, Denver, Colorado.

Senator Kenney introduced to the Senate, Bryce Hach, Loveland, Colorado.

Senator Stoll introduced to the Senate, Andy Bingham and ninety students from Festus High School, Festus.

Senator Singleton introduced to the Senate, Debbie Schoeberl, Rayma Pilkenton, Becci Herron and Derik Campbell, Joplin.

Senator Loudon introduced to the Senate, students from Garrett Elementary School, Hazelwood; and Robbie Peoppelmeier, Lauren Gatcombe, Shaina Rubin and Anthony Drake were

made honorary pages.

Senator Johnson introduced to the Senate, Derek Frieling, Janice Geary and Jeff Leake, sponsors; Chloe Church, Brynn Holloway, Tanya Nielson and Stacy Schneitter from Lafayette High School; Joe Pederson, Cristin Pifer and Devon Simpson from Benton High School; and Tyson Evans, Kevin Frazer, Barbara Meyer and Matt Roberts from Central High School, St. Joseph.

Senator Bentley introduced to the Senate, Pat Loque and Steven Bates, Springfield.

Senator Dougherty introduced to the Senate, the Honorable Francis Slay and O.C. Johnson, St. Louis.

On behalf of Senator Singleton, the President introduced to the Senate, Jim Stuart, Freddie Jennings, Alicia Thurman, Jessica Meniska, Chris Erlwine, Heather Cobb, Joy Stein, Lindsay Barnes, Clayton Bradford and Stacy Crouch, Neosho High School Advanced Government Class, Neosho.

Senator Yeckel introduced to the Senate, Karen Papin and students from Crestwood Elementary School, St. Louis.

Senator Childers introduced to the Senate, Rochelle Dixon and David Sewell, Springfield.

Senator Foster introduced to the Senate, Yvonne Randolph, Kathy Phillips, Jeff Brassler, Charles Kinsey, Daniel Romine, Cary Welch, Greg Rublaitus, Carmen Kuehle, Jakub Konysz and Robert Curry, Three Rivers Community College, Poplar Bluff.

Senator Russell introduced to the Senate, parents and fourth grade students from Mallory Elementary School, Buffalo.

Senator Gibbons introduced to the Senate, students from McGrath School, St. Louis County.

Senator Dougherty introduced to the Senate, the Honorable Michael David, St. Louis.

Senator Klindt introduced to the Senate, members of the Maryville Chamber of Commerce.

Senator Westfall introduced to the Senate, Charlie, Kay and Blake Long, Bolivar; and Blake was made an honorary page.

Senator Cauthorn introduced to the Senate,

Kenny Hone, Mexico; and Alice Gardner, Shelbina.

Senator Russell introduced to the Senate, Steve, Teresa, Hannah, Stephanie and Christopher Stewart, Homeschoolers from Lebanon; and Hannah, Stephanie and Christopher were made honorary pages.

Senator Scott introduced to the Senate, Jack Buck, Lou Brock and Bill DeWitt of the St. Louis Cardinals Baseball Organization.

On behalf of Senator Scott and himself, Senator Staples introduced to the Senate, Josephine Scott, St. Louis.

On behalf of Senator Kinder, the President introduced to the Senate, Carol Sheets and Van Marlin, Cape Girardeau.

On behalf of Senator Kinder, the President introduced to the Senate, Charles Drury, St. Louis.

Senator Kenney introduced to the Senate, former State Representative, Judge Vernon Scoville, Independence.

Senator Jacob introduced to the Senate, the Physician of the Day, Dr. Jeffrey Bloss, M.D., Columbia.

On motion of Senator Kenney, the Senate adjourned under the rules.

## SENATE CALENDAR

FORTY-FIRST DAY-WEDNESDAY, MARCH 14, 2001

## FORMAL CALENDAR

### HOUSE BILLS ON SECOND READING

HCS for HBs 302 & 38

HJR 5-Barry, et al

HB 163-Berkowitz and  
Wagner

HCS for HBs 205, 323 & 549

HB 219-Townley, et al

HCS for HBs 441, 94 & 244

HB 575-O'Connor, et al

HB 621-Gratz and Vogel

HB 288-Campbell

HB 266-Treadway

HB 236-Smith

HB 180-Thompson, et al

HB 133-Gambaro

HB 48-Relford

HB 78-Kennedy and  
Richardson

HB 262-Linton, et al

HCS for HBs 144 & 46

HS for HCS for HBs 328 &  
88-Harlan

HCS for HB 207

HCS for HB 567

HCS for HB 241

HB 801-Liese and Wagner

HB 309-McKenna, et al

HB 111-Ladd Baker

HB 431-Barry

HB 202-Rizzo

HB 129-Van Zandt and  
Campbell

HB 157-Hosmer

HB 80-Ross

HCS for HB 50

HCS for HB 194

HS for HB 287-Williams

HB 218-Farnen, et al

HCS for HBs 265 & 369

HS for HCS for HBs 237,  
270, 403 & 442-Smith  
HB 502-Ward

HB 779-Barnett  
HB 409-Surface  
HB 452-Gratz

### THIRD READING OF SENATE BILLS

SB 97-Bentley  
(In Budget Control)  
SB 50-Childers  
SCS for SB 317-Stoll  
SS for SB 14-Mathewson

SS for SB 220-Kinder  
SS#2 for SCS for SBs 39 &  
269-Klarich  
SB 381-Klarich  
SS for SCS for SB 267-Klarich

### SENATE BILLS FOR PERFECTION

- |   |   |
|---|---|
| 1. SB 445-Singleton,<br>with SCS                        | 14. SB 68-Gross and House,<br>with SCAs 1 & 2   |
| 2. SBs 22 & 106-<br>Singleton, with SCS                 | 15. SB 60-Steelman, with SCS                    |
| 3. SBs 214, 124, 209 &<br>322-Gross, et al,<br>with SCS | 16. SBs 347 & 487-Caskey,<br>with SCS           |
| 4. SJR 9-Goode, et al                                   | 17. SB 385-Mathewson                            |
| 5. SB 438-Bentley and Stoll                             | 18. SB 331-DePasco, et al,<br>with SCS          |
| 6. SB 251-Kinder  | 19. SBs 5 & 21-Wiggins,<br>et al, with SCS      |
| 7. SB 375-Steelman, with SCS                            | 20. SB 373-Gibbons and<br>Yeckel, with SCS      |
| 8. SB 392-Kenney and DePasco                            | 21. SBs 433 & 248-Kinder<br>and Gross, with SCS |
| 9. SB 372-Gibbons, with SCS                             | 22. SB 462-Westfall                             |
| 10. SB 454-Kinder, with SCS                             | 23. SB 428-Loudon                               |
| 11. SB 193-Rohrbach                                     | 24. SB 27-Johnson and<br>Westfall, with SCS     |
| 12. SBs 459, 305, 396 &<br>450-Westfall, with SCS       |   |
| 13. SBs 69 & 458-Gross,<br>with SCS                     |   |

### INFORMAL CALENDAR

#### SENATE BILLS FOR PERFECTION

SBs 52 & 91-Childers,  
with SCS and SA 3  
(pending)

SB 65-Gibbons, with SCS  
SBs 67 & 40-Gross, with  
SCS



SBs 89 & 37-Kinder, with SCS  
SB 114-Loudon, with SCS,  
SS for SCS & SA 1  
(pending)  
SB 184-Johnson, et al,  
with SS#2 (pending)  
SB 222-Caskey, with SA 3  
& SSA 1 for SA 3  
(pending)  
SB 226-Goode, et al, with SCS

SBs 238 & 250-Staples,  
et al, with SCS (pending)  
SB 239-Stoll, with SCS  
SBs 253 & 260-Gross, with  
SCS (pending)  
SBs 323 & 230-Childers,  
et al, with SCS (pending)  
SBs 391 & 395-Rohrbach,  
with SCS & SS for SCS  
(pending)

Unofficial

CONSENT CALENDAR

Senate Bills

Reported 2/5

SB 143-Childers

Journal

Reported 2/19

SB 315-Childers, with SCS

Reported 2/27

SB 135-Wiggins  
SB 422-Steelman

SB 76-Wiggins

Copy

Reported 3/5

SB 354-Johnson and Scott,  
with SCS

SB 449-Sims  
SB 393-Sims, with SCS

Reported 3/6

SB 353-Johnson

## Reported 3/12

SB 521-Mathewson  
 SB 605-Jacob  
 SB 434-Sims  
 SB 486-Yeckel, with SCS  
 SB 431-Goode and Cauthorn, with SCS

SB 515-Yeckel, with SCS  
 SB 201-Sims  
 SB 526-Dougherty, with  
 SCS

## Reported 3/13

SB 623-Westfall, with SCS  
 SB 520-Foster, with SCS  
 SB 319-Carter, with SCA 1  
 SB 284-Steelman, with SCS

SB 451-Goode  
 SB 460-Klarich  
 SB 307-Jacob

## RESOLUTIONS

SR 58-Singleton

## Reported from Committee

SCR 8-Caskey, with SA 2  
 (pending)  
 SCR 14-Mathewson, with SCS  
 SCR 17-Steelman, et al  
 SCR 22-Rohrbach

SCR 23-DePasco  
 SCR 25-Loudon, with SCA 1  
 HCR 16-Green and Holt  
 (Gross)

## Requests to Recede or Grant Conference

SS for SCR 2-Singleton,  
 with HCS  
 (Senate requests House  
 recede or grant conference)

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