

Journal of the Senate

SECOND REGULAR SESSION

TWELFTH DAY—TUESDAY, JANUARY 29, 2002

The Senate met pursuant to adjournment.

President Maxwell in the Chair.

Reverend Carl Gauck offered the following prayer:

“There will be no gloom for those who were in anguish...they rejoice before you as with the joy at the harvest.” (Isaiah 9:1,3b)

Heavenly Father, we know that Isaiah wrote those words of joyful hope in one of the darkest times of Israel’s history; and we know that we who love You, no matter what the circumstances we are going through or facing now, are a people of hope. So we pray for this joy that we may face this new day and the challenges it brings with hopeful hearts, walking the path that You lead us. 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.

Photographers from the Associated Press 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 Caskey Cauthorn

Childers	DePasco	Dougherty	Foster
Gibbons	Goode	Gross	House
Jacob	Johnson	Kennedy	Kenney
Kinder	Klarich	Klindt	Loudon
Mathewson	Quick	Rohrbach	Russell
Schneider	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

Absent with leave—Senators—None

Vacancies—1

The Lieutenant Governor was present.

RESOLUTIONS

Senator DePasco offered Senate Resolution No. 975, regarding the Kansas City Ballet, which was adopted.

Senator Wiggins offered Senate Resolution No. 976, regarding the deaths of Dr. and Mrs. Wallace Paxton McKee, Kansas City, which was adopted.

Senator Wiggins offered Senate Resolution No. 977, regarding the death of Donnie Ann Granier Clapp, Raytown, which was adopted.

Senator Rohrbach offered the following resolution, which was adopted:

SENATE RESOLUTION NO. 978

WHEREAS, the General Assembly of the State of Missouri has a long tradition of rendering assistance to worthwhile youth activities, especially those related to governmental or citizenship projects; and

WHEREAS, the Jefferson City Downtown Rotary Club has sought to instill values of high integrity within our youth and to provide an opportunity for Missouri students to experience state government firsthand; and

WHEREAS, the General Assembly has maintained a policy of granting such organizations permission to use the Senate Chamber for beneficial purposes; and

WHEREAS, this year, the Jefferson City Downtown Rotary Club is sponsoring its annual Student Government Day, an event which will be highlighted by a meeting in the State Capitol where students in attendance will be addressed by a representative of each of the three branches of government:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninety-first General Assembly, hereby grant the Jefferson City Downtown Rotary Club permission to use the Senate Chamber for the purpose of conducting its Student Government Day on Monday, March 25, 2002, from 9:00 a.m. until 12:00 noon.

Senator Rohrbach offered Senate Resolution No. 979, regarding Scott L. Page, Tipton, which was adopted.

CONCURRENT RESOLUTIONS

Senator Rohrbach offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 41

WHEREAS, the State of Missouri is currently facing unique rural and urban primary care workforce issues, including a significant imbalance between the primary care and specialty care workforce in our urban areas and a shortage of traditional primary health care workforce in our state's rural areas; and

WHEREAS, there exists a need for a study on access for Missourians to the health care provider market in the state and the recommendation of specific legislative or enforcement initiatives to insure ample choice for Missouri citizens and to insure affordable health care in the State of Missouri:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-First General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby establish the Joint Interim Committee on Primary Care

Workplace Adequacy in Missouri; and

BE IT FURTHER RESOLVED that such Committee shall examine the rural and urban primary care workforce issues facing the State of Missouri, examine the imbalance between primary care and specialty care in the urban areas and its effect on the cost and access to health care, examine the issue of primary care shortage in the rural areas and its effect on the cost and access to health care in the rural areas, examine current Department of Health and Senior Services programs which support primary care training and make recommendations for its modification and enhancement as needed; and

BE IT FURTHER RESOLVED that said Committee shall be composed of five members of the Senate, to be appointed by the President Pro Tem of the Senate, and five members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

BE IT FURTHER RESOLVED that said committee prepare a report, together with its recommendations for any legislative action it deems necessary for submission to the General Assembly prior to the commencement of the First Regular Session of the Ninety-second General Assembly; and

BE IT FURTHER RESOLVED that Senate Research, the Committee on Legislative Research, and House Research shall provide such legal, research, clerical, technical and bill drafting services as the committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the committee, its members and any staff personnel assigned to the committee incurred in attending meetings of the committee or any subcommittee thereof shall be paid from the Joint Contingent Fund.

INTRODUCTION OF BILLS

The following Bills were read the 1st time and 1,000 copies ordered printed:

SB 1052—By Sims.

An Act to repeal sections 198.006, 198.015 and 198.073, RSMo, relating to assisted living facilities, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

SB 1053—By Bentley.

An Act to amend chapter 160, RSMo, by adding thereto one new section relating to early childhood education incentives.

SB 1054—By Steelman.

An Act to repeal sections 204.250, 204.251, 204.252, 204.253, 204.254, 204.255, 204.256, 204.257, 204.260, 204.270, 204.280, 204.310, 204.331, 204.332, 204.350, 204.360, 204.440, 204.450, 204.455, 204.565, 204.567, 204.569, 204.571, 204.573, 393.015 and 393.847, RSMo, relating to sewer districts, and to enact in lieu thereof twenty-four new sections relating to the same subject.

SB 1055—By Cauthorn, Klindt and Loudon.

An Act to amend chapter 192, RSMo, by adding thereto four new sections relating to establishing an unrelated donor umbilical cord blood bank.

SB 1056—By Cauthorn, Kennedy and Loudon.

An Act to repeal section 188.039, RSMo, relating to informed consent for abortion, and to enact in lieu thereof one new section relating to the same subject.

SB 1057—By Cauthorn.

An Act to amend chapter 407, RSMo, by adding thereto five new sections relating to asbestos litigation.

SB 1058—By Childers.

An Act to amend chapter 144, RSMo, by adding thereto one new section relating to sales tax exemptions for railway excursions that traverse state lines and operate on railroads which are part of the national transportation system.

SB 1059—By Bentley, Stoll, House, Yeckel and Kennedy.

An Act to amend chapter 160, RSMo, by adding thereto one new section relating to designating and addressing the needs of priority schools and school districts, and recognizing performance schools.

SB 1060—By Westfall.

An Act to repeal sections 52.250, 52.260 and

52.290, RSMo, relating to county collectors and treasurers ex officio collectors, and to enact in lieu thereof nine new sections relating to the same subject.

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 1338**, entitled:

An Act to repeal section 168.071, RSMo, and to enact in lieu thereof one new section relating to teachers' licenses.

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 **HS** for **HCS** for **HBs 1037, 1188, 1074** and **1271**, entitled:

An Act to repeal section 556.036, RSMo, and to enact in lieu thereof one new section relating to statute of limitations for forcible rape and sodomy, with penalty provisions and an emergency clause.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

MESSAGES FROM THE GOVERNOR

The following message was received from the Governor, reading of which was waived:

OFFICE OF THE GOVERNOR

State of Missouri

Jefferson City, Missouri

January 28, 2002

TO THE SENATE OF THE 91st GENERAL ASSEMBLY

OF THE STATE OF MISSOURI:

I have the honor to transmit to you herewith for your advice and consent the following appointment to office:

Rosalyn Schultz, 6233 Westminster Place, St. Louis City, Missouri 63130, as a member of the Child Abuse and Neglect Review Board, for a term ending April 27, 2004, and until her successor is duly appointed and qualified; vice, Nancy Pope, term expired.

Respectfully submitted,
BOB HOLDEN
Governor

President Pro Tem Kinder referred the above appointment to the Committee on Gubernatorial Appointments.

SENATE BILLS FOR PERFECTION

Senator Singleton moved that **SB 651**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 651**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 651

An Act to repeal section 354.606, RSMo, relating to health care providers, and to enact in lieu thereof one new section relating to the same subject.

Was taken up.

Senator Singleton moved that **SCS** for **SB 651** be adopted.

Senator Caskey offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 651, Page 3, Section 354.606, Line 69, by inserting after all of said line the following:

“(d) Allow a health carrier, either directly or indirectly through intermediaries, to discriminate between healthcare providers when selecting among providers of health services for enrollment in the network and when referring enrollees for health services

provided within the scope of those professional licenses and when reimbursing amounts for covered services among persons duly licensed to provide such services.”.

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

At the request of Senator Singleton, **SB 651** with **SCS**, as amended (pending), was placed on the Informal Calendar.

Senator Westfall moved that **SB 662** and **SB 704**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SBs 662** and **704**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 662 and 704

An Act to repeal sections 191.905, 252.235, 367.044, 569.095, 569.097, 569.099, 570.020, 570.080, 570.085, 570.120, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, RSMo, relating to stolen property and services, and to enact in lieu thereof nineteen new sections relating to the same subject, with penalty provisions.

Was taken up.

Senator Westfall moved that **SCS** for **SBs 662** and **704** be adopted.

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

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bills Nos. 662 and 704, Page 8, Section 569.095, Line 14, by striking the word “**assess**” and inserting in lieu thereof the word “**access**”.

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

Senator Rohrbach assumed the Chair.

Senator Kenney offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bills Nos. 662 and 704, Page 1, Section A, Line 7, by inserting after all of said line the following:

“150.465. 1. No itinerant vendor as defined in section 150.380, and no peddler as defined in section 150.470, shall offer for sale:

(1) Any food solely manufactured and packaged for sale for consumption by a child under the age of two years; or

(2) Drugs, devices and cosmetics as defined in section 196.010, RSMo.

2. This section shall not apply to authorized agents of a manufacturer of any item enumerated in subsection 1 of this section.

3. Violation of this section is a class A misdemeanor.

4. Itinerant vendors and peddlers shall make available within seventy-two hours upon request of any law enforcement officer any proof of purchase from a producer, manufacturer, wholesaler, or retailer of any new or unused property, as defined in section 570.010, RSMo.

5. Any forged receipt produced pursuant to subsection 4 of this section shall be prosecuted pursuant to section 570.090, RSMo.”; and

Further amend said bill, Page 10, Section 569.099, Line 14, by inserting after all of said line the following:

“570.010. As used in this chapter:

(1) “Adulterated” means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) “Appropriate” means to take, obtain, use, transfer, conceal or retain possession of;

(3) “Coercion” means a threat, however

communicated:

(a) To commit any crime; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any crime; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business repute of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor.

A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

(4) “Credit device” means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(5) “Dealer” means a person in the business of buying and selling goods;

(6) “Debit device” means a card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;

(7) “Deceit” means purposely making a representation which is false and which the actor

does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term “deceit” does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

(8) “Deprive” means:

(a) To withhold property from the owner permanently; or

(b) To restore property only upon payment of reward or other compensation; or

(c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

(9) “Misabeled” means varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity;

(10) “New and unused property” means tangible personal property that has never been used since its production or manufacture and is in its original unopened package or container if such property was packaged;

(11) “Of another” property or services is that “of another” if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

[(11)] **(12)** “Property” means anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument;

[(12)] **(13)** “Receiving” means acquiring possession, control or title or lending on the security of the property;

[(13)] **(14)** “Services” includes transportation, telephone, electricity, gas, water, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

[(14)] **(15)** “Writing” includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.”; and

Further amend said bill, Page 10, Section 570.020, Line 22, by inserting after all of said line the following:

“570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for

property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is [seven] **five** hundred [fifty] dollars or more; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a

value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo.

4. If an actor appropriates any material with a value less than one hundred fifty dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services [under] **pursuant to** subsection 3 of this section which exceeds [seven] **five** hundred [fifty] dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.”; and

Further amend said bill, Page 11, Section 570.085, Line 21, by inserting after all of said line the following:

“570.090. 1. A person commits the crime of forgery if, with the purpose to defraud, [he] **the person:**

(1) Makes, completes, alters or authenticates any writing so that it purports to have been made by another or at another time or place or in a

numbered sequence other than was in fact the case or with different terms or by authority of one who did not give such authority; or

(2) Erases, obliterates or destroys any writing; or

(3) Makes or alters anything other than a writing, **including receipts and universal product codes**, so that it purports to have a genuineness, antiquity, rarity, ownership or authorship which it does not possess; or

(4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with the knowledge or belief that it will be used as genuine, any writing or other thing **including receipts and universal product codes**, which the actor knows has been made or altered in the manner described in this section.

2. Forgery is a class C felony.”; and

Further amend said bill, Page 13, Section 570.120, Lines 56 to 64, by deleting all of said lines and inserting in lieu thereof the following:

“6. [Notwithstanding any other provisions of law to the contrary, in addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney or circuit attorney does not collect the service charge and the face amount of the check, the party to whom the check was issued may collect from the issuer a reasonable service charge along with the face amount of the check] **Notwithstanding any other provision of law to the contrary:**

(1) In addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the face amount of the check, a reasonable

service charge, which along with the face amount of the check, shall be turned over to the party to whom the bad check was issued;

(2) If a check that is dishonored or returned unpaid by a financial institution is not referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions of this section, the party to whom the check was issued, or his or her agent or assignee, or a holder, may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument.”; and

Further amend said bill, Page 13, Section 570.120, Line 75, by inserting after all of said line the following:

“570.123. In addition to all other penalties provided by law, any person who makes, utters, draws, or delivers any check, draft, or order for the payment of money upon any bank, savings and loan association, credit union, or other depository, financial institution, person, firm, or corporation which is not honored because of lack of funds or credit to pay or because of not having an account with the drawee and who fails to pay the amount for which such check, draft, or order was made in cash to the holder within thirty days after notice and a written demand for payment, deposited as certified or registered mail in the United States mail, **or by regular mail, supported by an affidavit of service by mailing, notice deemed conclusive three days following the date the affidavit is executed**, and addressed to the maker and to the endorser, if any, of the check, draft, or order at each of their addresses as it appears on the check, draft, or order or to the last known address, shall, in addition to the face amount owing upon such check, draft, or order, be liable to the holder for three times the face amount owed or one hundred dollars, whichever is greater, plus attorney fees incurred in bringing an action pursuant to this

section. Only the original holder, whether the holder is a person, bank, savings and loan association, credit union, or other depository, financial institution, firm or corporation, may bring an action under this section. No original holder shall bring an action pursuant to this section if the original holder has been paid the face amount of the check and costs recovered by the prosecuting attorney or circuit attorney pursuant to subsection 6 of section 570.120. If the issuer of the check has paid the face amount of the check and costs pursuant to subsection 6 of section 570.120, such payment shall be an affirmative defense to any action brought pursuant to this section. The original holder shall elect to bring an action under this section or section 570.120, but may not bring an action under both sections. In no event shall the damages allowed under this section exceed five hundred dollars, exclusive of attorney fees. In situations involving payroll checks, the damages allowed under this section shall only be assessed against the employer who issued the payroll check and not against the employee to whom the payroll check was issued. The provisions of sections 408.140 and 408.233, RSMo, to the contrary notwithstanding, a lender may bring an action pursuant to this section. The provisions of this section will not apply in cases where there exists a bona fide dispute over the quality of goods sold or services rendered.”; and

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

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

Senator DePasco offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bills Nos. 662 and 704, Page 5, Section 252.235, Line 17, by inserting immediately after said line the following:

“367.031. 1. At the time of making any secured personal credit loan, the lender shall

execute and deliver to the borrower a receipt for and describing the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:

- (1) The name and address of the pawnshop;
- (2) The name and address of the pledgor, the pledgor's description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the pledgor;
- (3) The date of the transaction;
- (4) An identification and description of the pledged goods, including serial numbers if reasonably available;
- (5) The amount of cash advanced or credit extended to the pledgor;
- (6) The amount of the pawn service charge;
- (7) The total amount which must be paid to redeem the pledged goods on the maturity date;
- (8) The maturity date of the pawn transaction; and
- (9) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty days after the specified maturity date.

2. The pawnbroker may be required, in accordance with local ordinances, to furnish [local] **appropriate** law enforcement authorities with copies of information contained in subdivisions (1) to (4) of subsection 1 of this section **and information contained in subdivision (6) of subsection 4 of section 367.040. The pawnbroker may satisfy such requirements by transmitting such information electronically to a database in accordance with this subsection.**

(1) As used in this subsection, the following terms mean:

- (a) **“Database”, a computer database**

established and maintained by a third party engaged in the business of establishing and maintaining one or more databases;

(b) "Reportable data", the information required to be recorded by pawnbrokers for pawn transactions pursuant to subdivisions (1) to (4) of subsection 1 of this section and the information required to be recorded by pawnbrokers for purchase transactions pursuant to subdivision (6) of subsection 4 of section 367.040;

(c) "Reporting pawnbroker", a pawnbroker who chooses to transmit reportable data electronically to the database;

(d) "Search", the accessing of a single database record;

(e) "User", law enforcement personnel specifically authorized to access the database.

(2) The database shall provide appropriate law enforcement officials with useful information to facilitate the investigation of alleged property crimes while protecting the privacy rights of pawnbrokers and pawnshop customers with regard to their transactions.

(3) The database shall contain the pawn and purchase transaction information recorded by reporting pawnbrokers pursuant to this section and section 367.040 and shall be updated daily. The database shall also contain such security features and protections as may be necessary to ensure that the reportable data maintained in the database can only be accessed by permitted users in accordance with the provisions of this subsection.

(4) The third party's charge for the database shall be based on the number of authorized database users. Law enforcement agencies shall be charged directly for access to the database, and the charge shall be reasonable in relation to the costs of the third party in establishing and maintaining the database. No reporting pawnbroker or customer of a reporting

pawnbroker shall be charged any costs for the creation or utilization of the database.

(5) (a) The information in the database shall only be accessible through the Internet to appropriate users who have provided a secure identification or access code to the database but shall allow such users to access database information from any jurisdiction transmitting such information to that database. Such users shall provide the database with a case number of a criminal action for which the identity of the pawn or purchase transaction customer is needed and a representation that the information is connected to the investigation of a crime involving goods delivered by that customer in that transaction. The database shall record, for each search, the identity of the user, the pawn or purchase transaction involved in the search, and the identity of any customer accessed through the search. Each search record shall be made available to other users regardless of their jurisdiction. The database shall enable reporting pawnbrokers to transmit to the database through the Internet reportable data for each pawn and purchase transaction.

(b) Any person who gains access to information in the database through fraud or false pretenses shall be guilty of a class C felony.

(7) A reporting pawnbroker, and any pawnbroker licensed after August 28, 2002, shall meet the following requirements:

(a) Provide all reportable data to appropriate users by transmitting it through the Internet to the database;

(b) Transmit all reportable data for one business day to the database prior to the end of the following business day;

(c) Make available for on-site inspection to any appropriate law enforcement official, upon request, paper copies of any pawn or purchase transaction documents.

(8) If a reporting pawnbroker or user

discovers any error in the reportable data, notice of such error shall be given to the database, which shall have a period of at least thirty but no more than sixty days in which to correct the error. Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of reportable data or receipt of search requests shall be allowed a period of at least thirty but no more than sixty days to repair such malfunction, and during such period such pawnbroker shall not be deemed to be in violation of this subsection if good faith efforts are made to correct the malfunction. During the periods specified in this subdivision, the reporting pawnbroker and user shall arrange an alternative method or methods by which the reportable data shall be made available.

(10) No reporting pawnbroker shall be obligated to incur any cost, other than Internet service costs, in preparing, converting, or delivering its reportable data to the database.

3. If the pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the secretary of state pursuant to section 486.205, RSMo, to perform notarial acts in this state.”; and

Further amend said bill, page 8, Section 367.044, line 91, by inserting immediately after said line the following:

“367.055. 1. Upon request of a law enforcement officer to inspect property that is

described in information furnished by the pawnbroker pursuant to subdivisions (1) to (4) of subsection 1 of section 367.031, the law enforcement officer shall be entitled to inspect the property described, without prior notice or the necessity of obtaining a search warrant during regular business hours in a manner so as to minimize interference with or delay to the pawnbroker's business operation. When a law enforcement officer has probable cause to believe that goods or property in the possession of a pawnbroker are misappropriated, the officer may place a hold order on the property. The hold order shall contain the following:

- (1) The name of the pawnbroker;
- (2) The name and mailing address of the pawnshop where the property is held;
- (3) The name, title and identification number of the law enforcement officer placing the hold order;
- (4) The name and address of the agency to which the law enforcement officer is attached and the claim or case number, if any, assigned by the agency to the claim regarding the property;
- (5) A complete description of the property to be held including model and serial numbers;
- (6) The expiration date of the holding period.

The hold order shall be signed and dated by the issuing officer and signed and dated by the pawnbroker or the pawnbroker's designee as evidence of the hold order's issuance by the officer, receipt by the pawnbroker and the beginning of the initial holding period. The officer issuing the hold order shall provide an executed copy of the hold order to the pawnbroker for the pawnbroker's record-keeping purposes at no cost to the pawnbroker.

2. Upon receiving the hold order, and subject to the provisions of section 367.047, the pawnbroker shall retain physical possession of the property subject to the order in a secured area. The

initial holding period of the hold order shall not exceed two months, except that the hold order may be extended for up to two successive one-month holding periods upon written notification prior to the expiration of the immediately preceding holding period. A hold order may be released prior to the expiration of any holding period or extension thereof by written release from the agency placing the initial hold order. The initial hold order shall be deemed expired upon the expiration date if the holding period is not extended pursuant to this subsection.

3. Upon the expiration of the initial holding period or any extension thereof, the pawnbroker shall deliver written notice to the law enforcement officer issuing the hold order that such order has expired and that title to the property subject to the hold order will vest in the pawnbroker in ten business days. Ownership shall only vest in the pawnbroker upon the expiration of the ten-day waiting period subject to any restriction contained in the pawn contract and subject to the provisions of sections 367.044 to 367.053.

4. In addition to the penalty provisions contained in section 367.050, gross negligence or willful noncompliance with the provisions of this section by a pawnbroker shall be cause for the licensing authority to suspend or revoke the pawnbroker's license. Any imposed suspensions or revocation provided for by this subsection may be appealed by the pawnbroker to the licensing authority or to a court of competent jurisdiction.

5. A county or municipality may enact orders or ordinances to license or regulate the operations of pawnbrokers which are consistent with and not more restrictive than the provisions of sections [367.044] **367.011** to 367.055, **except that a county or municipality may regulate the number of pawn shop licensees.**

6. All records and information that relate to a pawnbroker's pawn, purchase or trade transactions and that are delivered to or otherwise obtained by an appropriate law enforcement officer pursuant to

sections 367.031 and 367.040 are confidential and may be used only by such appropriate law enforcement officer and only for the following official law enforcement purposes:

(1) The investigation of a crime specifically involving the item of property delivered to the pawnbroker in a pawn, purchase or trade transaction;

(2) The investigation of a pawnbroker's possible specific violation of the record-keeping or reporting requirements of sections 367.031 and 367.040, but only when the appropriate law enforcement officer, based on a review of the records and the information received, has probable cause to believe that such a violation occurred; and

(3) The notification of property crime victims of where property that has been reported misappropriated can be located.”; and

Further amend the title and enacting clause accordingly.

Senator DePasco moved that the above amendment be adopted.

Senator DePasco offered **SA 1 to SA 3**, which was read:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 3

Amend Senate Amendment No. 3 to Senate Committee Substitute for Senate Bills Nos. 662 and 704, Page 4, Section 367.031, Line 11 by deleting the following from said line:

“A reporting pawnbroker, and”.

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

SA 3, as amended, was again taken up.

At the request of Senator Westfall, **SB 662** and **SB 704**, with **SCS** and **SA 3**, as amended (pending), were placed on the Informal Calendar.

Senator Gross assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Sims, Chairman of the Committee on Aging, Families and Mental Health, submitted the following reports:

Mr. President: Your Committee on Aging, Families and Mental Health, to which was referred **SB 740**, 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 Aging, Families and Mental Health, to which was referred **SB 702**, 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 Aging, Families and Mental Health, to which was referred **SB 695**, 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 Aging, Families and Mental Health, to which was referred **SB 687**, 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 Yeckel, Chairman of the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, submitted the following reports:

Mr. President: Your Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, to which was referred **SB 776**, 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 Finance and

Governmental Organization, Veterans' Affairs and Elections, to which was referred **SB 749**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

INTRODUCTION OF BILLS

The following Bills were read the 1st time and 1,000 copies ordered printed:

SB 1061—By Rohrbach and Kenney.

An Act to repeal sections 354.085 and 354.405, RSMo, relating to certification procedures of certain health carriers, and to enact in lieu thereof two new sections relating to the same subject.

SB 1062—By Rohrbach and Kenney.

An Act to repeal section 354.603, RSMo, relating to health carrier network adequacy, and to enact in lieu thereof one new section relating to the same subject.

SB 1063—By Rohrbach and Kenney.

An Act to repeal sections 192.665 and 192.667, and to enact in lieu thereof sixteen new sections relating to health care cost containment measures, with penalty provisions.

SB 1064—By Stoll.

An Act to amend chapter 376, RSMo, by adding thereto one new section relating to health insurance coverage for maple syrup urine disease.

INTRODUCTIONS OF GUESTS

On behalf of Senator Gibbons and himself, Senator Kennedy introduced to the Senate, Jim Eichelberger and Larry Dees, St. Louis.

Senator Rohrbach introduced to the Senate, Kathryn Shelley, California; and Jennifer Warren, Greenville.

Senator Cauthorn introduced to the Senate, Keith Gardner, Alice Gardner, Chris Shoup and

Matt Schmidt, Kahoka.

Senator Cauthorn introduced to the Senate, Arsene Burton, Ann Pierceall and Earl Mangrum, Hannibal.

Senator Gibbons introduced to the Senate, the Physician of the Day, Dr. Jeffrey F. Moley, M.D., St. Louis.

Senator Kenney introduced to the Senate, his son, Carlton, Lee's Summit; and Carlton was made an honorary page.

Senator Bentley introduced to the Senate, students from Southwest Missouri State University, Springfield.

Senator Bentley introduced to the Senate, Angela Varney and Melissa Street, Hollister; Charles Vieira, Eldon; Tiffany Patrick, Nixa; Bentley Iott, Mansfield; Cristy Overshon, Rolla; and Karen Houseman, Springfield.

Senator Mathewson introduced to the Senate, Pastor Larry Thompson and students from Faith Baptist Church Christian School, Sedalia; and Jeffrey Azak, Joel Milo, Jennifer Dail and Ellie DeVille were made honorary pages.

Senator Westfall introduced to the Senate, Allan Clemensen, Kelly, Christina, Joshua and Johnathan VanderKooi, Jason Dolan, Ben Scheib, Don Choi, Alan Sparks, Jackson Thai, Johnathan Moriarty, Trenell Norwood, Warren Page, Billy Green, Vernon Sorenson, Danny Oh, Stephen Lee, James Polson, Jeremiah Gledhill, Luke Johnson, Mike Trimble and Brian Gollogly, Agape Boarding School, Stockton.

Senator Sims introduced to the Senate, Professor Marie Kenyon and six students from St. Louis University, St. Louis.

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

SENATE CALENDAR

THIRTEENTH DAY—WEDNESDAY, JANUARY 30, 2002

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 938-Cauthorn, et al

SB 1010-Sims

SB 1011-Caskey

SB 1012-Caskey

SB 1013-Steelman and Stoll

SB 1014-Klindt and Kinder

SB 1015-Foster and Mathewson

SB 1016-Foster, et al

SB 1017-Cauthorn

SB 1018-Westfall

SB 1019-Stoll

SB 1020-Stoll, et al

SB 1021-Wiggins

SB 1022-Rohrbach and Goode

SB 1023-Bentley

SB 1024-Bentley

SB 1025-Jacob and Wiggins

SB 1026-Kenney, et al

SB 1027-Kinder, et al

SB 1028-Russell

SB 1029-Sims

SB 1030-Kennedy

SB 1031-Schneider	SB 1048-Kenney
SB 1032-Childers	SB 1049-Stoll and Johnson
SB 1033-Kennedy	SB 1050-Foster
SB 1034-Kennedy	SB 1051-Foster
SB 1035-Yeckel	SB 1052-Sims
SB 1036-Yeckel	SB 1053-Bentley
SB 1037-Singleton and Sims	SB 1054-Steelman
SB 1038-DePasco	SB 1055-Cauthorn, et al
SB 1039-DePasco	SB 1056-Cauthorn, et al
SB 1040-Gibbons, et al	SB 1057-Cauthorn
SB 1041-Russell	SB 1058-Childers
SB 1042-Bland	SB 1059-Bentley, et al
SB 1043-Bland	SB 1060-Westfall
SB 1044-Bland	SB 1061-Rohrbach and Kenney
SB 1045-Bland	SB 1062-Rohrbach and Kenney
SB 1046-Gross and House	SB 1063-Rohrbach and Kenney
SB 1047-Kenney	SB 1064-Stoll

HOUSE BILLS ON SECOND READING

HB 1338-Relford, et al	HS for HCS for HBs 1037, 1188, 1074 & 1271-Hosmer
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SENATE BILLS FOR PERFECTION

SB 660-Westfall, et al, with SCS	SBs 958 & 657-Kinder, with SCS
SB 650-Singleton, et al	SB 668-Bentley
	SB 659-House and Kenney

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 651-Singleton and Russell, with SCS (pending)	SBs 662 & 704-Westfall, with SCS & SA 3 (pending)
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CONSENT CALENDAR

Senate Bills

Reported 1/28

SB 758-Bentley
SB 720-Westfall
SB 644-Mathewson and Yeckel
SB 701-Wiggins
SB 737-Cauthorn and
Russell, with SCS

SB 745-Russell, with SCS
SB 669-Bentley, with SCS
SB 636-Wiggins
SB 726-Childers
SB 896-Yeckel

Unofficial

Reported 1/29

SB 740-Wiggins
SB 702-Caskey
SB 695-Dougherty and Sims

SB 687-Gibbons and Yeckel
SB 776-House, with SCS
SB 749-Goode

Journal

RESOLUTIONS

To be Referred

SCR 41-Rohrbach

SCR 38-Klarich

Reported from Committee

Copy