

Journal of the Senate

SECOND REGULAR SESSION

THIRTEENTH DAY—WEDNESDAY, JANUARY 30, 2002

The Senate met pursuant to adjournment.

Senator Klarich in the Chair.

Reverend Carl Gauck offered the following prayer:

“I know the one in whom I have put my trust, and I am sure that he is able to guard until that day what I have entrusted to him.”
(2 Timothy 1:12)

Gracious Lord, You know our inmost being. You have given us Your steady hand to perform the work we are required to do here. Forgive us for those times we lose our trust in You and try to do things on our own. Help us in our walk of faith to see You more clearly and follow Your footsteps more dearly. 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 KOMU-TV and KRCC-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

Senator Yeckel requested unanimous consent of the Senate to have **SB 749** returned to the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, as it was mistakenly turned in as a Consent Bill, when in fact it is not, which request was granted.

INTRODUCTION OF BILLS

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

SB 1065—By Staples.

An Act to repeal sections 226.520, 226.540 and 226.550, RSMo, relating to billboards, and to enact in lieu thereof six new sections relating to the same subject.

SB 1066—By Klindt.

An Act to repeal section 590.120, RSMo, relating to peace officers standards and training, and to enact in lieu thereof two new sections relating to the same subject.

SB 1067—By Foster and Johnson.

An Act to repeal sections 261.110, 261.230, 261.235 and 261.239, RSMo, and to enact in lieu thereof five new sections relating to the marketing of agricultural products.

SB 1068—By Dougherty.

An Act to amend chapter 210, RSMo, by adding thereto one new section relating to children's product safety.

SENATE BILLS FOR PERFECTION

Senator Westfall moved that **SB 660**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 660**, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 660**

An Act to repeal section 577.017, RSMo, relating to alcohol-related traffic offenses, and to enact in lieu thereof one new section relating to the same subject, with penalty provisions.

Was taken up.

Senator Westfall moved that **SCS** for **SB 660** be adopted.

Senator Gibbons assumed the Chair.

Senator Jacob offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 660, Page 2, Section 577.017, Line 37, by inserting after all of said line the following:

“577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test

allowed pursuant to section 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024 or 565.060, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. **The request of the officer shall also include a notification to the person that:**

(1) If the person requests to speak to an attorney the person shall have twenty minutes to do so;

(2) The twenty-minute period shall begin immediately upon the completion of the officer's request and notification, notwithstanding the timing of the person's request to speak to an attorney; and

(3) If the person requests to speak to an attorney and the person refuses to submit to the test after the completion of the twenty-minute period, it shall be deemed a refusal.

If a person when requested to submit to any test allowed pursuant to section 577.020 thereafter requests to speak to an attorney, the person shall be granted twenty minutes, **beginning immediately upon completion of the officer's request and notification pursuant to this subsection**, in which to attempt to contact an attorney. **If the person requests to speak to an attorney prior to the time the officer first gives the request and notification pursuant to this subsection, the officer shall give the person the request and notification pursuant to this subsection and the person shall then be granted twenty minutes to speak to an attorney.** If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor

vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a sworn report to the director of revenue, which shall include the following:

(1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

(2) That the person refused to submit to a chemical test;

(3) Whether the officer secured the license to operate a motor vehicle of the person;

(4) Whether the officer issued a fifteen-day temporary permit;

(5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and

(6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person

refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one

years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department or the court. Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the

likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.”; and

Further amend the title and enacting clause accordingly.

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

Senator Schneider offered SA 2, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bill No. 660, Page 1, Section 577.017, Line 6, by inserting after the word “section”: “and who

is found to have .08 or more blood alcohol content at the time of the offense”.

Senator Schneider moved that the above amendment be adopted.

Senator Westfall requested a roll call vote be taken on the adoption of **SA 2** and was joined in his request by Senators Cauthorn, Childers, Klindt and Singleton.

SA 2 was adopted by the following vote:

YEAS—Senators

DePasco	Dougherty	Gibbons	Goode
Gross	Jacob	Johnson	Kennedy
Kenney	Kinder	Klarich	Loudon
Mathewson	Schneider	Sims	Staples
Wiggins	Yeckel—18		

NAYS—Senators

Bentley	Bland	Caskey	Cauthorn
Childers	Foster	House	Klindt
Rohrbach	Russell	Singleton	Steelman
Westfall—13			

Absent—Senator Quick—1

Absent with leave—Senator Stoll—1

Vacancies—1

At the request of Senator Westfall, **SB 660**, with **SCS**, as amended (pending), was placed on the Informal Calendar.

Senator Singleton moved that **SB 650** be taken up for perfection, which motion prevailed.

Senator Klarich offered **SS** for **SB 650**, entitled:

SENATE SUBSTITUTE FOR
SENATE BILL NO. 650

An Act to repeal section 556.036, RSMo, relating to sexual offenses, and to enact in lieu thereof one new section relating to the same subject, with penalty provisions and an emergency clause.

Senator Klarich moved that **SS** for **SB 650** be

adopted, which motion prevailed.

On motion of Senator Singleton, **SS** for **SB 650** was declared perfected and ordered printed.

INTRODUCTION OF BILLS

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

SB 1069—By Sims.

An Act to amend chapter 208, RSMo, by adding thereto one new section relating to Medicaid home- and community-based waiver.

SB 1070—By Gibbons.

An Act to repeal sections 43.540 and 589.410, RSMo, relating to protection of children, and to enact in lieu thereof two new sections relating to the same subject, with penalty provisions.

SB 1071—By Klindt.

An Act to repeal sections 413.005, 413.015, 413.055, 413.065, 413.075, 413.085, 413.115, 413.125, 413.135, 413.145, 413.155, 413.165, 413.225, 413.227 and 413.229, RSMo, relating to weights and measures, and to enact in lieu thereof fifteen new sections relating to the same subject.

SB 1072—By Childers, Foster, Steelman and Russell.

An Act to repeal sections 644.016, 644.051 and 644.052, RSMo, relating to water permitting, and to enact in lieu thereof three new sections relating to the same subject.

SB 1073—By Cauthorn.

An Act to repeal section 56.823, RSMo, relating to prosecuting attorney retirement, and to enact in lieu thereof one new section relating to the same subject.

SB 1074—By Goode and Schneider.

An Act to repeal sections 149.015 and 149.160, RSMo, relating to tax on cigarettes and tobacco products, and to enact in lieu thereof two

new sections relating to the same subject, with a referendum clause.

SB 1075—By Caskey and Childers.

An Act to repeal section 281.260, RSMo, relating to Breimyer Center for Sustainable Food and Farming Systems, and to enact in lieu thereof nine new sections relating to the same subject.

SB 1076—By DePasco.

An Act to repeal sections 367.031 and 367.055, RSMo, relating to use of pawnshop databases for law enforcement purposes, and to enact in lieu thereof two new sections relating to the same subject, with penalty provisions.

SB 1077—By Klarich.

An Act to repeal section 304.351, RSMo, and to enact in lieu thereof one new section relating to Clutch's law, with penalty provisions.

SB 1078—By Kennedy.

An Act to repeal section 59.800, RSMo, relating to the statutory county recorder's fund, and to enact in lieu thereof one new section relating to the same subject.

SB 1079—By Bland.

An Act to repeal sections 408.140 and 408.330, RSMo, relating to penalties on late payments for certain credit transactions, and to enact in lieu thereof two new sections relating to the same subject.

SB 1080—By Bland.

An Act to repeal sections 329.010, 329.040 and 329.050, RSMo, relating to the licensing of braiders, and to enact in lieu thereof three new sections relating to the same subject.

SB 1081—By Bland.

An Act to amend chapter 191, RSMo, by adding thereto one new section relating to the establishment of the joint committee on health care policy and planning, with an expiration date.

SB 1082—By Bland.

An Act to amend chapter 198, RSMo, by adding thereto one new section relating to nursing homes.

REFERRALS

President Pro Tem Kinder referred **SCR 41** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

REPORTS OF STANDING COMMITTEES

Senator Yeckel, Chairman of the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, submitted the following report:

Mr. President: Your Committee on Financial 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.

RESOLUTIONS

Senator Yeckel offered Senate Resolution No. 980, regarding Kurt Witzel, St. Louis County, which was adopted.

COMMUNICATIONS

Senator DePasco submitted the following:

January 30, 2002

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

Dear Madam Secretary:

Pursuant to the provision of Senate Rule 45, I am requesting that Senate Bill 636 be removed from the Consent Calendar as I feel this bill to be of a controversial nature.

Sincerely,

/s/ Ronnie DePasco

Ronnie DePasco
STATE SENATOR
District 11

INTRODUCTIONS OF GUESTS

Senator Kinder introduced to the Senate, thirty members of Missouri Task Force One firefighters/rescue unit.

Senator Yeckel introduced to the Senate, Michael Marx, St. Louis.

Senator Staples introduced to the Senate, former State Senator Bill McKenna, Jefferson County.

Senator Russell introduced to the Senate, Michael Yokum.

Senator Foster introduced to the Senate, Duane and Sue Michie and Teri Michie Carnell and Skylar Carnell, Hayti; William, Tina, Dustin and Ashley Boatwright, Wardell; Gary, Melissa, Tyler and Kessler Michie, Gordonville; and Sara Michie

Higson, Jackson; and Skylar, Tyler and Kessler were made honorary pages.

Senator Bentley introduced to the Senate, Jim Anderson and Gene Barnes, Springfield.

On behalf of Senator Jacob and himself, Senator Mathewson introduced to the Senate, Carolyn Roff-Schreiber, Jill Evans, Bragg Stanley, EdD and former First Lady Pat Wilson, Columbia.

Senator House introduced to the Senate, Lillian and John Metzger, Troy.

Senator Jacob introduced to the Senate, the Physician of the Day, Dr. Barbara Keller, M.D., Columbia.

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

SENATE CALENDAR

FOURTEENTH DAY—THURSDAY, JANUARY 31, 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 1057-Cauthorn
SB 1032-Childers	SB 1058-Childers
SB 1033-Kennedy	SB 1059-Bentley, et al
SB 1034-Kennedy	SB 1060-Westfall
SB 1035-Yeckel	SB 1061-Rohrbach and Kenney
SB 1036-Yeckel	SB 1062-Rohrbach and Kenney
SB 1037-Singleton and Sims	SB 1063-Rohrbach and Kenney
SB 1038-DePasco	SB 1064-Stoll
SB 1039-DePasco	SB 1065-Staples
SB 1040-Gibbons, et al	SB 1066-Klindt
SB 1041-Russell	SB 1067-Foster and Johnson
SB 1042-Bland	SB 1068-Dougherty
SB 1043-Bland	SB 1069-Sims
SB 1044-Bland	SB 1070-Gibbons
SB 1045-Bland	SB 1071-Klindt
SB 1046-Gross and House	SB 1072-Childers, et al
SB 1047-Kenney	SB 1073-Cauthorn
SB 1048-Kenney	SB 1074-Goode and Schneider
SB 1049-Stoll and Johnson	SB 1075-Caskey and Childers
SB 1050-Foster	SB 1076-DePasco
SB 1051-Foster	SB 1077-Klarich
SB 1052-Sims	SB 1078-Kennedy
SB 1053-Bentley	SB 1079-Bland
SB 1054-Steelman	SB 1080-Bland
SB 1055-Cauthorn, et al	SB 1081-Bland
SB 1056-Cauthorn, et al	SB 1082-Bland

HOUSE BILLS ON SECOND READING

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

SENATE BILLS FOR PERFECTION

SBs 958 & 657-Kinder, with SCS	SB 668-Bentley SB 659-House and Kenney
-----------------------------------	---

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 651-Singleton and
Russell, with SCS (pending)
SB 660-Westfall, et al,
with SCS (pending)

SBs 662 & 704-Westfall,
with SCS & SA 3 (pending)

CONSENT CALENDAR

Senate Bills

Unofficial
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 726-Childers
SB 896-Yeckel

Bill
Reported 1/29

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

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

Copy
Reported 1/30

SB 749-Goode

RESOLUTIONS

Reported from Committee

SCR 38-Klarich

✓