

# Journal of the Senate

SECOND REGULAR SESSION

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**THIRTY-NINTH DAY—MONDAY, MARCH 19, 2012**

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The Senate met pursuant to adjournment.

Senator Pearce in the Chair.

Reverend Carl Gauck offered the following prayer:

“My soul will be satisfied as with the richest of foods; with singing lips my mouth will praise you.” (Psalm 63:5)

God of Creation, we give You thanks as we return refreshed from our Spring Break and once again renewed to do what is before us. Grant us, we pray, that our eyes be on what must be done and our hearts and thoughts set to accomplish all that You have laid ahead of us. And bless us throughout this week with Your presence and guidance. 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 Journals for Thursday, March 8, 2012 and Friday, March 16, 2012 were read and approved.

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

Present—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Curls	Dempsey	Dixon
Engler	Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager
Lamping	Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce
Purgason	Richard	Ridgeway	Rupp	Schaaf	Schaefer	Schmitt	Stouffer
Wasson	Wright-Jones—34						

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—None

The Lieutenant Governor was present.

**RESOLUTIONS**

Senator Wasson offered Senate Resolution No. 1646, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Joe Bob Dunn, Republic, which was adopted.

Senator Wasson offered Senate Resolution No. 1647, regarding Zachary Wayne Jones, which was adopted.

Senator Parson offered Senate Resolution No. 1648, regarding Cameron Locke, St. Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 1649, regarding Therese Thieret, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 1650, regarding Debbie Prange, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 1651, regarding Michelle Hubbard, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 1652, regarding Kathy Medina, Saint Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 1653, regarding Ken Fisher, Saint Louis, which was adopted.

Senator Lamping offered Senate Resolution No. 1654, regarding Courtney Jonas, Saint Louis, which was adopted.

Senator Brown offered Senate Resolution No. 1655, regarding the Gasconade County R-I School District Board of Education, which was adopted.

Senator Munzlinger offered Senate Resolution No. 1656, regarding Mitchell Levi Campbell, which was adopted.

Senator Lembke offered Senate Resolution No. 1657, regarding Cindy Bright, O'Fallon, Illinois, which was adopted.

Senator Lembke offered Senate Resolution No. 1658, regarding Michelle Lynn Pohl, Waterloo, Illinois, which was adopted.

Senator Lembke offered Senate Resolution No. 1659, regarding Amie Branch, St. Louis, which was adopted.

Senator Lembke offered Senate Resolution No. 1660, regarding Christopher E. Livingston, which was adopted.

Senator Lembke offered Senate Resolution No. 1661, regarding Heather Bourisaw, St. Charles, which was adopted.

Senator Lembke offered Senate Resolution No. 1662, regarding Jason Landherr, St. Louis, which was adopted.

Senator Lager offered Senate Resolution No. 1663, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Don Kohrs, Chillicothe, which was adopted.

Senator Lager offered Senate Resolution No. 1664, regarding Nick Eldredge, Lathrop, which was adopted.

Senator Kehoe offered Senate Resolution No. 1665, regarding Karen Schneider, Fulton, which was adopted.

Senator Kehoe offered Senate Resolution No. 1666, regarding Bonnie Baker, Jefferson City, which was adopted.

Senator Schaefer offered Senate Resolution No. 1667, regarding Gentry Pemberton, Centralia, which was adopted.

Senator Keaveny offered Senate Resolution No. 1668, regarding Terry Lee Watkins Jr., University City, which was adopted.

Senator Goodman offered Senate Resolution No. 1669, regarding the Eightieth Birthday of Dayton Mackey, Monett, which was adopted.

Senator Kehoe offered Senate Resolution No. 1670, regarding Fran Joy, Ashland, which was adopted.

Senator Kehoe offered Senate Resolution No. 1671, regarding Billy Arney, Fulton, which was adopted.

#### **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 **HCS** for **HB 1576**, entitled:

An Act to amend chapters 103 and 210, RSMo, by adding thereto two new sections relating to the purchase of state health insurance by certain foster parents.

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 **HCS** for **HBs 1258, 1259 and 1260**, entitled:

An Act to repeal sections 193.215 and 453.040, RSMo, and to enact in lieu thereof three new sections relating to consent for adoption.

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 **HCS** for **HB 1340**, entitled:

An Act to amend chapter 49, RSMo, by adding thereto one new section relating to county officers.

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 1404**, entitled:

An Act to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of Missouri pet breeders appreciation month.

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 **HCS for HB 1108**, entitled:

An Act to amend chapter 392, RSMo, by adding thereto one new section relating to caller location information.

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 1236**, entitled:

An Act to repeal sections 115.315 and 115.327, RSMo, and to enact in lieu thereof two new sections relating to third party candidates.

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 **HCS for HBs 1098 and 1084**, entitled:

An Act to repeal section 407.489, RSMo, and to enact in lieu thereof one new section relating to the resale of donated goods for charitable purposes.

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 1504**, entitled:

An Act to repeal sections 67.750, 67.1706, 67.1712, 67.1715, 67.1721, 67.1742, 67.1754, 144.805, and 182.802, RSMo, and to enact in lieu thereof nine new sections relating to sales taxes, with an emergency clause for certain sections.

Emergency clause adopted.

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 **HCS** for **HB 1042**, entitled:

An Act to repeal sections 173.005 and 173.040, RSMo, and to enact in lieu thereof two new sections relating to duties prescribed to the coordinating board for higher education, with a penalty provision.

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 **HCS** for **HBs 1319, 1045 and 1369**, entitled:

An Act to repeal sections 475.375, 571.020, 571.030, 571.101, 571.111, and 571.117, RSMo, and to enact in lieu thereof seven new sections relating to weapons, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

#### **SENATE BILLS FOR PERFECTION**

Senator Lager moved that **SB 714**, with **SCS**, be taken up for perfection, which motion prevailed.  
**SCS** for **SB 714**, entitled:

#### **SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 714**

An Act to repeal section 301.010, RSMo, and to enact in lieu thereof two new sections relating to the use of recreational off-highway vehicles, with penalty provisions.

Was taken up.

Senator Lager moved that **SCS** for **SB 714** be adopted.

Senator Lager offered **SA 1**:

#### **SENATE AMENDMENT NO. 1**

Amend Senate Committee Substitute for Senate Bill No. 714, Page 7, Section 301.010, Line 199, by striking the word “sixty” and inserting in lieu thereof the following: “**sixty-four**”; and further amend line 201, by striking the opening bracket “[”]; and further amend line 202, by striking the closing bracket “]”.

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

Senator Lager moved that **SCS** for **SB 714**, as amended, be adopted, which motion prevailed.

On motion of Senator Lager, **SCS** for **SB 714**, as amended, was declared perfected and ordered printed.

Senator Brown moved that **SB 743** be taken up for perfection, which motion prevailed.

President Kinder assumed the Chair.

Senator Schaaf offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 743, Page 2, Section 302.020, Line 23, by inserting immediately after “director.” the following: **“If, as a result of operating or riding a motorcycle or motortricycle without protective headgear, a person twenty-one years of age or older sustains an injury, then such person shall not be eligible for MO HealthNet services under chapter 208 for such injury.”**

Senator Schaaf moved that the above amendment be adopted.

Senator Chappelle-Nadal requested a roll call vote be taken on the adoption of **SA 1**. She was joined in her request by Senators Callahan, Curls, Justus and Keaveny.

**SA 1** failed of adoption by the following vote:

YEAS—Senators

Callahan	Chappelle-Nadal	Cunningham	Curls	Engler	Green	Justus	Keaveny
Kraus	Lamping	Lembke	Schaaf	Schmitt	Wright-Jones—14		

NAYS—Senators

Brown	Crowell	Dempsey	Dixon	Goodman	Kehoe	Mayer	McKenna
Munzlinger	Nieves	Parson	Pearce	Purgason	Richard	Rupp	Schaefer
Stouffer	Wasson—18						

Absent—Senator Lager—1

Absent with leave—Senator Ridgeway—1

Vacancies—None

Senator Pearce assumed the Chair.

Senator Keaveny offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Bill No. 743, Page 1, In the Title, Lines 3-4, by striking all of said lines and inserting in lieu thereof the following: “to the regulation of motor vehicles, with penalty provisions.”; and further amend said bill, page 2, section 302.020, line 43 by inserting after 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, 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. No person shall be stopped, inspected, or detained solely to determine compliance with this subsection. The provisions of this section and section 307.179 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. The provisions of this subsection shall not apply to the transporting of children under sixteen years of age, as provided in section 307.179.

3. Each driver of a motor vehicle transporting a child less than sixteen years of age shall secure the child in a properly adjusted and fastened restraint under section 307.179.

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. Except as otherwise provided for in section 307.179, each person who violates the provisions of subsection 2 of this section is guilty of an infraction for which a fine not to exceed [ten] **fifty** 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, for a violation of this section.

6. The state highways and transportation commission shall initiate and develop a program of public information to develop understanding of, and ensure compliance with, the provisions of this section. The commission 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 passengers who are unable to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front-seated area. The passenger or passengers occupying a seat location referred to in this subsection is not in violation of this section. This subsection shall not apply to passengers who are accompanying a driver of a motor vehicle who is licensed under section 302.178.”; and

Further amend the title and enacting clause accordingly.

Senator Keaveny moved that the above amendment be adopted.

Senator Engler requested a roll call vote be taken on the adoption of **SA 2** and was joined in his request

by Senators Curls, Kehoe, Kraus and Lembke.

Senator Kehoe assumed the Chair.

Senator Dempsey raised the point of order that **SA 2** is out of order as it goes beyond the scope of the bill.

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

At the request of Senator Brown, **SB 743** was placed on the Informal Calendar.

### MESSAGES FROM THE GOVERNOR

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

GOVERNOR OF MISSOURI

JEFFERSON CITY

65102

March 16, 2012

TO THE SECRETARY OF THE SENATE  
96<sup>th</sup> GENERAL ASSEMBLY  
SECOND REGULAR SESSION  
STATE OF MISSOURI

Herewith I return to you Senate Substitute for Senate Committee Substitute for Senate Bill No. 572 entitled:

#### AN ACT

To repeal sections 287.067, 287.120, 287.150, and 287.240, RSMo, and to enact in lieu thereof four new sections relating to workers' compensation.

I disapprove of Senate Substitute for Senate Committee Substitute for Senate Bill No. 572. My reasons for disapproval are as follows:

Under current law, workers suffering from work-related occupational diseases may seek redress by bringing a civil action against their employer. This includes workers who suffer from serious and deadly work-related occupational diseases such as mesothelioma and cardiopulmonary disease that involve long-term workplace exposure to toxic substances. Current law appropriately recognizes the severity and duration of these types of occupational diseases, which may take years or even decades to manifest themselves, by allowing affected workers broader redress through access to the civil justice system. Taking this right away from workers suffering from serious and deadly occupational diseases, as Senate Substitute for Senate Committee Substitute for Senate Bill No. 572 would do by adding "occupational disease" to the workers' compensation exclusivity provision, is not acceptable.

With respect to proposed Section 287.120.11, RSMo, which provides that a civil action against an employer or employee of the employer may not proceed until all administrative remedies are exhausted, it is worth noting that both employers and employees have a shared interest in a timely and efficient disposition of claims. It is questionable whether holding a civil action in abeyance pending "exhaustion" of all "administrative remedies" – terms that, moreover, are not defined in the bill – furthers these goals. Procedural requirements should foster an efficient and equitable resolution for all parties.

In accordance with the above stated reasons for disapproval, I am returning Senate Substitute for Senate Committee Substitute for Senate Bill No. 572 without my approval.

Respectfully submitted,  
Jeremiah W. (Jay) Nixon  
Governor

### 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 1466**, entitled:

An Act to amend chapter 160, RSMo, by adding thereto one new section relating to mathematics and science tutoring centers.

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 **HCS** for **HB 1449**, entitled:

An Act to amend chapter 135, RSMo, by adding thereto one new section relating to economic incentives.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

### REPORTS OF STANDING COMMITTEES

Senator Dempsey, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SCS** for **SB 714**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

### INTRODUCTIONS OF GUESTS

Senator Nieves introduced to the Senate, Scott and Lynette Smith and their son, Adam, Homeschoolers from Washington; and Adam was made an honorary page.

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

### SENATE CALENDAR

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FORTIETH DAY—TUESDAY, MARCH 20, 2012

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### FORMAL CALENDAR

### VETOED BILLS

SS for SCS for SB 572-Dempsey

### HOUSE BILLS ON SECOND READING

HCS for HB 1525

HCS#2 for HB 1317

HCS for HB 1193  
 HCS for HB 1220  
 HB 1029-Flanigan and Allen  
 HCS for HB 1123  
 HB 1513-Franz, et al  
 HCS for HBs 1659 & 1116  
 HCS for HB 1214  
 HCS for HB 1212  
 HB 1331-Jones (117), et al  
 HCS for HB 1495  
 HB 1621-Brown (116), et al  
 HCS for HB 1576

HCS for HBs 1258, 1259 & 1260  
 HCS for HB 1340  
 HB 1404-Reiboldt, et al  
 HCS for HB 1108  
 HB 1236-Entlicher, et al  
 HCS for HBs 1098 & 1084  
 HB 1504-Richardson  
 HCS for HB 1042  
 HCS for HBs 1319, 1045 & 1369  
 HB 1466-Jones (63), et al  
 HCS for HB 1449

### THIRD READING OF SENATE BILLS

SCS for SB 714-Lager

### SENATE BILLS FOR PERFECTION

- |   |                                 |
|---|---------------------------------|
| 1. SB 689-Engler and Schmitt, with SCS                                    | 14. SB 755-Mayer, with SCS      |
| 2. SB 620-Rupp  | 15. SB 626-Kehoe, with SCS      |
| 3. SB 744-Wright-Jones, with SCS  | 16. SB 769-Kraus                |
| 4. SB 693-Crowell   | 17. SJR 47-Rupp, with SCS       |
| 5. SB 650-Ridgeway  | 18. SB 676-Nieves, with SCA 1   |
| 6. SJR 48-Dixon   | 19. SB 677-Pearce, with SCS     |
| 7. SJR 50-Curls   | 20. SB 549-Lembke               |
| 8. SB 449-Rupp  | 21. SB 781-Goodman              |
| 9. SB 667-Wasson  | 22. SB 652-Lager                |
| 10. SB 788-Keaveny, with SCS  | 23. SB 760-Dempsey              |
| 11. SBs 767, 653, 754, 705, 441, 528,<br>831, 833 & 847-Goodman, with SCS | 24. SB 666-Keaveny, with SCS    |
| 12. SB 557-Brown  | 25. SB 490-Munzlinger, with SCS |
| 13. SB 633-Engler, with SCS   | 26. SB 695-Parson               |

### INFORMAL CALENDAR

### SENATE BILLS FOR PERFECTION

SB 438-Mayer

SB 439-Mayer, with SCS (pending)

SB 442-Stouffer, with SCS	SB 596-Brown, with SCS
SB 457-Schmitt, with SCS & SS for SCS (pending)	SB 621-Brown, with SCS & SS for SCS (pending)
SB 465-Schaaf	SB 623-Cunningham, with SCS
SB 474-Kraus, with SCS & SA 1 (pending)	SB 710-Engler, et al, with SCS, SS for SCS & SA 1 (pending)
SB 479-Crowell	SB 717-Stouffer
SB 547-Purgason	SB 727-Schaaf, with SS (pending)
SBs 553 & 435-Brown, with SCS, SS for SCS & SA 1 (pending)	SB 743-Brown
SB 577-Goodman and Rupp, with SCS	SB 749-Lamping, with SS & SA 1 (pending)
SB 589-Kraus, with SCS (pending)	SJR 29-Lamping, with SS & SA 1 (pending)

#### SENATE BILLS WITH HOUSE AMENDMENTS

SCS for SB 773-Parson, with HA 2 & HA 3

#### RESOLUTIONS

Reported from Committee

SCR 16-Stouffer

SCR 21-Pearce, et al

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