

# Journal of the Senate

FIRST REGULAR SESSION

THIRTY-EIGHTH DAY—THURSDAY, MARCH 11, 1999

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl R. Gauck offered the following prayer:

Gracious Father, Creator and Renewer of life: Today we reach the halfway point in this session and look forward to the Spring Break. May we use this break to get away from the many stressors and divided time between here and home that saps our energy and wears down our souls. May we use this time for that which is intended to re-create our bodies and minds, to lovingly spend time with those You have given us to love, and to renew our spirits and walk closer with You, our God. All this we ask in Your Holy Name. Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal of the previous day was read and approved.

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

Present—Senators

Bland	Caskey	Childers	Clay
DePasco	Ehlmann	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kenney	Kinder	Mathewson
Maxwell	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Singleton	Staples	Steelman	Stoll
Westfall	Wiggins	Yeckel—31	

Absent with leave—Senators

Banks            Bentley            Klarich—3

The Lieutenant Governor was present.

## RESOLUTIONS

Senator Wiggins offered the following resolution, which was adopted:

### SENATE RESOLUTION NO. 387

WHEREAS, the members of the Missouri Senate have been deeply saddened to learn of the death of Eugene Paul Mitchell of Kansas City; and

WHEREAS, Mr. Mitchell, a native of Kansas City was a graduate of Rockhurst College and Georgetown School of Law and practiced law in Kansas City for 50 years, retiring in 1997 from the firm he founded, Mitchell, Kristi and Lieber; and

WHEREAS, Mr. Mitchell was a United States Army veteran, serving as an officer in the 96th Infantry Division in World War II; and

WHEREAS, Mr. Mitchell was a member of the American Bar Association, the Lawyers Association of Kansas City, the American Health Lawyers Association, the Missouri Society of Hospital Attorneys, was an Honorary Director of Rockhurst College, a member of the Rockhurst College Heritage Society, a member of the St. Joseph Health Center Advisory Council and past president of the Blue Hills Country Club; and

WHEREAS, Mr. Mitchell was most of all a devoted husband and father in whose heart and love his family always came first;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Missouri Senate, pause in their deliberations to salute the memory of a distinguished Kansas Citian, Eugene Paul Mitchell, express their appreciation for his lifetime of good citizenship, and his contributions to Kansas City and to Missouri, and extend to his wife, Mrs. Norma Ann Lieber Mitchell, family and many friends most sincere sympathy on his death; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for his wife, Mrs. Norma Ann Lieber Mitchell; his sons, Dr. Eugene Patrick Mitchell, Dr. Michael John Mitchell, James Francis Mitchell and Thomas Claxton Mitchell; his daughters, Ann Hoffman, Madge Schmank, Norma Gene "Nonie" Newman, and Milly Mitchell-Danciger; his sisters, Mary Fahey, Sister Margaret Marie Mitchell; Rockhurst College; and Mitchell, Kristi and Lieber.

Senator Wiggins offered the following resolution, which was adopted.

SENATE RESOLUTION NO. 388

WHEREAS, the members of the Missouri Senate have been deeply saddened to learn of the death of John Dennis Mullane of Kansas City; and

WHEREAS, Mr. Mullane, a native of Kansas City was a graduate of LaSalle High School; and

WHEREAS, Mr. Mullane was a veteran of the United States Marine Corps in World War II, having received an Honorable Discharge as a corporal, receiving a Distinguished Service Citation for bravery in Bougainville, British Solomon Islands combat on Guam, Marinas Islands, and Iwo Jima, Volcano Islands, while at the same time winning a Golden Gloves title in his weight class on Guam; and

WHEREAS, Mr. Mullane began a career in sales, first with Continental Electric Company, then as Regional Sales Manager for Anheuser-Busch Company, later as national Sales Manager for Universal Cabinet Company, finally retiring from Commerce Clearing House in 1987; and

WHEREAS, Mr. Mullane was founder of P-3 (Performance 3) group of Alcoholics Anonymous, expending tireless efforts to work with others in need particularly men and women in prisons and hospitals in the Kansas City area and across the country; and

WHEREAS, Mr. Mullane was most of all a devoted husband and father in whose heart and love his family always came first;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Missouri Senate, pause in their deliberations to salute the memory of a distinguished Kansas Citian, John Dennis Mullane, express their appreciation for his lifetime of good citizenship, and his contributions to Kansas City and to Missouri, and to his fellow human beings, and express most sincere sympathy on his death to his family and many friends; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for his daughters, Mary Mullane Swar, Helen T. Mullane Wood, Jane Marie Mullane Lowery; his son, Timothy P. Mullane; his sister, Helen Jankowski; Christ the King Church; P-3 Alcoholics Anonymous; and Ancient Order of Hibernicus.

**SENATE BILLS FOR PERFECTION**

Senator Westfall moved that **SB 205**, with **SCA 1**, be taken up for perfection, which motion prevailed.

**SCA 1** was taken up.

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

Senator Westfall offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 205, Page 5, Section 226.540, Line 43, by striking the words "as conforming structures" and inserting in lieu thereof the following: "**and shall be considered conforming structures. Any structures which are classified as nonconforming prior to August 28, 1999, shall continue to be considered nonconforming under the provisions of this section**"; and

Further amend said bill and section, page 6, line 73, by striking the word "as a conforming structure" and inserting in lieu thereof the following: "**and shall be considered a conforming structure. Any structure which is classified as nonconforming prior to August 28, 1999, shall continue to be considered nonconforming under the provisions of this section**"; and

Further amend said bill, page and section, line 78, by striking the word "as a conforming structure" and inserting in lieu thereof the following: "**and shall be considered a conforming structure. Any structure which is classified as nonconforming prior to August 28, 1999, shall continue to be considered nonconforming under the provisions of this section**".

Senator Westfall moved that the above amendment be adopted.

Senator Jacob offered **SSA 1** for **SA 1**:

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

Amend Senate Bill No. 205, Page 5, Section 226.540, Line 43, by inserting after the word "structures" as it appears the first time on the line, the following: "**; provided that, such maintenance, repair or rebuilding complies with current statutory authority, including but not limited to section 71.288, RSMo, and rules adopted by the department**"; and

Further amend said bill, Page 6, Section 226.540, Line 73, by inserting after the word "structure" the following: "**; provided that, such maintenance, repair or rebuilding complies with**

**current statutory authority, including but not limited to section 71.288, RSMo, and rules adopted by the department"; and**

Further amend said bill, Page 6, Section 226.540, Line 78, by inserting after the word "structure" the following: "**; provided that, such maintenance, repair or rebuilding complies with current statutory authority, including but not limited to section 71.288, RSMo, and rules adopted by the department**".

Senator Jacob moved that the above substitute amendment be adopted.

At the request of Senator Westfall, **SB 205**, with **SA 1** and **SSA 1** for **SA 1** (pending), was placed on the Informal Calendar.

#### **REPORTS OF STANDING COMMITTEES**

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

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which was referred **SCS** for **SB 225**, begs leave to report that it has examined the same and finds that the bill has been duly enrolled and that the printed copies furnished the Senators are correct.

#### **SIGNING OF BILLS**

The President Pro Tem announced that all other business would be suspended and **SCS** for **SB 225**, having passed both branches of the General Assembly, would be read at length by the Secretary, and if no objections be made, the bill would be signed by the President Pro Tem to the end that it may become law. No objections being made, the bill was so read by the Secretary and signed by the President Pro Tem.

#### **BILLS DELIVERED TO THE GOVERNOR**

**SCS** for **SB 225**, after having been duly signed by the Speaker of the House of Representatives in open session, was delivered to the Governor by the Secretary of the Senate.

#### **MESSAGES FROM THE HOUSE**

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

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and adopted the Conference Committee Report on **SCS** for **HCS** for **HB 14** and has taken up and passed **CCS** for **SCS** for **HCS** for **HB 14**.

#### **REPORTS OF STANDING COMMITTEES**

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

Mr. President: Your Committee on Education, to which was referred **SB 443**, 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 Education, to which was referred **SB 461**, 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 Wiggins, Chairman of the Committee on Ways and Means, submitted the following reports:

Mr. President: Your Committee on Ways and Means, to which was referred **SB 192**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

Also,

Mr. President: Your Committee on Ways and Means, to which was referred **SB 287**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

#### **REFERRALS**

President Pro Tem Quick referred **SCR 18** to the Committee on Rules, Joint Rules and Resolutions.

Senator Mathewson assumed the Chair.

## REPORTS OF STANDING COMMITTEES

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

Mr. President: Your Committee on State Budget Control, to which was referred **SS** for **SCS** for **SB 335**, begs leave to report that it has considered the same and recommends that the bill do pass.

Also,

Mr. President: Your Committee on State Budget Control, to which was referred **SJR 25**, begs leave to report that it has considered the same and recommends that the joint resolution do pass.

Senator DePasco, Chairman of the Committee on Rules, Joint Rules and Resolutions, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which was referred **SCR 12**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Also,

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which was referred **SCR 16**, begs leave to report that it has considered the same and recommends that the concurrent resolution do pass.

Also,

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which was referred **SCR 15**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

### SENATE COMMITTEE SUBSTITUTE FOR SENATE CONCURRENT RESOLUTION NO. 15

WHEREAS, the elk industry is a nine million dollar business in Missouri and the state has more than one hundred elk farms with over one thousand elk; and

WHEREAS, over a third of Missouri's counties have domestic elk herds and Missouri has the honor of being the site of the international headquarters of the North American Elk Breeders Association, as well as, the North American Elk Research Council, Inc.; and

WHEREAS, Missouri is the Midwest's top elk trading state and

according to Missouri law, elk are classified as livestock which enables elk farming without a special permit; and

WHEREAS, the Department of Conservation has indicated it may support the reestablishment of wild elk herds in Missouri; and

WHEREAS, the unregulated breeding and gathering of wild elk herds in Missouri could be a safety risk since there is no natural food chain for elk in Missouri and there are no natural predators to control wild elk; and

WHEREAS, wild elk herds carry various diseases common to wild animals which can harm domestic elk livestock and such wild elk can cause damage to fences and crops; and

WHEREAS, since the elk is the largest member of the cervidac (deer) family, the presence of wild elk herds may present a hazard to motorists;

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate of the Ninetieth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby ask the Conservation Commission and the Department of Conservation to reconsider any movement toward establishing wild elk herds in Missouri; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the members of the Conservation Commission and the Director of the Department of Conservation.

Also,

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which were referred **SS** for **SB 309** and **SS** for **SJR 23**, begs leave to report that it has examined the same and finds that the bills have been truly perfected and that the printed copies furnished the Senators are correct.

## SENATE BILLS FOR PERFECTION

Senator Westfall moved that **SB 205**, with **SA 1** and **SSA 1** for **SA 1** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

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

Senator Jacob moved that the above substitute amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Caskey, Howard, Westfall and Schneider.

Senator Johnson assumed the Chair.

**SSA 1** for **SA 1** was adopted by the following vote:

YEAS—Senators

Clay	DePasco	Ehlmann	Flotron
Goode	House	Howard	Jacob

Mathewson	Quick	Schneider	Sims
Singleton	Steelman	Stoll	Wiggins—16

NAYS—Senators

Caskey	Childers	Graves	Johnson
Kenney	Maxwell	Mueller	Rohrbach
Russell	Westfall	Yeckel—11	

Absent—Senator Kinder—1

Absent with leave—Senators

Banks	Bentley	Bland	Klarich
Scott	Staples—6		

On motion of Senator Westfall, **SB 205**, as amended, was declared perfected and ordered printed.

Senator DePasco announced that photographers from the Senate had been given permission to take pictures in the Senate Chamber today.

Senator Goode moved that **SB 19**, with **SCS, SS for SCS, SA 4** and point of order (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

President Pro Tem Quick ruled the pending point of order not well taken.

Senator Mathewson assumed the Chair.

**SA 4** was again taken up.

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

Senator Mueller offered **SA 5**:

SENATE AMENDMENT NO. 5

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 32, Section 303.179, Line 13 of said page, by inserting after all of said line the following:

"303.190. 1. A "motor vehicle liability policy" as said term is used in this chapter shall mean an owner's or an operator's policy of liability insurance, certified as provided in section 303.170 or section 303.180 as proof of financial responsibility, and issued, except as otherwise provided in section 303.180 by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as

insured.

2. Such owner's policy of liability insurance:

(1) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; [and]

(2) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits, exclusive of interest and costs, with respect to each such motor vehicle, as follows: twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and ten thousand dollars because of injury to or destruction of property of others in any one accident; and

**(3) May exclude coverage against loss from liability imposed by law for damages arising out of the use of such motor vehicles by a member of the named insured's household who is a specifically excluded driver in the policy.**

3. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the said territorial limits and subject to the same limits of liability as are set forth above with respect to any owner's policy of liability insurance.

4. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the

provisions of this chapter.

5. Such motor vehicle liability policy need not insure any liability under any workers' compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

6. Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(1) The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy;

(2) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage;

(3) The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in subdivision (2) of subsection 2 of this section;

(4) The policy, the written application thereof, if any, and any rider or endorsement which does not conflict with the provisions of this chapter shall constitute the entire contract between the parties.

7. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the

provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

8. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

9. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

10. The requirements of a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

11. Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirement for such a policy."; and

Further amend the title and enacting clause accordingly.

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

Senator Flotron offered **SA 6**, which was read:

**SENATE AMENDMENT NO. 6**

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 10, Section 301.140, Line 22 of said page, by striking "fifteen" and inserting in lieu thereof the following: "**thirty**"; and

Further amend said bill and section, page 11, line 7, by striking "fifteen" and inserting in lieu thereof the following: "**thirty**".

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

Senator Kenney offered **SA 7**:

**SENATE AMENDMENT NO. 7**

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 1, In the Title, Lines 6 and 7, by striking the

following: "the registration and inspection of"; and

Further amend the title, line 10, by inserting immediately after the word "sections" the following: ", and with an emergency clause for a certain section"; and

Further amend said bill, page 19, section 302.303, line 2, of said page, by inserting immediately after said line the following:

"302.321. 1. A person commits the crime of driving while revoked if he operates a motor vehicle on a highway when his license or driving privilege has been canceled, suspended or revoked under the laws of this state and acts with criminal negligence with respect to knowledge of the fact that his driving privilege has been canceled, suspended or revoked.

2. Driving while revoked is a class A misdemeanor **on the first conviction**. No court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until he has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. **Driving while revoked is a class D felony on the second or subsequent conviction.**"; and

Further amend said bill, page 69, Section C, line 21 of said page, by inserting after all of said line the following:

"Section D. Because immediate action is necessary to protect the citizens of this state from repeat traffic offenders, section 302.321 of this act, is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 302.321 of this act shall be in full force and effect upon its passage and approval."; and

Further amend the title and enacting clause accordingly.

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

Senator Rohrbach offered **SA 8**, which was read:

#### SENATE AMENDMENT NO. 8

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 41, Section 307.360, Line 9, by striking the opening "[" and closing "]" and bold face language on said line; and further amend said bill, section and page, lines 16-22, by striking the opening and closing bracket on line 16 and all the bold face language on lines 17 through 22.

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

Senator Singleton offered **SA 9**:

#### SENATE AMENDMENT NO. 9

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 69, Section 643.315, Line 21, by adding following said line:

"Section D. For the purposes of this act, motor vehicle shall include every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor."; and further amend the title and enacting clause accordingly.

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

President Wilson assumed the Chair.

Senator Goode offered **SA 10**:

#### SENATE AMENDMENT NO. 10

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 1, In the Title, Lines 6-7, by striking the words "the registration and inspection of"; and

Further amend said bill, Page 14, Section 301.147, Line 19 of said page, by inserting after all of said line the following:

"301.190. 1. No certificate of registration of

any motor vehicle or trailer, or number plate therefor, shall be issued by the director of revenue unless the applicant therefor shall make application for and be granted a certificate of ownership of such motor vehicle or trailer, or shall present satisfactory evidence that such certificate has been previously issued to the applicant for such motor vehicle or trailer. Application shall be made within thirty days after the applicant acquires the motor vehicle or trailer upon a blank form furnished by the director of revenue and shall contain the applicant's identification number, a full description of the motor vehicle or trailer, the vehicle identification number, and the mileage registered on the odometer at the time of transfer of ownership, as required by section 407.536, RSMo, together with a statement of the applicant's source of title and of any liens or encumbrances on the motor vehicle or trailer, provided that for good cause shown the director of revenue may extend the period of time for making such application.

2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true and shall, to the extent possible without substantially delaying processing of the application, review any odometer information pertaining to such motor vehicle that is accessible to the director of revenue. If satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, the director shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. The certificate shall contain on its face a complete description, vehicle identification number, and other evidence of identification of the motor vehicle or trailer, as the director of revenue may deem necessary, together with the odometer information required to be put on the face of the certificate pursuant to section 407.536, RSMo, a statement of any liens or encumbrances which the application may show to be thereon, and, if ownership of the vehicle has been transferred, the name of the state issuing the transferor's title and whether the transferor's odometer mileage statement executed pursuant to section 407.536, RSMo, indicated that the true mileage is materially different from the number of

miles shown on the odometer, or is unknown.

3. The director of revenue shall appropriately designate on the current and all subsequent issues of the certificate the words "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Specially Constructed Motor Vehicle", or "Non-USA-Std Motor Vehicle", as defined in section 301.010. Effective July 1, 1990, on all original and all subsequent issues of the certificate for motor vehicles as referenced in subsections 2 and 3 of section 301.020, the director shall print on the face thereof the following designation: "Annual odometer updates may be available from the department of revenue." On any duplicate certificate, the director of revenue shall reprint on the face thereof the most recent of either:

(1) The mileage information included on the face of the immediately prior certificate and the date of purchase or issuance of the immediately prior certificate; or

(2) Any other mileage information provided to the director of revenue, and the date the director obtained or recorded that information.

4. The certificate of ownership issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection. In order to carry out the requirements of this subsection, the director of revenue may contract with a nonprofit scientific or educational institution specializing in the analysis of secure documents to determine the most effective methods of rendering Missouri certificates of ownership nonalterable or noncounterfeitable.

5. The fee for each original certificate so issued shall be eight dollars and fifty cents, in addition to the fee for registration of such motor vehicle or trailer. If application for the certificate is not made within thirty days after the vehicle is acquired by the applicant, a delinquency penalty fee of twenty-five dollars for the first thirty days of delinquency and twenty-five dollars for each thirty days of delinquency thereafter, not to exceed a total of one hundred dollars, shall be imposed, but such penalty may be waived by the director for a good cause shown. If the director of revenue learns that



any person has failed to obtain a certificate within thirty days after acquiring a motor vehicle or trailer or has sold a vehicle without obtaining a certificate, he shall cancel the registration of all vehicles registered in the name of the person, either as sole owner or as a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee provided in this section, together with all fees, charges and payments which he should have paid in connection with the certificate of ownership and registration of the vehicle. The certificate shall be good for the life of the motor vehicle or trailer so long as the same is owned or held by the original holder of the certificate and shall not have to be renewed annually.

6. Any application for a certificate of ownership requesting the department of revenue to process an application for a certificate of ownership in an expeditious manner requiring special handling shall pay a fee of five dollars in addition to the regular certificate of ownership fee.

7. It is unlawful for any person to operate in this state a motor vehicle or trailer required to be registered under the provisions of the law unless a certificate of ownership has been issued as herein provided.

8. Before an original Missouri certificate of ownership is issued, an inspection of the vehicle and a verification of vehicle identification numbers shall be made by the Missouri state highway patrol on vehicles for which there is a current title issued by another state if a Missouri salvage certificate of title has been issued for the same vehicle but no prior inspection and verification has been made in this state, except that if such vehicle has been inspected in another state by a law enforcement officer in a manner comparable to the inspection process in this state and the vehicle identification numbers have been so verified, the applicant shall not be liable for the twenty-five dollar inspection fee if such applicant submits proof of inspection and vehicle identification number verification to the director of revenue at the time of the application. The applicant, who has such a title for a vehicle on which no prior inspection and verification have been made, shall pay a fee of

twenty-five dollars for such verification and inspection, payable to the director of revenue at the time of the request for the application, which shall be deposited in the state treasury to the credit of the state highway fund.

9. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, specially constructed motor vehicle, kit vehicle, motor change vehicle, non-USA-std motor vehicle, or other vehicle as required by the director of revenue, shall be accompanied by a vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The vehicle examination shall include a verification of vehicle identification numbers and a determination of the classification of the vehicle. The owner of a vehicle which requires a vehicle examination certificate shall present the vehicle for examination and obtain a completed vehicle examination certificate prior to submitting an application for a certificate of ownership to the director of revenue. The fee for the vehicle examination application shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application and shall be deposited in the state treasury to the credit of the state highway fund.

10. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, it shall be accompanied by a current inspection form certified by a duly authorized official inspection station as described in chapter 307, RSMo. The completed form shall certify that the manufacturer's identification number for the vehicle has been inspected, that it is correctly displayed on the vehicle and shall certify the reading shown on the odometer at the time of inspection. The inspection station shall collect the same fee as authorized in section 307.365, RSMo, for making the inspection, and the fee shall be deposited in the same manner as provided in section 307.365, RSMo. If the vehicle is also to be registered in Missouri, the safety and emissions inspections required in chapter 307, RSMo, shall be completed and only the fees required by sections 307.365 and 307.366, RSMo, shall be charged to

the owner. This section shall not apply to vehicles being transferred on a manufacturer's statement of origin.

**11. Motor vehicles brought into this state in a wrecked or damaged condition or after being towed as an abandoned vehicle under another state's abandoned motor vehicle procedures, shall, in lieu of the inspection required by subsection 10 of section 301.190, RSMo, be inspected by the Missouri state highway patrol in accordance with subsection 9 of section 301.190, RSMo. If the inspection reveals the vehicle to be in a salvage or junk condition, the director shall so indicate on any Missouri certificate of ownership issued for such vehicle. Any salvage designation shall be carried forward on all subsequently issued certificates of title for the motor vehicle.**

**12.** When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the name of the issuing state and such prior designation.

[12.] **13.** When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as non-USA-std motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the words "Non-USA-Std Motor Vehicle".

[13.] **14.** The director of revenue and the superintendent of the Missouri state highway patrol shall make and enforce rules for the administration of the inspections required by this section."; and

Further amend said bill, Page 32, Section 303.179, Line 13 of said page, by inserting after all

of said line the following:

"304.155. 1. Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of:

(a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for forty-eight hours;

(c) Any state highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten hours; or

(d) Any state highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than forty-eight hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

(3) Any abandoned property which has been abandoned under section 577.080, RSMo;

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner;

(5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;

(6) Any abandoned property which due to any

other state law or local ordinance is subject to towing because of the owner's outstanding traffic or parking violations;

(7) Any abandoned property left unattended in violation of a state law or local ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard; or

(8) Any abandoned property illegally left standing on the waters of this state as defined in section 306.010, RSMo, where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten hours or is floating loose on the water.

2. The state transportation department may immediately remove any abandoned, unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal property from the roadway of any state highway if the abandoned property, cargo or personal property is creating a traffic hazard because of its position in relation to the state highway. In the event the property creating a traffic hazard is a commercial motor vehicle, as defined in section 302.700, RSMo, the department's authority under this subsection shall be limited to authorizing a towing company to remove the commercial motor vehicle to a place of safety, except that the owner of the commercial motor vehicle or the owner's designated representative shall have a reasonable opportunity to contact a towing company of choice. The provisions of this subsection shall not apply to vehicles transporting any material which has been designated as hazardous under section 5103(a) of Title 49, U.S.C.

3. **Any law enforcement agency authorizing a tow under this section in which the abandoned property is moved from the immediate vicinity shall complete a crime inquiry and inspection report.** Any state or federal government agency other than a law enforcement agency authorizing a tow under this section in which the abandoned property is moved away from the immediate vicinity in which it was abandoned shall report the towing to the state highway patrol or water patrol within [one hour] **two hours** of the tow along with a [description of the abandoned property sufficient to make a criminal] **crime inquiry and inspection**

**report** as required in this section. **Any local government agency, other than a law enforcement agency, authorizing a tow under this section where property is towed away from the immediate vicinity shall report the tow to the local law enforcement agency within two hours along with a crime inquiry and inspection report.**

4. Neither the law enforcement officer, **government agency official** nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section or by ordinance of a county or municipality licensing and regulating the sale of abandoned property by the municipality, other than damages occasioned by negligence or by willful or wanton acts or omissions.

5. The owner of abandoned property removed as provided in this section or in section 304.157 shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in section 304.158.

6. Upon the towing of any abandoned property under this section or **under authority of a law enforcement officer or local government agency under** section 304.157, the law enforcement agency that authorized such towing or was properly notified **by another government agency** of such towing shall **promptly** make an inquiry with the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. **If the abandoned property is not claimed within ten working days of the towing, the law enforcement agency shall submit a crime inquiry and inspection report to the director of revenue[, on any unclaimed abandoned property, within ten working days of the towing of the abandoned property]. A towing company in possession of abandoned property after ten working days shall report such fact to the law enforcement agency with which the crime inquiry and inspection report was filed.** The crime inquiry and inspection report shall **be designed by the director**

**of revenue and shall** include the following:

(1) The year, model, make and property identification number of the property **and the owner and any lienholders, if known;**

(2) A description of any damage to the property noted by the [law enforcement] officer **authorizing the tow;**

(3) The license plate or registration number and the state of issuance, if available;

(4) The storage location of the towed property;

(5) The name, telephone number and address of the towing company;

(6) The date, place and reason for the towing of the abandoned property;

(7) The date of the inquiry of the national crime information center, any statewide Missouri law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. **This information shall be entered only by the law enforcement agency making the inquiry;**

(8) The signature and printed name of the [law enforcement] officer **authorizing the tow** and the towing operator; and

(9) Any additional information the director of revenue deems appropriate.

7. [The department of revenue may design and make available to police agencies throughout the state a uniform "Authorization to Tow" form. The form shall contain lines for time, date, location, descriptive information of the vehicle, reason for towing, the tow operator and company and signature of authorizing officer. The cost of the forms will be determined by the department of revenue. The completed form shall be issued by the authorizing officer to the tow operator for that company's records as proof of authorization to tow a particular vehicle.

8.] One copy of the crime inquiry and inspection report shall remain with the agency which authorized the tow. One copy shall be provided to and retained by the storage facility and one copy shall be retained by the towing facility in

an accessible format in the business records for a period of three years from the date of the tow or removal.

[9.] **8.** The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

[10.] **9.** Any person who removes abandoned property at the direction of a law enforcement officer or an officer of a government agency where that agency's real property is concerned as provided in this section shall have a lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Any personal property within the abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The company holding or storing the abandoned property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The company holding or storing the property shall be strictly liable for the condition and safe return of the personal property. Such lien shall be enforced in the manner provided under section 304.156.

[11.] **10.** Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain [a copy of the law enforcement officer's] **information regarding the** authorization to tow, copies of all correspondence with the department of revenue concerning the abandoned property, and information concerning the final disposition of the possession of the abandoned property.

[12.] **11.** If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor

or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the local law enforcement agency where the repossession occurred within two hours of the repossession and shall further provide the local law enforcement agency with any additional information the agency deems appropriate. The local law enforcement agency shall make an inquiry with the national crime information center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

304.156. 1. Within five working days of receipt of the crime inquiry and inspection report under section 304.155 or the abandoned property report under section 304.157, the director of revenue shall search the records of the department of revenue, or initiate an inquiry with another state, if the evidence presented indicated the abandoned property was registered or titled in another state, to determine the name and address of the owner [and/or] **and** lienholder, if any. After ascertaining the name and address of the owner [and/or] **and** lienholder, if any, the department shall, within fifteen working days, notify the towing company [and owner or lienholder]. Any towing company which comes into possession of abandoned property pursuant to section 304.155 or 304.157 and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the department of revenue or of a corresponding agency in any other state. The towing company shall notify the owner [and/or] **and any** lienholder within ten business days of the date of mailing indicated on the notice sent by the department of revenue, by certified mail, return receipt requested. The notice shall contain the following:

- (1) The name, address and telephone number of the storage facility;
- (2) The date, reason and place from which the abandoned property was removed;
- (3) A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or

administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;

(4) A statement that the storage firm claims a possessory lien for all such charges;

(5) A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;

(6) A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this section to contest the propriety of such towing or removal;

(7) A statement that if the abandoned property remains unclaimed for thirty days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and

(8) A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

2. A towing company may **only** assess **reasonable** storage charges for abandoned property **towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed** only for the time in which it complies with the procedural requirements of [this section] **sections 304.155 to 304.158.**

3. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the department shall notify the towing company which shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed that no ownership documents were found and a good faith effort has been made. For purposes of this section, good faith effort means that the

following checks have been performed by the company to establish the prior state of registration and title:

(1) Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;

(2) Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;

(3) Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and

(4) If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.

4. If no ownership information is discovered, the director of revenue shall be notified in writing and title obtained in accordance with subsection [6] 7 of this section.

5. (1) The owner of the abandoned property removed pursuant to the provisions of section 304.155 or 304.157 or any person claiming a lien, other than the towing company, within ten days after the receipt of notification from the towing company pursuant to subsection 1 of this section may file a petition in the associate circuit court in the county where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The director of revenue shall not be a party to such petition but a copy of the petition shall be served on the director of revenue who shall not issue title to such abandoned property pursuant to this section until the petition is finally decided.

(2) Upon filing of a petition in the associate circuit court, the owner or lienholder may have the

abandoned property released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing and storage to ensure the payment of such charges in the event he does not prevail. Upon the posting of the bond and the payment of the applicable fees, the court shall issue an order notifying the towing company of the posting of the bond and directing the towing company to release the abandoned property. At the time of such release, after reasonable inspection, the owner or lienholder shall give a receipt to the towing company reciting any claims for loss or damage to the abandoned property or the contents thereof.

(3) Upon determining the respective rights of the parties, the final order of the court shall provide for immediate payment in full of recovery, towing, and storage fees by the abandoned property owner or lienholder or the owner, lessee, or agent thereof of the real property from which the abandoned property was removed.

6. A towing and/or storage lien shall be enforced as provided in subsection 7 of this section.

7. Thirty days after the notification form has been mailed to the abandoned property owner and holder of a security agreement and the property is unredeemed and no satisfactory arrangement has been made with the lienholder in possession for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in subsection [4] 5 of this section, the lienholder in possession may apply to the director of revenue for [a salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report] **a certificate**. The application for title shall be accompanied by:

(1) An affidavit from the lienholder in possession that he has been in possession of the abandoned property for at least thirty days and the owner of the abandoned property or holder of a security agreement has not made arrangements for payment of towing and storage charges;

(2) An affidavit that the lienholder in

possession has not been notified of any application for hearing as provided in this section;

(3) A copy of the abandoned property report or crime inquiry and inspection [form] **report**;

(4) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt indicating that the owner and lienholder of record [has received] **was sent a notice as required in this section; and**

(5) **A copy of the envelope or mailing container showing the address and postal markings indicating that the notice was "not forwardable" or "address unknown".**

8. If notice to the owner and holder of a security agreement has been returned marked "not forwardable" or "addressee unknown", the lienholder in possession shall comply with subsection 3 of this section.

9. Any municipality or county may adopt an ordinance regulating the removal and sale of abandoned property provided such ordinance is consistent with sections 304.155 to 304.158.

10. Any municipality or county which has physical possession of the abandoned property and which sells abandoned property in accordance with a local ordinance may transfer ownership by means of a bill of sale signed by the municipal or county clerk or deputy and sealed with the official municipal or county seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of section 301.218, RSMo, or section 301.560, RSMo, or for any other person. Any dealer or other person purchasing such property from a municipality or county shall apply within thirty days of purchase for [a junking certificate or salvage certificate of title designated with the words "salvage/abandoned property"] **a certificate**. Anyone convicted of a violation of this section shall be guilty of an infraction.

11. Any persons who have towed abandoned property prior to August 28, 1996, may, [within

one year after August 28, 1996] **until January 1, 2000**, apply to the department of revenue for [either a junking certificate or a salvage certificate of title designated with the words "salvage/abandoned property" to such property] **a certificate**. The application shall be accompanied by:

(1) A notarized affidavit explaining the circumstances by which the abandoned property came into their possession, including the name of the owner or possessor of real property from which the abandoned property was removed;

(2) The date of the removal;

(3) The current location of the abandoned property;

(4) An inspection of the abandoned property as prescribed [in section 304.155] **by the director**; and

(5) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest of record and a copy of the certified mail receipt.

12. If the director is satisfied with the genuineness of the application and supporting documents submitted pursuant to this section, the director shall issue [a salvage certificate of title designated with the words "salvage/abandoned property" or a junking certificate.] **one of the following**:

(1) **An original certificate of title if the vehicle owner has obtained a vehicle examination certificate as provided in section 301.190, RSMo, which indicates that the vehicle was not previously in a salvaged condition or rebuilt;**

(2) **An original certificate of title designated as prior salvage if the vehicle examination certificate as provided in section 301.190, RSMo, indicates the vehicle was previously in a salvage condition or rebuilt;**

(3) **A salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report;**

**(4) Notwithstanding the provision of section 301.573, RSMo, to the contrary, if satisfied with the genuineness of the application and supporting documents, the director shall issue an original title to abandoned property previously issued a salvage title as provided in this section, if the vehicle examination certificate as provided in section 301.190, RSMo, does not indicate the abandoned property was previously in a salvage condition or rebuilt.**

**13. If the proceeds obtained by the towing company from sale of the abandoned property exceed the reasonable costs of towing and storage as allowed by law and the costs of retitling such property by more than one thousand dollars, such proceeds in excess of the costs and one thousand dollars shall be deposited with the state treasurer as unclaimed property pursuant to chapter 447, RSMo. The towing company shall include the last known address and any other identifying information about the owner and any lienholder if known who had an interest in the abandoned property at the time the towing company applied for title. The treasurer shall publish notice under section 447.541, RSMo, as required for other unclaimed property.**

**14. If abandoned property is insured and the insurer of property regards the property as a total loss and the insurer satisfies a claim by the owner for the property, then the insurer or lienholder shall claim and remove the property from the storage facility or make arrangements to transfer the title, and such transfer of title subject to agreement shall be in complete satisfaction of all claims for towing and storage, to the towing company or storage facility. The owner of the abandoned vehicle, lienholder or insurer, to the extent the vehicle owner's insurance policy covers towing and storage charges, shall pay reasonable fees assessed by the towing company and storage facility. The property shall be claimed and removed or title transferred to the towing company or storage facility within thirty days of the date that the insurer paid a claim for the total loss of the property or is notified as to the location of the abandoned property, whichever is the later**

**event. Upon request, the insurer of the property shall supply the towing company and storage facility with the name, address and phone number of the insurance company and of the insured and with a statement regarding which party is responsible for the payment of towing and storage charges under the insurance policy.**

304.157. 1. If a person abandons property, as defined in section 304.001, on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any member of the state highway patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:

(1) The abandoned property is left unattended for more than forty-eight hours; or

(2) In the judgment of a law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

**2. A local government agency may also provide for the towing of motor vehicles from real property under the authority of any local ordinance providing for the towing of vehicles which are derelict, junk, scrapped, disassembled or otherwise harmful to the public health under the terms of the ordinance. Any local government agency authorizing a tow under this subsection shall report the tow to the local law enforcement agency within two hours with a crime inquiry and inspection report under section 304.155.**

**3. Neither the law enforcement officer, local government agency nor anyone having custody of abandoned property under his or her direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.**

[2.] **4. The owner of real property or lessee in lawful possession of the real property or the**



**property or security manager of the real property** may authorize a towing company to remove abandoned property **or property parked in a restricted or assigned area** without authorization by a law enforcement officer only when the owner, lessee or [agent] **property or security manager** of the real property is present [and]. **A property or security manager must be a full-time employee of a business entity. An authorization to tow under this subsection may be made** only under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than seventeen by twenty-two inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property **or property parked in a restricted or assigned area** will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained **or a twenty-four-hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property;**

(2) The abandoned property is [on private property and lacks an engine, transmission, wheels, tires, doors, windshield or any other major part or equipment necessary to operate safely on the highways,] **left unattended on owner-occupied residential property with four residential units or less, and** the owner [or], lessee [of the private property] **or agent of the real property in lawful possession** has notified the [city police or county sheriff, as] appropriate **law enforcement agency**, and [ninety-six] **ten** hours have elapsed since that notification; or

(3) The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law enforcement agency, and [ten days] **ninety-six hours** have elapsed since that notification.

[3.] **5.** Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall [within one hour of the tow file] **at that time complete** an abandoned property report [with the appropriate law enforcement agency where the property is located] **which shall be considered a legal declaration subject to criminal penalty under section 575.060, RSMo.** The report shall **be in the form designed, printed and distributed by the director of revenue and shall** contain the following:

(1) The year, model, make and abandoned property identification number of the property **and the owner and any lienholders, if known;**

(2) A description of any damage to the **abandoned** property noted by owner [or lessee], **lessee or property or security manager** in possession of the real property;

(3) The license plate or registration number and the state of issuance, if available;

(4) The physical location of the property and the reason for requesting the property to be towed;

(5) The date the report is completed;

(6) The [signature and] printed name, **address and phone number** of the owner [or lessee], **lessee or property or security manager** in possession of the real property; [and]

(7) **The towing company's name and address;**

(8) **The signature of the towing operator;**

(9) **The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;**

[ (7) ] **(10) Space for** the name of the law enforcement agency notified of the **towing of the abandoned property and for the signature of the**

**law enforcement official receiving the report; and**

**(11) Any additional information the director of revenue deems appropriate.**

[The department of revenue may design and make available to police agencies throughout the state a uniform "Authorization to Tow" form. The form shall contain lines for time, date, location, descriptive information of the vehicle, reason for towing, the tow operator and company and signature of authorizing officer. The cost of the forms shall be determined by the department of revenue. The completed form shall be issued by the authorizing officer to the tow operator for that company's records as proof of authorization to tow a particular vehicle.]

**6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subsection 4 of this section shall deliver a copy of the abandoned property report to the local law enforcement agency having jurisdiction over the location from which the abandoned property was towed. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the law enforcement agency receiving the report has the technological capability of receiving such copy and has registered the towing company for such purpose. The report shall be delivered within two hours if the tow was made from a signed location under subdivision (1) of subsection 4; otherwise, the report shall be delivered within twenty-four hours.**

[4.] **7.** The law enforcement agency receiving such abandoned property report must record the date **on which** the abandoned property report is filed with such agency and [within five days of such filing] **shall promptly** make an inquiry into the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The law enforcement agency shall enter the information pertaining to the towed property into the statewide **law** enforcement computer system, **and an officer shall sign the**

**abandoned property report and provide the towing company with a signed copy.** The department of revenue may design and sell to towing companies informational brochures outlining owner or lessee of real property obligations pursuant to this section.

[5. Neither the law enforcement officer nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.

6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subdivision (1) of subsection 2 of this section shall within one hour of the tow report the event and the circumstances to the local law enforcement agency where the abandoned property report was filed.

7.] **8.** The law enforcement agency receiving notification that abandoned property has been towed by a towing company shall [record the date the property was towed and shall forward a copy of the abandoned property report to the director of revenue.] **search the records of the department of revenue and provide the towing company with the latest owner and lienholder information on the abandoned property. If the abandoned property is not claimed within ten working days, the towing company shall send a copy of the abandoned property report signed by a law enforcement officer to the department of revenue.**

[8.] **9.** If any owner or lessee of real property **knowingly** authorizes the removal of abandoned property **in violation** [pursuant to subsection 2 of this section and such property is so removed and no sign is displayed prior to such removal as required pursuant to subsection 2] of this section, then the owner or lessee shall be deemed guilty of a class C misdemeanor.

304.158. 1. [The person or agency causing] **Notice as to the** removal of any abandoned property under section 304.155 or 304.157 shall[, if the person or agency knows the registered owner

or lienholder,] **be made in writing** within five working days[, give notice in writing] to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and [indicate] the place to which the property has been removed **by either:**

**(1) The public agency authorizing the removal; or**

**(2) The towing company, where authorization was made by an owner or lessee of real property.**

If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this section shall include the amount of mileage, if available, shown on the abandoned property at the time of removal.

2. Any owner of any private real [estate] **property** causing the removal of abandoned property from that real [estate] **property** shall state the grounds for the removal of the abandoned property if requested by the registered owner of that abandoned property. Any towing company that lawfully removes abandoned property from private property with the written authorization of the property owner or the property owner's agent who is present at the time of removal shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes abandoned property at the direction of the landowner shall be responsible for:

(1) Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and

(2) The removal of property other than the property specified by the owner of the private property from which the abandoned property was removed.

3. The owner of abandoned property removed from private property may recover for any damage to the property resulting from any act of any person causing the removal of, or removing, the abandoned property.

4. Any owner of any private property causing the removal of abandoned property parked on that

property is liable to the owner of the abandoned property for double the storage or towing charges whenever there has been a failure to comply with the requirements of this section or [to state the grounds for the removal of the property if requested by the registered owner of the abandoned property as required by subsection 2 of this section] **section 304.157.**

5. Any towing company which tows abandoned property for hire shall have the towing company's name, city and state clearly printed in letters at least three inches in height on the sides of the truck, wrecker or other vehicle used in the towing.

6. A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of abandoned property at the request of the owner of private property or that owner's agent pursuant to this section if the owner of the abandoned property or the owner's agent returns to the abandoned property before it is removed from the private property. The regular towing charge may only be imposed after the abandoned property has been removed from the property and is in transit.

7. Persons operating or in charge of any storage facility where the abandoned property is stored pursuant to this section shall accept cash for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property. [Persons operating or in charge of any storage facility which is not operated by the state, a county or municipality, which is located in an area with a population in excess of fifty thousand at a density at or greater than one thousand persons per square mile, and where the abandoned property is stored pursuant to this section shall accept a valid bank credit card for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property, except where the tow and impoundment of the abandoned property was the result of an arrest or accident whereby the towing company or storage facility may then demand payment in the form of cash. A person operating or in charge of such storage facility who refuses to accept a valid bank credit card pursuant to this subsection is liable to the registered owner

of the abandoned property for four times the amount of the towing and storage charges, but not to exceed five hundred dollars.] In addition, persons operating or in charge of the storage facility shall have sufficient moneys on the premises to accommodate, and make change in, a reasonable monetary transaction.

8. [A] **Except for the removal of abandoned property authorized by a law enforcement agency under section 304.157**, a towing company shall not remove or commence the removal of abandoned property from private property without first obtaining written authorization from the property owner. All written authorizations shall be maintained for at least one year by the towing company. General authorization to remove or commence removal of abandoned property at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of abandoned property unlawfully parked within fifteen feet of a fire hydrant or in a fire lane designated by a fire department or the state fire marshal.

9. Any towing company, or any affiliate of a towing company, which removes, or commences removal of, abandoned property from private property without first obtaining written authorization from the property owner or lessee, or an employee or agent thereof, who is present at the time of removal or commencement of the removal, except as permitted in subsection 8 of this section, is liable to the owner of the property for four times the amount of the towing and storage charges, in addition to any applicable criminal penalty, for a violation of this section.

10. Any county, city, town or village may enact ordinances or orders which are consistent with sections 304.155 to 304.158 and which may specify maximum reasonable towing, storage and other charges which can be imposed by towing and storage companies operating within the governmental entity's jurisdiction.

11. Any person who knowingly violates any provision of sections 304.155 to 304.158 shall be guilty of a class A misdemeanor. Any violation of the provisions of this section shall constitute a violation of the provisions of section 407.020,

RSMo. In any proceeding brought by the attorney general for a violation of the provisions of this section, the court may, in addition to imposing the penalties provided for in this section order the revocation or suspension of the registration or license of the towing company.

**304.159. 1. Any city, town, or village within this state may prohibit, by ordinance, the storage of inoperable vehicles or other vehicles deemed by such city, town, or village to constitute a public safety hazard. Nothing in this section shall apply to a vehicle which is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property, nor to any vehicle upon the property of a business licensed as salvage, swap, junk dealer, towing or storage facility so long as the business is operated in compliance with its business license and the property is in compliance with applicable zoning ordinances.**

**2. Upon a showing of probable cause of the existence of such inoperable or hazardous vehicles by the sworn application of any law enforcement official or code official designated by the city, town or village, the municipal judges of any city, town, or village are hereby authorized to issue to law enforcement officials and code officials warrants to enter private premises for inspection and abatement of such conditions by towing or otherwise.";** and

Further amend the title and enacting clause accordingly.

Senator Goode moved that the above amendment be adopted.

Senator Kenney raised the point of order that **SA 10** is out of order in that it goes beyond the scope of the subject matter of the original bill.

The point of order was referred to the President Pro Tem, who ruled it not well taken.

Senator Kenney offered **SA 1** to **SA 10**, which was read:

SENATE AMENDMENT NO. 1 TO  
SENATE AMENDMENT NO. 10

Amend Senate Amendment No. 10 to Senate

Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 24, Section 304.156, Lines 15-26, by deleting all of said lines; and by further renumbering the remaining subsection accordingly.

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

Senator Goode moved that **SA 10**, as amended, be adopted, which motion prevailed.

**PRIVILEGED MOTIONS**

Having voted on the prevailing side, Senator Flotron moved that the vote by which **SA 7** was adopted be reconsidered, which motion prevailed by the following vote:

YEAS—Senators

Bland	Caskey	Childers	Clay
DePasco	Ehlmann	Flotron	Goode
Graves	House	Howard	Jacob
Johnson	Kenney	Mathewson	Maxwell
Mueller	Quick	Rohrbach	Russell
Schneider	Sims	Singleton	Steelman
Stoll	Westfall	Wiggins	Yeckel—28

NAYS—Senators—None

Absent—Senator Kinder—1

Absent with leave—Senators

Banks	Bentley	Klarich	Scott
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Staples—5

**SA 7** was again taken up.

Senator Flotron offered **SSA 1** for **SA 7**:

**SENATE SUBSTITUTE AMENDMENT NO. 1  
FOR SENATE AMENDMENT NO. 7**

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 19, Page 1, In the Title, Lines 6 and 7, by striking the following: "the registration and inspection of"; and

Further amend the title, line 10, by inserting immediately after the word "sections" the following: ", and with an emergency clause for a certain section"; and

Further amend said bill, page 19, section

302.303, line 2, of said page, by inserting immediately after said line the following:

"302.321. 1. A person commits the crime of driving while revoked if he operates a motor vehicle on a highway when his license or driving privilege has been canceled, suspended or revoked under the laws of this state and acts with criminal negligence with respect to knowledge of the fact that his driving privilege has been canceled, suspended or revoked.

2. Driving while revoked is a class A misdemeanor **on the first conviction**. No court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until he has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. **Driving while revoked is a class D felony on the second or subsequent conviction, pursuant to 577.010, RSMo or a fourth or subsequent conviction for any other offense.**"; and

Further amend said bill, page 69, Section C, line 21 of said page, by inserting after all of said line the following:

"Section D. Because immediate action is necessary to protect the citizens of this state from repeat traffic offenders, section 302.321 of this act, is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 302.321 of this act shall be in full force and effect upon its passage and approval."; and

Further amend the title and enacting clause accordingly.

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

Senator Goode moved that **SS** for **SCS** for **SB 19**, as amended, be adopted, which motion

prevailed.

On motion of Senator Goode, **SS** for **SCS** for **SB 19**, as amended, was declared perfected and ordered printed.

### REPORTS OF STANDING COMMITTEES

Senator DePasco, Chairman of the Committee on Rules, Joint Rules and Resolutions, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules and Resolutions, to which were referred **SCS** for **SB 249** and **SCS** for **SB 405**, begs leave to report that it has examined the same and finds that the bills have been truly perfected and that the printed copies furnished the Senators are correct.

### 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 490**, entitled:

An Act relating to the establishment of the family care safety act, with penalty provisions.

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 246** and **405**, entitled:

An Act to repeal sections 32.111, 32.112, 32.115 and 135.530, RSMo Supp. 1998, relating to housing tax credit needed to preserve neighborhoods and to rebuild communities, and to enact in lieu thereof seven new sections relating to the same subject.

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 261**, entitled:

An Act to repeal section 94.655, RSMo Supp. 1998, relating to transportation sales taxation, and to enact in lieu thereof one new section relating to the same subject.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

### RESOLUTIONS

Senator Jacob offered Senate Resolution No. 389, regarding Charles Hargrove, Columbia, which was adopted.

Senator Goode offered Senate Resolution No. 390, regarding William K. Ratchford, Woodson Terrace, which was adopted.

### INTRODUCTIONS OF GUESTS

Senator Howard introduced to the Senate, Randy Jennings, Bernie; and Fred Stemme, Ashland.

Senator Maxwell introduced to the Senate, forty fourth grade students from McMillan School, Mexico.

Senator Rohrbach introduced to the Senate, Diana Ailworth and twenty-two fourth grade students from Prairie Home.

Senator Yeckel introduced to the Senate, Karen Villa and sixty-seven eighth grade students from St. Margaret Mary Alacoque School, St. Louis; and Bill Reinhardt, Steve Ahillen, Kara Baker and Michelle Sinclair were made honorary pages.

On motion of Senator DePasco, the Senate adjourned until 11:00 a.m., Thursday, March 18, 1999.

SENATE CALENDAR

THIRTY-NINTH DAY—THURSDAY, MARCH 18, 1999

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HCS for HB 267	HB 487-Hollingsworth
HB 570-Rizzo	HB 568-May (108th)
HB 453-Gross	HB 145-Wiggins
HB 473-Legan	HB 589-Graham (106th)
HB 257-Seigfreid	HB 708-Meredith, et al
HB 326-Parker	HB 409-McBride
HB 290-Champion	HB 607-Wilson, et al
HB 724-Crump	HB 893-Murray, et al
HS for HB 516-Bray	HB 866-Treadway
HCS for HB 621	HB 867-McKenna
HCS for HBs 316, 660 & 203	HB 861-Griesheimer and Murray
HCS for HBs 788, 428 & 106	HB 528-Chrismer
HS for HCS for HBs 427, 40, 196 & 404- Luetkenhaus	HCS for HB 490
HB 201-Boucher	HS for HCS for HBs 246 & 405-Bray
HCS for HB 343	HB 261-Auer

THIRD READING OF SENATE BILLS

1. SCS for SB 282-Clay, et al  
(In Budget Control)
2. SB 95-Maxwell  
(In Budget Control)
3. SJR 25-Rohrbach and  
Goode
4. SS for SCS for SBs 14,  
60 & 69-Mathewson  
(In Budget Control)
5. SS for SB 22-Flotron  
(In Budget Control)
6. SB 33-Johnson  
(In Budget Control)
7. SCS for SBs 322, 150  
& 151-Sims and Goode  
(In Budget Control)
8. SCS for SB 346-Stoll  
(In Budget Control)

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|--|------------------------------------|
| 9. SS for SCS for SB 335-Caskey                                      | 12. SS for SB 309-Maxwell          |
| 10. SCS for SBs 295 & 46-<br>Schneider, et al<br>(In Budget Control) | 13. SS for SJR 23-Mathewson, et al |
| 11. SS for SB 289-Goode, et al                                       | 14. SCS for SB 249-Maxwell         |
|  | 15. SCS for SB 405-Scott, et al    |

## SENATE BILLS FOR PERFECTION

- |                                       |   |
|---------------------------------------|---|
| 1. SB 70-Schneider, with SCS          | 8. SB 215-Mathewson                           |
| 2. SB 394-Quick, with SCS             | 9. SB 386-Clay, with SCS                      |
| 3. SB 235-Stoll                       | 10. SB 233-Sims, with SCS                     |
| 4. SB 209-Goode, et al,<br>with SCA 1 | 11. SBs 347, 40, 241 &<br>301-House, with SCS |
| 5. SB 179-Goode, with SCA 1           | 12. SB 467-Caskey, with SCS                   |
| 6. SB 37-Rohrbach, with SCS           | 13. SB 336-Caskey                             |
| 7. SB 425-Stoll, et al,<br>with SCS   |   |

## INFORMAL CALENDAR

## SENATE BILLS FOR PERFECTION

- |   |  |
|---|--|
| SBs 1, 92, 111, 129 & 222-Schneider,<br>with SCS & SA 2 (pending) | SB 338-Howard and Sims,<br>with SCS & SS for SCS<br>(pending)                          |
| SB 5-Wiggins  | SB 339-Howard and Sims,<br>with SCS, SS for SCS,<br>SA 1 & SSA 1 for SA 1<br>(pending) |
| SB 78-Russell, with SA 4<br>(pending)                             | SB 373-DePasco and Jacob,<br>with SS (pending)   |
| SB 203-Wiggins  | SB 417-Quick, with SS<br>(pending)   |
| SB 288-Quick, et al, with<br>SS, SA 1 & points of order (pending) |  |
| SB 318-Jacob, et al, with<br>SCS & SS for SCS<br>(pending)        |  |

## CONSENT CALENDAR

Senate Bills

Reported 2/2

SB 403-Rohrbach and Goode



Reported 3/8

SB 176-Rohrbach, with SCS  
SB 364-Ehlmann

SB 466-Caskey, with SCA 1  
SB 326-Goode

Reported 3/9

SB 424-Westfall  
SB 434-Klarich, with  
SCAs 1 & 2  
SB 435-Staples  
SB 352-Staples, with SCA 1  
SB 270-Ehlmann

SB 438-Russell, et al,  
with SCS  
SB 334-Mathewson, with SCS  
SB 479-Singleton  
SB 261-Howard, with SCS

Reported 3/10

SB 518-Staples  
SB 500-Westfall  
SB 498-Wiggins, with SCS  
SB 481-Childers and  
Russell, with SCS

SB 477-Ehlmann, with SCS  
SB 474-Kinder  
SJR 29-Caskey  
SB 412-Goode, with SCS  
SB 423-Westfall, with SCS

Reported 3/11

SB 443-Jacob  
SB 461-House

SB 192-Wiggins  
SB 287-Maxwell

BILLS IN CONFERENCE AND BILLS  
CARRYING REQUEST MESSAGES

In Conference

HCS for HB 14, with SCS (Goode)  
(House adopted CCR and passed CCS)

Requests to Recede or Grant Conference

HCS for HCRs 6 & 7 (Staples),  
with SA 1, as amended & SA 2  
(Senate refuses to recede and  
requests House grant conference)

RESOLUTIONS

SR 359-Ehlmann

SCR 9-Mueller

Unofficial

Reported from Committee

SCR 12-Steelman  
SCR 16-Johnson

SCR 15-Maxwell, with SCS

Journal ✓

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