

Journal of the Senate

FIRST REGULAR SESSION

FIFTY-FIRST DAY—MONDAY, APRIL 12, 1999

The Senate met pursuant to adjournment.

President Pro Tem Quick in the Chair.

The Reverend Carl R. Gauck offered the following prayer:

Edward John Phelps in 1899 said: "The man who makes no mistakes does not usually make anything."

Let us Pray: Gracious and Heavenly Father: We recognize that everyone makes mistakes and everyone has failed - probably many times - before they become successful. So we thank You, our God, who never fails and who is available to us and with us each day to help and guide us through the maze of bills before us, approving those that are in keeping with Your will for us and rejecting those that are not. In Your Holy Name we pray, Amen.

The Pledge of Allegiance to the Flag was recited.

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

The Journal for Thursday, April 8, 1999, was read and approved.

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

Present—Senators

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

Yeckel—33

Absent with leave—Senator Jacob—1

The Lieutenant Governor was present.

RESOLUTIONS

Senator Kenney offered Senate Resolution No. 537, regarding Nathan Arlen Tanner, Lee's Summit, which was adopted.

Senator Kenney offered Senate Resolution No. 538, regarding Seth Boehmer, Lee's Summit, which was adopted.

Senator Kenney offered Senate Resolution No. 539, regarding Andrew "Andy" Batliner, Lee's Summit, which was adopted.

Senator Kenney offered Senate Resolution No. 540, regarding Andrew "Drew" Gerrard, Lee's Summit, which was adopted.

Senator Steelman offered Senate Resolution No. 541, regarding Mayor Nelson Hart, St. James, which was adopted.

Senator Bland offered Senate Resolution No. 542, regarding the death of Vincent O. Westley, Kansas City, which was adopted.

Senator Kenney offered Senate Resolution No. 543, regarding Matt Slone, Kansas City, which was adopted.

Senator Kenney offered Senate Resolution No. 544, regarding the One Hundred Fiftieth Anniversary of Pfizer, Inc., Lee's Summit, which was adopted.

Senators Sims and Quick offered Senate Resolution No. 545, regarding Dr. John Anthony Tallarico, Boston, Massachusetts, which was adopted.

Senator Singleton offered the following resolution, which was adopted:

SENATE RESOLUTION NO. 546

WHEREAS, the members of the Missouri Senate readily acknowledge that the future prosperity and well-being of this great state and nation are directly linked to the quality of education provided to our children and youth in preparation for the challenges they will face today and tomorrow; and

WHEREAS, it is the belief of this legislative body that Missouri's educational system needs to be flexible and adaptable to changing conditions in order to meet the very diverse educational needs of our equally diverse citizenry; and

WHEREAS, home education in this state has enjoyed considerable success in recent years because of the tremendous support it has received from countless citizens who realize and value the significance of family participation in the complex educational process; and

WHEREAS, the state of Missouri supports the kind of freedom which allows parents to take an active role in guiding the course of their children's education through the alternative venues available to them with home education; and

WHEREAS, home education has provided exemplary individualized preparation for the citizenship and life's work of such historically well-known individuals as George Washington, Abigail Adams, Benjamin Franklin, Abraham Lincoln, Woodrow Wilson, Booker T. Washington, Thomas A. Edison, George Washington Carver, Helen Keller, Pearl S. Buck, Franklin D. Roosevelt, General Douglas MacArthur, Agatha Christie, and many others; and

WHEREAS, the more than 4,600 home-educated students in this state benefit from opportunities for apprenticeship and "hands-on" marketplace experience with more time for community and civic involvement which greatly satisfies the interests of the state in education:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninetieth General Assembly, join unanimously to applaud the diligent and highly effective efforts of those involved in home education and those organizations which promote the societal and personal benefits of home education; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution to recognize Families for Home Education during Home Education Week, May 2-8, 1999.

President Wilson assumed the Chair.

Senator Mathewson, under the provisions of Senate Rule 48, requested unanimous consent of the Senate to be allowed to introduce a Senate Bill, which request was granted.

INTRODUCTION OF BILLS

The following Bill was read the 1st time and 1,000 copies ordered printed:

SB 527—By Mathewson.

An Act to repeal sections 26.500, 26.510 and 26.520, RSMo 1994, relating to reorganization

plans for state government, and to enact in lieu thereof two new sections relating to the same subject.

HOUSE BILLS ON SECOND READING

The following Bills were read the 2nd time and referred to the Committees indicated:

HCS for HBs 603, 722 and 783—Commerce and Environment.

HS for HCS for HB 822—Financial and Governmental Organization.

HS for HCS for HB 256—Civil and Criminal Jurisprudence.

HCS for HBs 736, 515 and 508—Pensions and General Laws.

HCS for HB 911—Pensions and General Laws.

HS for HB 454—Public Health and Welfare.

HB 199—Aging, Families and Mental Health.

HB 857—Civil and Criminal Jurisprudence.

HS for HCS for HB 441—Labor and Industrial Relations.

HB 115—Ways and Means.

HS for HCS for HB 701—Local Government and Economic Development.

HS for HCS for HB 793—Local Government and Economic Development.

HS for HCS for HB 460—Pensions and General Laws.

HCS for HB 814—Pensions and General Laws.

HB 979—Pensions and General Laws.

HB 230—Education.

HB 988—Ways and Means.

HB 929—Commerce and Environment.

HCS for HB 818—Education.

HCS for HB 389—Local Government and Economic Development.

HS for **HCS** for **HB 852**—Civil and Criminal Jurisprudence.

HCS for **HBs 850** and **851**—Civil and Criminal Jurisprudence.

HB 401—Education.

THIRD READING OF SENATE BILLS

SCS for **SB 441**, entitled:

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 441**

An Act to repeal section 286.005, RSMo Supp. 1998, relating to commissioners within the department of labor and industrial relations, and to enact in lieu thereof one new section relating to the same subject.

Was taken up by Senator Schneider.

President Pro Tem Quick assumed the Chair.

On motion of Senator Schneider, **SCS** for **SB 441** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bentley	Caskey	Childers
Clay	DePasco	Ehlmann	Flotron
Goode	Graves	House	Howard
Johnson	Kenney	Kinder	Klarich
Mathewson	Mueller	Quick	Rohrbach
Russell	Schneider	Scott	Sims
Singleton	Staples	Stoll	Westfall
Wiggins	Yeckel—30		

NAYS—Senator Steelman—1

Absent—Senators

Bland Maxwell—2

Absent with leave—Senator Jacob—1

The President Pro Tem declared the bill passed.

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

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

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

REFERRALS

President Pro Tem Quick referred **SCS** for **SB 351**; **SB 359**; and **SCS** for **SBs 387, 206** and **131** to the Committee on State Budget Control.

THIRD READING OF SENATE BILLS

SB 89, introduced by Senator Mueller, entitled:

An Act to repeal section 431.180, RSMo Supp. 1998, relating to claims against certain licensed professionals, and to enact in lieu thereof two new sections relating to the same subject.

Was taken up.

On motion of Senator Mueller, **SB 89** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bentley	Bland	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Singleton	Staples
Steelman	Stoll	Westfall	Wiggins
Yeckel—33			

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senator Jacob—1

The President Pro Tem declared the bill passed.

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

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

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

SB 71, introduced by Senator Schneider, entitled:

An Act to repeal sections 88.013 and 88.023, RSMo 1994, relating to condemnation of property, and to enact in lieu thereof two new sections relating to the same subject.

Was taken up.

On motion of Senator Schneider, **SB 71** was read the 3rd time and passed by the following vote:

YEAS—Senators

Banks	Bentley	Bland	Caskey
Childers	Clay	DePasco	Ehlmann
Flotron	Goode	Graves	House
Howard	Johnson	Kenney	Kinder
Klarich	Mathewson	Maxwell	Mueller
Quick	Rohrbach	Russell	Schneider
Scott	Sims	Staples	Steelman
Stoll	Westfall	Wiggins	Yeckel—32

NAYS—Senator Singleton—1

Absent—Senators—None

Absent with leave—Senator Jacob—1

The President Pro Tem declared the bill passed.

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

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

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

Senator Mathewson assumed the Chair.

SENATE BILLS FOR PERFECTION

Senator Goode moved that **SB 392, SB 393** and **SB 267**, with **SCS, Part 2 of SA 3, SSA 1 for Part 2 of SA 3** 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 well taken.

Senator Kenney raised the point of order that **Part 2 of SA 3** is out of order in that it goes beyond the scope and purpose of the bill.

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

Senator DePasco offered **SA 4**, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for Senate

Bills Nos. 392, 393 and 267, Page 2, Section 136.055, Line 16, by striking the word "three" and inserting in lieu thereof the following: "**four**".

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

Senator Goode offered **SA 5**, which was read:

SENATE AMENDMENT NO. 5

Amend Senate Committee Substitute for Senate Bills Nos. 392, 393 and 267, Page 8, Section 302.178, Line 10, by striking the numeral "4" and inserting in lieu thereof the following: "**3**"; and

Further amend said bill, Page 18, Section B, Line 2, by striking the numeral "302.375" and inserting in lieu thereof the numeral "302.735".

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

Senator Rohrbach offered **SA 6**:

SENATE AMENDMENT NO. 6

Amend Senate Committee Substitute for Senate Bills Nos. 392, 393 and 267, Page 2, Section 136.055, Line 33, by inserting immediately after said line the following:

"302.060. The director shall not issue any license and shall immediately deny any driving privilege:

(1) To any person who is under the age of eighteen years, if such person operates a motor vehicle in the transportation of persons or property as classified in section 302.015;

(2) To any person who is under the age of sixteen years, except as hereinafter provided;

(3) To any person whose license has been suspended, during such suspension, or to any person whose license has been revoked, until the expiration of one year after such license was revoked;

(4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

(5) To any person who has previously been adjudged to be incapacitated and who at the time of application has not been restored to partial

capacity;

(6) To any person who, when required by this law to take an examination, has failed to pass such examination;

(7) To any person who has an unsatisfied judgment against such person, as defined in chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such person, as defined in section 303.120, RSMo, has been established;

(8) To any person whose application shows that the person has been convicted within one year prior to such application of violating the laws of this state relating to failure to stop after an accident and to disclose the person's identity or driving a motor vehicle without the owner's consent;

(9) To any person who has been convicted more than twice of violating state law, or a county or municipal ordinance where the judge in such cases was an attorney and the defendant was represented by or waived the right to an attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten years from the date of conviction of the last offense of violating such law or ordinance relating to driving while intoxicated, a person who was so convicted may petition the circuit court of the county in which such last conviction was rendered and the court shall review the person's habits and conduct since such conviction. If the court finds that the petitioner has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the public safety of this state, the court may order the director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision through court action more than one time;

(10) To any person who has been convicted twice within a five-year period of violating state law, or a county or municipal ordinance where the judge in such cases was an attorney and the defendant was represented by or waived the right to

an attorney in writing, of driving while intoxicated, or who has been convicted of the crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition. The director shall not issue a license to such person for five years from the date such person was convicted for involuntary manslaughter while operating a motor vehicle in an intoxicated condition or for driving while intoxicated for the second time. Any person who has been denied a license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the person's license issued, upon application, unless the two convictions occurred within a five-year period, in which case, no license shall be issued to the person for five years from the date of the second conviction;

(11) To any person who is otherwise disqualified pursuant to the provisions of sections 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

(12) To any person who is under the age of eighteen years, if such person's parents or legal guardians file a certified document with the department of revenue stating that the director shall not issue such person a driver's license. Each document filed by the person's parents or legal guardians shall be made upon a form furnished by the director and shall include identifying information of the person for whom the parents or legal guardians are denying the driver's license. The document shall also contain identifying information of the person's parents or legal guardians. The document shall be certified by the parents or legal guardians to be true and correct. This provision shall not apply to any person who is legally emancipated. The parents or legal guardians may later file an additional document with the department of revenue which reinstates the person's ability to receive a driver's license."; and

Further amend the title and enacting clause accordingly.

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

Senator Goode moved that **SCS for SBs 392, 393 and 267**, as amended, be adopted, which

motion prevailed.

On motion of Senator Goode, **SCS** for **SBs 392, 393** and **267**, as amended, was declared perfected and ordered printed.

President Pro Tem Quick assumed the Chair.

REPORTS OF STANDING COMMITTEES

Senator Schneider, Chairman of the Committee on Judiciary, submitted the following report:

Mr. President: Your Committee on Judiciary, to which was referred **SB 374**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Banks, Chairman of the Committee on Public Health and Welfare, submitted the following report:

Mr. President: Your Committee on Public Health and Welfare, to which was referred **SB 274**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Caskey, Chairman of the Committee on Civil and Criminal Jurisprudence, submitted the following report:

Mr. President: Your Committee on Civil and Criminal Jurisprudence, to which were referred **SB 18, SB 49** and **SB 167**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Howard, Chairman of the Committee on Aging, Families and Mental Health, submitted the following report:

Mr. President: Your Committee on Aging, Families and Mental Health, to which were referred **SB 398** and **SB 376**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Johnson, Chairman of the Committee on Agriculture, Conservation, Parks and Tourism, submitted the following report:

Mr. President: Your Committee on Agriculture,

Conservation, Parks and Tourism, to which was referred **SB 507**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Clay, Chairman of the Committee on Financial and Governmental Organization, submitted the following report:

Mr. President: Your Committee on Financial and Governmental Organization, to which was referred **SB 413**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Schneider, Chairman of the Committee on Judiciary, submitted the following report:

Mr. President: Your Committee on Judiciary, to which was referred **SJR 16**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass.

Senator Banks, Chairman of the Committee on Public Health and Welfare, submitted the following report:

Mr. President: Your Committee on Public Health and Welfare, to which was referred **SB 98**, begs leave to report that it has considered the same and recommends that the bill do pass.

Senator Caskey, Chairman of the Committee on Civil and Criminal Jurisprudence, submitted the following report:

Mr. President: Your Committee on Civil and Criminal Jurisprudence, to which was referred **SJR 29**, 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 were referred **SB 472; SCS for SB 440; SCS for SB 377; SB 371; SB 125; SB 29; and SB 495**, 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.

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

Mr. President: Your Committee on State Budget Control, to which were referred **SS** for **SCS** for **SB 19**; **SB 215**; **SCS** for **SB 233**; **SS** for **SB 373**; and **SCS** for **SB 425**, begs leave to report that it has considered the same and recommends that the bills do pass.

SENATE BILLS FOR PERFECTION

Senator Schneider moved that **SB 1**, **SB 92**, **SB 111**, **SB 129** and **SB 222**, with **SCS** and **SA 8** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

SA 8 was again taken up.

At the request of Senator Kinder, the above amendment was withdrawn.

Senator Schneider offered **SS** for **SCS** for **SBs 1, 92, 111, 129** and **222**, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 1, 92, 111, 129 and 222

An Act to repeal sections 57.130, 88.013, 88.023, 211.453, 211.477, 476.681, 476.682, 477.087, 478.320, 478.437, 478.625, 494.455, 508.190, 511.440, 511.450, 528.620, 550.140 and 550.240, RSMo 1994, and sections 57.280, 105.464, 452.400, 452.552, 455.205, 479.261, 487.020, 488.015, 506.363, 506.369, 506.372, 506.375, 506.390, 514.040, 550.260 and 590.140, RSMo Supp. 1998, relating to jurisdiction and procedures of courts, and to enact in lieu thereof thirty-five new sections relating to the same subject, with an expiration date for a certain section.

Senator Schneider moved that **SS** for **SCS** for **SBs 1, 92, 111, 129** and **222** be adopted.

At the request of Senator Schneider, **SB 1**, **SB 92**, **SB 111**, **SB 129** and **SB 222**, with **SCS** and **SS** for **SCS** (pending), were placed on the Informal Calendar.

Senator Schneider moved that **SB 70** be called from the Informal Calendar and again taken up for

perfection, which motion prevailed.

Senator Schneider offered **SS No. 2** for **SB 70**, entitled:

SENATE SUBSTITUTE NO. 2 FOR SENATE BILL NO. 70

An Act to repeal sections 407.820, 407.822 and 407.825, RSMo Supp. 1998, relating to motor vehicle franchise practices, and to enact in lieu thereof three new sections relating to the same subject.

Senator Schneider moved that **SS No. 2** for **SB 70** be adopted.

At the request of Senator Schneider, **SB 70**, with **SS No. 2** (pending) was placed on the Informal Calendar.

Senator Ehlmann moved that **SB 94**, with **SCS** and **SS** for **SCS** (pending), be called from the Informal Calendar and again taken up for perfection, which motion prevailed.

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

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 94, Page 3, Section 570.030, Line 20 of said page, by inserting immediately after the word "ammonia" the following: ", or any attempt to steal any amount of anhydrous ammonia,"; and

Further amend said bill, Page 3, Section 570.030, Line 21 of said page, by inserting immediately after the word "felony" the following: "if the value is less than one hundred fifty dollars, and a class C felony if the value is one hundred fifty dollars or more".

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

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

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 94, Page 2, Section 570.030, Lines 10-12, by deleting said lines and renumbering the remaining subsections accordingly; and

Further amend said bill, page 3, section 570.030, lines 23-24, by deleting "**one**"; on line 23 and "**hundred fifty**" on line 24 and inserting in lieu thereof "**five hundred**"; and

Further amend said bill, page 4, section 570.080, line 16 of said section, by deleting "one hundred fifty dollars **but less than four hundred fifty dollars,**" and inserting in lieu thereof: "**five hundred dollars**"; and

Further amend said bill, page 5, line 2 of said page, by deleting "**four hundred fifty**" and inserting in lieu thereof "**five hundred**"; and

Further amend said bill, page 2, line 15, by deleting "four hundred fifty" and inserting in lieu thereof "**five hundred**".

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

Senator Klarich offered SA 3, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 94, Page 5, Section 570.080, Line 5, by inserting after all of said line the following:

"4. Any person who knowingly or intentionally leaves a child less than seven years of age in a motor vehicle, and that child is unattended by an individual twelve years of age or older, shall be guilty of an infraction."

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

Senator Caskey offered SA 4:

SENATE AMENDMENT NO. 4

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 94, Page 1, Section 570.030, Line 1, by inserting before all of said line the following:

"149.011. As used in this chapter, unless the context requires otherwise, the following terms mean:

(1) "Cigar", any roll for smoking, except cigarettes, made chiefly of tobacco or any substitute therefor;

(2) "Cigarette", an item manufactured of tobacco or any substitute therefor, wrapped in paper or any substitute therefor, weighing not to exceed three pounds per one thousand cigarettes and which is commonly classified, labeled or advertised as a cigarette, **or any product that contains nicotine, as intended to be burned or heated under ordinary conditions of use, and consists of or contains:**

(a) **Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or**

(b) **Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or**

(c) **Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subdivision.**

"Cigarette" includes "roll-your-own", which is any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and like to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of cigarette, nine one hundredths of an ounce of "roll-your-own" tobacco shall constitute one individual cigarette;

(3) "Common carrier", any person, association, company, or corporation engaged in the business of operating, for public use, an agency for the transportation of persons or property within the state;

(4) "Director", the director of Missouri department of revenue;

(5) "First sale within the state", the first sale of a tobacco product by a manufacturer, wholesaler or other person to a person who intends to sell such

tobacco products at retail or to a person at retail within the state of Missouri;

(6) "Manufacturer", any person engaged in the manufacture or production of cigarettes;

(7) "Manufacturer's invoice price", the original net invoice price for which a manufacturer sells a tobacco product to a distributor, wholesaler or first seller in the state as shown by the manufacturer's original invoice;

(8) "Meter machine", a type of device manufactured for the use of printing or imprinting an inked impression indicating that the cigarette tax has been paid on an individual package of cigarettes;

(9) "Package of cigarettes", a container of any type composition in which is normally contained twenty individual cigarettes, except as in special instances when the number may be more or less than twenty, **or a pack, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed, or intended for distribution, to consumers;**

(10) "Person", any individual, corporation, firm, partnership, incorporated or unincorporated association, or any other legal or commercial entity;

(11) "Retailer", any person who sells to a consumer or to any person for any purpose other than resale;

(12) "Sale" in this instance is defined to be and declared to include sales, barter, exchanges and every other manner, method and form of transferring the ownership of personal property from one person to another. "Sale" also means the possession of cigarettes or tobacco products by any person other than a manufacturer, wholesaler or retailer and shall be prima facie evidence of possession for consumption;

(13) "Smokeless tobacco", chewing tobacco, including, but not limited to, twist, moist plug, loose leaf and firm plug, and all types of snuff, including, but not limited to, moist and dry;

(14) "Stamped cigarettes", an individual package, containing twenty individual cigarettes, more or less, on which appears or is affixed or

imprinted thereon a Missouri state cigarette tax stamp or Missouri state meter machine impression;

(15) "Tax stamp", an item manufactured of a paper product or substitute thereof on which is printed, imprinted, or engraved lettering, numerals or symbols indicating that the cigarette tax has been paid on each individual package of cigarettes;

(16) "Tobacco product", cigarettes, cigarette papers, clove cigarettes, cigars, smokeless tobacco, smoking tobacco, or other form of tobacco products or products made with tobacco substitute containing nicotine;

(17) "Unstamped cigarettes", an individual package containing cigarettes on which does not appear a Missouri state cigarette tax stamp or Missouri state meter machine impression;

(18) "Wholesaler", any person, firm or corporation organized and existing, or doing business, primarily to sell cigarettes or tobacco products to, and render service to, retailers in the territory the person, firm or corporation chooses to serve; that purchases cigarettes or tobacco products directly from the manufacturer; that carries at all times at his or its principal place of business a representative stock of cigarettes or tobacco products for sale; and that comes into the possession of cigarettes or tobacco products for the purpose of selling them to retailers or to persons outside or within the state who might resell or retail the cigarettes or tobacco products to consumers. This shall include any manufacturer, jobber, broker, agent or other person, whether or not enumerated in this chapter, who so sells or so distributes cigarettes or tobacco products.

149.071. 1. Any person who shall, without the authorization of the director of revenue, make or manufacture, or who shall falsely or fraudulently forge, counterfeit, reproduce, restore, or process any stamp, impression, copy, facsimile, or other evidence for the purpose of indicating the payment of the tax levied by this chapter, or who shall knowingly or by a deceptive act use or pass, or tender as true, or affix, impress, or imprint, by use of any device, rubber stamp or by any other means, or any package containing cigarettes, any unauthorized, false, altered, forged, counterfeit or

previously used stamp, impressions, copies, facsimilies or other evidence of cigarette tax payment, shall be guilty of a felony and, upon conviction, shall be punished by imprisonment by the state department of corrections and human resources for a term of not less than two years nor more than five years.

2. No tax stamp may be affixed to, or made upon, any package of cigarettes if:

(1) The package does not comply with all the requirements of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. Sec, 1331 and following), for the placement of labels, warnings, or any other information upon a package of cigarettes that is to be sold within the United States; or

(2) The package has been imported into the United States after January 1, 2000, in violation of 26 U.S.C. Sec, 5754;

(3) The package is labeled "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording indicating that the manufacturer did not intend that the product be sold in the United States; or

(4) The package, or a package containing individually stamped packages, has been altered by masking or deleting the wording described in subdivision (3) of this subsection.

3. Any person who sells or holds for sale cigarette packages to which is affixed a tax stamp in violation of this section shall be guilty of a class D felony upon conviction.

4. The department of revenue may revoke a wholesale license of any person who sells or holds for sale cigarette packages to which is affixed a tax stamp in violation of this section.

5. The department of revenue may seize and destroy or sell only for export to licensed exporters cigarette packages to which is affixed a tax stamp in violation of this section.

6. A violation of this section is a deceptive act or practice under this section.

7. If any provision of this section or its application to any person or circumstance is

held invalid, the remainder of this section or the application of the provision to other persons or circumstances is not affected."; and

Further amend the title and enacting clause accordingly.

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

Senator Ehlmann moved that **SS** for **SCS** for **SB 94**, as amended, be adopted, which motion prevailed.

On motion of Senator Ehlmann, **SS** for **SCS** for **SB 94**, as amended, was declared perfected and ordered printed.

Senator Banks requested unanimous consent of the Senate that **SB 274**, with **SCS**, be returned to the Committee on Public Health and Welfare, which request was denied.

REPORTS OF STANDING COMMITTEES

Senator Schneider, Chairman of the Committee on Judiciary, submitted the following report:

Mr. President: Your Committee on Judiciary, to which was referred **HB 570**, 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 Stoll, Chairman of the Committee on Elections, Veterans' Affairs and Corrections, submitted the following reports:

Mr. President: Your Committee on Elections, Veterans' Affairs and Corrections, to which was referred **HB 476**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass and be placed on the Consent Calendar.

Also,

Mr. President: Your Committee on Elections, Veterans' Affairs and Corrections, to which was referred **HB 528**, 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 Elections, Veterans' Affairs and Corrections, to which was referred **HB 789**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass and be placed on the Consent Calendar.

Also,

Mr. President: Your Committee on Elections, Veterans' Affairs and Corrections, to which was referred **HB 930**, 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 Banks, Chairman of the Committee on Public Health and Welfare, submitted the following reports:

Mr. President: Your Committee on Public Health and Welfare, to which was referred **HB 271**, 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 Public Health and Welfare, to which was referred **HB 721**, begs leave to report that it has considered the same and recommends that the Senate Committee Substitute, hereto attached, do pass and be placed on the Consent Calendar.

Also,

Mr. President: Your Committee on Public Health and Welfare, to which was referred **HB 893**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendment No. 1, and be placed on the Consent Calendar.

SENATE COMMITTEE AMENDMENT NO. 1

Amend House Bill No. 893, Page 1, In the Title, Line 1, by striking "911 day" and inserting in lieu thereof the following: "Emergency Services Day"; and

Further amend said bill and page, section 1, line 1, by striking all of said line and inserting in lieu thereof the following:

"Section 1. The twenty-eighth day of November of each year shall be known as "Emergency Services Day"; and further amend

line 3 of said page, by striking "and" and inserting in lieu thereof the following: ","; and further amend line 4 of said page, by inserting immediately after the word "dispatchers" the following: ", **and corrections officers**".

Also,

Mr. President: Your Committee on Public Health and Welfare, to which was referred **HB 94**, 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 Public Health and Welfare, to which was referred **HB 358**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

On behalf of Senator Staples, Chairman of the Committee on Transportation, Senator DePasco submitted the following reports:

Mr. President: Your Committee on Transportation, to which was referred **HB 185**, begs leave to report that it has considered the same and recommends that the bill do pass, with Senate Committee Amendment No. 1, and be placed on the Consent Calendar.

SENATE COMMITTEE AMENDMENT NO. 1

Amend House Bill No. 185, Page 1, In the Title, Line 2, by striking "section 302.291" and inserting in lieu thereof the following: "sections 302.291 and 302.292"; and further amend line 3, by striking "one new section" and inserting in lieu thereof the following: "two new sections"; and

Further amend said bill and page, section A, line 1, by striking "Section 302.291" and inserting in lieu thereof the following: "Sections 302.291 and 302.292"; and further amend said line, by striking "one new section" and inserting in lieu thereof the following: "two new sections"; and further amend line 2, by striking "section 302.291" and inserting in lieu thereof the following: "sections 302.291 and 302.292"; and

Further amend said bill, page 3, section 302.291, line 80, by inserting immediately after said line the following:

"302.292. 1. In order to advise the director of revenue on medical criteria for the reporting and examination of drivers with medical impairments, a "Medical/Vision Advisory Board" is hereby established within the department of revenue. The board shall be composed of [three] **four** members appointed by the director of the department of revenue. The members of the board shall be **composed of three** licensed physicians and **one optometrist and shall be** residents of this state. Of the original appointees, one shall serve for a term of two years and two shall serve for terms of four years. Subsequent appointees shall each serve for a term of four years or until their successors are appointed and approved. Any vacancy shall be filled in the same manner as the original appointment for the remainder of the term. The members of the board shall receive no compensation for their services and shall not hire any staff personnel but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. After the first full year of operation of the advisory board, the board shall meet no more than four times per year.

2. No civil or criminal action shall lie against any member of the medical/vision advisory board of the department of revenue who acts in good faith in advising the department under the provisions of this chapter. Good faith shall be presumed on the part of members of the medical/vision advisory board in the absence of a showing of fraud or malice."

Also,

Mr. President: Your Committee on Transportation, to which was referred **HB 290**, 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 Transportation, to which was referred **HB 517**, 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

Transportation, to which was referred **HB 646**, 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 Transportation, to which was referred **HB 678**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

On behalf of Senator Jacob, Chairman of the Committee on Insurance and Housing, Senator DePasco submitted the following report:

Mr. President: Your Committee on Insurance and Housing, to which was referred **HB 34**, 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 Maxwell, Chairman of the Committee on Commerce and Environment, submitted the following reports:

Mr. President: Your Committee on Commerce and Environment, to which was referred **HB 915**, 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 Commerce and Environment, to which was referred **HB 145**, 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 Commerce and Environment, to which was referred **HB 216**, begs leave to report that it has considered the same and recommends that the bill do pass and be placed on the Consent Calendar.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of

Representatives to inform the Senate that the House has taken up and passed **HB 1045**, entitled:

An Act to repeal sections 483.310, RSMo Supp. 1998, relating to trust funds of the court, 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.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 472**, entitled:

An Act to repeal section 453.070, RSMo Supp. 1998, relating to investigation for adoption, 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.

COMMUNICATIONS

President Pro Tem Quick submitted the following:

April 9, 1999

James L. Mathewson
Missouri Senate
State Capitol, Room 323
Jefferson City, MO 65101

Dear Jim:

It is my pleasure to appoint you to serve on the Missouri

Job Training Legislative Oversight Committee pursuant to Section 620.481 RSMo.

If you have any questions or concerns, please contact me.

Sincerely,
/s/ Ed Quick
Edward E. Quick
President Pro Tem
Missouri Senate

INTRODUCTIONS OF GUESTS

Senator Russell introduced to the Senate, Richard, Kristi, Jeremy, James and Amber Cartwright, Homeschoolers from Niangua; Gary, Sharon and Sasha Shaver, Homeschoolers from Grove Spring; and Wanda and Mandy Quinn, Homeschoolers from Mansfield; and Jeremy, James, Amber, Mandy and Sasha were made honorary pages.

Senator Klarich introduced to the Senate, Linda Emmons and Sharon Birkman, Franklin County.

Senator Ehlmann introduced to the Senate, St. Charles County Executive, former State Representative Joe Ortwerth, St. Charles County.

Senator Rohrbach introduced to the Senate, Bill Arment and Rodney Schad, Versailles.

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

SENATE CALENDAR

FIFTY-SECOND DAY—TUESDAY, APRIL 13, 1999

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

HOUSE BILLS ON SECOND READING

HS for HB 492-Hosmer
HB 1045-Kennedy

HB 472-Nordwald

THIRD READING OF SENATE BILLS

- | | |
|--|--|
| 1. SS for SCS for SB 19-Goode | 9. SCS for SB 351-
Johnson and Russell
(In Budget Control) |
| 2. SCS for SB 425-Stoll, et al | 10. SB 472-House |
| 3. SCS for SB 233-Sims | 11. SCS for SB 440-Schneider |
| 4. SB 215-Mathewson | 12. SCS for SB 377-Howard |
| 5. SS for SB 373-DePasco | 13. SB 371-Flotron, et al |
| 6. SJR 17-Mueller
(In Budget Control) | 14. SB 125-Childers |
| 7. SCS for SBs 387, 206
& 131-Clay
(In Budget Control) | 15. SB 29-Mueller |
| 8. SB 359-Mueller, et al
(In Budget Control) | 16. SB 495-Goode |

SENATE BILLS FOR PERFECTION

- | | |
|---|--|
| 1. SB 248-Maxwell, with SCS | 6. SBs 18, 49 & 167-
Goode, et al, with SCS |
| 2. SBs 429, 430 & 407-
Jacob, with SCS | 7. SBs 398 & 376-Maxwell, with SCS |
| 3. SB 525-Rohrbach, with SCS | 8. SB 507-Childers |
| 4. SB 374-Mathewson,
with SCS | 9. SB 413-Johnson, et al |
| 5. SB 274-House, et al,
with SCS | 10. SJR 16-Schneider, with SCS |
| | 11. SB 98-Kenney |
| | 12. SJR 29-Caskey |

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SBs 1, 92, 111, 129 & 222-
Schneider, with SCS &
SS for SCS (pending)

SB 5-Wiggins
SB 30-Howard, with SCS
(pending)

SB 70-Schneider, with SS#2
(pending)
SBs 75, 381 & 204-Wiggins,
with SCS
SB 78-Russell, with SA 4
(pending)
SB 97-Maxwell and Sims
SB 179-Goode, with SA 3 &
SSA 1 for SA 3 (pending)
SB 203-Wiggins
SB 208-House, with SCS &
SS for SCS (pending)
SB 235-Stoll, with SS &
SA 2 (pending)
SB 316-Schneider and
Ehlmann
SB 318-Jacob, et al, with
SCS & SS for SCS
(pending)

SBs 328, 87, 100 & 55-
Clay, et al, with SCS
& SA 2 (pending)
SB 336-Caskey, with SA 3
(pending)
SB 339-Howard and Sims,
with SCS, SS for SCS,
SA 1 & SSA 1 for SA 1
(pending)
SB 345-Johnson, with SS
(pending)
SBs 347, 40, 241 & 301-
House, with SCS, SS
for SCS & SA 4 (pending)
SB 397-Maxwell, with SCS
SB 417-Quick, with SS#2 &
SA 1 (pending)
SB 455-Stoll, et al, with
SCA 1

CONSENT CALENDAR

House Bills

Reported 4/6

HB 409-McBride (Howard)
HB 487-Hollingsworth
(Caskey)
HB 741-Monaco and May
(108th) (Clay)
HB 257-Seigfreid (Jacob)
HB 895-Crump (Caskey)
HB 76-Smith (Caskey)
HCS for HB 348, with SCS
(Caskey)
HB 359-Hosmer (Caskey)
HB 248-Kissell, with SCS
(Westfall)

HB 661-Crump (Caskey)
HB 165-May (108th)
(DePasco)
HB 242-May (108th) (Caskey)
HB 103-Treadway (DePasco)
HB 275-May (108th) and
O'Toole, with SCS (Scott)
HB 366-Hartzler (123rd),
with SCS (Caskey)
HB 776-McBride (Maxwell)
HB 795-Kennedy and
Crawford, with SCS
(Scott)

HB 853-Seigfreid, with SCA 1 (Mathewson)	HB 445-Auer, with SCA 1 (Jacob)
HB 464-Richardson, with SCS (Howard)	HB 478-Ward, et al
HB 514-Franklin (Stoll)	HB 35-Campbell, with SCS (Johnson)
HB 662-Crump (Scott)	HB 834-Crump (Staples)
HB 920-Farnen, with SCA 1 (Maxwell)	HB 518-Ross, with SCA 1 (Mathewson)
HB 778-Luetkenhaus (House)	HB 708-Meredith, et al (Johnson)
HB 282-Clayton (Wiggins)	HB 800-Linton (Klarich)
	HB 791-Wagner (Russell)

Reported 4/12

HB 570-Rizzo	HB 358-Hosmer
HB 476-Hegeman, with SCS	HB 185-Lakin, with SCA 1
HB 528-Chrismer	HB 290-Champion
HB 789-Berkstresser and Bartelsmeyer, with SCS	HB 517-Backer, et al
HB 930-Ward, et al	HB 646-Hampton, et al
HB 271-Clayton	HB 678-Leake and Koller
HB 721-Barry, with SCS	HB 34-Auer
HB 893-Murray, et al, with SCA 1	HB 915-Mays (50th) and Legan
HB 94-Clayton	HB 145-Wiggins
	HB 216-Parker

**BILLS IN CONFERENCE AND BILLS
CARRYING REQUEST MESSAGES**

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

Reported from Committee

SR 514-Steelman

HCR 4-Seigfreid

SCR 17-Banks and Clay

(Mathewson)

Unofficial

Journal

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