

**OHIO**

**SENATE**

**JOURNAL**

THURSDAY, DECEMBER 14, 2006

TWO HUNDRED FIFTIETH DAY  
Senate Chamber, Columbus, Ohio  
**Thursday, December 14, 2006, 11:00 o'clock a.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Monsignor Joseph Hendricks, St. Brigid of Kildare, Dublin, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

**REPORTS OF REFERENCE AND BILLS FOR SECOND  
CONSIDERATION**

Senator Schuring reports for the Standing Committee on Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

**Sub. H. B. No. 71**-Representatives J. Stewart, Martin, Hartnett, Seitz, Faber, Seaver, Reidelbach, White, Taylor, D. Evans, Bulp, Barrett, C. Evans, Latta, Perry, Ujvagi, Carano, Coley, G. Smith, Wagoner, T. Patton, Hagan, Gibbs, Widener, Blessing, Brown, Calvert, Cassell, Chandler, Collier, Combs, Core, DeBose, Distel, Domenick, Fende, Flowers, Garrison, Hughes, Key, Luckie, Mason, McGregor, J., Oelslager, Otterman, Sayre, Schaffer, Schlichter, Schneider, Stewart, D., Webster, Widowfield, Williams, Yuko, Driehaus.

To amend sections 145.30, 145.301, 3307.751, 3309.021, and 5505.25 of the Revised Code to permit a member of the Public Employees Retirement System, State Teachers Retirement System, School Employees Retirement System, or State Highway Patrol Retirement System to purchase military service credit for duty in the Ohio National Guard or reserves.

To the Committee on Health, Human Services and Aging.

**Am. Sub. H. B. No. 443**-Representatives Uecker, Aslanides, McGregor, J., Setzer, Book, Carmichael, Combs, Flowers, Seitz.

To amend sections 123.04, 303.14, 307.37, 519.14, 1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 1502.03, 1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 1513.01, 1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 1514.03, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 1515.10, 1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 1520.05, 1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 1531.01, 1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 1531.99, 1533.07, 1533.08, 1533.09,

1533.10, 1533.11, 1533.12, 1533.131, 1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 1533.99, 1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 1547.54, 1547.541, 1547.99, 1548.02, 1567.35, 4115.04, and 5749.02; to enact sections 303.141, 519.141, 1501.45, 1513.075, 1513.081, 1513.171, 1513.182, 1513.371, 1514.011, 1514.051, 1514.40 to 1514.47, 1514.50, 1515.093, 1548.031, 1548.032, 1561.011, 1563.01, 1565.01, 1567.01, 1571.011, 2305.041, 5577.081, and 5749.11; and to repeal sections 1502.11, 1513.10, 1521.08, and 1533.78 of the Revised Code to revise the statutes governing the Department of Natural Resources; to make changes to the law governing coal mining, including increasing the severance tax on coal and revising the distribution of revenue from that tax; to make changes to the law governing the mining of industrial minerals, including revising zoning provisions related to such mining; and to make other changes.

To the Committee on Environment and Natural Resources.

**Am. H. B. No. 560**-Representatives Evans, C., Law, Harwood, Combs, Domenick, Reidelbach, Cassell, Perry, McGregor, J., Bulp, Setzer, Patton, S., Stewart, J., Latta, Garrison, Boccieri, Carano, Chandler, Collier, Fende, Uecker, Coley, DeBose, Webster, White, D., Wolpert.

To amend sections 505.85, 505.87, 515.04, 515.05, 515.08, 515.11, 515.12, and 515.15 and to enact sections 505.871 and 515.16 of the Revised Code to allow townships to remove junk motor vehicles from public and private property and to borrow money to pay for that removal of junk motor vehicles and for other debris from private property, and to authorize townships to relocate underground overhead cables, wires, and appurtenant equipment upon petition, to pay for a relocation by assessing abutting and otherwise specially benefited properties, and to collect interest on unpaid assessments for an underground relocation project or an artificial lighting district project.

To the Committee on State and Local Government and Veterans' Affairs.

**Am. Sub. H. B. No. 574**-Representatives Dolan, Collier, Law, Martin, Distel, DeGeeter, Perry, Wagoner, McGregor, J., Yuko, Williams, Skindell, Seitz, Setzer, Flowers, Combs, Hagan, Taylor, Strahorn, DeBose, Stewart, J., Domenick, Chandler, Fende, Harwood, Barrett, Beatty, Blessing, Book, Brown, Driehaus, Evans, C., Evans, D., Foley, Garrison, Hartnett, Hoops, Hughes, Key, Koziura, McGregor, R., Mitchell, Otterman, Schneider, Ujvagi, Webster, White, D., White, J., Yates, Luckie, Mason, Smith, G., Stewart, D..

To enact sections 1522.01, 1522.02, 1522.03, 1522.04, 1522.05, 1522.06, 1522.07, and 1522.08 of the Revised Code to ratify the Great Lakes-St.

Lawrence River Basin Water Resources Compact and to establish related requirements.

To the Committee on Rules.

**Am. H. B. No. 583**-Representatives Peterson, Seitz, Yates, Stewart, J., Fende, Skindell, Collier, Brown, Carano, Cassell, Hughes, Otterman, Domenick, Strahorn, DeBose, Chandler, Evans, C., Foley, Hartnett, Koziura, Law, Luckie, Mason, Mitchell, Patton, T., Sayre, Setzer, Stewart, D., Sykes, Ujvagi, Williams, Yuko.

To amend sections 3734.13, 3745.01, and 3745.08 and to enact sections 3734.61 to 3734.65 of the Revised Code to prohibit the purchase of mercury or mercury-added measuring devices by schools, to prohibit the sale and distribution of mercury-containing thermometers, mercury-added novelties, and mercury-containing thermostats, to establish certain exceptions from the prohibitions, and to establish other requirements concerning mercury and certain mercury-containing products.

To the Committee on Environment and Natural Resources.

YES - 5: J. KIRK SCHURING, KIMBERLY A. ZURZ, C. J. PRENTISS, BILL HARRIS, JEFF JACOBSON.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Said bills were considered a second time and referred to committee as recommended.

#### **REPORTS OF STANDING AND SELECT COMMITTEES**

Senator Jordan submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **Sub. H. B. No. 546**-Representative Dolan, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Cates, Miller, D., Fedor, Kearney.

YES - 9: GARY W. CATES, DALE MILLER, TERESA FEDOR,

ERIC H. KEARNEY, J. KIRK SCHURING, LARRY A. MUMPER, JEFFRY J. ARMBRUSTER, TOM NIEHAUS, TIMOTHY J. GRENDELL.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Coughlin submitted the following report:

The standing committee on Health, Human Services and Aging, to which was referred **Sub. H. B. No. 87**-Representative Willamowski, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Clancy.

YES - 11: JEFF JACOBSON, RAY MILLER, CHARLES A. WILSON, RANDY GARDNER, JEFFRY J. ARMBRUSTER, LARRY A. MUMPER, PATRICIA M. CLANCY, KEVIN J. COUGHLIN, JIM JORDAN, DAVID GOODMAN, ROBERT F. HAGAN.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Coughlin submitted the following report:

The standing committee on Health, Human Services and Aging, to which was referred **Am. Sub. H. B. No. 468**-Representative Hagan, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Hagan.

YES - 8: ROBERT F. HAGAN, RAY MILLER, JEFFRY J. ARMBRUSTER, KEVIN J. COUGHLIN, PATRICIA M. CLANCY, DAVID GOODMAN, LARRY A. MUMPER, CHARLES A. WILSON.

NO - 1: JIM JORDAN.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. B. No. 25**-Senator Armbruster, having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Kearney.

YES - 8: ERIC H. KEARNEY, JAY HOTTINGER, STEVE STIVERS, JEFFRY J. ARMBRUSTER, STEPHEN C. AUSTRIA, LYNN R. WACHTMANN, PATRICIA M. CLANCY, RAY MILLER.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

**HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS**

The amendments of the House of Representatives to:

**Sub. S. B. No. 305**-Senators Stivers, Goodman, Dann, Kearney, Wachtmann -Representatives McGregor, J., Book, Combs, Domenick, Evans, C., Flowers, Patton, T., Schaffer, Wagoner, Yuko.

To amend sections 3731.01, 3731.02, 3731.09, 3731.12, and 3781.03 and to enact sections 3731.04, 3737.831, and 3781.112 of the Revised Code to modify requirements applied to differing types of hotels, to require the State Fire Code to include a provision directing the Fire Marshal to issue permits for temporary membrane structures, tents, and canopies located on state property or used for an event sponsored by a state agency, unless the Fire Marshal directs that the permit be obtained from a local fire code official, to clarify the authority of local governing officials concerning sewerage systems, and to allow certain medical facilities to use delayed-egress doors and electronic doors, were taken up.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

- |           |            |          |         |
|-----------|------------|----------|---------|
| Amstutz   | Armbruster | Austria  | Carey   |
| Cates     | Clancy     | Coughlin | Fedor   |
| Gardner   | Goodman    | Grendell | Hagan   |
| Hottinger | Jacobson   | Jordan   | Kearney |
| Miller D  | Miller R   | Mumper   | Niehaus |

Padgett  
Schuring  
Wilson

Prentiss  
Spada  
Zurz

Roberts  
Stivers

Schuler  
Wachtmann  
Harris-31.

So the Senate concurred in the amendments of the House of Representatives.

### REPORTS OF CONFERENCE COMMITTEES

Senator Jordan submitted the following report:

The Committee of Conference to which the matters of difference between the two houses were referred on Am. Sub. H.B. 259, Representative Wagner-et al., having had the same under consideration, recommends to the respective houses as follows:

The bill as passed by the House with the following amendments:

In line 10, delete "section" and insert "sections"; after "2921.38" insert "and 2921.51"

Between lines 55 and 56, insert:

**"Sec. 2921.51.** (A) As used in this section:

(1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is employed by a political subdivision of this state, a member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, a member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, a state university law enforcement officer appointed under section 3345.04 of the Revised Code, a veterans' home police officer appointed under section 5907.02 of the Revised Code, a special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, or a state highway patrol trooper and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws, ordinances, or rules of the state or any of its political subdivisions.

(2) "Private police officer" means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

(3) "Federal law enforcement officer" means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.

(4) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(B) No person shall impersonate a peace officer ~~or~~ a private police officer, or a federal law enforcement officer.

(C) No person, by impersonating a peace officer ~~or~~ a private police officer, or a federal law enforcement officer, shall arrest or detain any person, search any person, or search the property of any person.

(D) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, a private police officer, a federal law enforcement officer, or an officer, agent, or employee of the state.

(E) No person shall commit a felony while impersonating a peace officer, a private police officer, a federal law enforcement officer, or an officer, agent, or employee of the state.

(F) It is an affirmative defense to a charge under division (B) of this section that the impersonation of the peace officer was for a lawful purpose.

(G) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (C) or (D) of this section is guilty of a misdemeanor of the first degree. If the purpose of a violation of division (D) of this section is to commit or facilitate the commission of a felony, a violation of division (D) is a felony of the fourth degree. Whoever violates division (E) of this section is guilty of a felony of the third degree."

In line 56, delete "section" and insert "sections"; after "2921.38" insert "and 2921.51"

In line 57, delete "is" and insert "are"

In line 1 of the title, delete "section" and insert "sections"; after "2921.38" insert "and 2921.51"

In line 6 of the title, delete "and" and insert a comma

In line 9 of the title, after "bacteria" insert ", and to prohibit the impersonation of a federal law enforcement officer"

Managers on the Part of the  
House of Representatives

/s/ ROBERT E. LATTA  
ROBERT E. LATTA

/s/ JEFF WAGNER  
JEFF WAGNER

/s/ TIMOTHY J. DEGEETER  
TIMOTHY J. DEGEETER

Managers on the Part of the  
Senate

/s/ JAMES D. JORDAN  
JAMES D. JORDAN

/s/ PATRICIA CLANCY  
PATRICIA CLANCY

/s/ ERIC KEARNEY  
ERIC KEARNEY

The report of the Committee of Conference was laid over under the rule.



**BILLS FOR THIRD CONSIDERATION**

**Am. Sub. H. B. No. 461**-Representatives Wolpert, Yuko, Ujvagi, Otterman, Healy, Latta, Evans, D., Gilb, Hughes, Barrett, Bubp, Cassell, Chandler, Collier, Combs, Core, Daniels, DeGeeter, Distel, Domenick, Evans, C., Faber, Fende, Fessler, Flowers, Gibbs, Hagan, Hartnett, Harwood, Kilbane, Law, Martin, Mason, McGregor, J., McGregor, R., Oelslager, Patton, T., Raussen, Reidelbach, Schaffer, Schlichter, Schneider, Smith, G., Stewart, J., Taylor, Wagner, Wagoner, Webster, White, Widener, Williams.

To amend sections 2903.06, 2929.01, 2929.13, 2929.14, 2929.18, 2929.19, 2945.75, 2953.08, and 4511.19 and to enact section 2929.142 of the Revised Code to increase the prison term for aggravated vehicular homicide when the offender has prior OVI convictions or guilty pleas, to allow a certified copy of a BMV record to be used as proof of a prior conviction, and to expand the circumstances in which evidence on the concentration of alcohol, drugs of abuse, or a combination of them in a person's blood, breath, or urine may be admitted as evidence, was considered the third time.

The question being, "Shall the bill, **Am. Sub. H. B. No. 461**, pass?"

Senator Jordan moved to amend as follows:

In line 5602, after "(D)(1)" insert "(a) In any criminal prosecution or juvenile court proceeding for a violation of division (A)(1)(a) of this section or for an equivalent offense, the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in section 2317.02 of the Revised Code, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

(b)"

In line 5610, delete ". when either division"

In line 5611, delete "(D)(1)(a) or (b) of this section applies"

Delete lines 5619 to 5627

In line 5628, reinsert "a"; delete "(b) A"

In line 5722, delete "obtained pursuant to section"

In line 5723, delete "2317.022 of the Revised Code or"

In line 5739, reinsert "certified"

In line 5747, reinsert "in general and, in"

In line 5748, reinsert "this particular analysis, under rules of the department of health"

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

The amendment was agreed to.

The question recurred, "Shall the bill, **Am. Sub. H. B. No. 461**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Jordan moved to amend the title as follows:

Add the names: "Jordan, Cates, Gardner, Harris, Wachtmann, Mumper."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 87**-Representatives Willamowski, C. Evans, McGregor, Seitz, Perry, S. Smith, Hartnett, Taylor, Martin, Hagan, Reidelbach, Hood, Barrett, Brown, DeBose, Fessler, Kearns, Otterman, Schneider, Seaver, Allen, Aslanides, Blessing, Book, Bulp, Carano, Cassell, Chandler, Collier, Combs, Core, Domenick, Faber, Flowers, Gibbs, Gilb, Harwood, Hughes, Key, Mason, Oelslager, S. Patton, T. Patton, Schaffer, Schlichter, Setzer, D. Stewart, J. Stewart, Strahorn, Uecker, Webster, Yates, Yuko, Reinhard.

To amend section 5120.55 of the Revised Code to permit the Department of Rehabilitation and Correction to extend the physician recruitment program it is authorized to establish to registered nurses and licensed practical nurses, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 87**, pass?"

On the motion of Senator Coughlin, **Sub. H. B. No. 87** was informally passed and retained its place on the calendar.

**Sub. H. B. No. 285**-Representatives Willamowski, Beatty, Brown, Bulp, Carano, Cassell, Chandler, Collier, Core, DeBose, Domenick, Evans, C., Evans, D., Faber, Fende, Fessler, Flowers, Gibbs, Gilb, Hagan, Hartnett, Harwood, Hughes, Latta, Luckie, Mason, Otterman, Patton, T., Perry, Raussen, Reidelbach, Schaffer, Schlichter, Seaver, Seitz, Stewart, D., Stewart, J., Strahorn, Uecker, Wagoner, Williams, Yates, Yuko.

To enact section 5149.031 of the Revised Code to prohibit parole officers of the Adult Parole Authority from being required to use private vehicles for certain purposes during the course of their employment, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 285**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Arnbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

So the bill passed.

The question being, "Shall the title be agreed to?"

The title was agreed to.

**Sub. H. B. No. 454**-Representatives Coley, Wagoner, Hartnett, Harwood, Brown, Bulp, Allen, Aslanides, Boccieri, Collier, DeBose, Dolan, Domenick, Evans, C., Fende, Hughes, McGregor, J., Patton, T., Reidelbach, Schneider, Seitz, Setzer, Smith, G..

To amend sections 121.07, 1101.15, 1109.15, 1109.43, 1111.02, 1111.04, 1111.06, 1111.07, 1111.08, 1121.30, 1151.14, 1151.321, 1161.18, 1161.51, 1181.25, 1315.21, 1315.99, 1733.25, 4719.01, and 4973.17; to enact new sections 1151.348, 1315.01 to 1315.11, and 1315.16 to 1315.18; to enact sections 1161.601, 1315.081, 1315.101, 1315.12, 1315.121, 1315.122, 1315.13, 1315.14, 1315.15, 1315.151, 1315.152, 1315.153, and 1315.161; to repeal sections 1151.348, 1315.01, 1315.02, 1315.03, 1315.04, 1315.05, 1315.06, 1315.07, 1315.08, 1315.09, 1315.10, 1315.11, 1315.16, 1315.17, and 1315.18; and to repeal section 1125.28 of the Revised Code, as it results from S.B. 293 of the 121st General Assembly, to authorize financial institutions to enter into debt suspension and cancellation contracts; to authorize savings banks to engage in trust business; to require savings and loan associations only engage in trust business under the Trust Company Law; to change the function, operations, and investing authority of bankers' banks; to change entities that may be financial institution qualified trustees and entities that may transfer trust company business; to authorize a savings and loan association or a savings bank board of directors to create committees to carry out certain functions of the board; to modify the Money Transmitter Law, to remove Ohio Peace Officer Training Commission certification as a criterion for serving as a financial institution police officer, to exempt financial institution police officers who are employed as police officers before April 14, 2006, from peace officer training, and to declare an emergency, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 454**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Carey moved to amend the title as follows:

Add the name: "Spada."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Am. Sub. H. B. No. 468**—Representatives Hagan, Miller, Skindell, Chandler, Ujvagi, Evans, C., Williams, McGregor, R., McGregor, J., Flowers, Trakas, Strahorn, Barrett, Beatty, Brown, Cassell, DeBose, DeGeeter, Distel, Domenick, Evans, D., Fende, Fessler, Foley, Garrison, Hartnett, Healy, Hughes, Key, Luckie, Mason, Otterman, Patton, S., Perry, Reidelbach, Sayre, Seaver, Smith, G., Smith, S., Stewart, D., Stewart, J., Wagner, White, D., White, J., Widener, Yates, Yuko.

To amend sections 127.16, 2921.13, 5110.01, 5110.02, 5110.05, 5110.08, 5110.09, 5110.12, 5110.13, 5110.16, 5110.17, 5110.18, 5110.19, 5110.21, 5110.23, 5110.29, 5110.32, 5110.33, 5110.35, 5110.352, 5110.353, 5110.354, 5110.38, 5110.39, 5110.55, 5110.56, 5110.57, 5110.58, and 5110.59; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 5110.05 (5110.14), 5110.07 (5110.16), 5110.08 (5110.17), 5110.09 (5110.18), 5110.12 (5110.20), 5110.13 (5110.21), 5110.16 (5110.22), 5110.17 (5110.23), 5110.18 (5110.24), 5110.19 (5110.25), 5110.21 (5110.27), 5110.23 (5110.54), 5110.29 (5110.11), 5110.32 (5110.42), 5110.33 (5110.43), and 5110.39 (5110.13); to enact new sections 5110.03, 5110.05, 5110.07, 5110.08, 5110.09, 5110.10, 5110.12, 5110.15, 5110.19, 5110.26, 5110.28, 5110.29, 5110.32, and 5110.39 and sections 5110.021, 5110.04, 5110.30, and 5110.31; and to repeal sections 5110.03, 5110.10, 5110.11, 5110.14, 5110.15, 5110.22, 5110.25, 5110.26, 5110.27, 5110.28, and 5110.351 of the Revised Code to modify the Ohio's Best Rx Program; and to amend sections 127.16, 173.06, 173.062, 173.99, 2921.13, 5110.01, 5110.02, 5110.021, 5110.03, 5110.04, 5110.05, 5110.07, 5110.08, 5110.09, 5110.10, 5110.11, 5110.12, 5110.13, 5110.14, 5110.15, 5110.16, 5110.17, 5110.18, 5110.19, 5110.20, 5110.21, 5110.22, 5110.23, 5110.24, 5110.25, 5110.26, 5110.27, 5110.28, 5110.29, 5110.30, 5110.31, 5110.32, 5110.35, 5110.352, 5110.353, 5110.354, 5110.36, 5110.37, 5110.38, 5110.39, 5110.40, 5110.42, 5110.43, 5110.45, 5110.47, 5110.54, 5110.55, 5110.56, 5110.57, 5110.58, and 5110.59; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 173.062 (173.061), 5110.01 (173.71), 5110.02 (173.72), 5110.021 (173.721), 5110.03 (173.73), 5110.04 (173.731), 5110.05 (173.732), 5110.07 (173.74), 5110.08 (173.741), 5110.09 (173.742), 5110.10 (173.75), 5110.11 (173.751), 5110.12 (173.752), 5110.13 (173.753), 5110.14 (173.76), 5110.15 (173.77), 5110.16 (173.771), 5110.17 (173.772), 5110.18 (173.773), 5110.19 (173.78), 5110.20 (173.79), 5110.21 (173.791), 5110.22 (173.80), 5110.23 (173.801), 5110.24 (173.802), 5110.25 (173.803), 5110.26 (173.81), 5110.27 (173.811), 5110.28 (173.812), 5110.29 (173.813), 5110.30 (173.814), 5110.31 (173.815), 5110.32 (173.82), 5110.35 (173.83), 5110.352 (173.831), 5110.353 (173.832), 5110.354 (173.833), 5110.36 (173.84), 5110.37 (173.722), 5110.38 (173.724), 5110.39 (173.861), 5110.40 (173.723), 5110.42 (173.85), 5110.43 (173.86), 5110.45 (173.87), 5110.46 (173.871), 5110.47 (173.872), 5110.48 (173.873), 5110.49 (173.874), 5110.50 (173.875), 5110.51 (173.876), 5110.54 (173.88), 5110.55 (173.89), 5110.56

(173.891), 5110.57 (173.892), 5110.58 (173.90), and 5110.59 (173.91); and to repeal sections 173.061, 173.07, 173.071, 173.072, and 5110.99 of the Revised Code on July 1, 2007, to eliminate the prescription drug component of the Golden Buckeye Card Program and to transfer the Ohio's Best Rx Program to the Department of Aging, was considered the third time.

The question being, "Shall the bill, **Am. Sub. H. B. No. 468**, pass?"

The yeas and nays were taken and resulted - yeas 29, nays 2, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Kearney	Miller D
Miller R	Mumper	Niehaus	Padgett
Prentiss	Roberts	Schuler	Schuring
Spada	Stivers	Wilson	Zurz
			Harris-29.

Senators Jordan and Wachtmann voted in the negative-2.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Spada moved to amend the title as follows:

Add the names: "Spada, Armbruster, Stivers, Miller, D., Fedor."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 546**-Representatives Dolan, Boccieri, Trakas, Evans, D., Seitz, Setzer, Hartnett, Allen, Yuko, Walcher, Chandler, Collier, Cassell, Aslanides, Schlichter, Willamowski, Combs, Widener, McGregor, J., Patton, T., Book, Stewart, D., Beatty, Blessing, Brown, Carano, Carmichael, Coley, Daniels, DeBose, Domenick, Driehaus, Gibbs, Harwood, Hoops, Key, Luckie, Martin, McGregor, R., Otterman, Patton, S., Perry, Sayre, Schneider, Stewart, J., Uecker, Wagoner, Webster, White, J..

To amend sections 3769.083 and 3769.085 and to enact section 3769.22 of the Revised Code to authorize the State Racing Commission to enter into the National Racing Compact in order to provide for the licensure and regulation of individuals involved in the horse racing industry in the Compact states in a specified manner, to change the definition of "Ohio foaled horse," to specify that a thoroughbred mare may leave Ohio for breeding purposes with the Commission's permission and if the mare returns immediately after that activity, to require that all investment earnings on cash balances in the Ohio Thoroughbred Race Fund be credited to the Fund, and to make changes

relating to allocations from the Ohio Standardbred Development Fund for harness races, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 546**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Niehaus moved to amend the title as follows:

Add the names: "Carey, Clancy, Grendell, Harris, Mumper, Niehaus, Schuler, Stivers, Armbruster, Spada, Amstutz."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**H. B. No. 551**-Representatives Latta, Fende, Setzer, Wolpert, Law, McGregor, J., Evans, D., Seitz, Hughes, Bubb, Yuko, Willamowski, Aslanides, Schaffer, Otterman, Combs, Evans, C., Oelslager, Reidelbach, Webster, Buehrer, Patton, T., Beatty, Brown, Chandler, Collier, Daniels, DeBose, Dolan, Domenick, Flowers, Garrison, Gibbs, Gilb, Hagan, Hartnett, Harwood, Hoops, Koziura, Martin, Mason, McGregor, R., Perry, Reinhard, Seaver, Smith, S., Stewart, D., Stewart, J., Strahorn, Uecker, Ujvagi, Williams, Yates.

To amend section 5502.52 of the Revised Code to prohibit a person from making a false report that results in the implementation of the statewide emergency alert program or a local or regional emergency alert program, was considered the third time.

The question being, "Shall the bill, **H. B. No. 551**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Jordan moved to amend the title as follows:

Add the names: "Cates, Gardner, Hottinger, Padgett."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**H. B. No. 571**-Representatives Hughes, Collier, Evans, C., Evans, D., Widener, Latta, Gilb, Mason, Yuko, Key, Seitz, Allen, Barrett, Beatty, Book, Brown, Bulp, Buehrer, Carano, Chandler, Combs, Daniels, DeBose, Dolan, Domenick, Driehaus, Faber, Fende, Garrison, Gibbs, Hartnett, Harwood, Hoops, Law, McGregor, J., Otterman, Patton, S., Patton, T., Perry, Reed, Reidelbach, Schaffer, Schlichter, Schneider, Seaver, Setzer, Smith, G., Stewart, D., Stewart, J., Strahorn, Wagoner.

To amend sections 109.741 and 313.08 and to enact sections 2901.41 and 2901.42 of the Revised Code relative to missing persons in Ohio, was considered the third time.

The question being, "Shall the bill, **H. B. No. 571**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

So the bill passed.



The question being, "Shall the title be agreed to?"

Senator Stivers moved to amend the title as follows:

Add the names: "Stivers, Cates."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 87**-Representatives Willamowski, C. Evans, McGregor, Seitz, Perry, S. Smith, Hartnett, Taylor, Martin, Hagan, Reidelbach, Hood, Barrett, Brown, DeBose, Fessler, Kearns, Otterman, Schneider, Seaver, Allen, Aslanides, Blessing, Book, Bulp, Carano, Cassell, Chandler, Collier, Combs, Core, Domenick, Faber, Flowers, Gibbs, Gilb, Harwood, Hughes, Key, Mason, Oelslager, S. Patton, T. Patton, Schaffer, Schlichter, Setzer, D. Stewart, J. Stewart, Strahorn, Uecker, Webster, Yates, Yuko, Reinhard.

To amend section 5120.55 of the Revised Code to permit the Department of Rehabilitation and Correction to extend the physician recruitment program it is authorized to establish to registered nurses and licensed practical nurses, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 87**, pass?"

Senator Coughlin moved to amend as follows:

In line 17, delete "149.43,"

In line 18, delete "be amended and section 103.80"

In line 19, delete "enacted" and insert "amended"

In line 94, reinsert "not"; reinsert "unless"

In line 99, reinsert "at"

Reinsert line 100

In line 101, reinsert "member of the committee are present for the inspection"; delete "by at least"

Delete line 102

In line 103, delete "the members appointed to the committee"

Delete lines 160 through 516

In line 1821, delete "149.43,"

Delete lines 1843 through 1851

In line 2 of the title, delete "149.43,"

In line 4 of the title, delete "and to enact section 103.80"

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Roberts	Schuler	Schuring
Spada	Stivers	Wachtmann	Wilson
Zurz			Harris-30.

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 87**, pass?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Roberts	Schuler	Schuring
Spada	Stivers	Wachtmann	Wilson
Zurz			Harris-30.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Coughlin moved to amend the title as follows:

Add the names: "Coughlin, Spada, Harris."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

### MOTIONS

Senator Jacobson moved that Senators absent the week of Sunday, December 10, 2006, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

**OFFERING OF RESOLUTIONS**

Senator Prentiss offered the following resolution:

**S. R. No. 275**-Senators Prentiss, Amstutz, Armbruster, Austria, Carey, Cates, Clancy, Coughlin, Dann, Fedor, Fingerhut, Gardner, Goodman, Grendell, Hagan, Harris, Hottinger, Jacobson, Jordan, Kearney, Miller, D., Miller, R., Mumper, Niehaus, Padgett, Roberts, Schuler, Schuring, Spada, Stivers, Wachtmann, Wilson, Zurz.

Honoring Troy Smith as the 2006 Heisman Trophy winner.

The question being, "Shall the resolution, **S. R. No. 275**, be adopted?"

So the resolution was adopted.

On the motion of Senator Jacobson the Senate recessed.

The Senate met pursuant to the recess.

**Message from the House of Representatives**

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

**Am. Sub. S. B. No. 116** - Senators Spada, Gardner, Schuring, Hottinger, Fedor, Fingerhut, Miller, R., Hagan, Dann, Zurz, Jacobson, Roberts, Prentiss, Austria, Harris, Armbruster, Goodman, Kearney, Miller, D. Representatives Redfern, Schneider, Smith, S., Peterson, Mason, Brown, Otterman, Barrett, Blessing, Boccieri, Book, Calvert, Carano, Cassell, Chandler, Collier, DeBose, DeGeeter, Distel, Domenick, Driehaus, Evans, C., Fende, Flowers, Foley, Garrison, Hartnett, Key, Kilbane, Koziura, Mitchell, Oelslager, Patton, S., Patton, T., Perry, Sayre, Schlichter, Seitz, Skindell, Stewart, D., Strahorn, Sykes, Ujvagi, Wagoner, Williams, Yates, Yuko, Hoops, Stewart, J.

To amend sections 1739.05, 1751.01, 1751.02, 3923.28, 3923.30, and 3923.51 and to enact sections 3923.281 and 3923.282 of the Revised Code to prohibit, subject to certain exceptions, discrimination in group health care policies, contracts, and agreements in the coverage provided for the diagnosis, care, and treatment of biologically based mental illnesses, and to prohibit for ninety days, the establishment of special hospitals in counties with a population of more than one hundred forty thousand but less than one hundred fifty thousand individuals.

As a substitute bill with the following additional amendments, in which the concurrence of the Senate is requested:

After line 846, insert:

**"Section 4.** (A) As used in this section, "special hospital" means a hospital that is primarily or exclusively engaged in the care and treatment of one or more of the following:

- (1) Patients with a cardiac condition.
- (2) Patients with an orthopedic condition.
- (3) Patients receiving a surgical procedure.
- (4) Patients receiving any other specialized category of services specified by the Director of Health.

(B) Except as provided in division (C) of this section, during the ninety-day period beginning on the effective date of this act, no person, political subdivision, or agency or instrumentality of this state shall establish, develop, or construct a special hospital in a county with a population of more than one hundred forty thousand but less than one hundred fifty thousand individuals.

(C) The moratorium in division (B) of this section does not affect a project for which all local permits necessary to begin construction were obtained on or prior to the effective date of this act.

(D) The director of health may petition the court of common pleas of the county in which a special hospital is located for an order enjoining any person, political subdivision, or agency or instrumentality of this state from violating division (B) of this section. Irrespective of any other remedy the director may have in law or equity, the court may grant the order on a showing that the respondent named in the petition is violating division (B) of this section."

In line 8 of the title, after "illnesses" insert ", and to prohibit for ninety days, the establishment of special hospitals in counties with a population of more than one hundred forty thousand but less than one hundred fifty thousand individuals

Attest:

Laura P. Clemens,  
Clerk.

Senator Jacobson moved that the amendments of the House of Representatives to **Am. Sub. S.B. No. 116** , be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 23, nays 7, as follows:

Those who voted in the affirmative were: Senators

Armbruster	Austria	Carey	Clancy
Fedor	Gardner	Goodman	Grendell
Hagan	Hottinger	Kearney	Miller D
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuring	Spada	Stivers
Wilson	Zurz		Harris-23.

Senators Amstutz, Cates, Coughlin, Jacobson, Jordan, Schuler, and Wachtmann voted in the negative-7.

So the Senate concurred in the amendments of the House of Representatives.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

**Am. Sub. S. B. No. 117** - Senators Mallory, Dann, Fedor, Jacobson, Miller, R., Schuler, Amstutz, Zurz, Armbruster, Brady, Clancy, Fingerhut, Goodman, Hagan, Jordan, Mumper, Niehaus, Padgett, Schuring, Wachtmann, Wilson, Harris, Spada, Cates Representatives Aslanides, Blasdel, Blessing, Bulp, Buehrer, Coley, Collier, Flowers, Gibbs, Hood, Raussen, Schaffer, Schneider, Seitz, Setzer, White, D., Wolpert

To amend sections 1345.09, 2307.60, 2307.71, 2307.73, and 2317.02 of the Revised Code to specify the nature of damages that may be recovered in certain actions based on unfair or deceptive sales practices, to provide that a final judgment, entered after a trial or upon a plea of guilty in certain criminal actions generally precludes the offender from denying any fact essential to sustain that judgment when entered in evidence in a civil proceeding that is based on the criminal act, to make an exception to the attorney-client privilege for communications related to an attorney's aiding or furthering an ongoing or future commission of bad faith by a client that is an insurance company, to prohibit the use of enterprise theories of liability against manufacturers in product liability claims, and to include public nuisance claims under the definition of product liability claims.

As a substitute bill with the following additional amendments, in which the concurrence of the Senate is requested:

In line 106, after "violence" insert "punishable by death or imprisonment in excess of one year"

Attest: Laura P. Clemens,  
Clerk.

Senator Jacobson moved that the amendments of the House of Representatives to **Am. Sub. S.B. No. 117** , be brought up for consideration.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 10, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Clancy	Coughlin	Gardner	Goodman
Grendell	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Schuler	Schuring
Spada	Stivers	Wachtmann	Harris-20.

Those who voted in the negative were: Senators

Cates	Fedor	Hagan	Kearney
Miller D	Padgett	Prentiss	Roberts
Wilson			Zurz-10.

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 19, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Clancy	Coughlin	Gardner	Goodman
Grendell	Hottinger	Jordan	Mumper
Niehaus	Schuler	Schuring	Spada
Stivers	Wachtmann		Harris-19.

Those who voted in the negative were: Senators

Cates	Fedor	Hagan	Jacobson
Kearney	Miller D	Miller R	Padgett
Prentiss	Roberts	Wilson	Zurz-12.

So the Senate concurred in the amendments of the House of Representatives.

Senator Hagan moved to amend the title as follows:

Remove the name: "Hagan."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Cates moved to amend the title as follows:

Remove the name: "Cates."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Miller, R. moved to amend the title as follows:

Remove the name: "Miller, R.."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Wilson moved to amend the title as follows:

Remove the name: "Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Padgett moved to amend the title as follows:

Remove the name: "Padgett."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Zurz moved to amend the title as follows:

Remove the name: "Zurz."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Fedor moved to amend the title as follows:

Remove the name: "Fedor."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Jacobson moved to amend the title as follows:

Remove the name: "Jacobson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Spada moved to amend the title as follows:

Remove the name: "Spada."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Armbruster moved to amend the title as follows:

Remove the name: "Armbruster."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

**MESSAGE FROM THE PRESIDENT**

December 14, 2006

President Bill Harris  
Ohio Senate  
Statehouse  
Room 201, Second Floor  
Columbus, OH 43215

Dear President Harris:

I would like to respectfully request that my name be removed as a co-sponsor of Senator Mallory's SB 117.

Thank you for your consideration of this request.

Sincerely,  
/s/ Dan Brady  
Dan Brady

Senator Jacobson moved to amend the title as follows:

Remove the name: "Brady."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

**MESSAGE FROM THE PRESIDENT**

December 14, 2006

President Bill Harris  
Ohio Senate  
Statehouse  
Room 201, Second Floor  
Columbus, OH 43215

Dear President Harris:

Due to the fact that my flight from Washington D.C. this morning was cancelled, I have been unable to attend session today. I have made every effort to return to Ohio, but inclement weather has kept me from doing so. I would like to respectfully request that my name be removed as a co-sponsor of



Senator Mallory's SB 117.

Thank you for your consideration of this request.

Sincerely,  
/s/Marc Dann  
Marc Dann

Senator Jacobson moved to amend the title as follows:

Remove the name: "Dann."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

#### **MESSAGE FROM THE PRESIDENT**

December 14, 2006

President Bill Harris  
Ohio Senate  
Statehouse  
Room 201, Second Floor  
Columbus, OH 43215

Dear President Harris:

Unfortunately, I was unable to be in Senate Session today, December 14, 2006. It has been brought to my attention that Senate Bill 117, a bill that I am a co-sponsor of, will be voted on today. I am respectfully requesting that my name be removed from the list of co-sponsors.

Thank you for your consideration.

Sincerely yours,  
/s/ Eric D. Fingerhut

Senator Jacobson moved to amend the title as follows:

Remove the name: "Fingerhut."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

#### **MESSAGE FROM THE PRESIDENT**

December 14, 2006

Dear Senate President Harris,  
Please remove my name as the sponsor of Senate Bill 117.  
Sincerely,

/s/ Mark Mallory  
Mayor

Senator Jacobson moved to amend the title as follows:

Remove the name: "Mallory."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

**Am. Sub. S. B. No. 171** - Senators Coughlin, Zurz  
Representatives Blessing, Bocchieri, Coley, Combs, DeBose, Evans, C.,  
Hughes, Key, Luckie, McGregor, J., Otterman, Williams

To amend sections 1901.01, 1901.02, 1901.03, 1901.07, 1901.08, 1901.31, 1901.34, 1907.11, and 2501.012 of the Revised Code, to create the Carroll County Municipal Court and abolish the Carroll County County Court on January 1, 2007, to provide one full-time judge for the Carroll County Municipal Court to be elected in 2009, to create the Erie County Municipal court on January 1, 2008, to establish one full-time judgeship in that court, to abolish the Erie County County Court on that date, to provide for the election for the Erie County Municipal Court of one full-time judge in 2007, to add one additional judge to the Twelfth District Court of Appeals to be elected at the 2008 general election, to abolish the Cuyahoga Falls Municipal Court and to create the Stow Municipal Court as its replacement effective January 1, 2009, to clarify that the former township of Northampton is no longer within the jurisdiction of the Akron Municipal Court, to amend the versions of sections 1901.01, 1901.02, 1901.03, 1901.08, 1901.31, 1901.34, and 1907.11 of the Revised Code that are scheduled to take effect January 18, 2007, to continue the provisions of this act on and after that effective date, and to declare an emergency.

As a substitute bill with the following additional amendments, in which the concurrence of the Senate is requested:

In line 30, delete "109.57, 109.60,"

In line 32, delete "be amended and sections 1901.43, 1907.181, and 2301.10"

In line 33, delete "enacted" and insert "amended"

Delete lines 34 through 552

Delete lines 2051 through 2077

Delete lines 2160 through 2213

In line 2301, delete "109.57, 109.60,"

In line 1 of the title, delete "109.57, 109.60,"

In line 3 of the title, delete "and to enact sections"

In line 4 of the title, delete "1901.43, 1907.181, and 2301.10"

Delete line 20 of the title

In line 21 of the title, delete "fingerprinted, to"

Attest:

Laura P. Clemens,  
Clerk.

Senator Jacobson moved that the amendments of the House of Representatives to **Am. Sub. S.B. No. 171**, be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the section, Section 10, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 29, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Schuler	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-29.

Senator Roberts voted in the negative-1.

So the section, Section 10, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 29, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fedor
Gardner	Goodman	Grendell	Hagan

Hottinger	Jacobson	Jordan	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Stivers	Wachtmann	Wilson	Zurz
			Harris-29.

Senator Spada voted in the negative-1.

So the Senate concurred in the amendments of the House of Representatives.

### CLERK'S NOTATION

Pursuant to section 10, Article II of the Constitution of the State of Ohio, the following protest was filed by Senator C.J. Prentiss on December 14, 2006:

The undersigned State Senators protest the Senate's concurrence with the House amendments to Substitute Senate Bill 117, which was originally sponsored by former State Senator Mark Mallory, now the Mayor of the City of Cincinnati.

Members of majority party in the other chamber hijacked Sub. S.B. 117, which originally passed the Senate by a vote of 31-0, by using it as a vehicle to protect deceptive businesses and lead paint manufacturers at the expense of Ohio consumers and children.

The impact of the House amendments to Sub. S.B. 117 will be devastating. Sub. S.B. 117 will now cap damages for humiliation, anguish and embarrassment at \$5,000, regardless of how badly an individual is harmed by a business's deception. With this cap, Ohio becomes only the second state in the country to cap "noneconomic" damages. The likely result is that unscrupulous businesses will build this \$5,000 cap into their cost of doing business. As a result, deceptive acts will go largely undeterred. Ohio consumers deserve better treatment from the Ohio Senate.

Sub. S.B. 117 also virtually eliminates the ability of Ohioans, including Ohio cities, from seeking to hold the manufacturers of lead paint accountable for creating a public nuisance by poisoning Ohio children. Lead poisoning is a serious public health problem that can cause disabilities and that disproportionately impacts African-American children. Over half of lead poisoned children in Ohio live in our state's largest urban counties, which have disproportionately higher percentages of African-American homeowners and tenants.

The problem, however, is not confined to urban counties. Seven of the counties with the highest percentage of lead poisoned children are in rural southeast Ohio. Because of the high cost, individual homeowners and cities are unable to pay for lead paint remediation. It is only fair that cities should have the opportunity to prove that manufacturers that allegedly created a

public nuisance with their lead paint and thus should have to help pay the cost of clean-up. This bill virtually forecloses that possibility.

Finally, Sub. S.B. 117 was a widely supported bill sponsored by a former member of the Ohio Senate. The weakening of Ohio consumer protection laws is such an enormous leap backwards that Mayor Mallory testified against his own bill and requested that his name be removed. Other current and former members of the Senate have followed in asking that their names be removed from the bill.

For the reasons stated above, we respectfully protest the Senate decision to concur with the House amendments to S.B. 117.

Senator C.J. Prentiss  
Minority Leader

Senator Kimberly Zurz  
Assistant Minority Leader

Senator Teresa Fedor  
Minority Whip

Senator Tom Roberts  
Assistant Minority Whip

Senator Robert Hagan

Senator Eric Kearney

Senator Dale Miller

Senator Charlie Wilson

On the motion of Senator Jacobson, the Senate adjourned until Friday, December 15, 2006 at 9:30 a.m.

Attest:

DAVID A. BATTOCLETTI,  
Clerk.