

OHIO

SENATE

JOURNAL

TUESDAY, APRIL 17, 2007

THIRTY-FIFTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, April 17, 2007, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Gribble, St. Joseph's Cathedral, Columbus, 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:

S. B. No. 132-Senator Schuring.

Cosponsors: Senators Harris, Padgett, Gardner, Spada, Clancy, Schaffer, Faber, Miller, D., Cafaro, Goodman.

To enact section 4503.433 of the Revised Code to authorize the display of combat battle stars on certain special combat or military license plates.

To the Committee on Highways and Transportation.

S. B. No. 133-Senator Schuring.

Cosponsors: Senators Schaffer, Faber, Mumper, Schuler, Goodman, Coughlin.

To amend sections 5747.01 and 5747.02 and to enact section 5747.014 of the Revised Code to reduce the income tax rate on capital gains reinvested in Ohio-based investments.

To the Committee on Ways and Means and Economic Development.

S. B. No. 134-Senator Faber.

To amend sections 5301.01 and 5301.255 of the Revised Code to provide that memoranda of trust be executed and acknowledged only by the trustee of the trust instead of both the settlor and trustee.

To the Committee on Judiciary - Civil Justice.

S. B. No. 135-Senator Amstutz.

Cosponsors: Senators Carey, Gardner, Schaffer, Schuler, Schuring, Spada.

To amend sections 927.55 and 927.61 of the Revised Code to exempt from license fees a person who is not a nurseryman, dealer, or collector and who makes no more than \$1,000 in sales of nursery stock during a calendar year and to exempt from nursery stock inspection and certification a person who is not a nurseryman, dealer, or collector and who makes no more than \$500 in sales of nursery stock during a calendar year.

To the Committee on Agriculture.

S. B. No. 136-Senator Mumper.

Cosponsors: Senators Spada, Schuler.

To amend sections 4301.20, 4301.333, 4301.334, 4301.351, 4301.354, 4301.355, 4301.356, 4301.361, 4301.364, 4301.365, 4301.366, and 4303.182 of the Revised Code to authorize certain Sunday liquor sales to begin at 11 a.m. even if those sales previously were approved by the voters to commence at 1 p.m., to change from 1 p.m. to 11 a.m. the time at which Sunday liquor sales may start as specified in certain local option questions submitted to the voters, and to clarify that the Liquor Control and Liquor Permits Laws do not prevent the manufacture, sale, and transport of ethanol or ethyl alcohol for use as fuel.

To the Committee on Agriculture.

S. B. No. 137-Senator Austria.

Cosponsors: Senators Carey, Clancy, Coughlin, Goodman, Schaffer, Cafaro, Boccieri.

To amend section 2903.13 of the Revised Code to increase the penalty for assault when the victim of the offense is seventy years of age or older.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 138-Senator Schaffer.

Cosponsors: Senators Spada, Schuring, Padgett.

To enact section 5111.0119 of the Revised Code regarding coverage of occupational therapy services under the Medicaid program.

To the Committee on Finance and Financial Institutions.

S. B. No. 139-Senator Mumper.

Cosponsors: Senators Niehaus, Jacobson.

To amend sections 3354.16, 3355.12, 3357.16, and 4115.04 and to enact sections 153.53 and 3318.101 of the Revised Code to permit state institutions of higher education to use either single or multiple prime bidding for public improvement projects; to exempt from the Prevailing Wage Law projects constructed by state institutions of higher education and projects constructed by private, non-profit organizations that receive public moneys to construct those projects; and to prohibit the Ohio School Facilities Commission from approving school district projects that specify the payment of prevailing wages.

To the Committee on Finance and Financial Institutions.

S. B. No. 140-Senator Padgett.

Cosponsor: Senator Schaffer.

To amend section 4517.22 of the Revised Code to allow the sale of all-purpose vehicles at an outdoor show held annually on the campus of a technical college that is not co-located with another institution of higher education notwithstanding the restrictions on motor vehicle shows.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 141-Senator Padgett.

Cosponsors: Senators Schuring, Gardner.

To amend sections 3314.015 and 3314.021 and to enact section 3314.19 of the Revised Code; to amend Section 6 of Sub. H.B. 364 of the 124th General Assembly; and to amend Section 6 of Sub. H.B. 364 of the 124th General Assembly for the purpose of codifying it as section 3314.027 of the Revised Code to make changes in the law regarding the approval and monitoring by the Department of Education of community school sponsors.

To the Committee on Education.

YES - 5: JEFF JACOBSON, J. KIRK SCHURING, TOM ROBERTS, TERESA FEDOR, BILL HARRIS.

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 Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 16** - By Initiative, having had the same under consideration, reports it back and recommends its passage.

YES - 7: GARY W. CATES, TIMOTHY J. GRENDALL, LARRY A. MUMPER, JOHN A. CAREY, TOM NIEHAUS, CAPRI S. CAFARO, JOHN A. BOCCIERI.

NO - 2: SHIRLEY A. SMITH, ROBERT L. SCHULER.

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

The report of the committee was accepted.

Senator Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 96**-Senator Cates, having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Carey.

YES - 8: GARY W. CATES, TIMOTHY J. GRENDALL, LARRY A. MUMPER, JOHN A. CAREY, CAPRI S. CAFARO, SHIRLEY A. SMITH, ROBERT L. SCHULER, JOHN A. BOCCIERI.

NO - 1: TOM NIEHAUS.

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

The report of the committee was accepted.

Senator Schuring submitted the following report:

The standing committee on Rules to which were referred the appointments

by the Governor of:

Sally A. Banfield, Independent, from Mt. Perry, Perry County, Ohio, as a Member of the Environmental Education Council for a term beginning December 22, 2006 and ending at the close of business October 1, 2008.

Anne E. Barnett, Republican, from Junction City, Perry County, Ohio, as a Member of the Board of Nursing for a new term beginning January 5, 2007 and ending at the close of business December 31, 2010.

Frances E. Beasley, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Environmental Education Council for a new term beginning December 22, 2006 and ending at the close of business October 1, 2008.

Pamela L. Bradshaw, Democrat, from Wheelersburg, Lake County, Ohio, as a Member of the State Board of Emergency Medical Services for a term beginning December 8, 2006 and ending at the close of business November 12, 2009, replacing James Cress, whose term expired.

Fred Dailey, Republican, from Mt. Vernon, Knox County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a term beginning January 5, 2007 and ending at the close of business October 10, 2007, replacing Joseph Williams, who resigned.

Elaine M. Georgas, Democrat, from Lorain, Lorain County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Services for a term beginning December 8, 2006 and ending at the close of business July 31, 2008, replacing John Bohley, whose term expired.

Jonathan I. Groner, from Bexley, Franklin County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning December 8, 2006 and ending at the close of business November 12, 2009.

Karen Huey, Republican, from Columbus, Franklin County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a term beginning January 6, 2007 and ending at the close of business October 10, 2009, replacing Orest Holubec, whose term expired.

Anna Villarreal Jenkins, Republican, from Chillicothe, Ross County, Ohio, as a Member of the State Chiropractic Board for a new term beginning December 8, 2006 and ending at the close of business November 2, 2010.

Carl A. Jordan, Independent, from Massillon, Stark County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning December 8, 2006 and ending at the close of business November 12, 2009.

Russell S. Kaye, Independent, from North Ridgeville, Lorain County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Services for a term beginning December 8, 2006 and ending at the close of business July 31, 2008.

Jill Willen Kennelly, Republican, from Columbus, Franklin County, Ohio,

as a Member of the Tobacco Use Prevention and Control Foundation for a term beginning January 2, 2007 and ending at the close of business June 3, 2011, replacing Rebecca Zuccarelli, who resigned.

Sean Logan, from Columbiana County, Ohio, as Director of Natural Resources, for a term beginning January 8th 2007.

Michael D. Long, Republican, from Grove City, Franklin County, Ohio, as a Member of the Recycling and Litter Prevention Advisory Council for a new term beginning January 2, 2007 and ending at the close of business November 18, 2009.

Mark L. Marchetta, Democrat, from Akron, Summit County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning December 8, 2006 and ending at the close of business November 12, 2009.

Ronnie L. Marquardt, Democrat, from Rayland, Belmont County, Ohio, as a Member of the Reclamation Commission for a term beginning December 22, 2006 and ending at the close of business June 28, 2011.

Richard J. Maynard, Republican, from Lancaster, Fairfield County, Ohio, as a Member of the State Chiropractic Board for a term beginning December 8, 2006 and ending at the close of business November 2, 2010, replacing Steven M. Bleser, whose term expired.

Kimberly S. McConville, Republican, from Mt. Vernon, Knox County, Ohio, as a Member of the Recycling and Litter Prevention Advisory Council for a new term beginning January 2, 2007 and ending at the close of business November 18, 2009.

Daryl J. McNutt, Republican, from Whitehouse, Lucas County, Ohio, as a Member of the State Board of Emergency Medical Services for a term beginning December 8, 2006 and ending at the close of business November 12, 2009, replacing Raymond Walendzak, whose term expired.

Janice T. Mercier, Democrat, from Akron, Summit County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Services for a term beginning December 8, 2006 and ending at the close of business July 31, 2008, replacing Pamela Bradford, whose term expired.

Bernadine P. Neal, Democrat, from Columbus, Franklin County, Ohio, as a Member of the State Board of Cosmetology for a term beginning January 2, 2007 and ending at the close of business October 31, 2011, replacing Valeria McPherson, whose term expired.

Robert L. Payne, Jr., Democrat, from Cincinnati, Hamilton County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Services for a term beginning December 8, 2006 and ending at the close of business July 31, 2008, replacing Sherry Knapp, whose term expired.

Anthony L. Pollard, Independent, from Portsmouth, Scioto County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Services for a

term beginning December 8, 2006 and ending at the close of business July 31, 2008, replacing Kenneth Bond, whose term expired.

Mark N. Resanovich, Independent, from Uniontown, Summit County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning December 8, 2006 and ending at the close of business November 12, 2009.

Alan E. Robbins, Republican, from Chippewa Lake, Medina County, Ohio, as a Member of the Recycling and Litter Prevention Advisory Council for a new term beginning January 2, 2007 and ending at the close of business November 18, 2009.

Michael B. Senter, Democrat, from Galion, Richland County, Ohio, as a Member of the State Board of Emergency Medical Services for a term beginning December 8, 2006 and ending at the close of business November 12, 2009, replacing Timothy Jakacki, whose term expired.

Richard L. Shank, Independent, from Powell, Delaware County, Ohio, as a Member of the Environmental Education Council for a new term beginning December 22, 2006 and ending at the close of business October 1, 2008.

Geoffrey C. Smith, Republican, from Columbus, Franklin County, Ohio, as a Member of the State Veterinary Medical Licensing Board for a term beginning January 5, 2007 and ending at the close of business December 31, 2009, replacing John W. Bentine, whose term expired.

Daniel P. Snouffer, Republican, from Gahanna, Knox County, Ohio, as a Member of the Ohio Fair Plan Underwriting Association Board of Governors for a term beginning January 2, 2007 and ending at the close of business September 18, 2008, replacing Charles Call, whose term expired.

Dawn R. Spurlock, Democrat, from Grand Rapids, Wood County, Ohio, as a Member of the Recycling and Litter Prevention Advisory Council for a new term beginning January 2, 2007 and ending at the close of business November 18, 2009.

Kenneth Trivison, Independent, from Willoughby, Lake County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a new term beginning January 2, 2007 and ending at the close of business October 10, 2009.

Molly S. Tucker, Republican, from Englewood, Montgomery County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a term beginning January 2, 2007 and ending at the close of business October 10, 2009.

Donald F. Welker, Republican, from Chardon, Geauga County, Ohio, as a Member of the State Fire Commission for a term beginning January 5, 2007 and ending at the close of business October 31, 2010, replacing Ron J. Landis, whose term expired.

Jan A. White, Democrat, from Clayton, Montgomery County, Ohio, as a

Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a new term beginning January 2, 2007 and ending at the close of business October 10, 2009.

Bradford G. Williams, Republican, from Medina, Medina County, Ohio, as a Member of the Council on Alcohol and Drug Addiction Services for a term beginning December 8, 2006 and ending at the close of business July 31, 2008, replacing Thurman Hughes, whose term expired.

Eric J. Yoon, Republican, from Springboro, Warren County, Ohio, as a Member of the Board of Nursing for a term beginning January 5, 2007 and ending at the close of business December 31, 2010, replacing Bertha M. Lovelace, whose term expired.

Having had the same under consideration, reports back the recommendation that the Senate advise and consent to said appointments.

YES - 10: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER, ROBERT F. SPADA, LANCE T. MASON, RAY MILLER, J. KIRK SCHURING, TOM ROBERTS, TERESA FEDOR, JOHN A. CAREY.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Schaffer	Schuler	Schuring	Smith
Spada	Stivers	Wilson	Harris-32.

So the Senate advised and consented to said appointments.

BILLS FOR THIRD CONSIDERATION

S. B. No. 16 - By Initiative.

To enact sections 3768.01, 3768.02, and 3768.03 of the Revised Code to generally regulate sexually oriented businesses.

The question being, "Shall the bill, **S. B. No. 16**, pass?"

Senator Kearney rose to a point of order and requested a ruling of the Chair.

The Chair ruled the point not well taken.

Senator Kearney appealed from the decision of the Chair.

The question being, "Shall the decision of the Chair stand as the judgment of the Senate?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 10, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Buehrer	Carey
Cates	Clancy	Coughlin	Faber
Gardner	Goodman	Grendell	Jacobson
Miller D	Mumper	Niehaus	Padgett
Schaffer	Schuler	Schuring	Spada
Stivers			Harris-22.

Those who voted in the negative were: Senators

Boccieri	Cafaro	Fedor	Kearney
Mason	Miller R	Morano	Roberts
Smith			Wilson-10.

The decision of the Chair was sustained.

The question recurred, "Shall the bill, **S. B. No. 16**, pass?"

Senator Mason moved that **S. B. No. 16** be laid upon the table.

The question being, "Shall the bill, **S. B. No. 16**, be laid upon the table?"

The yeas and nays were taken and resulted - yeas 12, nays 20, as follows:

Those who voted in the affirmative were: Senators

Boccieri	Cafaro	Fedor	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Roberts	Smith	Wilson-12.

Those who voted in the negative were: Senators

Amstutz	Austria	Buehrer	Carey
Cates	Clancy	Coughlin	Faber
Gardner	Goodman	Grendell	Jacobson
Niehaus	Padgett	Schaffer	Schuler
Schuring	Spada	Stivers	Harris-20.

The bill was not laid upon the table.

The question recurred, "Shall the bill, **S. B. No. 16**, pass?"

Senator Smith moved that **S. B. No. 16** be recommitted to the Committee on State and Local Government and Veterans' Affairs.

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

The yeas and nays were taken and resulted - yeas 11, nays 21, as follows:

Those who voted in the affirmative were: Senators

Boccieri	Cafaro	Fedor	Kearney
Mason	Miller D	Morano	Mumper
Roberts	Smith		Wilson-11.

Those who voted in the negative were: Senators

Amstutz	Austria	Buehrer	Carey
Cates	Clancy	Coughlin	Faber
Gardner	Goodman	Grendell	Jacobson
Miller R	Niehaus	Padgett	Schaffer
Schuler	Schuring	Spada	Stivers
			Harris-21.

The motion to recommit was not agreed to.

The question recurred, "Shall the bill, **S. B. No. 16**, pass?"

The yeas and nays were taken and resulted - yeas 24, nays 8, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Gardner	Grendell
Jacobson	Kearney	Mason	Miller R
Niehaus	Padgett	Schaffer	Schuring
Spada	Stivers	Wilson	Harris-24.

Senators Fedor, Goodman, Miller D, Morano, Mumper, Roberts, Schuler, and Smith voted in the negative-8.

So the bill passed.

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

Senator Amstutz moved to amend the title as follows:

Add the name: "Amstutz."

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

The motion was agreed to and the title so amended.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bills were introduced and considered the first time:

S. B. No. 142-Senator Schuler.

Cosponsors: Senators Buehrer, Mason.

To amend section 5739.02 of the Revised Code to temporarily exempt from

sales and use taxes sales of certain energy-efficient appliances

S. B. No. 143-Senator Padgett.

Cosponsors: Senators Spada, Carey, Gardner, Boccieri, Schuler, Clancy, Miller, R., Kearney.

To amend sections 4753.02, 4753.05, and 4753.11 and to enact sections 4753.073 and 4753.101 of the Revised Code to establish a limited student permit category for speech language pathology interns, and to declare an emergency.

S. B. No. 144-Senator Stivers.

Cosponsors: Senators Goodman, Miller, D., Schuler, Gardner.

To enact sections 3701.63, 3701.64, and 5101.135 of the Revised Code to require the Director of Health to establish the Shaken Baby Syndrome Education Program and to require the Department of Job and Family Services to record in the statewide automated child welfare information system whether a reported case of child abuse involved shaken baby syndrome.

S. B. No. 145-Senator Stivers.

Cosponsors: Senators Schuring, Gardner, Goodman.

To amend sections 2921.331, 4510.036, and 4510.31 of the Revised Code to prohibit a person from fleeing from a law enforcement officer who gives a lawful order to stop.

OFFERING OF RESOLUTIONS

Pursuant to Senate Rule No. 54, the following resolutions were offered:

S. R. No. 45-Senator Harris.

Recognizing the Governor's Twenty-seventh Annual Holocaust Commemoration, April 18, 2007.

S. R. No. 46-Senator Wilson.

Honoring the Steubenville High School football team on winning the 2006 Division III State Championship.

S. R. No. 47-Senator Stivers.

Honoring the Upper Arlington High School girls swimming and diving team on winning the 2007 Division I State Championship.

The question being, "Shall the resolutions listed under the President's prerogative be adopted?"

So the resolutions were adopted.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 4501.025 of the Ohio Revised Code, the President of the Senate reappoints the following public members to serve on the Citizens Advisory Committee within the Bureau of Motor Vehicles:

Philip E. Lattavo
(term beginning April 4, 2007 and ending April 4, 2010 or until the Committee ceases to exist)
Canton, Ohio 44708

Charles C. Howard
(term beginning April 4, 2007 and ending April 4, 2010 or until the Committee ceases to exist)
Dublin, Ohio 43017

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3701.77 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Governor's Advisory Council on Physical Fitness, Wellness & Sports:

Senator Clancy
Senator Sawyer

MESSAGE FROM THE PRESIDENT

Pursuant to Section 4928.58 (A) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Public Benefits Advisory Board:

Senator Spada
Senator Morano

MESSAGE FROM THE PRESIDENT

Pursuant to Section 183.12 (G) (H) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve as nonvoting members on the Southern Ohio Agricultural and Community Development Foundation:

Senator Niehaus
Senator Wilson

MESSAGE FROM THE PRESIDENT

Pursuant to Section 1513.29 of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Council on Unreclaimed Strip Mined Lands:

Senator Schaffer (4-year term ending April 13, 2011)

Senator Wilson (4-year term ending April 13, 2011)

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3353.07 (B) (1) of the Ohio Revised Code, the President of the Senate appoints the following members to serve on the Legislative Programming Committee of the Ohio Government Telecommunications service:

Senator Jacobson (Senate President's designee)

Senator Boccieri (Senate Minority Leader's designee)

MESSAGE FROM THE PRESIDENT

Pursuant to Section 148.02 of the Ohio Revised Code, the President of the Senate appoints Senator Sawyer to serve on the Public Employees Deferred Compensation Board.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 1502.04 of the Ohio Revised Code, the President of the Senate appoints Senator Sawyer to serve on the Recycling and Litter Prevention Advisory Council.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 4121.12 (E) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve on the Workers' Compensation Oversight Commission:

Senator Stivers (as Chair of the Senate Insurance, Commerce and Labor Committee)

Senator Kearney (as Ranking Minority Member of the Senate Insurance, Commerce and Labor Committee)

MESSAGE FROM THE PRESIDENT

Pursuant to House Concurrent Resolution No. 7, the President of the Senate appoints the following senators to serve on the Committee to Wait Upon the Chief Justice of the Ohio Supreme Court:

Senator Jacobson

Senator Gardner

Senator Spada
Senator Austria
Senator Fedor
Senator Roberts
Senator R. Miller
Senator Mason

On the motion of Senator Jacobson, the Senate adjourned until Wednesday,
April 18, 2007, 1:30 p.m.

Attest:

DAVID A. BATTOCLETTI,
Clerk.