

[CORRECTED]

# JOURNAL OF THE HOUSE

Second Regular Session, 96th GENERAL ASSEMBLY

---

SEVENTY-SEVENTH DAY, WEDNESDAY, MAY 30, 2012

The House met pursuant to adjournment.

Representative Dugger in the Chair.

Prayer by Msgr. Robert A. Kurwicki, Chaplain.

Glory be to the Father and to the Son and to the Holy Ghost.

And the House says, "Amen!"

The Pledge of Allegiance to the flag was recited.

Speaker Tilley assumed the Chair.

## SIGNING OF HOUSE BILLS

All other business of the House was suspended while **HB 1029, SCS HB 1036, HB 1037, HB 1039, SCS HCS HB 1042, SS SCS HCS HB 1094, HB 1103, HB 1105, SS HCS HB 1106, HCS HB 1108, SCS HB 1112, SS HB 1128, HB 1131, CCS SCS HB 1135, HB 1141, SS SCS HCS HB 1150, HCS HB 1171, HB 1172, HB 1179, HB 1188, HB 1231, HB 1236, HB 1250, SS SCS HB 1251, SS SCS HCS HB 1280, HCS HB 1308, HB 1315, SS HB 1318, SCS HCS#2 HB 1323, HCS HB 1340, SS SCS HCS HB 1400, CCS SS SCS HCS HB 1402, HB 1424, SCS HB 1460, HCS#2 HB 1462, SCS HCS HB 1495, SS SCS HCS HB 1498, SCS HB 1504, SCS HCS HB 1525, HCS HB 1527, HB 1540, HCS HB 1549, SS SCS HCS HB 1563, SS HCS HB 1576, HB 1577, HCS HB 1608, HCS HB 1644, SS HCS HB 1647, SCS HCS HBs 1659 & 1116, HCS HB 1661, HB 1680, SS SCS HCS HB 1731, SCS HCS HB 1789, SS SCS HB 1807, HB 1093, HB 1107, HB 1156, HB 1221, HB 1261, HB 1269, HB 1641, HB 1668, HB 1737, HB 1782, HB 1868 & HB 1878, HCS HB 1818, SS SCS HB 1820, SCS HCS HB 1827, HCS HB 1900, HB 1909, SS HCS HB 2001, CCS SS SCS HCS HB 2002, CCS SS SCS HCS HB 2003, CCS SS SCS HCS HB 2004, CCS SS SCS HCS HB 2005, CCS SS SCS HCS HB 2006, CCS SS SCS HCS HB 2007, CCS SS SCS HCS HB 2008, CCS SS SCS HCS HB 2009, CCS SS SCS HCS HB 2010, CCS SS SCS HCS HB 2011, CCS SS SCS HCS HB 2012 and CCS SS SCS HCS HB 2013** were read at length and, there being no objection, were signed by the Speaker to the end that the same may become law.

Representative Marshall offered an objection to **SS HCS HB 1329**, which was appended to the bill.

OBJECTION TO SIGNING AND ENACTMENT OF  
SENATE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 1329

WHEREAS, Article III, Section 30 of the Constitution of the State of Missouri provides if any member shall object in writing to the signing of a bill, the objection shall be noted in the journal and annexed to the bill to be considered by the governor in connection therewith; and

WHEREAS, Senate Substitute for House Committee Substitute for House Bill 1329 (SS for HCS for HB1329) violates the Missouri Constitution in the following manner:

1. The Missouri Supreme Court on January 31, 2012 in *Street v. Director of Revenue* determined that State Law allows only for the imposition and collection of sales tax if the sale occurs within Missouri. This was applied to the collection of local sales taxes as a political subdivision may only impose a tax only to the extent allowed under the state sales tax.
2. SS for HCS for HB1329 attempts to abrogate *Street v. Director of Revenue* and impose a sales tax on all sales or motor vehicles, trailers, boats and outboard motors, within and outside of Missouri's boundaries at the time of registration with the Department of Revenue; this includes imposition of a local sales tax.
3. This Bill requires the tax to be imposed retroactively.
4. Missouri Constitution Article X Section 18(e) prohibits the General Assembly from increasing taxes or fees without voter approval that in total produce new annual revenues greater than 50 million adjusted annually, or one percent of total state revenues for the second fiscal year prior to the General Assembly's action, or whichever is less. The Section also requires any such tax or fee that exceeds the limit to be submitted to a public vote. Finally, the Section clarifies that an "increase in taxes or fees" means any law or laws passed by the General Assembly which broaden the scope of a tax or fee.
5. Missouri Constitution Article X Section 22 prohibits the levying of any local tax, license or fees not authorized when Section 22 was adopted without the approval of the required majority of the qualified voters of the political subdivision voting on the issue. The Section further requires that if any broadening of the definition of the base of any local tax results in an increase in revenues, the levy must be reduced to yield the same gross revenue to the political subdivision.
6. SS for HCS for HB1329 clearly imposes a new tax that is not allowed by existing Missouri sales tax law upon the People of Missouri without a public vote and consequently violates Article X.

THEREFORE, I conclude that Senate Substitute for House Committee Substitute for House Bill 1329 violates the Missouri Constitution and should not be signed by the Officers of the House or Senate, nor should this Bill be signed by the governor.

Respectfully submitted,

/s/ Representative Nick Marshall  
District 30, Platte County

Representative Marshall offered an objection to **SCS HCS HB 1758**, which was appended to the bill.

OBJECTION TO SIGNING AND ENACTMENT OF  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 1758

WHEREAS, Article III, Section 30 of the Constitution of the State of Missouri provides if any member shall object in writing to the signing of a bill, the objection shall be noted in the journal and annexed to the bill to be considered by the governor in connection therewith; and

WHEREAS, Senate Committee Substitute for House Committee Substitute for House Bill 1758 (SCS for HCS for HB1758) violates the United States and Missouri Constitution in the following manner:

1. SCS for HCS for HB1758 drastically changes Missouri law allowing for a person, who is not a child's natural or legal parent, to petition a court of competent jurisdiction or intervene in a pending action for an order of custody or visitation rights.
2. This action for custody or visitation rights may be maintained by a non-natural parent who has an "ongoing parent child relationship" which is broadly defined in the bill.
3. SCS for HCS for HB1758 permits the action by a person who is not a child's natural or legal parent despite the existence of a fit, involved, natural parent.
4. The bill creates a rebuttable presumption that the natural parent acts in the minor child's best interest but allows the Court to rebut that presumption by considering any factor.
5. SCS for HCS for HB1758 directs the Court to award custody or visitation to the petitioner or intervener who is not the child's natural parent if the Court finds it is in the best interest of the child.
6. The Fourteenth Amendment to the United States Constitution declares that the States "shall not deprive any person of life, liberty, or property, without due process of law." This has been held to protect our fundamental rights and liberty interests, including the liberty interests of parents in the care, custody and control of their children. The United States Supreme Court has also consistently cited this natural parental right as one of the oldest and enduring of the fundamental liberty interests.
7. Similarly, Missouri's Constitution declares in Article I Section 2 that "all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry," and in Article I Section 10 "that no person shall be deprived of life, liberty or property without due process of law." These Constitutional protections prohibit the State from interfering in the fundamental rights of fit natural parents to raise their children based solely upon the States determination of the child's best interest:

THEREFORE, I conclude that Senate Committee Substitute for House Committee Substitute for House Bill 1758 violates both the Missouri and United States Constitutions and should not be signed by the Officers of the House or Senate, nor should the Bill be signed by the governor.

Respectfully submitted,

/s/ Representative Nick Marshall  
District 30, Platte County

All other business of the House was suspended while **SS HCS HB 1329** and **SCS HCS HB 1758** were read at length and were signed by the Speaker to the end that the same may become law.

Having been duly signed in open session of the Senate, **HB 1029, SCS HB 1036, HB 1037, HB 1039, SCS HCS HB 1042, SS SCS HCS HB 1094, HB 1103, HB 1105, SS HCS HB 1106, HCS HB 1108, SCS HB 1112, SS HB 1128, HB 1131, CCS SCS HB 1135, HB 1141, SS SCS HCS HB 1150, HCS HB 1171, HB 1172, HB 1179, HB 1188, HB 1231, HB 1236, HB 1250, SS SCS HB 1251, SS SCS HCS HB 1280, HCS HB 1308, HB 1315, SS HB 1318, SCS HCS#2 HB 1323, SS HCS HB 1329, HCS HB 1340, SS SCS HCS HB 1400, CCS SS SCS HCS HB 1402, HB 1424, SCS HB 1460, HCS#2 HB 1462, SCS HCS HB 1495, SS SCS HCS HB 1498, SCS HB 1504, SCS HCS HB 1525, HCS HB 1527, HB 1540, HCS HB 1549, SS SCS HCS HB 1563, SS HCS HB 1576, HB 1577, HCS HB 1608, HCS HB 1644, SS HCS HB 1647, SCS HCS HBs 1659 & 1116, HCS HB 1661, HB 1680, SS SCS HCS HB 1731, SCS HCS HB 1758, SCS HCS HB 1789, SS SCS HB 1807, HB 1093, HB 1107, HB 1156, HB 1221, HB 1261, HB 1269, HB 1641, HB 1668, HB 1737, HB 1782, HB 1868 & HB 1878, HCS HB 1818, SS SCS HB 1820, SCS HCS HB 1827, HCS HB 1900, HB 1909, SS HCS HB 2001, CCS SS SCS HCS HB 2002, CCS SS SCS HCS HB 2003, CCS SS SCS HCS HB 2004, CCS SS SCS HCS HB 2005, CCS SS SCS HCS HB 2006, CCS SS SCS HCS HB 2007, CCS SS SCS HCS HB 2008, CCS SS SCS HCS HB 2009, CCS SS SCS HCS HB 2010, CCS SS SCS HCS HB 2011, CCS SS SCS HCS HB 2012 and CCS SS SCS HCS HB 2013** were delivered to the Governor by the Chief Clerk of the House.

#### **SIGNING OF SENATE JOINT RESOLUTION**

All other business of the House was suspended while **SCS SJR 51** was read at length and, there being no objection, was signed by the Speaker to the end that the same may become law.

#### **SIGNING OF SENATE BILLS**

All other business of the House was suspended while **SS SB 464, HCS SS SCS SB 469, CCS HCS SS SCS SB 470, CCS HCS#2 SCS SB 480, HCS SCS SB 485, SS SCS SBs 489 & 637, CCS HCS SCS SB 498, HCS SCS SB 562, HCS SCS SB 563, SCS SB 566, CCS HCS SB 568, CCS HCS SCS SB 569, SS SCS SB 576, HCS SS SCS SB 595, CCS SB 599, SS SB 607, CCS SB 611, HCS SCS SB 625, CCS HCS SB 628, CCS HCS SCS SB 631, CCS HCS SCS SB 635, CCS HCS SB 636, CCS SS SB 665, HCS SS SCS SB 682, SS SCS SB 689, SCS SB 715, CCS#2 SS SCS SB 719, SCS SB 729, SB 736, CCS HCS SS SB 749, SS SCS SB 755, CCS HCS SS SB 769, SCS SB 789, SCS SB 835 and SCS SB 837** were read at length and, there being no objection, were signed by the Speaker to the end that the same may become law.

**MESSAGE FROM THE GOVERNOR**

EXECUTIVE OFFICE

May 30, 2012

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you **Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1731** entitled:

“AN ACT”

To repeal sections 42.300, 161.215, and 313.835, RSMo, and to enact in lieu thereof six new sections relating to the use of gaming moneys, with an emergency clause.

On May 30, 2012, I approved said **Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1731**.

Respectfully submitted,

/s/ Jeremiah W. (Jay) Nixon  
Governor

The following members' presence was noted: Cookson, Fisher, Kelly (24), Marshall and Riddle.

**ADJOURNMENT**

The Speaker declared the House of Representatives of the Ninety-sixth General Assembly, convened in Second Regular Session on January 4, 2012, adjourned sine die as of midnight, May 30, 2012, pursuant to the Constitution.

STEVEN TILLEY  
Speaker of the House

D. ADAM CRUMBLISS  
Chief Clerk of the House