

# HOUSE JOURNAL

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EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

FIFTY-THIRD DAY (CONTINUED) — WEDNESDAY, APRIL 22, 2009

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 221).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Absent — Rios Ybarra.

The invocation was offered by Dr. Mike Milburn, senior pastor, First Baptist Church, Burseson, as follows:

Our Father, holy is your name. We praise you for your omnificence and because all power and authority are yours. We thank you for the privilege that is ours as residents of this great state, and we pray you will continue to pour out blessings upon Texas. Thank you for these men and women, elected by the people, granted authority by your hand. Give them this day all that they need, wisdom from heaven, courage of conviction, hearts of compassion. Help them to do what is right in your eyes as they make decisions that will impact all of our lives. Bless this day to your glory. It's in the name of the only begotten, your holy son, Jesus, that I pray. Amen.

The speaker recognized Representative Orr who led the house in the pledges of allegiance to the United States and Texas flags.

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Strama who presented Dr. Paul Love of Austin as the "Doctor for the Day."

The house welcomed Dr. Love and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Legler in the chair)

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 18).

#### **HR 1200 - ADOPTED**

**(by Gattis)**

Representative Gattis moved to suspend all necessary rules to take up and consider at this time **HR 1200**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1200**, In memory of Clara May Stearns Scarbrough of Georgetown.

**HR 1200** was read and was unanimously adopted by a rising vote.

On motion of Representative Martinez, the names of all the members of the house were added to **HR 1200** as signers thereof.

### **INTRODUCTION OF GUESTS**

The chair recognized Representative Gattis who introduced family members of Clara May Stearns Scarbrough.

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

#### **HR 1314 - ADOPTED**

**(by Olivo)**

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HR 1314**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1314**, Honoring the life of Carolyn Marie Garrett of Houston.

**HR 1314** was unanimously adopted by a rising vote.

**HR 1313 - ADOPTED**

**(by Olivo)**

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HR 1313**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1313**, Commemorating the 2009 Carolyn Garrett Legislative Leadership Conference in Austin.

**HR 1313** was adopted.

(Rios Ybarra now present)

**INTRODUCTION OF GUESTS**

The chair recognized Representative Truitt who introduced representatives of the Texas Retired Teachers Association.

**HR 1389 - ADOPTED**

**(by Hopson)**

Representative Hopson moved to suspend all necessary rules to take up and consider at this time **HR 1389**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1389**, Recognizing April 22, 2009, as Rusk County Day at the State Capitol.

**HR 1389** was adopted.

**HR 1322 - ADOPTED**

**(by Sheffield)**

Representative Sheffield moved to suspend all necessary rules to take up and consider at this time **HR 1322**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1322**, Recognizing April 22, 2009, as Texas Charity Advocates Day at the State Capitol.

**HR 1322** was adopted.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Sheffield who introduced participants in Texas Charity Advocates Day.

**HR 1343 - ADOPTED**  
**(by Herrero)**

Representative Herrero moved to suspend all necessary rules to take up and consider at this time **HR 1343**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1343**, Welcoming Ariel Natalie Monte, the reigning queen of Feria de las Flores, and the 2009 pageant contestants to the State Capitol.

**HR 1343** was adopted.

On motion of Representatives Ortiz and Hunter, the names of all the members of the house were added to **HR 1343** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Herrero who introduced the reigning queen of Feria de las Flores Ariel Natalie Monte and coordinators of and participants in the 2009 Feria de las Flores Pageant.

(Speaker pro tempore in the chair)

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR**  
**SECOND READING**

The following bills were laid before the house, read second time, and passed to third reading, and the following resolutions were laid before the house on committee report and adopted (members registering votes are shown following the caption):

**HB 58** (by Branch), A bill to be entitled An Act relating to the eligibility of private or independent institutions of higher education to participate in the advanced research program administered by the Texas Higher Education Coordinating Board.

**CSHB 120** (by Heflin and Guillen), A bill to be entitled An Act relating to the issuance of a driver's license to a peace officer or a special investigator that includes an alternative to the officer's residence address.

**HB 360** (by Kuempel, Herrero, et al.), A bill to be entitled An Act relating to the crediting and charging of investment gains and losses on the assets held in trust by the Texas Municipal Retirement System and providing a guaranteed minimum credit to employee accounts.

**CSHB 471** (by Hilderbran), A bill to be entitled An Act relating to the designation of a segment of State Highway 158 in Runnels County as the Army Specialist William Justin Byler Memorial Highway.

**HB 575** was withdrawn and, pursuant to Rule 6, Section 24 of the House Rules, was returned to the Committee on Calendars.

**HB 600** (by Hughes and Leibowitz), A bill to be entitled An Act relating to appeals from small claims courts.

**CSHB 618** (by Corte), A bill to be entitled An Act relating to privileged parking for certain veterans and military award recipients.

**HB 659** (by Jackson, et al.), A bill to be entitled An Act relating to the appointment of magistrates to hear truancy cases in certain counties.

**HB 667** (by Callegari), A bill to be entitled An Act relating to the procurement methods authorized for public projects by certain local governments.

**HB 752** (by England), A bill to be entitled An Act relating to the authority of certain municipalities to enter into an agreement with a school district to dedicate revenue from a tax increment fund to the district for the acquisition, construction, or reconstruction of an educational facility.

**HB 846** (by Martinez and Riddle), A bill to be entitled An Act relating to the license or certificate renewal process for fire protection personnel, emergency medical services personnel, and certain law enforcement officers.

**Amendment No. 1**

Representative Martinez offered the following amendment to **HB 846**:

Amend **HB 846** (House Committee Report) as follows:

- (1) Strike SECTION 1 of the bill (page 1, lines 6 through 20).
- (2) In SECTION 2 of the bill (page 2, line 4), immediately before "information", insert "criminal history".
- (3) In SECTION 3 of the bill (page 2, line 18), immediately before "information", insert "criminal history".
- (4) In SECTION 4 of the bill (page 2, line 26), strike "419.0342, Government Code,".
- (5) Renumber the SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

**CSHB 857** (by Laubenberg and Sheffield), A bill to be entitled An Act relating to the penalty for certain outdoor burning violations.

**Amendment No. 1**

Representative Laubenberg offered the following amendment to **CSHB 857**:

Amend **CSHB 857** by striking all below the enacting clause and substituting:

SECTION 1. Section 7.177, Water Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) Except as provided by Subsection (d), an [An] offense under this section is punishable for an individual under Section 7.187(1)(B) or Section 7.187(2)(C) or both.

(c) Except as provided by Subsection (d), an [An] offense under this section is punishable for a person other than an individual under Section 7.187(1)(C).

(d) An individual who violates a rule adopted under Section 382.018, Health and Safety Code, by burning waste generated solely from property designed for and used exclusively as a private residence commits an offense that is:

(1) a Class C misdemeanor if the waste is not a substance described by Subdivision (3);

(2) a Class B misdemeanor if the violation is a second or subsequent violation under Subdivision (1) that occurs on the same property as a previous violation under that subdivision; and

(3) a Class A misdemeanor if the violation involves the burning of tires, insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 3. This Act takes effect September 1, 2009.

Amendment No. 1 was adopted.

**CSHB 865** (by Swinford), A bill to be entitled An Act relating to the establishment of the Texas Invasive Species Coordinating Committee.

**CSHB 869** (by Farabee), A bill to be entitled An Act relating to the stopping, standing, or parking of certain vehicles on a highway.

**HB 875** (by Eissler and Harless), A bill to be entitled An Act relating to civil liability for erecting or maintaining certain outdoor signs or advertising.

**HB 986** (by Villarreal), A bill to be entitled An Act relating to tax refunds to property owners following ad valorem tax appeals. (Aycock recorded voting no.)

**HB 1040** (by Parker and Guillen), A bill to be entitled An Act relating to a defense to prosecution for the offense of operating a motor vehicle with an expired inspection certificate.

**HB 1056** (by Morrison), A bill to be entitled An Act relating to the course levels offered by the University of Houston-Victoria.

**CSHB 1067** (by Naishtat), A bill to be entitled An Act relating to a memorandum of understanding between certain authorized entities to share suicide data that does not identify a deceased individual. (Aycock and Phillips recorded voting no.)

**CSHB 1070** (by Truitt), A bill to be entitled An Act relating to audits of certain public retirement system actuarial valuations, studies, and reports.

**HB 1082** (by Laubenberg and Button), A bill to be entitled An Act relating to the North Texas Municipal Water District.

**HB 1174** (by Hartnett), A bill to be entitled An Act relating to payment by a municipality for certain damages arising from the municipality's operation of its sanitary sewer system.

**HB 1191** (by Flores), A bill to be entitled An Act relating to the enrollment period for insurance benefits for certain retirees of the Teacher Retirement System.

**HB 1205** (by Button, et al.), A bill to be entitled An Act relating to the circumstances in which the approval of the governing body of a taxing unit is required for refunds of overpayments or erroneous payments of ad valorem taxes.

**HB 1255** (by Lewis), A bill to be entitled An Act relating to an interlocal contract for a relief highway route around certain municipalities.

**CSHB 1293** (by Eiland), A bill to be entitled An Act relating to disclosure of certain information regarding annuity transactions.

**HB 1346** (by Quintanilla), A bill to be entitled An Act relating to the terms of office of certain elected members of the board of trustees of the Employees Retirement System of Texas.

**HB 1364** (by Eissler), A bill to be entitled An Act relating to coverage of preexisting conditions by certain group health benefit coverage programs for active school employees.

**HB 1411** (by Jones), A bill to be entitled An Act relating to records of certain frivolous complaints maintained by the Texas Board of Professional Land Surveying.

**HB 1465** (by Paxton), A bill to be entitled An Act relating to the joinder of a tax lien transferee in a suit to collect a delinquent ad valorem tax.

**HB 1466** (by Swinford), A bill to be entitled An Act relating to the theft of a military grave marker.

**HB 1473** (by Geren), A bill to be entitled An Act relating to the application of certain requirements affecting certain subdivision golf courses.

**HB 1492** (by Driver, et al.), A bill to be entitled An Act relating to achievement awards presented by the Commission on Law Enforcement Officer Standards and Education.

**HB 1551** (by Herrero), A bill to be entitled An Act relating to the appointment of additional official court reporters for the district courts in Nueces County.

**HB 1682** (by Cook), A bill to be entitled An Act relating to the creation of a county court at law in Navarro County.

**HB 1687** (by Cohen, et al.), A bill to be entitled An Act relating to the definition of an electric bicycle for purposes related to the use, registration, and licensing of electric bicycles.

**HB 1750** (by Bonnen), A bill to be entitled An Act relating to the creation of criminal law magistrates for Brazoria County.

**CSHB 1922** (by Martinez Fischer), A bill to be entitled An Act relating to the authorization of certain reuse water system contributions and discharges.

**HB 1923** (by Heflin), A bill to be entitled An Act relating to the Irion County Water Conservation District.

**HB 1960** (by Maldonado, Anderson, Thibaut, Bolton, Miklos, et al.), A bill to be entitled An Act relating to the payment for an appearance as a witness for certain peace officers and firefighters. (Phillips, Hilderbran, and Kolkhorst recorded voting no.)

**HB 1972** was withdrawn.

**HB 1979** (by Rodriguez), A bill to be entitled An Act relating to retirement under public retirement systems for employees of certain municipalities.

**HB 1987** (by Harless, Martinez, and Guillen), A bill to be entitled An Act relating to fees paid to a constable for serving civil process.

**HB 2011** (by Vaught, Guillen, and Pierson), A bill to be entitled An Act relating to the issuance of specialty license plates for active and former members of the United States Army Special Forces.

**HB 2020** (by Weber, Guillen, and Gonzalez Toureilles), A bill to be entitled An Act relating to parking privileges for veterans with disabilities.

**HB 2042** (by Flynn), A bill to be entitled An Act relating to the notice requirements following impoundment of an estray.

**HB 2068** (by Elkins), A bill to be entitled An Act relating to an identification card for certain retired peace officers.

**CSHB 2117** (by Oliveira and Lucio), A bill to be entitled An Act relating to the operation and continuation of the law authorizing the issuance of oversize or overweight vehicle permits by certain port authorities.

Representative Oliveira moved to postpone consideration of **CSHB 2117** until 10 a.m. Monday, May 4.

The motion prevailed.

**CSHB 2186** (by Guillen), A bill to be entitled An Act relating to the payment of a vehicle registration fee by a check drawn against insufficient funds.

**HB 2217** (by Flores and Martinez), A bill to be entitled An Act relating to partnering with the United States Department of Veterans Affairs and other federal agencies to establish a veterans hospital in the Rio Grande Valley region of the state.

**HB 2323** (by Homer), A bill to be entitled An Act relating to application of restrictions on drivers under 18 years of age to persons who held a hardship license.

**CSHB 2462** (by Keffer), A bill to be entitled An Act relating to the authority of a county to clarify the existence of a public interest in certain roads.

**CSHB 2553** (by Hilderbran), A bill to be entitled An Act relating to the registration and operation of certain off-highway vehicles.



**HB 2555** (by Hilderbran), A bill to be entitled An Act relating to the length of time certain property acquired by a charitable organization to provide low-income housing may be exempted from ad valorem taxation.

**CSHB 2591** (by Thompson), A bill to be entitled An Act relating to the regulation of property tax consultants.

**Amendment No. 1**

Representative Thompson offered the following amendment to **CSHB 2591**:

Amend **CSHB 2591** as follows:

(1) In SECTION 2 of the bill, in amended Section 1152.156(a), Occupations Code (page 1, line 19), strike "1152.161" and substitute "1152.160".

(2) Strike the text of SECTION 3 of the bill (page 2, lines 1-22) and substitute the following:

SECTION 3. Section 1152.160, Occupations Code, is amended to read as follows:

Sec. 1152.160. [~~SENIOR PROPERTY TAX CONSULTANT~~] REGISTRATION EXAMINATIONS [~~EXAMINATION~~]. (a) The executive director shall:

(1) adopt an examination for registration as a senior property tax consultant; [~~and~~]

(2) adopt an examination for registration as a property tax consultant;  
and

(3) establish the standards for passing the examinations [~~examination~~].

(b) The department shall offer the examinations [~~examination~~] at times and places designated by the executive director.

(c) To be eligible to take an [~~the~~] examination, an applicant must pay to the department an examination fee.

(d) The examination must[~~:-~~

[~~(1)~~] test the applicant's knowledge of:

(1) [~~(A)~~] property taxation;

(2) [~~(B)~~] the property tax system;

(3) [~~(C)~~] property tax administration;

(4) [~~(D)~~] ethical standards; and

(5) [~~(E)~~] general principles of appraisal, accounting, and law as they relate to property tax consulting services[~~; and~~

[~~(2)~~ be graded according to rules adopted by the commission].

(e) An attorney who is licensed to practice law in this state may take the senior property tax consultant registration examination under this section without completing any other eligibility requirements for registration as a senior property tax consultant under this chapter.

(f) The department shall accept, develop, or contract for the examinations required by this section, including the administration of the examination.

(3) In SECTION 5 of the bill (page 4, line 15), strike "adopt the examination" and substitute "accept, develop, or contract for the property tax consultant examination".

(4) In SECTION 5 of the bill (page 4, line 15), strike "1152.161" and substitute "1152.160".

(5) In SECTION 5 of the bill (page 4, line 16), strike "added" and substitute "amended".

(6) Strike the text of SECTION 7 of the bill (page 4, line 25) and substitute the following:

SECTION 7. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Section 1152.152(c), Occupations Code, and Subchapter E-1, Chapter 1152, Occupations Code, as added by this Act, take effect January 1, 2010.

Amendment No. 1 was adopted.

**CSHB 2726** (by Eissler), A bill to be entitled An Act relating to regional participation agreements.

**HB 2751** (by Truitt), A bill to be entitled An Act relating to participation and credit in, benefits from, and the administration of the Texas Emergency Services Retirement System.

**CSHB 2796** (by Strama), A bill to be entitled An Act relating to participation in, contributions to, and the benefits and administration of retirement systems for police officers in certain municipalities.

**HB 2804** (by Guillen), A bill to be entitled An Act relating to the salary of a Duval County Juvenile Board member.

**HB 2813** (by Guillen), A bill to be entitled An Act relating to the salary of a Starr County Juvenile Board member.

**CSHB 2835** (by Marquez), A bill to be entitled An Act relating to the delegation of duties of a county judge in certain counties.

**HB 2877** (by Sheffield), A bill to be entitled An Act relating to liability insurance closed claim reports.

**HB 2918** (by McReynolds), A bill to be entitled An Act relating to a motor vehicle dealer's duty to notify buyers of compulsory inspection requirements for certain motor vehicles.

**HB 2963** (by Coleman), A bill to be entitled An Act relating to the liability of a county, hospital district, or public hospital for the costs of health care services provided to an indigent patient. (Phillips recorded voting no.)

**HB 2983** (by Phillips), A bill to be entitled An Act relating to the electronic transmission of motor vehicle rental information in connection with the payment of tolls.

**HB 2991** (by Christian), A bill to be entitled An Act relating to the exemption of special rangers and special Texas Rangers from certain required law enforcement education and training programs regarding persons with mental impairments.

**HB 3061** (by Bohac), A bill to be entitled An Act relating to the use of state voter registration funds to employ temporary staff in a voter registrar's office.

**HB 3062** (by Bohac), A bill to be entitled An Act relating to the notice of an election provided to a voter registrar.

**HB 3094** (by Harless, Riddle, and Alvarado), A bill to be entitled An Act relating to the regulation of massage parlors by certain counties; providing penalties.

**HB 3108** (by Parker), A bill to be entitled An Act relating to an interim study of recreational boating safety in Texas.

**Amendment No. 1**

Representative Parker offered the following amendment to **HB 3108**:

Amend **HB 3108** as follows:

(1) On page 1, line 8, after the period, insert the following:

The appointments by each shall include at least one representative from a boat dealer, distributor, or manufacturer, licensed under Section 31.041, Parks and Wildlife Code.

Amendment No. 1 was adopted.

**HB 3114** (by Flores), A bill to be entitled An Act relating to continuing professional education requirements for land surveyors. (Aycocock, Corte, Darby, T. King, Orr, Otto, and Phillips recorded voting no.)

**HB 3129** (by T. King), A bill to be entitled An Act relating to the regulation of certain consumer transactions involving plumbing, air conditioning, and electrical services.

**HB 3140** (by Gonzalez Toureilles), A bill to be entitled An Act relating to authorizing the transfer of certain abandoned or forfeited property to groundwater conservation districts. (Cook and Kolkhorst recorded voting no.)

**HB 3202** (by Bonnen), A bill to be entitled An Act relating to authorizing the transfer of certain real property held by the Texas Department of Criminal Justice.

**HB 3303** (by Kent, Marquez, Bolton, and Coleman), A bill to be entitled An Act relating to the use of information and records acquired during a fatality review and investigation.

**CSHB 3347** (by Truitt), A bill to be entitled An Act relating to plan qualification provisions for the Teacher Retirement System of Texas.

**CSHB 3413** (by Thompson), A bill to be entitled An Act relating to the Texas Alcoholic Beverage Commission's authority to regulate certain nonalcoholic beverage business activities.

**Amendment No. 1**

Representative Thompson offered the following amendment to **CSHB 3413**:

Amend **CSHB 3413** by striking all below the enacting clause and substituting the following:

SECTION 4. Subchapter A, Chapter 102, Alcoholic Beverage Code, is amended by adding Section 102.071 to read as follows:

Sec. 102.071. SALE OF GLASSWARE AND NONALCOHOLIC BEVERAGES. (a) In this section:

(1) "Branded glassware" means glassware that contains the name, emblem, or logo of or any reference to a brand of alcoholic beverage.

(2) "Unbranded glassware" means glassware that does not contain the name, emblem, or logo of or any reference to a brand of alcoholic beverage.

(b) Notwithstanding Sections 102.04 and 102.07 or any other provision of this code, the holder of a wholesaler's permit who is primarily engaged in the wholesale sale of distilled spirits and wine may sell branded or unbranded glassware to retailers, provided that the glassware is not marketed or sold in a manner:

(1) to influence a retailer to purchase any quantity of alcoholic beverages;

(2) to affect the terms by which a retailer may purchase alcoholic beverages; or

(3) that threatens the independence of a retailer.

(c) Section 102.32 applies to payment for unbranded glassware or glassware bearing the name, emblem, or logo of a brand of distilled spirits or wine by the holder of a wholesaler's permit under Subsection (b).

(d) Sections 61.73 and 102.31 apply to payment for glassware bearing the name, emblem, or logo of a brand of malt beverage by the holder of a wholesaler's permit or a distributor's license.

(e) Section 102.32 applies to payment for a nonalcoholic beverage sold by the holder of a wholesaler's permit or a distributor's license to a retailer if:

(1) the nonalcoholic beverage is produced or sold by a manufacturer of alcoholic beverages other than malt beverages; or

(2) the name, emblem, logo, or brand of a manufacturer of alcoholic beverages other than malt beverages appears on the label of the nonalcoholic beverage.

(f) Sections 61.73 and 102.31 apply to payment for a nonalcoholic beverage sold by the holder of a wholesaler's permit or a distributor's license to a retailer if:

(1) the nonalcoholic beverage is produced or sold by a manufacturer of malt beverages; or

(2) the name, emblem, logo, or brand of a manufacturer of malt beverages appears on the label of the nonalcoholic beverage.

(g) For the purposes of Subchapters C and D, the sale, by the holder of a distributor's license, of a nonalcoholic beverage produced or sold by a manufacturer of malt beverages or that bears the name, emblem, logo, or brand of a manufacturer of malt beverages is the same as a sale of beer.

SECTION 5. This Act takes effect September 1, 2009.

Amendment No. 1 was adopted.

**CSHB 3429** (by Gutierrez), A bill to be entitled An Act relating to certain program and reporting duties of the Texas AgriLife Extension Service.

**CSHB 3435** (by Hamilton), A bill to be entitled An Act relating to exempting certain utility property from impact fees and assessments in certain water districts.

**HB 3438** (by Hodge), A bill to be entitled An Act relating to authorizing the Texas Board of Criminal Justice to convey certain real property to the City of Dallas in exchange for comparable property.

**CSHB 3464** (by Keffer), A bill to be entitled An Act relating to the enforcement of certain development regulations in a justice court.

**HB 3517** (by Gattis, et al.), A bill to be entitled An Act relating to the provision of social security numbers by applicants for motor vehicle certificates of title.

**HB 3638** (by Hughes), A bill to be entitled An Act relating to the use of safety belts by the operator of or a passenger in a motor vehicle used exclusively to transport solid waste.

**HB 3643** (by Aycock, Patrick, Guillen, and Isett), A bill to be entitled An Act relating to public school prekindergarten classes.

**HB 3654** was withdrawn.

**HB 3661** (by S. Turner), A bill to be entitled An Act relating to standards for installing fire hydrants in certain residential areas.

**HB 3692** (by Deshotel), A bill to be entitled An Act relating to the compensation of the members of the board of port commissioners of the Port of Port Arthur Navigation District of Jefferson County.

**HB 3854** (by Eiland), A bill to be entitled An Act relating to the powers of certain development corporations related to Hurricane Ike disaster relief and to the validation of certain governmental acts or proceedings of counties affected by Hurricane Ike.

**SB 997** (Oliveira - House Sponsor), in lieu of **HB 3899**, A bill to be entitled An Act relating to the administration of and exemptions from the gas production tax.

Representative Oliveira moved to lay **HB 3899** on the table subject to call, and the motion prevailed.

**HB 4139** (by Homer), A bill to be entitled An Act relating to the powers and duties of the Hopkins County Hospital District.

**HB 4358** (by Smithee), A bill to be entitled An Act relating to rulemaking authority for administrative penalties assessed for violations of the Insurance Code.

**HB 4374** (by Castro), A bill to be entitled An Act relating to the approval of certain construction, repair, or rehabilitation projects at public institutions of higher education in this state. (Phillips recorded voting no.)

**CSHB 4498** (by Hamilton), A bill to be entitled An Act relating to ballot issues for a local option election to prohibit the sale of alcoholic beverages.

**HB 4576** (by Martinez, Lucio, Gonzales, and Hodge), A bill to be entitled An Act relating to the designation of Farm-to-Market Road 1015 in Hidalgo County as the Bill Summers International Boulevard.

**HB 4607** (by Guillen), A bill to be entitled An Act relating to regulation of certain areas bordering on Falcon Lake and the Rio Grande River.

**HB 4706** (by T. King), A bill to be entitled An Act relating to the compensation of a member of the board of directors of the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1.

**HCR 18** (by Bonnen), Designating the Texas toad as the official State Amphibian of Texas.

**HCR 57** (by Geren), Authorizing the lieutenant governor and speaker to appoint interim joint committees.

**HCR 71** (by Kolkhorst), Designating the Burton Cotton Gin & Museum as the official Cotton Gin Museum of Texas.

**HCR 81** (by Dutton, Thompson, Edwards, McClendon, and S. Turner), Directing the State Preservation Board to initiate an effort to obtain missing photographs of early African American political leaders who are honored in a composite in the Capitol South Lobby and to ensure that the composite is included on Capitol tours.

**HCR 86** (by Peña, Anderson, Gonzales, et al.), Memorializing Congress in support of establishing a veterans hospital in the Rio Grande Valley.

### **ADJOURNMENT**

Representative Elkins moved that the house adjourn until 1:10 p.m. today in memory of Mike Bruner of Jersey Village.

The motion prevailed.

The house accordingly, at 12:24 p.m., adjourned until 1:10 p.m. today.

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### **ADDENDUM**

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### **SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

#### **House List No. 18**

**HB 1871**

### **MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Wednesday, April 22, 2009

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**SB 281** Nelson  
Relating to the confidentiality of the home address information of the spouses of certain federal judges and certain state judges.

**SB 282** Nelson  
Relating to grant and outreach programs to provide nutrition education to children.

**SB 475** Wentworth  
Relating to the exemption from ad valorem taxation of property owned by certain organizations engaged primarily in performing charitable functions or in providing services to aid in economic development.

**SB 488** Ellis  
Relating to the operation of a motor vehicle in the vicinity of a vulnerable road user; providing penalties.

**SB 545** Fraser  
Relating to the creation of a distributed solar generation incentive program and to encouraging the use of solar energy devices.

**SB 636** Seliger  
Relating to the authority of a county or other local governmental entity to receive local sales tax information.

**SB 686** Davis, Wendy  
Relating to the installation, maintenance, or operation of natural gas pipelines on state highways and highway rights-of-way.

**SB 752** Davis, Wendy  
Relating to a restriction on the formation in which certain commercial disposal wells permitted by the Railroad Commission of Texas may inject oil and gas waste.

**SB 816** Patrick, Dan  
Relating to the Texas Teach Corps Student Loan Repayment Assistance Program for undergraduate students who agree to teach in school districts in this state that have shortages of teachers in mathematics or science.

- SB 947** Duncan  
Relating to the exemption from ad valorem taxation of certain tangible personal property stored temporarily at a location in this state.
- SB 1054** Uresti  
Relating to the Hill Country local mental health authority crisis stabilization unit.
- SB 1071** Wentworth  
Relating to the required disclosure under the public information law of information pertaining to an employee or trustee of a public employee pension system.
- SB 1125** Zaffirini  
Relating to transition and employment services for public school students enrolled in special education programs.
- SB 1141** Van de Putte  
Relating to student loan repayment assistance for speech-language pathologists or audiologists employed by a public school or as faculty members of certain programs at institutions of higher education.
- SB 1217** Shapiro  
Relating to the creation of an autism program to provide services to children with autism spectrum disorder.
- SB 1303** Seliger  
Relating to the requirement that certain state and local governmental entities designate a firearms proficiency officer and require weapons proficiency.
- SB 1313** Shapiro  
Relating to the quality and accessibility of public school career and technical education programs and to assistance to students concerning postsecondary education and training.
- SB 1334** Hegar  
Relating to continuation of the intercollegiate athletics fee for students at Prairie View A&M University.
- SB 1371** Lucio  
Relating to the colonia self-help program.
- SB 1424** Seliger  
Relating to a person's eligibility to possess or carry a concealed handgun or other firearm.
- SB 1500** Duncan  
Relating to the employment of physicians by certain hospitals.
- SB 1507** Carona  
Relating to motor vehicles; providing penalties.
- SB 1669** Nichols  
Relating to the authority and powers of regional mobility authorities.
- SB 1676** Hinojosa



Relating to fees charged by certain counties near international borders for issuing certain utility certificates.

**SB 1726** West

Relating to best practices for public school student dropout prevention and recovery.

**SB 1849** Shapleigh

Relating to the student endowment scholarship and internship program fund at The University of Texas at El Paso.

**SB 1958** Van de Putte

Relating to including certain veterans service organizations as small businesses for the purpose of state contracting.

**SB 1992** Gallegos

Relating to the regulation of automotive wrecking and salvage yards in certain counties; providing a civil penalty.

**SB 2195** Williams

Relating to the creation of and penalties for certain offenses that take place at or involve an attempt to cross an international border.

**SB 2284** Lucio

Relating to the issuance of grants by the Texas Water Development Board for water and wastewater system improvements in economically distressed areas.

**SB 2288** Lucio

Relating to the provision of affordable housing in this state.

**SCR 55** Watson

In memory of Harvey Carroll "Dulie" Bell, Jr.

**SCR 61** Hinojosa

Commending Leo Aguirre of Austin for his performance with the New Mexico State University baseball team.

**SCR 62** Hinojosa

In memory of the Honorable Lena Guerrero of Austin.

Respectfully,

Patsy Spaw

Secretary of the Senate

