

# HOUSE JOURNAL

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EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

FORTY-SECOND DAY — WEDNESDAY, APRIL 1, 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 85).

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 Tourelles; 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; Rios Ybarra; 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.

The invocation was offered by Rabbi Barry H. D. Block, senior rabbi, Temple Beth-El, San Antonio, as follows:

In ancient days, a great rabbi, Hillel, asked: "If I am not for myself, who will be for me? If I am only for myself, what am I?" Let us pray today that the men and women of the Texas House of Representatives will ask Rabbi Hillel's questions of themselves.

"If I am not for myself, who will be for me?" Five months of late nights and early mornings, of endless hearings and early sessions, of meetings before the meeting and of meetings after the meeting, of separation from family and dislocation from home, and then rushing back home, only for more meetings. These five months are not good for the body, destructive to the soul. Let our servant leaders in this legislature take care of themselves and of their family. Let

them get some sleep and let them eat right, and maybe even exercise. Let them be good to their families and good for their families. Let them be for themselves, even as they serve others.

But Rabbi Hillel also asked: "If I am only for myself, what am I?" Without ego, nobody would be here, not the members, not the speaker, not the press, not the staff, not the chaplain. But we must not be here only for ourselves. Let these elected representatives of the people be ever mindful of who sent them here, and even more of why they came. Recommit these men and women to the service of every Texan. In these most difficult of days, let these legislators think first of those most in need. Let them provide food to the hungry, clothing to the naked, healing to the sick. Whether in the speaker's district, where my home sits, or two blocks away, a lower income area, in a different city, in a different school district, in a different congressional district, in a different senate district, in a different house district, every Texan depends on these men and women to assure the future of our great state. Let the light of knowledge, excellence in education, at every level, flow from this great room to every classroom and every laboratory in Texas. Let the men and women gathered here reach beyond themselves, creating opportunity for those who have so much less than we. If we are only for ourselves, we are nothing.

And Rabbi Hillel concluded: "And if not now, when?" They say that crisis presents opportunity. Today, we find ourselves in crisis; let us seize the opportunity. Today, too, we find ourselves with a new speaker, a man who lives the ancient Rabbi's teaching: "Who is wise? One who learns from all." With such a man at the helm, surely this house can seize the day. Let each of us begin today to care for ourselves and to provide for the sick and the lonely, the poor and the hungry. Then, truly, will this legislature and this day be a blessing. Amen.

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

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Naishtat who presented Dr. Rita Schindeler-Trachta of Austin as the "Doctor for the Day."

The house welcomed Dr. Schindeler-Trachta and thanked her for her participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Chisum in the chair)

### **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).

### **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, Senate List No. 13).

**HR 834 - ADOPTED  
(by Sheffield)**

Representative Sheffield moved to suspend all necessary rules to take up and consider at this time **HR 834**.

The motion prevailed.

The following resolution was laid before the house:

**HR 834**, Congratulating Chief Gary O. Smith of the Temple Police Department on his 30 years of service to the city.

**HR 834** was adopted.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Sheffield who introduced Chief Gary O. Smith and his wife.

**HR 1154 - ADOPTED  
(by Leibowitz)**

Representative Leibowitz moved to suspend all necessary rules to take up and consider at this time **HR 1154**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1154**, Honoring Jesse R. Adams of San Antonio for his years of service to the Texas Racing Commission.

**HR 1154** was adopted.

**HCR 135 - ADOPTED  
(by Merritt)**

Representative Merritt moved to suspend all necessary rules to take up and consider at this time **HCR 135**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 135**, Designating March 31 and April 1, 2009, as Gregg County Days at the State Capitol.

**HCR 135** was adopted.

On motion of Representatives Hughes and Berman, the names of all the members of the house were added to **HCR 135** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Merritt who introduced a delegation from Gregg County.

**HR 1107 - ADOPTED**  
**(by Maldonado)**

Representative Maldonado moved to suspend all necessary rules to take up and consider at this time **HR 1107**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1107**, Recognizing April 1, 2009, as Hutto Day at the State Capitol.

**HR 1107** was adopted.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Maldonado who introduced a delegation from Hutto.

**HR 1140 - ADOPTED**  
**(by Olivo)**

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HR 1140**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1140**, Congratulating the Brazos Bend State Park Volunteer Organization on its 20th anniversary.

**HR 1140** was adopted.

**HR 1141 - ADOPTED**  
**(by Olivo)**

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HR 1141**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1141**, Commemorating the 25th anniversary of Brazos Bend State Park.

**HR 1141** was adopted.

**HR 1145 - ADOPTED**  
**(by Gonzalez Toureilles)**

Representative Gonzalez Toureilles moved to suspend all necessary rules to take up and consider at this time **HR 1145**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1145**, Recognizing April 1, 2009, as Texas Cattlemen's Day at the State Capitol.

**HR 1145** was adopted.

On motion of Representatives Hardcastle and Heflin, the names of all the members of the house were added to **HR 1145** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Gonzalez Toureilles who introduced members of the Texas and Southwestern Cattle Raisers Association.

**HR 1177 - ADOPTED  
(by Dutton)**

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1177**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1177**, Congratulating Michelle A. Cloud of Spring on receiving her Ph.D. in educational administration from Prairie View A&M University in 2009.

(Orr in the chair)

**HR 1177** was read and was adopted.

**HR 1050 - ADOPTED  
(by Truitt)**

Representative Truitt moved to suspend all necessary rules to take up and consider at this time **HR 1050**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1050**, Recognizing the Texas Association of Public Employee Retirement Systems.

**HR 1050** was adopted.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Truitt who introduced members of the Texas Association of Public Employee Retirement Systems.

**HR 851 - ADOPTED  
(by Peña)**

Representative Peña moved to suspend all necessary rules to take up and consider at this time **HR 851**.

The motion prevailed.

The following resolution was laid before the house:

**HR 851**, Recognizing National Walk to Work Day on April 3, 2009, and Walk or Bike to Work and School Week in Edinburg from April 3-10, 2009.

**HR 851** was adopted.

**HR 1170 - ADOPTED**  
**(by Chisum)**

Representative Chisum moved to suspend all necessary rules to take up and consider at this time **HR 1170**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1170**, In memory of Mavis L. Cook of Amarillo.

**HR 1170** was read and was unanimously adopted by a rising vote.

On motion of Representative Smithee, the names of all the members of the house were added to **HR 1170** as signers thereof.

**HR 1149 - ADOPTED**  
**(by S. King)**

Representative S. King moved to suspend all necessary rules to take up and consider at this time **HR 1149**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1149**, In memory of Alma "Mozelle" Thomas of Potosi.

**HR 1149** was unanimously adopted by a rising vote.

On motion of Representative Hardcastle, the names of all the members of the house were added to **HR 1149** as signers thereof.

**HR 1175 - ADOPTED**  
**(by Giddings)**

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HR 1175**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1175**, Congratulating the Cedar Hill High School boys' basketball team on its appearance in the 5A title game of the 2009 UIL state championship tournament.

**HR 1175** was adopted.

**HR 1176 - ADOPTED**  
**(by Giddings)**

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HR 1176**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1176**, Congratulating the DeSoto High School boys' basketball team on winning the 2009 UIL 5A state championship.

**HR 1176** was adopted.

### INTRODUCTION OF GUESTS

The chair recognized Representative Giddings who introduced coaches and players of the Cedar Hill High School and DeSoto High School boys' basketball teams.

(McClendon in the chair)

#### **HR 1084 - ADOPTED** **(by Rodriguez)**

Representative Rodriguez moved to suspend all necessary rules to take up and consider at this time **HR 1084**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1084**, Honoring the Lance Armstrong Foundation and its CEO, Doug Ulman, on the grand opening of the organization's new Austin headquarters.

**HR 1084** was adopted.

On motion of Representative Rose, the names of all the members of the house were added to **HR 1084** as signers thereof.

(Speaker in the chair)

#### **HR 1089 - ADOPTED** **(by Lewis)**

Representative Lewis moved to suspend all necessary rules to take up and consider at this time **HR 1089**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1089**, Congratulating Toby S. Eoff on being named the 2009 Entrepreneur of the Year by the Odessa Chamber of Commerce.

**HR 1089** was adopted.

#### **HR 1090 - ADOPTED** **(by Lewis)**

Representative Lewis moved to suspend all necessary rules to take up and consider at this time **HR 1090**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1090**, Congratulating Leldon Hensley on his induction into the Odessa Chamber of Commerce Hall of Fame.

**HR 1090** was adopted.

**MAJOR STATE CALENDAR  
HOUSE BILLS  
SECOND READING**

The following bills were laid before the house and read second time:

**CSHB 670 ON SECOND READING  
(by Martinez Fischer, Pitts, Gallego, Berman, Lucio, et al.)**

**CSHB 670**, A bill to be entitled An Act relating to a qualified privilege of a journalist not to testify.

**Amendment No. 1**

Representative Martinez Fischer offered the following amendment to **CSHB 670**:

Amend **CSHB 670** on page 10, by striking lines 13-19 and substituting the following:

(c) Notwithstanding Section 3(b), if the information, document, or item disclosed or received was obtained in violation of a grand jury oath given to either a juror or a witness under Article 19.34 or 20.16, a journalist may be compelled to testify if the person seeking the testimony, production, or disclosure makes a clear and specific showing that the subpoenaing party has exhausted reasonable efforts to obtain from alternative sources the confidential source of any information, document, or item obtained. In this context, the court has the discretion to conduct an in camera hearing. The court may not order the production of the confidential source until a ruling has been made on the motion.

Amendment No. 1 was adopted.

**CSHB 670**, as amended, was passed to engrossment by (Record 86): 146 Yeas, 2 Nays, 1 Present, not voting.

Yeas — 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; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; 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; Woolley; Zerwas.



Nays — Riddle; Weber.

Present, not voting — Mr. Speaker(C).

Absent — Pickett.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business:

Madden on motion of McCall.

**CSHB 1378 ON SECOND READING  
(by Thompson, Ritter, Allen, et al.)**

**CSHB 1378**, A bill to be entitled An Act relating to methods for the recovery of system restoration costs incurred by electric utilities following hurricanes, tropical storms, ice or snow storms, floods, and other weather-related events and natural disasters.

Representative Thompson moved to postpone consideration of **CSHB 1378** until 10 a.m. Monday, April 6.

The motion prevailed.

**POSTPONED BUSINESS**

The following bills were laid before the house as postponed business:

**CSHB 1161 ON SECOND READING  
(by Geren)**

**CSHB 1161**, A bill to be entitled An Act relating to local regulation of distance requirements for businesses selling alcoholic beverages near certain establishments.

**CSHB 1161** was read second time on March 30, postponed until March 31, and was again postponed until 11:30 a.m. today.

**Amendment No. 1**

Representative Veasey offered the following amendment to **CSHB 1161**:

Amend **CSHB 1161** (house committee printing) by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 109, Alcoholic Beverage Code, is amended by adding Section 109.37 to read as follows:

Sec. 109.37. CONSUMPTION OF ALCOHOLIC BEVERAGES NEAR PLASMA CENTER. (a) In this section:

(1) "Central business district" has the meaning assigned by Section 109.36.

(2) "Plasma center" means a publicly or privately operated facility at which individuals may donate blood plasma.

(3) "Open container" has the meaning assigned by Section 109.35.

(b) The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the possession of an open container or the consumption of an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a plasma center that is not located in a central business district.

(c) If the commissioners court of a county or the governing board of an incorporated city or town enacts a prohibition under Subsection (b), the commissioners court or the governing board may enact regulations allowing special temporary events for which Subsection (b) may be suspended.

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative Giddings offered the following amendment to **CSHB 1161**:

Amend **CSHB 1161** (house committee printing) as follows:

(1) Strike SECTION 1 of the bill.

(2) On page 1, line 21, strike "For purposes of" and substitute "Notwithstanding any other provision of this code, in a city or town with a population of less than 900,000, for the purposes of".

(3) On page 2, strike lines 20 and 21 and substitute the following:  
license. In a city or town with a population of less than 900,000, the new permit or license must be of the same type as the previously held permit or license.

(4) Strike SECTIONS 4 and 5 of the bill.

(5) Renumber Sections of the bill appropriately.

(6) Insert the following SECTION to the bill:

SECTION \_\_\_\_\_. Section 109.59(c), Alcoholic Beverage Code, is amended to read as follows:

(c) Subsection (b) does not apply to the satisfaction of the distance requirement prescribed by Section 109.33(a)(2) for a public school, except that on the death of a permit or license holder or a person having an interest in a permit or license Subsection (b) does apply to the holder's surviving spouse or child of the holder or person if the spouse or child qualifies as a successor in interest to the permit or license. This subsection does not apply to a city or town with a population of less than 900,000.

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative Hughes offered the following amendment to **CSHB 1161**:

Amend **CSHB 1161** by inserting the following appropriately numbered SECTION in the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 109.33(f), Alcoholic Beverage Code, is amended to read as follows:

(f) Subsections (a)(2) and (3) do not apply to the holder of:

(1) a retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages;

(2) a retail off-premises consumption permit or license if less than 50 percent of the gross receipts for the premises ~~excluding the sale of items subject to the motor fuels tax,~~ is from the sale or service of alcoholic beverages;

(A) excluding the sale of items subject to the motor fuels tax; and

(B) for a premises located in a city with a population of less than 900,000, including receipts from additional retail buildings owned by the off-premises consumption permit or license holder that are located on the same property as the permitted or licensed premises; or

(3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in Chapter 102.

Amendment No. 3 was adopted.

CSHB 1161, as amended, was passed to engrossment.

**CONSTITUTIONAL AMENDMENTS CALENDAR  
HOUSE JOINT RESOLUTIONS  
SECOND READING**

The following resolutions were laid before the house and read second time:

**HJR 29 ON SECOND READING**

(by Elkins, et al.)

**HJR 29**, A joint resolution proposing a constitutional amendment to allow the legislature to override a veto of the governor following a legislative session.

**Amendment No. 1**

Representative Elkins offered the following amendment to **HJR 29**:

Amend **HJR 29** as follows:

(1) On page 3, line 4, strike "day" and substitute "second Tuesday".

(2) On page 3, line 6, strike "five" and substitute "three".

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Phillips offered the following amendment to **HJR 29**:

Amend **HJR 29** as follows:

(1) On page 2, line 20, strike "The Legislature shall meet" and substitute "On the call of the presiding officer of either House of the Legislature as provided by Subsection (e) of this section, the Legislature shall convene".

(2) On page 3, between lines 2 and 3, insert the following:

(e) Not later than the fifth day following the last day on which the Governor is authorized to file a disapproval of a bill or objection to an item of appropriation with the Secretary of State under this section after adjournment of the Legislature, a member of either House in writing filed with the chief clerk or secretary of that

House may request the presiding officer of that House to call the Legislature into session as provided by Subsection (f) of this section to reconsider one or more bills or items of appropriation described by Subsection (d) of this section. If a majority of the members of either House file requests with the applicable chief clerk or secretary within that period, the presiding officer of that House shall call the Legislature into session for purposes of Subsection (d)."

(3) On page 3, line 3, strike "(e)" and substitute "(f)".

(4) On page 3, line 4, strike "on the day following" and substitute "on the second Tuesday following".

Amendment No. 2 was adopted.

**HJR 29**, as amended, was adopted by (Record 87): 131 Yeas, 16 Nays, 1 Present, not voting.

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

Nays — Anderson; Aycock; Brown, B.; Craddick; Creighton; Hancock; Isett; King, P.; Kleinschmidt; Laubenberg; Miller, S.; Morrison; Parker; Paxton; Shelton; Swinford.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Madden.

Absent — Flynn.

### STATEMENT OF VOTE

When Record No. 87 was taken, my vote failed to register. I would have voted yes.

Flynn

### RECESS

At 12:01 p.m., the speaker announced that the house would stand recessed until 12:45 p.m. today.

**AFTERNOON SESSION**

The house met at 12:45 p.m. and was called to order by the speaker.

**GENERAL STATE CALENDAR  
HOUSE BILLS  
SECOND READING**

The following bills were laid before the house and read second time:

**HB 1162 ON SECOND READING  
(by Orr and Leibowitz)**

**HB 1162**, A bill to be entitled An Act relating to regulating the collection or solicitation of donated goods subsequently sold by for-profit entities or individuals; providing a civil penalty.

**HB 1162** was passed to engrossment.

**HB 1595 ON SECOND READING  
(by T. King and Alonzo)**

**HB 1595**, A bill to be entitled An Act relating to a documented member of the Kickapoo Traditional Tribe of Texas hunting certain deer.

**HB 1595** was passed to engrossment. (Callegari, Geren, and S. Miller recorded voting no.)

**HB 405 ON SECOND READING  
(by Harless)**

**HB 405**, A bill to be entitled An Act relating to the authority of an animal control officer to carry a bite prevention stick in the performance of official duties.

**Amendment No. 1**

Representative Lucio offered the following amendment to **HB 405**:

Amend **HB 405** (house committee printing) as follows:

(1) On page 1, line 9, strike "as defined by Section 829.001" and substitute "who holds a certificate issued under Section 829.006".

(2) On page 1, line 10, between "Code," and "who possesses," insert "and".

(3) Add the following appropriately numbered **SECTIONS** to the bill and renumber subsequent **SECTIONS** of the bill accordingly:

SECTION \_\_\_\_\_. Section 829.003(a), Health and Safety Code, is amended to read as follows:

(a) The department shall prescribe the standards and curriculum for basic and continuing education animal control courses. The curriculum for both the basic and continuing education courses must include the following topics:

(1) state laws governing animal control and protection and animal cruelty;

(2) animal health and disease recognition, control, and prevention;

(3) the humane care and treatment of animals;

(4) standards for care and control of animals in an animal shelter;

- (5) standards and procedures for the transportation of animals;
- (6) principles and procedures for capturing and handling stray domestic animals and wildlife, including principles and procedures to be followed with respect to an instrument used specifically for deterring the bite of an animal;
- (7) first aid for injured animals;
- (8) the documentation of animal cruelty evidence and courtroom procedures;
- (9) animal shelter operations and administration;
- (10) spaying and neutering, microchipping, and adoption;
- (11) communications and public relations;
- (12) state and federal laws for possession of controlled substances and other medications; and
- (13) any other topics pertinent to animal control and animal shelter personnel.

SECTION \_\_\_\_\_. Section 829.003(a), Health and Safety Code, as amended by this Act, applies to the curriculum required for basic and continuing education animal control courses offered under Section 829.004, Health and Safety Code, on or after January 1, 2010.

Amendment No. 1 was adopted.

**HB 405**, as amended, was passed to engrossment.

### **HB 25 ON SECOND READING**

**(by Leibowitz, Coleman, Lucio, Veasey, and Orr)**

**HB 25**, A bill to be entitled An Act relating to the regulation of solar energy devices by a property owners' association.

#### **Amendment No. 1**

Representatives Solomons and Leibowitz offered the following amendment to **HB 25**:

Amend **HB 25** as follows:

- (1) On page 1, strike lines 18-19 and substitute the following:
  - (1) as adjudicated by a court:
    - (A) threatens the public health or safety; or
    - (B) violates a law;
- (2) On page 1, line 20, strike "(3)" and substitute "(2)".
- (3) On page 1, line 22, strike "(4)" and substitute "(3)".
- (4) On page 1, line 23, after the semicolon, add "or".
- (5) On page 1, line 24, strike "(5)" and substitute "(4)".
- (6) On page 2, line 4, strike ";or" and substitute "∴".
- (7) On page 2, strike lines 5-7.

Amendment No. 1 was adopted.

**HB 25**, as amended, was passed to engrossment. (Aycock, Berman, B. Brown, Darby, Flynn, Harless, Harper-Brown, and Otto recorded voting no.)

(Oliveira in the chair)

**HB 806 ON SECOND READING**  
**(by Gallego, et al.)**

**HB 806**, A bill to be entitled An Act relating to health benefit plan coverage for certain prosthetic devices, orthotic devices, and related services.

**HB 806** was passed to engrossment by (Record 88): 98 Yeas, 37 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Bolton; Branch; Burnam; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Edwards; Eiland; England; Farabee; Farias; Frost; Gallego; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Morrison; Naishtat; Olivo; Orr; Ortiz; Otto; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Aycock; Berman; Bonnen; Brown, B.; Brown, F.; Button; Callegari; Crabb; Craddick; Creighton; Darby; Fletcher; Flynn; Hancock; Harless; Harper-Brown; Hartnett; Howard, C.; Isett; Kleinschmidt; Laubenberg; Legler; Lewis; Miller, D.; Miller, S.; Parker; Patrick; Paxton; Riddle; Sheffield; Shelton; Smith, T.; Smith, W.; Truitt; Weber; Woolley.

Present, not voting — Mr. Speaker; Oliveira(C).

Absent, Excused — Madden.

Absent — Castro; Chavez; Dukes; Dutton; Eissler; Elkins; Farrar; Flores; Gattis; Giddings; Hughes; Moody.

**STATEMENTS OF VOTE**

I was shown voting no on Record No. 88. I intended to vote yes.

Callegari

When Record No. 88 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 88 was taken, I was temporarily out of the house chamber. I would have voted yes.

Gattis

When Record No. 88 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

I was shown voting no on Record No. 88. I intended to vote yes.

Harper-Brown

When Record No. 88 was taken, I was temporarily out of the house chamber. I would have voted yes.

Moody

I was shown voting no on Record No. 88. I intended to vote yes.

T. Smith

**HB 1023 ON SECOND READING**  
(by Deshotel)

**HB 1023**, A bill to be entitled An Act relating to the use of certain state property transferred from the state to Spindletop MHMR Services.

**HB 1023** was passed to engrossment.

**CSHB 1830 ON SECOND READING**  
(by Corte and Edwards)

**CSHB 1830**, A bill to be entitled An Act relating to information technology security practices of state agencies.

**Amendment No. 1**

Representative Corte offered the following amendment to **CSHB 1830**:

Amend **CSHB 1830** as follows:

(1) On page 2, strike lines 23 and 24 and substitute the following:

(25) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:

(A) the Department of Information Resources; or

(B) a contractor or subcontractor of the Department of Information Resources.

(2) On page 3, strike lines 5-11 and substitute the following:

by the department or division that relates to a person who is an employee, applicant for employment, contractor, subcontractor, intern, or other volunteer with the Department of Information Resources or with a contractor or subcontractor for the Department of Information Resources.

Amendment No. 1 was adopted.

**CSHB 1830**, as amended, was passed to engrossment.

**CSHB 824 ON SECOND READING**  
(by Hochberg, Marquez, and Naishtat)

**CSHB 824**, A bill to be entitled An Act relating to the imposition of conditions on and access to case records regarding a child adjudicated of having engaged in conduct that constitutes the commission of a hate crime.

**Amendment No. 1**

Representative Hartnett offered the following amendment to **CSHB 824**:



Amend **CSHB 824** as follows:

- (1) On page 2, line 7, strike ":".
- (2) On page 2, line 8, strike "(1)".
- (2) On page 2, line 9, strike "; or" and substitute "·".
- (3) On page 2, strike lines 10-11.

Amendment No. 1 was adopted.

**CSHB 824**, as amended, was passed to engrossment by (Record 89): 88 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Bolton; Branch; Burnam; Castro; Chavez; Cohen; Coleman; Corte; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Fletcher; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jones; Keffer; Kent; King, T.; Kolkhorst; Kuempel; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Moody; Morrison; Naishtat; Olivo; Ortiz; Otto; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Strama; Thibaut; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Aycock; Berman; Bonnen; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Flynn; Gattis; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Howard, C.; Hughes; Hunter; Isett; Jackson; King, P.; King, S.; Kleinschmidt; Laubenberg; Legler; Lewis; Merritt; Miller, D.; Miller, S.; Orr; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Weber; Woolley.

Present, not voting — Mr. Speaker; Oliveira(C).

Absent, Excused — Madden.

Absent — Hardcastle; Thompson.

**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 89. I intended to vote no.

Kolkhorst

I was shown voting yes on Record No. 89. I intended to vote no.

Otto

**HB 1063 - RECOMMITTED**

Representative Farias moved to suspend all necessary rules and to recommit **HB 1063** from the Committee on Local and Consent Calendars to the Committee on County Affairs.

The motion prevailed.

**FIVE-DAY POSTING RULE SUSPENDED**

Representative Y. Davis moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Urban Affairs to consider **HR 1085** and **HR 1138**.

The motion prevailed.

Representative Gallego moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Criminal Jurisprudence to consider **HB 1721** and **HB 4386**.

The motion prevailed.

**COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Criminal Jurisprudence, 2 p.m. or upon adjournment today, E2.028, for a public hearing, to consider **HB 1721**, **HB 4386**, and the posted agenda.

Urban Affairs, tomorrow, E2.028, for a public hearing, to consider **HR 1085** and **HR 1138**.

Business and Industry, upon adjournment today, E2.036, for a formal meeting, to consider pending business.

Insurance, upon adjournment today, Desk 13, for a formal meeting.

Technology, Economic Development, and Workforce, upon adjournment today, Desk 137, for a formal meeting, to consider pending business.

**CORRECTIONS IN REFERRAL**

Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

**ADJOURNMENT**

Representative Guillen moved that the house adjourn until 10 a.m. tomorrow in memory of Manuel Benavidez, Jr. of Starr County.

The motion prevailed.

The house accordingly, at 1:46 p.m., adjourned until 10 a.m. tomorrow.

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**ADDENDUM**

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**REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

**List No. 1**

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

**HB 1725** (By Chavez), Relating to an allotment under the foundation school program for certain students who are military dependents.

To Defense and Veterans' Affairs.

**SB 643** to Human Services.

**SIGNED BY THE SPEAKER**

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

**Senate List No. 13**

**SCR 37, SCR 50**

**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 1, 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:

**HCR 92** Crownover SPONSOR: Nelson  
Commemorating the 100th anniversary of the Denton Chamber of Commerce.

**SB 298** Carona  
Relating to the authority of the Department of Public Safety of the State of Texas and certain local law enforcement agencies to establish a checkpoint on a highway or street to determine whether persons are driving while intoxicated.

**SB 451** Van de Putte  
Relating to staff development requirements in public schools.

**SB 847** Averitt  
Relating to applicability of fee exemptions for military personnel and their children to certain course fees charged by public technical institutes and public state colleges.

**SB 1278** Huffman

Relating to the authority of a judge to suspend the imposition of a sentence and place a defendant on community supervision.

**SCR 53**

Fraser

Recognizing March 31, 2009, as West Texas Day at the State Capitol.

Respectfully,

Patsy Spaw

Secretary of the Senate

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## APPENDIX

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### STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

**March 31**

Border and Intergovernmental Affairs - **HB 1579, HB 2483, HB 3313, HCR 79**

Business and Industry - **HB 2235**

Elections - **HB 536**

Higher Education - **HB 59**

Natural Resources - **HB 1082, HB 1178, HB 1598**

State Affairs - **HB 783, HB 1182**

Transportation - **HB 662**

### ENGROSSED

**March 31 - HB 71, HB 271, HB 350, HB 551, HB 753, HB 772, HB 773, HB 963, HB 1038, HB 1240, HB 1297, HB 1671, HB 1683, HB 1758, HB 1871, HB 1963, HB 1975, HB 2208, HB 2237, HB 2275, HB 2433, HB 2434, HB 2560**

### SENT TO THE GOVERNOR

**March 31 - HCR 83, HCR 84, HCR 133**