

SENATE JOURNAL
Sixty-seventh General Assembly
STATE OF COLORADO
Second Regular Session

55th Legislative Day Monday, March 8, 2010

Prayer By the chaplain, Reverend Bill Calhoun, Retired, Montview Blvd. Presbyterian Church, Denver. 10-11

Call to Order By the President at 10:00 a.m. 12-14

Pledge By Senator Gibbs. 15-17

Roll Call Present--34. Excused--1, Kester. 18-19

Quorum The President announced a quorum present. 20-22

Reading of Journal On motion of Senator Scheffel, reading of the Journal of Friday, March 5, 2010, was dispensed with and the Journal was approved as corrected by the Secretary. 23-24

On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the Senate proceeded out of order for consideration of memorials. 25-28

CONSIDERATION OF MEMORIALS

SM10-001 by Senator(s) Hudak, Keller, Kopp, Spence; --Concerning memorializing former Senator Alvin J. "Al" Meiklejohn, Jr. 33-34

On motion of Senator Hudak, the memorial was read at length and **adopted** by the following roll call vote: 35-37

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Spence	Y
Boyd	Y	Hudak	Y	Newell	Y	Steadman	Y
Brophy	Y	Johnston	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	E	Romer	Y	White	Y
Foster	Y	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

Co-sponsors added: Bacon, Boyd, Brophy, Cadman, Carroll M., Foster, Gibbs, Harvey, Heath, Hodge, Johnston, King K., Lundberg, Mitchell, Morse, Newell, Penry, Renfroe, Romer, Sandoval, Scheffel, Schultheis, Schwartz, Shaffer B., Steadman, Tapia, Tochtrop, White, Whitehead and Williams. 50-53

Committee of the Whole On motion of Senator Heath, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills--Consent Calendar and Senator Heath was called to the Chair to act as Chairman. 54-57

**GENERAL ORDERS -- SECOND READING OF BILLS --
CONSENT CALENDAR**

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows: 58-61

HB10-1003 by Representative(s) McNulty, Kerr J., Miklosi, Primavera; also Senator(s) Tochtrop, Mitchell--Concerning the extension of the deadline for the review of grievance petitions 62-66

filed with the state personnel board.

Upon request of Senator Morse, HB09-1003 was removed from the general orders second reading consent calendar of Monday, March 8 and was placed at the end of the general orders second reading of bills calendar of Monday, March 8.

HB10-1175 by Representative(s) Looper, Todd, Acree, DelGrosso; also Senator(s) Tapia--Concerning the demonstration of competency by an out-of-state applicant in a field regulated by the department of regulatory agencies.

Ordered revised and placed on the calendar for third reading and final passage.

HB10-1080 by Representative(s) Lambert; also Senator(s) Sandoval--Concerning the expansion of duties of the legislative emergency epidemic response committee to include preparation for disaster emergencies, and, in connection therewith, changing the name of the committee and allowing the committee to recommend legislation pertaining to the preparedness, response, and recovery by the general assembly in the event of an emergency epidemic or disaster.

Amendment No. 1, State, Veterans & Military Affairs Committee Amendment.
(Printed in Senate Journal, March 3, page 415 and placed in members' bill files.)

As amended, ordered revised and placed on the calendar for third reading and final passage.

HB10-1071 by Representative(s) Labuda; also Senator(s) Heath--Concerning elimination of the requirement that a person employed in a technical forestry capacity by the board of governors of the Colorado state university system possess at least two years' experience in forest practice.

Ordered revised and placed on the calendar for third reading and final passage.

HB10-1223 by Representative(s) Baumgardner, Fischer, Hullinghorst, Looper, Pace, Ryden, Vigil; also Senator(s) Whitehead--Concerning the continuation of the forestry advisory board, and, in connection therewith, repealing the forestry advisory board.

Ordered revised and placed on the calendar for third reading and final passage.

HB10-1203 by Representative(s) Kerr A.; also Senator(s) Steadman--Concerning the issuing of group life insurance, and, in connection therewith, deleting the requirement regarding the minimum number of persons that must be covered by the policy.

Ordered revised and placed on the calendar for third reading and final passage.

**ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE --
CONSENT CALENDAR**

On motion of Senator Heath, the report of the Committee of the Whole was **adopted** on the following roll call vote:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Spence	Y
Boyd	Y	Hudak	Y	Newell	Y	Steadman	Y
Brophy	Y	Johnston	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	E	Romer	Y	White	Y
Foster	Y	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

The Committee of the Whole took the following action:

Passed on second reading: HB10-1175, HB10-1080 as amended, HB10-1071, HB10-1037, HB10-1223, HB10-1203.

Removed from the General Orders -- Second Reading of Bills -- Consent Calendar for March 8 and placed at the end of the General Orders -- Second Reading of Bills Calendar for March 8: HB10-1003.

Committee of the Whole On motion of Senator Heath, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator Heath was called to the chair to act as Chairman.

GENERAL ORDERS -- SECOND READING OF BILLS

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

- SB10-076** by Senator(s) Carroll M.; --Concerning unreasonable insurance claims settlement practices.
- Amendment No. 1, Health & Human Services Committee Amendment.
(Printed in Senate Journal, February 12, page 233 and placed in members' bill files.)
- As amended, ordered engrossed and placed on the calendar for third reading and final passage.
- (For further action, see amendments to the report of the Committee of the Whole.)
- SB10-062** by Senator(s) Steadman; also Representative(s) Peniston--Concerning the existing categorical education programs described by section 17 of article IX of the state constitution, and making an appropriation in connection therewith.
- Amendment No. 1, Education Committee Amendment.
(Printed in Senate Journal, March 1, page 388 and placed in members' bill files.)
- As amended, ordered engrossed and placed on the calendar for third reading and final passage.
- SB10-094** by Senator(s) Steadman, Bacon, Newell, Schwartz, Boyd, Carroll M., Foster, Heath, Hudak, Johnston, Romer, Spence, Tapia, Tochtrop, Whitehead, Williams; also Representative(s) Rice, Benefield, Ferrandino, Fischer, Frangas, Gagliardi, Hullinghorst, Kerr A., Labuda, Massey, McFadyen, Merrifield, Middleton, Miklosi, Peniston, Ryden, Scanlan, Schafer S., Solano, Todd, Vigil--Concerning the definition of capital construction appropriation for purposes of the art in public places program administered by the state council on the arts.
- Laid over until Tuesday, March 9, retaining its place on the calendar.
- SB10-110** by Senator(s) Williams; also Representative(s) Ryden, Court, Hullinghorst, Judd, Levy, Middleton, Rice--Concerning the enforcement of offenses involving failure of certain persons in a vehicle to use an appropriate restraining device.
- Laid over until Tuesday, March 9, retaining its place on the calendar.
- HB10-1112** by Representative(s) Miklosi; also Senator(s) Newell--Concerning the "Correctional Education Program Act of 1990".
- Amendment No. 1, Judiciary Committee Amendment.
(Printed in Senate Journal, March 2, page 398-399 and placed in members' bill files.)
- As amended, ordered revised and placed on the calendar for third reading and final passage.
- HB10-1023** by Representative(s) Waller, Gagliardi, Kagan, Kefalas, Summers; also Senator(s) Hudak, Boyd, Sandoval, Scheffel, White--Concerning clarifying civil liability regarding negligent hiring practices for an employer that hires a person with a criminal record.
- Ordered revised and placed on the calendar for third reading and final passage.
- HB10-1090** by Representative(s) Waller; also Senator(s) Morse--Concerning the punishment for a person who is convicted of driving a motor vehicle with knowledge that his or her driver's license is under restraint.
- Ordered revised and placed on the calendar for third reading and final passage.
- HB10-1097** by Representative(s) Benefield, Court, Ryden, Pace; also Senator(s) Morse, Hudak, Newell--Concerning temporary injunctions in proceedings involving minor children.
- Ordered revised and placed on the calendar for third reading and final passage.
- HB10-1049** by Representative(s) Rice and Looper, Balmer, Court, Hullinghorst, King S., May, McNulty, Nikkel, Scanlan, Sonnenberg, Stephens, Summers, Primavera; also Senator(s) Romer and Mitchell, Foster, Hodge, Lundberg, Penry, Shaffer B.--Concerning the franchise rights of motor vehicle dealers.

Amendment No. 1, Business, Labor & Technology Committee Amendment.
(Printed in Senate Journal, March 2, page 399-403 and placed in members' bill files.)

Amendment No. 2(L.048), by Senator Mitchell.

Amend the Business, Labor, and Technology Committee Report, dated March 1, 2010, page 1, strike line 1 and substitute "Amend reengrossed bill, page 2, strike lines 2 through 10.

Strike page 3 of the bill.

Page 4 of the bill, strike lines 1 and 2.

Renumber succeeding sections accordingly.

Page 5 of the bill, strike lines 12 through 17 and substitute:".

Page 2 of the report, after line 8 insert:

"Page 5 of the bill, strike lines 18 and 19 and substitute:

"SECTION 4. The introductory portion to 12-6-120.3 (1), 12-6-120.3 (1.5), and the introductory portion to 12-6-120.3 (4) (a), Colorado Revised Statutes, are amended, and the said 12-6-120.3 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:".

Page 5, strike line 22 and substitute "(1) No manufacturer OR DISTRIBUTOR shall establish an additional new motor vehicle dealer, reopen a previously existing motor vehicle dealer, or relocate an existing motor vehicle dealer without first providing at least sixty days' notice to all of its franchised dealers AND FORMER DEALERS WHOSE FRANCHISES WERE TERMINATED, CANCELLED, OR NOT RENEWED BY A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE IN THE PREVIOUS FIVE YEARS DUE TO THE INSOLVENCY OF THE MANUFACTURER OR DISTRIBUTOR within whose relevant market area the new, reopened, or relocated dealer would be located. ~~Such~~ THE notice shall state:

(1.5) A manufacturer shall reasonably approve or disapprove of a motor vehicle dealer facility initial site location or relocation request within sixty days after the request or after sending the notice required by subsection (1) of this section to all of its franchised dealers AND FORMER DEALERS WHOSE FRANCHISES WERE TERMINATED, CANCELLED, OR NOT RENEWED IN THE PREVIOUS FIVE YEARS DUE TO THE INSOLVENCY OF THE MANUFACTURER OR DISTRIBUTOR, whichever is later, but not to exceed one hundred days.

(4) (a) If a licensee OR FORMER LICENSEE WHOSE FRANCHISE WAS TERMINATED, CANCELLED, OR NOT RENEWED BY THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE IN THE PREVIOUS FIVE YEARS DUE TO THE INSOLVENCY OF THE MANUFACTURER OR DISTRIBUTOR brings an action or proceeding before the executive director or a court pursuant to this part 1, the manufacturer shall have the burden of proof on the following issues:

(5) (a) NOMANUFACTURER, DISTRIBUTOR, OR MANUFACTURER" .".

Page 2 of the report, strike lines 14 and 15 and substitute:

"Page 6 of the bill, strike lines 14 through 18 and substitute:

"FIRST REFUSAL AREA PRIOR TO MAKING THE OFFER TO ANY OTHER PERSON FOR THE SAME LINE-MAKE UNLESS THE FORMER MOTOR VEHICLE DEALER ELECTS TO RECEIVE THE PAYMENTS REQUIRED BY SECTION 12-6-120 (1) (l) AND (1) (r) IN LIEU OF THE RIGHT OF FIRST REFUSAL OR THE MOTOR VEHICLE DEALER HAS ACCEPTED COMPENSATION FROM THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER'S REPRESENTATIVE FOR THE TERMINATION, CANCELLATION, OR NONRENEWAL OF THE FRANCHISE AGREEMENT." .".

Page 2 of the report, line 17, strike "SEVEN" and substitute "FIVE".

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Page 2 of the report, strike lines 20 through 26 and substitute:

""(d) IF A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE, OR THE PREDECESSOR THEREOF, HAS MADE ANY PAYMENT TO THE MOTOR VEHICLE DEALER IN CONSIDERATION FOR THE TERMINATION, CANCELLATION, OR NONRENEWAL OF A FRANCHISE AGREEMENT AND THE MOTOR VEHICLE DEALER OBTAINS A NEW FRANCHISE AGREEMENT THROUGH THIS SUBSECTION (5), THE MOTOR VEHICLE DEALER SHALL REIMBURSE THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE FOR SUCH PAYMENTS. THE MOTOR VEHICLE DEALER MAY REIMBURSE THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE WITH A COMMERCIALY REASONABLE REPAYMENT INSTALLMENT PLAN."."

Page 2 of the report, line 29, after "(f)" insert "(I)".

Page 3 of the report, line 1, strike "MARKET" and substitute "RIGHT OF FIRST REFUSAL".

Page 3 of the report, line 4, strike "RENEWED." and substitute "RENEWED."

(II) IF A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE, OR PREDECESSOR THEREOF, HAS AWARDED THE FRANCHISE TO ANOTHER MOTOR VEHICLE DEALER IN THE SAME RIGHT OF FIRST REFUSAL AREA WITHOUT GRANTING THE RIGHT OF FIRST REFUSAL UNDER THIS SECTION, THE FORMER MOTOR VEHICLE DEALER MAY ELECT TO EITHER RECEIVE A FRANCHISE AGREEMENT IN THE SAME AREA OR THE PAYMENTS REQUIRED BY SECTION 12-6-120 (1) (l) AND (1) (r) FROM THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE UNLESS THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE, OR PREDECESSOR THEREOF, HAS PAID COMPENSATION IN CONSIDERATION OF THE INITIAL TERMINATION, CANCELLATION, OR NONRENEWAL OF THE FRANCHISE AGREEMENT."."

Page 3 of the report, strike lines 5 and 6.

Page 3 of the report, strike lines 14 through 34.

Page 3 of the report, line 35, strike "SECTION" and substitute ""SECTION".

Page 4 of the report, strike line 33.

Page 5 of the report, strike lines 1 through 5 and substitute:

"(u) WITHIN NINETY DAYS AFTER THE TERMINATION, ELIMINATION, OR CESSATION OF A LINE-MAKE OR THE TERMINATION, CANCELLATION, OR NONRENEWAL OF A FRANCHISE BY THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE, FOR ANY REASON OTHER THAN THAT THE POWERSPORTS VEHICLE DEALER COMMITS FRAUD, MAKES A MISREPRESENTATION, OR COMMITS ANY OTHER CRIME WITHIN THE SCOPE OF THE FRANCHISE AGREEMENT OR IN THE OPERATION OF THE DEALERSHIP, TO FAIL TO REIMBURSE A POWERSPORTS VEHICLE DEALER FOR THE COST DEPRECIATED BY FIVE PERCENT PER YEAR OF ANY UPGRADES OR ALTERATIONS TO THE POWERSPORTS VEHICLE DEALER'S FACILITIES REQUIRED BY THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE WITHIN THE PREVIOUS FIVE YEARS."

Page 5 of the report, after line 5 insert:

"SECTION 11. 12-6-524 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-6-524. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (3) As used in this section:

(c) "RIGHT OF FIRST REFUSAL AREA" MEANS A FIVE-MILE RADIUS EXTENDING FROM THE LOCATION OF WHERE A POWERSPORTS VEHICLE DEALER HAD A FRANCHISE TERMINATED, CANCELLED, OR NOT RENEWED

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IF THE FRANCHISE WAS IN A COUNTY WITH A POPULATION OF MORE THAN ONE HUNDRED FIFTY THOUSAND OR A TEN-MILE RADIUS IF THE FRANCHISE WAS IN A COUNTY WITH A POPULATION OF ONE HUNDRED FIFTY THOUSAND OR LESS."

Renumber succeeding sections accordingly.

Page 5 of the report, strike lines 6 through 9 and substitute:

"SECTION 12. The introductory portion to 12-6-524 (1), 12-6-524 (1.5), and the introductory portion to 12-6-524 (4) (a), Colorado Revised Statutes, are amended, and the said 12-6-524 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-6-524. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (1) No powersports vehicle manufacturer OR DISTRIBUTOR shall establish an additional new powersports vehicle dealer, reopen a previously existing powersports vehicle dealer, or relocate an existing powersports vehicle dealer without first providing at least sixty days' notice to all of its franchised dealers AND FORMER DEALERS WHOSE FRANCHISES WERE TERMINATED, CANCELLED, OR NOT RENEWED BY A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE IN THE PREVIOUS FIVE YEARS DUE TO THE INSOLVENCY OF THE MANUFACTURER OR DISTRIBUTOR within whose relevant market area the new, reopened, or relocated dealer would be located. The notice shall state:

(1.5) A powersports vehicle manufacturer shall reasonably approve or disapprove of a powersports vehicle dealer facility initial site location or relocation request within sixty days after the request or after sending the notice required by subsection (1) of this section to all of its franchised powersports vehicle dealers AND FORMER DEALERS WHOSE FRANCHISES WERE TERMINATED, CANCELLED, OR NOT RENEWED IN THE PREVIOUS FIVE YEARS DUE TO THE INSOLVENCY OF THE MANUFACTURER OR DISTRIBUTOR, whichever is later, but not to exceed one hundred days.

(4) (a) If a licensee OR FORMER LICENSEE WHOSE FRANCHISE WAS TERMINATED, CANCELLED, OR NOT RENEWED BY THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE IN THE PREVIOUS FIVE YEARS DUE TO THE INSOLVENCY OF THE MANUFACTURER OR DISTRIBUTOR brings an action or proceeding before the executive director or a court pursuant to this part 5, the powersports vehicle manufacturer shall have the burden of proof on the following issues:

(5) (a) No".

Page 5 of the report, line 12, strike "MARKET" and substitute "RIGHT OF FIRST REFUSAL".

Page 5 of the report, line 20, strike "MARKET" and substitute "RIGHT OF FIRST REFUSAL".

Page 5 of the report, strike lines 29 through 33 and substitute "NOT RENEWED A FRANCHISE WITHIN THE SAME FIRST REFUSAL AREA PRIOR TO MAKING THE OFFER TO ANY OTHER PERSON FOR THE SAME LINE-MAKE UNLESS THE FORMER POWERSPORTS VEHICLE DEALER ELECTS TO RECEIVE THE PAYMENTS REQUIRED BY SECTION 12-6-523 (1) (l) AND (1) (r) IN LIEU OF THE RIGHT OF FIRST REFUSAL OR THE POWERSPORTS VEHICLE DEALER HAS ACCEPTED COMPENSATION FROM THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER'S REPRESENTATIVE FOR THE TERMINATION, CANCELLATION, OR NONRENEWAL OF THE FRANCHISE AGREEMENT."

Page 5 of the report, strike lines 35 through 37.

Page 6 of the report, strike lines 1 and 2 and substitute "PARAGRAPH (b) OF THIS SUBSECTION (5) IS EQUAL TO FIVE YEARS AFTER THE FRANCHISE IS TERMINATED, CANCELLED, OR NOT RENEWED."

Page 6 of the report, after line 2 insert:

"(d) IF A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE, OR THE PREDECESSOR THEREOF, HAS MADE ANY

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PAYMENT TO THE POWERSPORTS VEHICLE DEALER IN CONSIDERATION FOR THE TERMINATION, CANCELLATION, OR NONRENEWAL OF A FRANCHISE AGREEMENT AND THE POWERSPORTS VEHICLE DEALER OBTAINS A NEW FRANCHISE AGREEMENT THROUGH THIS SUBSECTION (5), THE POWERSPORTS VEHICLE DEALER SHALL REIMBURSE THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE FOR SUCH PAYMENTS. THE POWERSPORTS VEHICLE DEALER MAY REIMBURSE THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE WITH A COMMERCIALY REASONABLE REPAYMENT INSTALLMENT PLAN."

Reletter succeeding paragraph accordingly.

Page 6 of the report, after line 4 insert:

"(f) (I) THE RIGHT OF FIRST REFUSAL SURVIVES A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE, OR PREDECESSOR THEREOF, AWARDING A FRANCHISE WITHIN THE SAME RIGHT OF FIRST REFUSAL AREA FOR THE SAME LINE-MAKE TO A PERSON OR ENTITY OTHER THAN THE FORMER POWERSPORTS VEHICLE DEALER WHOSE FRANCHISE WAS TERMINATED, CANCELLED, OR NOT RENEWED.

(II) IF A MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE, OR PREDECESSOR THEREOF, HAS AWARDED THE FRANCHISE TO ANOTHER POWERSPORTS VEHICLE DEALER IN THE SAME RIGHT OF FIRST REFUSAL AREA WITHOUT GRANTING THE RIGHT OF FIRST REFUSAL UNDER THIS SECTION, THE FORMER POWERSPORTS VEHICLE DEALER MAY ELECT TO EITHER RECEIVE A FRANCHISE AGREEMENT IN THE SAME AREA OR THE PAYMENTS REQUIRED BY SECTION 12-6-523 (1) (I) AND (1) (r) FROM THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE UNLESS THE MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE, OR PREDECESSOR THEREOF, HAS PAID COMPENSATION IN CONSIDERATION OF THE INITIAL TERMINATION, CANCELLATION, OR NONRENEWAL OF THE FRANCHISE AGREEMENT."

Page 7 of the report, line 4, strike "DISTRIBUTOR." and substitute "DISTRIBUTOR. THIS SECTION SHALL NOT PROHIBIT A MANUFACTURER OR DISTRIBUTOR FROM WITHHOLDING A PORTION OF THE PAYMENTS NECESSARY TO COVER AN AMOUNT OF MONEY OWED TO THE MANUFACTURER OR DISTRIBUTOR AS AN OFFSET TO THE PAYMENTS IF THE MANUFACTURER OR DISTRIBUTOR PROVIDES THE MOTOR VEHICLE DEALER WRITTEN NOTICE THEREOF."

Amendment No. 3(L.049), by Senator Mitchell.

Amend Business, Labor, and Technology Committee Report, dated March 1, 2010, page 3, after line 6 insert:

"Page 7 of the bill, line 17, strike "ONE HUNDRED AND EIGHTY DAYS" and substitute "NINE MONTHS".

Page 7 of the bill, line 22, strike "TWELVE" and substitute "FIFTEEN".

Page 7 of the bill, line 25, strike "ONE" and substitute "NINE MONTHS".

Page 7 of the bill, line 26, strike "HUNDRED EIGHTY DAYS".

Page 7 of the bill, line 27, strike "ONE" and substitute "NINE MONTHS".

Page 8 of the bill, line 1, strike "HUNDRED EIGHTY DAYS".

Page 6 of the report, line 10, strike "ONE HUNDRED EIGHTY" and substitute "NINE MONTHS".

Page 6 of the report, line 11, strike "DAYS".

Page 6 of the report, line 15, strike "TWELVE" and substitute "FIFTEEN".

Page 6 of the report, line 18, strike "ONE" and substitute "NINE MONTHS".

Page 6 of the report, line 19, strike "HUNDRED EIGHTY DAYS".

Page 6 of the report, line 20, strike "ONE" and substitute "NINE MONTHS".

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Page 6 of the report, line 21, strike "HUNDRED EIGHTY DAYS".

As amended, ordered revised and placed on the calendar for third reading and final passage.

On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the General Orders -- Second Reading of Bills Calendar (HB10-1085, HB10-1002, HB10-1059, HB10-1141, HB10-1028, SB10-170, HB10-1204, HB10-1003) of Monday, March 8 was laid over until Tuesday, March 9, retaining its place on the calendar.

AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

SB10-076 by Senator(s) Carroll M.; --Concerning unreasonable insurance claims settlement practices.

Senators Penry and Mitchell moved to amend the Report of the Committee of the Whole to show that the following amendment to SB 10-076 did pass.

Amend printed bill, strike everything below the enacting clause and substitute:

"SECTION 1. Part 11 of article 3 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

10-3-1116. Submission of compensation plan - inappropriate delay or denial of claims. THE COMMISSIONER OF INSURANCE MAY AT ANY TIME REQUIRE SUBMISSION OF AN INSURANCE COMPANY'S COMPENSATION PLAN AND PROCEDURES FOR EMPLOYEES INVOLVED IN THE CLAIMS HANDLING PROCESS IF THERE IS EVIDENCE OF INAPPROPRIATE OR EXCESSIVE DELAY OR DENIAL OF CLAIMS. IF THERE IS ANY FINDING OF INAPPROPRIATE OR EXCESSIVE DELAY OR DENIAL OF CLAIMS, THE COMMISSIONER SHALL ENFORCE THE MAXIMUM PENALTIES PROVIDED BY LAW.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety."

Strike the Health and Human Services Committee Report, dated February 11, 2010.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	14	NO	20	EXCUSED	1	ABSENT	0
Bacon	N	Hodge	N	Morse	N	Spence	Y
Boyd	N	Hudak	N	Newell	N	Steadman	N
Brophy	Y	Johnston	N	Penry	Y	Tapia	N
Cadman	Y	Keller	N	Renfroe	Y	Tochtrop	N
Carroll M.	N	Kester	E	Romer	N	White	Y
Foster	N	King K.	Y	Sandoval	N	Whitehead	N
Gibbs	N	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	N
Heath	N	Mitchell	Y	Schwartz	N		

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Heath, the report of the Committee of the Whole was **adopted** on the following roll call vote:

YES	33	NO	1	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Spence	Y
Boyd	Y	Hudak	Y	Newell	Y	Steadman	Y
Brophy	Y	Johnston	Y	Penry	Y	Tapia	Y
Cadman	N	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	E	Romer	Y	White	Y
Foster	Y	King K.	Y	Sandoval	Y	Whitehead	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

The Committee of the Whole took the following action:

Passed on second reading: SB10-076 as amended, SB10-062 as amended HB10-1112 as amended, HB10-1023, HB10-1090, HB10-1097, HB10-1049 as amended.
 Laid over until Tuesday, March 9: SB10-094, SB10-110, HB10-1085, HB10-1002, HB10-1059, HB10-1141, HB10-1028, SB10-170, HB10-1204, HB10-1003.
 Laid over until Thursday, March 11: HB10-1021.
 Laid over until Friday, March 12: SB10-166.

MESSAGE FROM THE HOUSE

March 8, 2010

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB10-1346.

The House has passed on Third Reading and transmitted to the Revisor of Statutes HB10-1273, amended as printed in House Journal, March 5, page 676.
 HB10-1168, amended as printed in House Journal, March 5, page 676.
 HB10-1012, amended as printed in House Journal, March 5, page 677.
 HB10-1098, amended as printed in House Journal, March 5, pages 678-679.
 HB10-1256, amended as printed in House Journal, March 5, page 679.

The House has passed on Third Reading and returns herewith SB10-018.

The House has passed on Third Reading and transmitted to the Revisor of Statutes; SB10-056, amended as printed in House Journal, March 5, page 677.
 SB10-165, amended as printed in House Journal, March 5, pages 677-678.
 SB10-142, amended as printed in House Journal, March 5, page 678.

The House has voted to concur in the Senate amendments to HB10-1321, and 1001 and has repassed the bills as so amended.

MESSAGE FROM THE REVISOR OF STATUTES

March 8, 2010

We herewith transmit:

Without comment, HB10-1346.
 Without comment, as amended, HB10-1012, 1098, 1168, 1256, and 1273.
 Without comment, as amended, SB10-056, 142, and 165.

SENATE SERVICES REPORT

Correctly Printed: SM10-001.
Correctly Reengrossed: SB10-026 and 028.
Correctly Rerevised: HB10-1001.

MESSAGE FROM THE GOVERNOR

March 5, 2010

To the Honorable Senate
 Sixty-seventh General Assembly
 Second Regular Session
 State Capitol
 Denver, CO 80203

Ladies and Gentlemen:

I have the honor to inform you that I have approved and filed with the Secretary of State the following Act:

SB10-049: CONCERNING THE LIABILITY LIMITS APPLICABLE TO THE LIFE AND HEALTH INSURANCE PROTECTION ASSOCIATION, AND, IN CONNECTION THEREWITH, INCREASING THE LIABILITY LIMITS FOR ANNUITY BENEFITS, STRUCTURED SETTLEMENT ANNUITIES, AND LONG-TERM CARE BENEFITS.

Approved March 5, 2010 at 8:23 am.

Sincerely,
(signed)
Bill Ritter, Jr.
Governor
Rec'd: 03/08/2010, 10:05 a.m.
Karen Goldman, Secretary of the Senate

On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of Monday, March 8 was laid over until Tuesday, March 9, retaining its place on the calendar.

- Consideration of Resolutions: SJR10-010, SR10-006.
- Consideration of Memorials: SJM10-10-001.
- Consideration of House Amendments to Senate Bills: SB10-109.
- Consideration of Governor's Appointments:
 - Member of the State Housing Board
 - Member of the Public Employees' Retirement Benefit Plans
 - Member of the Colorado Banking Board
 - Members of the Mined Land Reclamation Board
 - Members of the Energy Impact Assistance Advisory Committee
- Conference Committees to Report: HB10-1320, HB10-1339, HB10-1327.

On motion of Senator Morse, the Senate adjourned until 9:00 a.m., Tuesday, March 9, 2010.

Approved:

Brandon C. Shaffer
President of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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