



# Journal of the Senate

Number 27

Friday, May 13, 1977

The Senate was called to order by the President at 9:00 a.m.  
A quorum present—40:

Mr. President	Gordon	Myers	Thomas, Jon
Barron	Gorman	Peterson	Thomas, Pat
Castor	Graham	Plante	Tobiassen
Chamberlin	Hair	Poston	Trask
Childers, Don	Henderson	Renick	Vogt
Childers, W. D.	Holloway	Sayler	Ware
Dunn	Johnston	Scarborough	Williamson
Firestone	Lewis	Scott	Wilson
Gallen	MacKay	Skinner	Winn
Glisson	McClain	Spicola	Zinkil

Prayer by Senator Peterson:

Let us pray. Gracious Father, this morning as we acknowledge your presence here with us, let us be thankful for the place where we are and for the things we can do. Let us be thankful for those who have worked together and strived together and argued together to arrive at this point for the people of this state. And Father, we are thankful for the leadership we have here in this chamber and in the House of Representatives and in the Governor's office and our Cabinet. We ask once again that you bless them and guide them and direct them in the ways you would have them go. We ask this in Christ's name. Amen.

## REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends the following bills be placed on Special Order Calendar for Friday, May 13, 1977:

Bills left pending on Special Order Calendar for Thursday, May 12, 1977, shall be considered on Special Order Calendar Friday, May 13, 1977, followed by:

SB 919	SB 506	SB 14
SB 575	CS for SB 545	HB 545
CS for SB 97	SB 1014	SB 1277
CS for SCR 77	SB 78	

Respectfully submitted,  
*Tom Gallen*  
Chairman

The Special Master for Claim Bills recommends the following pass: SB 557 with 1 amendment, HB 6

The bills were referred to the Committee on Finance, Taxation and Claims under the original reference.

The Committee on Appropriations recommends the following pass: SB 637

The bill was placed on the calendar.

The Committee on Judiciary-Criminal recommends a Committee Substitute for the following: SB 109

The bill with Committee Substitute attached was referred to the Committee on Governmental Operations under the original reference.

The Committee on Appropriations recommends a Committee Substitute for the following: SB 364

The Committee on Finance, Taxation and Claims recommends a Committee Substitute for the following: SB 632

The bills with Committee Substitutes attached contained in the foregoing reports were placed on the calendar.

## Bill Referred to Subcommittee

The following has been referred to the Select Subcommittee on Planning and Budgeting, a select subcommittee composed of Senators Hair, chairman; McClain, Myers, Pat Thomas, Vogt, which will report to the full committee within 7 days:

SB 1111 by Senators Graham, W. D. Childers, and Barron

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Zinkil, the rules were waived and the Committee on Governmental Operations was granted permission to consider SB 1317 at the meeting May 16.

On motion by Senator Zinkil, the rules were waived and by two-thirds vote SB 1038 was withdrawn from the Committee on Governmental Operations.

On motion by Senator Myers, the rules were waived and by two-thirds vote SB 519 was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Jon Thomas, the rules were waived and by two-thirds vote SB 1280 was withdrawn from the committee of reference and indefinitely postponed.

On motions by Senator Myers, by two-thirds vote SB 519 was withdrawn from the Committee on Finance, Taxation and Claims and by two-thirds vote placed at the end of the Special Order Calendar for Monday, May 16.

On motion by Senator W. D. Childers, the rules were waived and the Committee on Commerce was granted permission to consider CS for SB 470 at the meeting May 16.

On motion by Senator W. D. Childers, the rules were waived and by two-thirds vote SB 1016 was withdrawn from the Committee on Commerce.

On motion by Senator Barron, the rules were waived and the Committee on Governmental Operations was granted permission to consider SB 717 at the meeting May 16.

On motion by Senator MacKay, the rules were waived and by two-thirds vote SB 1318 was withdrawn from the committees of reference and indefinitely postponed.

On motion by Senator Gordon, the rules were waived and by two-thirds vote HB 1455 was withdrawn from the Committee on Finance, Taxation and Claims.

## REQUESTS FOR EXTENSION OF TIME

The Committee on Agriculture requests an extension of 15 days for consideration of the following:

SB 956 by Senator Trask

The Committee on Commerce requests an extension of 15 days for consideration of the following:

SB 792 by Senators McClain,	SB 1190 by Senator Ware
Barron	SB 1195 by Senator Pat
SB 1188 by Senator Barron	Thomas

SB 1196 by Senator Spicola  
 SB 1199 by Senators Winn, Gordon, Graham, et al  
 SB 1212 by Senator Gordon  
 SB 1216 by Senators Williamson, Plante  
 SB 1217 by Senator Gallen  
 SB 1222 by Senator Williamson

SB 1223 by Senator Williamson  
 SB 1227 by Senator Plante  
 SB 1231 by Senator W. D. Childers  
 CS for SB 983 by Natural Resources and Conservation Committee and Senator Renick

SB 1395 by Senator Johnston  
 SB 1412 by Senator Poston  
 SB 1420 by Senator Myers  
 SB 1427 by Senator Poston  
 SB 1443 by Senator Poston  
 SB 1451 by Senator Poston  
 HB 156 by Representative Hutto  
 HB 275 by Representative Eckhart  
 HB 1601 by Transportation Committee  
 HB 46 by Representative Easley

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Lew Brantley, President*

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Economic, Community and Consumer Affairs and Senator P. Thomas—

CS for SB 403—A bill to be entitled An act relating to local ordinances; prohibiting the enactment of an ordinance or rule imposing price controls upon a business activity which is not franchised by, owned by, or under contract with the governmental agency; providing procedures and restrictions under which the governing body of a local governmental unit may adopt or maintain in effect an ordinance or rule imposing residential rent controls; authorizing enactment of public service rates; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

The Committee on Economic, Community and Consumer Affairs requests an extension of 15 days for consideration of the following:

SB 69 by Senator Don Childers  
 SB 177 by Senator Graham  
 SB 247 by Senator Glisson  
 SB 264 by Senator Firestone  
 SB 289 by Senator Graham  
 SB 304 by Senator Jon Thomas  
 SB 355 by Senator Renick  
 SB 381 by Senator Gallen  
 SB 383 by Senator Spicola  
 SB 448 by Senator Skinner  
 SB 471 by Senator Renick  
 SB 480 by Senator Holloway

SB 1294 by Senator Scott  
 SB 1304 by Senator Tobiasen  
 SB 1324 by Senator Ware  
 SB 1333 by Senator Vogt  
 SB 1352 by Senator Renick  
 SB 1374 by Senator Wilson  
 SB 930 by Senator Plante  
 SB 1403 by Senator Vogt  
 SB 1404 by Senator Gorman  
 SB 1423 by Senator Scott  
 SB 1434 by Senators Gordon, Graham  
 SB 875 by Senators Henderson, Gallen

The Committee on Economic, Community and Consumer Affairs requests an extension of 15 days for consideration of the following:

SB 902 by Senator Trask  
 SB 870 by Senator Wilson  
 SB 834 by Senator Gordon

SB 763 by Senator Vogt  
 SB 531 by Senator Gordon

The Committee on Governmental Operations requests an extension of 15 days for consideration of the following:

SB 1256 by Senator Jon Thomas  
 SB 1269 by Senator Graham

SB 1271 by Senator McClain  
 SB 1276 by Senator Plante

The Committee on Health and Rehabilitative Services requests an extension of 15 days for consideration of the following:

SB 803 by Senator Lewis (by request)  
 SB 807 by Senator Lewis (by request)  
 SB 809 by Senator Lewis (by request)  
 SB 812 by Senator Lewis (by request)  
 SB 813 by Senator Lewis (by request)  
 SB 814 by Senator Lewis (by request)  
 SB 1221 by Senator Gordon

SB 1270 by Senator Graham  
 SB 1338 by Senator Glisson  
 SB 1369 by Senator Gordon  
 SB 1371 by Committee on HRS  
 SB 1377 by Senator Gordon  
 SB 1386 by Senator Scarborough  
 SB 1387 by Senators Glisson, Henderson and Vogt  
 SB 1393 by Senator Graham  
 SB 1397 by Senator Graham

The Committee on Transportation requests an extension of 15 days for consideration of the following:

SB 99 by Senator Holloway  
 SB 170 by Senator Poston  
 SB 288 by Senator Graham  
 SB 496 by Senator Poston  
 SB 562 by Senator Renick  
 SB 564 by Senator Henderson  
 SB 571 by Senator Poston  
 SB 626 by Senator Renick  
 SB 627 by Senator Renick  
 SB 697 by Senator Graham  
 SB 791 by Senator Scarborough  
 SB 838 by Transportation Committee  
 SB 882 by Senator Graham  
 SB 975 by Senator Myers  
 SB 1042 by Senator Poston  
 SB 1079 by Senator Holloway

SB 1089 by Senator Poston  
 SB 1090 by Senator Poston  
 SB 1123 by Senator Poston  
 SB 1146 by Senator Holloway  
 SB 1175 by Senator Trask  
 SB 1176 by Senator Poston  
 SJR 1225 by Senator Hair  
 SB 1237 by Senator Peterson  
 SB 1258 by Senator Gordon  
 SB 1260 by Senator Poston  
 SB 1273 by Senator Peterson  
 SB 1283 by Senator Williamson  
 SB 1291 by Senator Holloway  
 SB 1299 by Senator Ware  
 SB 1328 by Senator Gordon  
 SB 1375 by Senator Gordon  
 SB 1382 by Senator Poston

Amendment 1—On page 1, line 27, insert: the following after the (,) following the word transportation taxicabs,

Substitute amendment 2—On page 3, lines 17 and 18, strike all of said lines and insert: Section 8. This act shall take effect immediately upon becoming law.

Amendment 4—On page 2, line 9, strike all of said line and insert: Section 4. Notwithstanding any other provisions of this act, no controls shall be imposed on rents for

Amendment 5—On page 3, line 8, strike "Section 4" and insert: Section 5

On motion by Senator Pat Thomas, the Senate concurred in the House amendments.

CS for SB 403 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—26

Mr. President	Gorman	Peterson	Thomas, Pat
Childers, Don	Graham	Plante	Tobiasen
Childers, W. D.	Hair	Renick	Vogt
Dunn	Holloway	Sayler	Ware
Firestone	Johnston	Scarborough	Winn
Gallen	MacKay	Scott	
Gordon	Myers	Skinner	

Nays—10

Castor	Lewis	Spicola	Zinkil
Chamberlin	McClain	Trask	
Glisson	Poston	Wilson	

Vote after roll call:

Yea—Williamson

The bill was ordered engrossed and then enrolled.

MATTERS ON RECONSIDERATION

The motion by Senator Wilson on May 12, that the Senate reconsider the vote by which SB 1455 as amended passed on May 12, was taken up and the Senate refused to reconsider.

On motion by Senator Gallen, the rules were waived and SB 1455 after being engrossed was ordered immediately certified to the House.

### SPECIAL ORDER

SB 979 was taken up and on motion by Senator Poston—

HB 1405—A bill to be entitled An act relating to road construction contracts; amending s. 337.141, Florida Statutes, relating to payment of contracts, including an agreement by a contractor's surety for release of payment in required documents to be submitted to the final estimate engineer; providing a definition; providing an effective date.

—a companion measure was substituted therefor and read the second time by title.

The Committee on Transportation offered the following amendment which was moved by Senator Poston:

Amendment 1—On page 1, strike all of line 23 and insert: ~~21A~~ and the acceptance letter and a consent by the

Senator Poston moved the following substitute amendment which was adopted:

Amendment 2—On page 1, strike all of lines 23 and 24 and insert: ~~21A~~ and the acceptance letter and a consent by the contractor's surety for release of payment of the retained percentage and final

Senator Poston moved the following amendments which were adopted:

Amendment 3—On page 1, line 27, strike "agreement" and insert: consent

Amendment 4—On page 1, line 12, insert: Section 1, Subsection (2) of section 255.05, Florida Statutes, is amended to read:

255.05 Bond of contractor constructing public buildings; suit by materialmen, etc.—

(2) Any person supplying labor, material or supplies used directly or indirectly in the prosecution of the work to any subcontractor ~~and who has not received payment therefor~~ shall, within ~~45~~ 90 days after beginning performance of the labor and after beginning complete delivery of materials and supplies, give written notice of beginning the performance of such labor or delivery of such materials and supplies ~~and the nonpayment therefor~~ and no action or suit for nonpayment for such labor or for such materials and supplies may be instituted or prosecuted against the contractor unless such notice has been given. No action or suit shall be instituted or prosecuted against the contractor or against the surety on the bond required in this section after 1 year from the performance of the labor or completion of delivery of the materials and supplies.

(Renumber succeeding sections)

The Committee on Transportation offered the following amendment which was moved by Senator Poston:

Amendment 5—On page 1 in title, strike all of line 4 and insert: to payment of contracts, including a consent

Senator Poston moved the following substitute amendment which was adopted:

Amendment 6—On page 1 in title, strike all of line 2 through and including line 4 and insert: An act relating to construction of public buildings and roads; amending s. 255.05(2), Florida Statutes; providing the time for giving notice of commencement of delivery of materials or performance of labor by persons supplying labor or materials to a subcontractor on a public building as a prerequisite for bringing an action for nonpayment; amending s. 377.141, Florida Statutes; relating to payment of road construction contracts, including a consent

On motion by Senator Poston, by two-thirds vote HB 1405 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Gorman	Peterson	Thomas, Pat
Castor	Graham	Plante	Tobiassen
Chamberlin	Hair	Poston	Trask
Childers, Don	Henderson	Renick	Vogt
Childers, W. D.	Holloway	Sayler	Ware
Dunn	Johnston	Scarborough	Williamson
Firestone	Lewis	Scott	Wilson
Gallen	MacKay	Skinner	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Thomas, Jon	

Nays—None

SB 979 was laid on the table.

SB 981—A bill to be entitled An act relating to state officers and employees; amending s. 110.051(2), Florida Statutes, 1976 Supplement; providing that all state employees are eligible for participation in the meritorious service awards program; providing an effective date.

—was read the second time by title. On motion by Senator Poston, by two-thirds vote SB 981 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Hair	Poston	Thomas, Pat
Castor	Holloway	Renick	Tobiassen
Chamberlin	Johnston	Sayler	Trask
Childers, Don	Lewis	Scarborough	Vogt
Childers, W. D.	MacKay	Scott	Ware
Firestone	McClain	Skinner	Wilson
Gallen	Peterson	Spicola	Winn
Gorman	Plante	Thomas, Jon	Zinkil

Nays—5

Dunn	Graham	Myers	Williamson
Gordon			

SB 849—A bill to be entitled An act relating to abandoned property; amending s. 705.18, Florida Statutes, to provide for the sale of personal property lost or abandoned on community college campuses and for the disposition of proceeds therefrom; providing an effective date.

—was read the second time by title. On motion by Senator Tobiassen, by two-thirds vote SB 849 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Gorman	Peterson	Thomas, Jon
Castor	Graham	Plante	Thomas, Pat
Chamberlin	Hair	Poston	Tobiassen
Childers, Don	Holloway	Renick	Trask
Childers, W. D.	Johnston	Sayler	Vogt
Dunn	Lewis	Scarborough	Ware
Firestone	MacKay	Scott	Williamson
Gallen	McClain	Skinner	Winn
Gordon	Myers	Spicola	Zinkil

Nays—None

Vote after roll call:

Yea—Henderson

SB 877—A bill to be entitled An act relating to licensing of professions by administrative boards; repealing s. 455.015, Florida Statutes, relating to the licensing of persons who have been licensed in other countries and continuing education programs for applicants who have been licensed in other countries; providing an effective date.

—was read the second time by title.

The Committee on Economic, Community, and Consumer Affairs offered the following amendments which were moved by Senator Tobiassen and adopted:

**Amendment 1**—On page 1, strike everything after the enacting clause and insert: Section 1. Section 455.015, Florida Statutes, created as subsections (13), (14), and (15) of section 20.30, Florida Statutes, by chapter 74-105, Laws of Florida, as amended by chapter 75-177, Laws of Florida, is hereby repealed.

**Section 2.** Each board and commission within the Department of Professional and Occupational Regulation shall adopt and implement programs designed to qualify for examination all persons who were resident nationals of the Republic of Cuba, and who, upon the effective date of this act are residents of this state.

**Section 3.** This act shall take effect July 1, 1977

**Amendment 2**—On page 1 in title, line 8, following the semicolon insert: providing for the creation of programs designed to equip certain Cuban nationals to take the license examination;

On motion by Senator Tobiassen, by two-thirds vote SB 877 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Mr. President	Gorman	Peterson	Thomas, Jon
Castor	Hair	Plante	Thomas, Pat
Chamberlin	Henderson	Poston	Tobiassen
Childers, Don	Holloway	Renick	Trask
Childers, W. D.	Johnston	Sayler	Vogt
Dunn	Lewis	Scarborough	Williamson
Firestone	MacKay	Scott	Winn
Gallen	McClain	Skinner	Zinkil

Nays—3

Gordon            Graham            Myers

Votes after roll call:

Nay—Spicola

Yea to Nay—Firestone

SB 532 was taken up and on motion by Senator Gordon, the rules were waived and by two-thirds vote HB 258 was withdrawn from the Committee on Commerce and placed on the calendar. On motion by Senator Gordon—

**HB 258**—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 550.12(2)(b), Florida Statutes, providing that the appraisal filed by a permittee may be prepared by a member of any nationally recognized appraisal society or association; providing for new permittees; providing an effective date.

—a companion measure, was substituted for SB 532 and read the second time by title. On motion by Senator Gordon, by two-thirds vote HB 258 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Graham	Peterson	Thomas, Jon
Castor	Hair	Plante	Thomas, Pat
Chamberlin	Henderson	Poston	Tobiassen
Childers, Don	Holloway	Renick	Trask
Childers, W. D.	Johnston	Sayler	Vogt
Firestone	Lewis	Scarborough	Williamson
Gallen	MacKay	Scott	Wilson
Gordon	McClain	Skinner	Winn
Gorman	Myers	Spicola	Zinkil

Nays—None

Senator Scarborough presiding.

SB 532 was laid on the table.

**SB 1134**—A bill to be entitled An act relating to the Retail Installment Sales Act; amending s. 520.34(5), Florida Stat-

utes; increasing finance charge limitation; providing an effective date.

—was read the second time by title. On motion by Senator Trask, by two-thirds vote SB 1134 was read the third time by title and failed to pass. The vote was:

Yeas—7

Gorman	Johnston	Sayler	Ware
Henderson	Peterson	Trask	

Nays—28

Castor	Glisson	Myers	Spicola
Chamberlin	Gordon	Plante	Thomas, Jon
Childers, Don	Graham	Poston	Thomas, Pat
Childers, W. D.	Hair	Renick	Vogt
Dunn	Holloway	Scarborough	Williamson
Firestone	Lewis	Scott	Wilson
Gallen	McClain	Skinner	Winn

Senator Gallen moved that the Senate reconsider the vote by which SB 1134 failed to pass this day. The motion was placed on the Calendar for consideration May 16.

**SB 208**—A bill to be entitled An act relating to public employee retirement and pension benefit plans; creating s. 112-0516, Florida Statutes; providing for forfeiture of certain benefits under such plans for specified crimes or upon impeachment; providing an effective date.

—was read the second time by title.

The President presiding

Senator Scarborough moved the following amendment which failed:

**Amendment 1**—On page 2, lines 12-20, strike Subsection (4)

On motion by Senator Sayler, by two-thirds vote SB 208 was read the third time by title.

Senator Scarborough moved that SB 208 be recommitted to the Committee on Personnel, Retirement and Collective Bargaining. The motion failed.

SB 208 passed and was certified to the House. The vote on passage was:

Yeas—28

Mr. President	Graham	McClain	Tobiassen
Childers, Don	Hair	Plante	Vogt
Childers, W. D.	Henderson	Poston	Ware
Dunn	Holloway	Sayler	Williamson
Firestone	Johnston	Scott	Winn
Glisson	Lewis	Spicola	Winn
Gorman	MacKay	Thomas, Jon	Zinkil

Nays—5

Castor	Myers	Renick	Scarborough
Chamberlin			

**SB 922**—A bill to be entitled An act relating to education; amending s. 232.01(1)(d)-(h), (2), Florida Statutes; establishing conditions relating to the entry age for first grade; providing an effective date.

—was read the second time by title. On motion by Senator Ware, by two-thirds vote SB 922 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Glisson	Holloway	Peterson
Castor	Gordon	Johnston	Plante
Chamberlin	Gorman	Lewis	Poston
Childers, Don	Graham	MacKay	Renick
Dunn	Hair	McClain	Scarborough
Firestone	Henderson	Myers	Scott

Skinner Thomas, Pat Vogt Winn  
Spicola Trask Ware Zinkil  
Thomas, Jon

Nays—None

Votes after roll call:

Yeas—W. D. Childers and Tobiassen

On motion by Senator Gallen, the rules were waived and the Senate reverted to—

#### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Lew Brantley, President*

I am directed to inform the Senate that the House of Representatives has adopted HM 2301 and requests the concurrence of the Senate.

*Allen Morris, Clerk*

By Representatives Kutun and others—

HM 2301—A memorial to the President of the United States, urging the President to appoint Donald L. Tucker to a position on the Civil Aeronautics Board.

—was read the first time in full. On motion by Senator Gallen, the rules were waived and HM 2301 was placed on the calendar.

On motion by Senator Barron, by two-thirds vote, HM 2301 was read the second time by title, unanimously adopted and certified to the House.

Senators Gallen, Henderson, Barron, Spicola, Myers, Firestone, Renick and Winn paid tribute to Donald Tucker, Speaker of the House, who responded from the rostrum where he was seated for the reading of the memorial.

#### Special Order, continued

SB 1192—A bill to be entitled An act relating to the Department of Offender Rehabilitation; amending s. 116.161, Florida Statutes; authorizing the department to purchase certain motor vehicles; requiring the department, prior to purchasing such vehicles, to seek to procure the motor vehicles from those renovated pursuant to correctional programs of the department; providing an effective date.

—was read the second time by title. On motion by Senator Ware, by two-thirds vote SB 1192 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Graham	Peterson	Thomas, Pat
Castor	Hair	Plante	Trask
Chamberlin	Henderson	Poston	Vogt
Childers, Don	Holloway	Renick	Ware
Dunn	Johnston	Scarborough	Williamson
Firestone	Lewis	Scott	Winn
Glisson	MacKay	Skinner	Zinkil
Gordon	McClain	Spicola	
Gorman	Myers	Thomas, Jon	

Nays—None

Votes after roll call:

Yeas—W. D. Childers and Tobiassen

By the Committee on Health and Rehabilitative Services and Senators Graham and Firestone—

CS for SB's 290 & 291—A bill to be entitled An act relating to state health planning; providing for the development of a state health plan; requiring annual submission to the Legislature; providing definitions; providing for functions of the

office of the Deputy Assistant Secretary for State Health Planning and Development; providing an effective date.

—was read the first time by title and Senate Bills 290 and 291 were laid on the table.

On motions by Senator Graham, by two-thirds vote CS for SB's 290 and 291 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gorman	Myers	Thomas, Pat
Barron	Graham	Peterson	Trask
Castor	Hair	Poston	Vogt
Chamberlin	Henderson	Renick	Ware
Childers, Don	Holloway	Scarborough	Williamson
Firestone	Johnston	Scott	Winn
Gallen	Lewis	Skinner	Zinkil
Glisson	MacKay	Spicola	
Gordon	McClain	Thomas, Jon	

Nays—None

Votes after roll call:

Yeas—W. D. Childers and Tobiassen

By the Committee on Commerce and Senator Henderson—

CS for SB 946—A bill to be entitled An act relating to insurance; amending subsection (3) of s. 627.6575, Florida Statutes, to provide that mandatory policy provisions relating to the coverage of newborns be included in group policies effectuated or delivered outside this state for which group certificates are delivered or issued for delivery to certificate holders who are Florida residents; providing an effective date.

—was read the first time by title and SB 946 was laid on the table.

On motions by Senator Henderson, by two-thirds vote CS for SB 946 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Gordon	Myers	Thomas, Pat
Barron	Gorman	Peterson	Tobiassen
Castor	Graham	Plante	Trask
Chamberlin	Hair	Poston	Vogt
Childers, Don	Henderson	Renick	Ware
Childers, W. D.	Holloway	Scarborough	Williamson
Dunn	Johnston	Scott	Winn
Firestone	Lewis	Skinner	Zinkil
Gallen	MacKay	Spicola	
Glisson	McClain	Thomas, Jon	

Nays—None

On motion by Senator W. D. Childers, the rules were waived and the Senate immediately reconsidered the vote by which—

HB 1730—A bill to be entitled An act relating to larceny; amending s. 812.021, Florida Statutes, by adding a new subsection (7); providing for prima facie evidence of intent to commit larceny in a prosecution for larceny of property leased or rented to the defendant; providing an effective date.

—as amended passed on May 11.

Senator Dunn moved the following amendment which was adopted by two-thirds vote:

**Amendment 5**—On page 6, strike lines 10-21 and insert: (c) It shall be an affirmative defense to prosecution under this section if the lessee's or renter's failure to return the item of personal property or motor vehicle at the expiration of the rental agreement was lawful or was reasonably believed to be lawful by the lessee or renter.

HB 1730 as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Myers	Thomas, Pat
Barron	Gorman	Peterson	Tobiassen
Castor	Graham	Plante	Trask
Chamberlin	Hair	Poston	Vogt
Childers, Don	Henderson	Renick	Ware
Childers, W. D.	Holloway	Scarborough	Williamson
Dunn	Johnston	Scott	Wilson
Firestone	Lewis	Skinner	Zinkil
Gallen	MacKay	Spicola	
Glisson	McClain	Thomas, Jon	

Nays—None

SB 1251—A bill to be entitled An act relating to product liability actions; creating s. 768.60, Florida Statutes; providing that the liability of a manufacturer or seller of a product is to be based on the knowledge and technology in existence at the time the product was originally sold; providing that negligence is to be allocated on the basis of each party's fault; providing defenses; prohibiting the pleading of dollar amounts of unliquidated damages; providing a collateral source rule; authorizing the court to allow payment of judgments in installments; amending s. 95.031(2), Florida Statutes; reducing the time within which to bring a product liability action; providing severability; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendments which were moved by Senator MacKay and adopted:

**Amendment 1**—On page 2, between lines 8 and 9 insert: (c) Products liability action shall include all actions brought for or on account of personal injury, illness, disease, disability, death or property damage caused by or resulting from the manufacture, construction, design, formula, preparation, assembly, warning, instructing, marketing, packaging, or labeling of any product.

**Amendment 2**—On page 3, line 23, strike "6 42" and insert: 12

**Amendment 3**—On pages 2 and 3, strike all of lines 18-31 on page 2 and all of lines 1-4 on page 3

Senators McClain, Barron and MacKay offered the following amendment which was moved by Senator McClain:

**Amendment 4**—On page 2, lines 13-14, strike all of section B and insert: The plaintiff is barred from recovery if plaintiff has assumed the risk after discovering the defect in the product.

Further consideration of Amendment 4 was deferred.

Senator MacKay moved the following amendment:

**Amendment 5**—On page 2, lines 18-31, and on page 3, lines 1-4, strike all of subsection (4) and insert: (4) COLLATERAL SOURCE RULE.—In any product liability action, evidence of any reimbursement or indemnification received by a party for damages sustained from such injury, excluding payments from insurance paid for in whole or in part by such party or his employer, and services provided by a health maintenance organization to treat any such injury, excluding services paid for in whole or in part by such party or his employer, shall be admissible for consideration by the trier of fact. Such evidence shall be accorded such weight as the trier of fact shall choose to ascribe to that evidence in determining the amount of damages to be awarded to such party.

Senators Barron and MacKay offered the following amendment to Amendment 5 which was moved by Senator MacKay and adopted:

**Amendment 5A**—On page 1, strike all of lines 4 through the word "employer", on line 8

Amendment 5 as amended was adopted.

Senator Spicola moved the following substitute amendment for Amendment 4 which was adopted:

**Amendment 6**—On page 2, strike lines 6-14 and insert: (b) The allocation of negligence in such actions shall be made on

the basis of the fault between the plaintiff and the defendant, and any negligence on the part of the plaintiff shall be based on:

(1) The plaintiff's injury, death or damage stemming from alteration, modification, or misuse of the product; or

(2) The plaintiff having assumed the risk after discovering the defect in the product.

Senator Dunn moved the following amendment which was adopted:

**Amendment 7**—On page 2, line 16 strike "or" and on line 17 strike "proof of" and insert: in

Senator Ware moved the following amendment which was adopted:

**Amendment 8**—On page 3, strike all of lines 5 through 10 inclusively

Senator McClain moved the following amendment which failed:

**Amendment 9**—On page 2, after subsection (b)(1) strike "(2)" and insert: (2) The plaintiff is barred from recovery if plaintiff has assumed the risk after discovering the defect in the product

Senator Wilson moved the following amendment which failed:

**Amendment 10**—On page 2, line 5, strike "(.)" and insert: unless the subsequent development or product change should have been discovered or knowledge of same discovered with the exercise of due diligence.

Senator Hair moved the following amendment:

**Amendment 11**—On page 4, between lines 2 and 3, insert: Section 4. No product liability insurer shall be joined as a party defendant in an action to determine the insured's liability. However, each insurer which does or may provide product liability insurance coverage to pay all or a portion of any judgment which might be entered in the action shall file a statement, under oath, of a corporate officer setting forth the following information with regard to each known policy of insurance:

- (a) The name of the insurer.
  - (b) The name of each insured.
  - (c) The limits of liability coverage.
  - (d) A statement of any policy or coverage defense which said insurer reasonably believes is available to said insurer filing the statement at the time of filing said statement.
- (2) The statement required by subsection (1) shall be amended immediately upon discovery of facts calling for an amendment to said statement.

(3) If the statement or any amendment thereto indicates that a policy or coverage defense has been or will be asserted, then the insurer may be joined as a party.

(4) After the rendition of a verdict, or final judgment by the court if the case is tried without a jury, the insurer may be joined as a party and judgment may be entered by the court based upon the statement or statements herein required.

(5) The rules of discovery shall be available to discover the existence and policy provisions of liability insurance coverage.

(Renumber subsequent sections)

Amendment 11 was adopted by the following vote:

Yeas—22

Mr. President	Gallen	McClain	Tobiassen
Barron	Glisson	Peterson	Trask
Castor	Gorman	Poston	Williamson
Childers, Don	Graham	Renick	Zinkil
Childers, W. D.	Hair	Skinner	
Firestone	Lewis	Thomas, Jon	

Nays—11

Chamberlin	Johnston	Scott	Ware
Henderson	MacKay	Spicola	Wilson
Holloway	Myers	Vogt	

Senator Dunn moved the following amendment which was adopted:

**Amendment 12**—On page 3, strike lines 5-10 and insert: (5) Installment Payments.—When a judgment rendered in favor of a plaintiff, exceeds \$50,000 the court may provide in the final judgment or order amending the final judgment, that that portion, if any, of the final judgment which exceeds \$50,000 and which pertains to the recovery of future damages be paid in installments. If any portion of the final judgment is to be paid in installments, the court shall provide for adequate security, by bond or otherwise, to secure payment of the installments.

Senator Hair moved the following amendment which was adopted:

**Amendment 13**—On page 1, line 16 in title, strike "action;" and insert: action; providing for nonjoinder of product liability insurers;

The Committee on Commerce offered the following amendments which were moved by Senator Hair and adopted:

**Amendment 14**—On page 1 in title, lines 11 and 12, strike "providing a collateral source rule;"

**Amendment 15**—On page 1, lines 14-16 in title, strike "reducing the time within which to bring a product liability action;"

On motion by Senator MacKay, by two-thirds vote SB 1251 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—25

Mr. President	Gorman	Plante	Tobiassen
Barron	Graham	Poston	Trask
Chamberlin	Hair	Renick	Winn
Childers, Don	Henderson	Sayler	Zinkil
Childers, W. D.	MacKay	Skinner	
Gallen	McClain	Thomas, Jon	
Glisson	Peterson	Thomas, Pat	

Nays—10

Castor	Johnston	Spicola	Wilson
Dunn	Myers	Vogt	
Gordon	Scott	Ware	

Vote after roll call:

Yea—Lewis

SB 1108 was taken up and on motion by Senator Barron, the rules were waived and by two-thirds vote HB 850 was withdrawn from the Committee on Judiciary-Criminal and placed on the calendar. On motion by Senator Barron—

**HB 850**—A bill to be entitled An act relating to evidence; repealing chapter 76-237, Laws of Florida, to abolish the Florida Evidence Code with was enacted to replace the present

provisions of law relating to evidence; providing an effective date.

—a companion measure, was substituted for SB 1108 and read the second time by title.

Further consideration of HB 850 was deferred.

**SB 904**—A bill to be entitled An act relating to charitable organizations; adding a paragraph to s. 496.04(1), Florida Statutes, to exempt little league baseball organizations from the registration provisions of chapter 496; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations offered the following amendment which was moved by Senator Henderson and adopted:

**Amendment 1**—On page 1, strike all of lines 16 through 19 and insert: (g) Any nonprofit community club, civic club, garden club, women's club, athletic league, or other similar civic group organized and in existence for more than 2 years, with no capital stock or salaried executive employees, officers, members or agents, with at least 25 members with annual dues collected of not less than \$5 per member, in which all of the funds collected, less reasonable expenses, are disbursed pursuant to the directions of the membership of the board of directors and with the membership being furnished at least one written report each year by the directors as to its charitable activities.

Senator Williamson offered the following amendment which was moved by Senator Henderson and adopted:

**Amendment 2**—On page 1, strike all of lines 10 and 11 and insert: Section 1. Paragraph (g) of subsection (1) of section 496.04, Florida Statutes, is amended to read:

The Committee on Governmental Operations offered the following amendment which was moved by Senator Henderson and adopted:

**Amendment 3**—On page 1, strike all of lines 3 through 6 in title and insert: amending paragraph (g) of s. 496.04(1), Florida Statutes, to exempt athletic leagues from the registration provisions of chapter 496; providing an effective date.

On motion by Senator Henderson, by two-thirds vote SB 904 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gordon	Plante	Trask
Barron	Gorman	Renick	Vogt
Castor	Hair	Scarborough	Ware
Chamberlin	Henderson	Scott	Wilson
Childers, Don	Johnston	Skinner	Winn
Childers, W. D.	MacKay	Spicola	Zinkil
Dunn	McClain	Thomas, Jon	
Gallen	Myers	Thomas, Pat	
Glisson	Peterson	Tobiassen	

Nays—None

Vote after roll call:

Yea—Lewis

Senator Gallen announced that a consent calendar would be scheduled for Friday, May 20, and all requests for bills to be placed on the consent calendar should be filed with the Committee on Rules and Calendar by 5:00 p.m. Wednesday, May 18.

**ENROLLING REPORT**

CS for SB 403 has been enrolled, signed by the required Constitutional Officers and filed with the Governor on May 13, 1977.

*Joe Brown, Secretary*

**CORRECTION AND APPROVAL OF JOURNAL**

The Journal of May 12 was corrected and approved.

The Journal of May 4 was further corrected and approved as follows: Page 322, from bottom of column 1, line 3, strike "747" and insert: 1747

On motion by Senator Gallen, the Senate adjourned at 12:00 noon to convene at 8:30 a.m., May 16, 1977 for the purpose of introduction and reference of resolutions, memorials, bills and joint resolutions and thereafter to reconvene at 10:30 a.m.