

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, JULY 8, 2003

SESSION OF 2003

187TH OF THE GENERAL ASSEMBLY

No. 58

HOUSE OF REPRESENTATIVES

The House convened at 11 a.m., e.d.t.

THE SPEAKER (JOHN M. PERZEL) PRESIDING

PRAYER

REV. JULIANN V. WHIPPLE, Chaplain of the House of Representatives, offered the following prayer:

Let us pray:

God eternal, we come together this morning from different homes, many spheres distinct and untouching. Our minds are cluttered with all our to-dos, with our wants, with our dreams. We think about how quickly the day's work will be completed so we can return to our homes. Our minds wander to what we will have for lunch, and yet we ask that You bring us together if only for this moment, one mind in prayerful consideration of Your awesome power.

Lord, last evening people all over this city turned their eyes upward to see the beautiful colors of the fireworks. We oohed and aahed over the way some twinkled, the enormity of some, and the loud thunderous boom of others. It was this city's close of an exciting weekend commemorating our nation's birth and celebrating its independence. What a powerful idea lurks within the word "independence." May we always acknowledge our debt to our fathers and mothers and to the long succession of mothers and fathers before them who hungered for liberty and thirsted for freedom and left behind them for us the rich fruits of their labors.

Let us not be so taken with ourselves that we forget that along with independence comes responsibility. Restrain us from bluster and bombast, from rhetoric unbonded to truth and achievement, from dissemblance of justice and pretensions of virtue. Disturb the complacency wherewith we interpret good fortune as the proof of our goodness. Of us to whom so much has been given, require as abundantly, Lord. Induce us, being rich in possessing, to be equally profuse in dispersing. Discontent us with all except excellence: in science and art, in education and religion, in sheltering and feeding, in compassion and caring. Temper always our might with mercy.

Forgive us when we forget how truly blessed we are. Have patience with us, O God, if only for a while longer, with our broken purposes of good, with our idle endeavors against evil. Suffer us a while longer to endure, and help us to do better. Teach us to see the beauty in the everyday fireworks that surround us – the glorious sunrise, the majestic mountains, and

the loud pounding of the surf as it crashes against the shore. We are truly blessed. May we live our lives in awe.

Accept these our prayers. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Monday, July 7, 2003, will be postponed until printed. The Chair hears no objection.

HOUSE BILLS INTRODUCED AND REFERRED

No. 1822 By Representative CAPPELLI

An Act amending the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, further defining "dispensing machine," "games of chance" and "passive selection device."

Referred to Committee on FINANCE, July 8, 2003.

No. 1823 By Representatives READSHAW, McILHATTAN, COY, BARRAR, COSTA, DALEY, FABRIZIO, FRANKEL, GERGELY, GRUCELA, HARHAI, KOTIK, LAUGHLIN, MACKERETH, MARKOSEK, S. MILLER, PALLONE, PISTELLA, REICHLEY, ROONEY, RUFFING, SAINATO, SHANER, WATERS, WHEATLEY, YUDICHAK, WOJNAROSKI and CRAHALLA

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for aggravating circumstances in sentencing procedure for murder of the first degree.

Referred to Committee on JUDICIARY, July 8, 2003.

No. 1824 By Representatives T. STEVENSON, MANN, THOMAS, BAKER, CAPPELLI, DAILEY, GEIST, GERGELY, HARHAI, HENNESSEY, HORSEY, KOTIK, LEACH, MARKOSEK, McNAUGHTON, READSHAW, SATHER, B. SMITH, STERN, R. STEVENSON, WATSON, WILT and YOUNGBLOOD

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing for sales and use tax definitions and for sales and use tax exclusions.

Referred to Committee on FINANCE, July 8, 2003.

No. 1825 By Representatives FREEMAN, O'NEILL, GRUCELA, STEIL, CAWLEY, CURRY, FABRIZIO, FRANKEL, HARPER, HENNESSEY, LAUGHLIN, LESCOVITZ, McGEEHAN, MUNDY, PETRI, PRESTON, SHANER, WASHINGTON, YOUNGBLOOD and VITALI

An Act amending the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, providing for a temporary development moratorium.

Referred to Committee on INTERGOVERNMENTAL AFFAIRS, July 8, 2003.

No. 1826 By Representatives HESS, GEIST, BALDWIN, BELFANTI, CAUSER, CREIGHTON, DALEY, DALLY, DENLINGER, FREEMAN, HARHART, HENNESSEY, HERSHEY, HORSEY, McILHINNEY, O'NEILL, PISTELLA, ROSS, SAYLOR, SCAVELLO, SCRIMENTI, SHANER, SOLOBAY, WATSON and YOUNGBLOOD

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for application for certificate of title.

Referred to Committee on TRANSPORTATION, July 8, 2003.

No. 1827 By Representatives ADOLPH, YUDICHAK, BIANCUCCI, BROWNE, CAPPELLI, COSTA, CRAHALLA, CRUZ, CURRY, DALLY, DeLUCA, DeWEESE, FABRIZIO, FREEMAN, GEIST, GEORGE, GODSHALL, GRUCELA, HARRIS, HERSHEY, HORSEY, KELLER, KOTIK, LAUGHLIN, LEACH, LEH, R. MILLER, MUNDY, O'NEILL, PETRARCA, PISTELLA, PRESTON, READSHAW, REICHLEY, ROONEY, RUBLEY, SHANER, SOLOBAY, SURRA, J. TAYLOR, TIGUE, WASHINGTON, WATSON, WILT, YOUNGBLOOD, KILLION, E. Z. TAYLOR, McGEEHAN and SEMMEL

An Act amending the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, further providing for rate and amount of compensation.

Referred to Committee on LABOR RELATIONS, July 8, 2003.

HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 355 By Representatives BAKER, EACHUS, CAUSER, CAPPELLI, BEBKO-JONES, BISHOP, BUNT, CRAHALLA, DALEY, DeWEESE, FABRIZIO, FRANKEL, GEIST, GEORGE, GRUCELA, HARHAI, HESS, HORSEY, HUTCHINSON, JAMES, JOSEPHS, KOTIK, LAUGHLIN, LEACH, LESCOVITZ, MANDERINO, MANN, McGEEHAN, McILHATTAN, McNAUGHTON, MELIO, MUNDY, MYERS, PAYNE, PETRARCA, PICKETT, PISTELLA, REICHLEY, RUBLEY, SAINATO, SATHER, SCAVELLO, SCRIMENTI, SOLOBAY, T. STEVENSON, THOMAS,

TIGUE, WANSACZ, WATERS, WILT, YOUNGBLOOD and YUDICHAK

A Resolution calling upon the Governor to include long-term care insurance as an optional health benefit to Commonwealth employees.

Referred to Committee on HEALTH AND HUMAN SERVICES, July 8, 2003.

CALENDAR

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1189, PN 2188**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for restitution for injuries to person or property.

On the question,

Will the House agree to the bill on third consideration?

BILL RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader.

Mr. S. SMITH. Mr. Speaker, I move that HB 1189 be recommitted to the Appropriations Committee.

On the question,

Will the House agree to the motion?

Motion was agreed to.

LEAVES OF ABSENCE

The SPEAKER. Are there any requests for leaves of absence?

The Chair recognizes the majority whip, who moves for a leave of absence for the gentlelady from Bucks, Mrs. WATSON; the gentleman from Northampton, Mr. DALLY; the gentleman from Bedford, Mr. HESS. Without objection, the leaves will be granted.

The Chair recognizes the minority whip. There are no leaves of absence requested by the minority party. Without objection, all the leaves will be granted.

MASTER ROLL CALL

The SPEAKER. The Chair is about to take up the master roll. The members will proceed to vote.

The following roll call was recorded:

PRESENT—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavella
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti

Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

ADDITIONS—0

NOT VOTING—0

EXCUSED—4

Dally Fleagle Hess Watson

CHILDREN AND YOUTH COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman, Mr. Birmelin, for the purpose of an announcement.

There will be a meeting of the Children and Youth Committee today at the recess in the back of the floor of the hall of the House.

GUESTS INTRODUCED

The SPEAKER. The Chair welcomes to the hall of the House Anna-May Melio and guest pages, which are grandsons to our State Representative Tony Melio, Andrew Melio and Paul Melio. They are located to the left of the Speaker. Would they please rise.

RULES COMMITTEE MEETING

The SPEAKER. The Chair recognizes the majority leader for an immediate meeting of the Rules Committee.

BILLS REREPORTED FROM COMMITTEE

HB 865, PN 1022

By Rep. S. SMITH

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, providing for coverage of treatment ordered by worksite-based employee assistance programs.

RULES.

HB 1718, PN 2236

By Rep. S. SMITH

An Act amending the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act, imposing limitations on supersedeas bond requirements.

RULES.

HB 1785, PN 2304

By Rep. S. SMITH

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for the prohibition on certain political activity and for the governing body of the authorities; and providing local choice for fluoridation of public water.

RULES.

BILLS ON SECOND CONSIDERATION

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 1718, PN 2236; and HB 1785, PN 2304.

GUEST INTRODUCED

The SPEAKER. The Chair recognizes, as a guest page of Representative Jerry Nailor, Andrew Sweet. Andrew, would you please rise and be recognized.

BILLS RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader. Mr. S. SMITH. Mr. Speaker, I move that HB 1718 and HB 1785 be recommitted to the Appropriations Committee.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1634, PN 2161**, entitled:

An Act providing for the capital budget for the fiscal year 2003-2004, itemizing public improvement projects, furniture and equipment projects, transportation assistance projects, redevelopment assistance capital projects, flood control projects, Keystone Recreation, Park and Conservation Fund projects, Environmental Stewardship Fund projects, Pennsylvania Fish and Boat Commission projects, public highway projects, Motor License Fund projects and Manufacturer's Fund projects to be constructed or acquired or assisted by the Department of General Services, State Stores fund current revenue projects, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, the Department of Environmental Protection, the Pennsylvania Fish and Boat Commission, Pennsylvania Game Commission and the Department of Transportation, together with their estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed or acquired or assisted by the Department of General Services, the Department of Community and Economic Development, the Department of Conservation and Natural Resources, the Department of Environmental Protection, the Department of Transportation, the Pennsylvania Fish and Boat Commission or the Pennsylvania Game Commission; stating the estimated useful life of the projects; making appropriations; and making repeals.

On the question,

Will the House agree to the bill on third consideration?

Mr. **D. EVANS** offered the following amendment No. **A2186**:

Amend Bill, page 109, by inserting between lines 13 and 14 Section 27. Restrictions on certain funds for the Philadelphia Convention Center.

(a) General rule.—Funds to be expended under section 3(8)(ii)(A) and to be released under section 6(51)(i)(B), for the Philadelphia Convention Center, shall be subject to all the limitations and restrictions specified in this section.

(b) Analysis of fiscal impact and risk.—The City of Philadelphia may not approve any expenditures or incur any debt for an expansion of the Pennsylvania Convention Center until the city council is in receipt of a detailed analysis prepared by the Pennsylvania Intergovernmental Cooperation Authority of the fiscal impact and financial risks caused by the increased expenditure or additional debt. Any approvals made prior to the detailed analysis shall be void. No State funds shall be expended prior to the submission of the detailed analysis.

(c) Oversight committee certification of compliance.—No State funds authorized under this act for the Pennsylvania Convention Center may be expended or released until the oversight committee, established under subsection (d), certifies that the Pennsylvania Convention Center Authority has by clear and convincing evidence shown compliance with all of the following requirements:

(1) The establishment and maintenance of a hospitable, professional work environment and harmonious labor relations to be demonstrated by customer surveys performed by an independent and reputable opinion polling consultant or firm indicating overwhelming customer satisfaction in the following areas:

- (i) a unified and seamless work force without evidence of jurisdictional disputes;
- (ii) the overall labor environment; and
- (iii) labor efficiency.

(2) Statistical evidence by an independent auditor that cost overruns have been significantly reduced and labor productivity has significantly increased.

(3) The maintenance of sufficient and sustainable demand to be demonstrated by rebooking rates at the time of conventions or trade shows equal to 50% less those shows and conventions that do not rebook due to the lack of space.

(d) Establishment of oversight committee.—There is hereby established a special oversight committee to carry out the duties under subsection (c). The oversight committee shall consist of nine members as follows:

(1) The Secretary of the Budget or a designee of the secretary who shall chair the oversight committee.

(2) Four members appointed by the Governor who shall have experience in the convention or hospitality business.

(3) Two members, one appointed by the chairman and one appointed by the minority chairman of the Appropriations Committee of the Senate.

(4) Two members, one appointed by the chairman and one appointed by the minority chairman of the Appropriations Committee of the House of Representatives.

(e) Penalties.—

(1) The Commonwealth has the right to withhold funding and to exercise all rights and pursue all remedies at law or in equity for any of the following:

(i) Failure of the Pennsylvania Convention Center to comply with the provisions of this section in a timely and appropriate manner.

(ii) A violation of a covenant under any agreement with or for the benefit of the Commonwealth relating to the construction, renovation or use of the Pennsylvania Convention Center.

(iii) Any other violation of law applicable to the construction, renovation or use of the Pennsylvania Convention Center.

(2) A person that negligently violates this section shall be subject to a civil penalty of up to \$100,000 per violation.

(3) A person that knowingly provides false or fraudulent information or makes a material misrepresentation under this section commits a misdemeanor of the third degree.

Amend Sec. 27, page 109, line 14, by striking out "27" and inserting

28

Amend Sec. 28, page 109, line 23, by striking out "28" and inserting

29

Amend Sec. 29, page 110, line 1, by striking out "29" and inserting

30

Amend Sec. 30, page 110, line 15, by striking out "30" and inserting

31

Amend Sec. 31, page 110, line 24, by striking out "31" and inserting

32

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Evans, for an explanation of the amendment.

Mr. **D. EVANS**. Thank you, Mr. Speaker.

Mr. Speaker, the amendment I am offering here requires accountability and performance standards based on the econ study report in terms of the \$300 million invested for the expansion of the Pennsylvania Convention Center. What it would do is it would provide an oversight committee to ensure

that these standards are complied with prior to spending any State money, and the committee, Mr. Speaker, is made up of nine people: the Secretary of the Budget, four members by the Governor and then from the chairs of Appropriations on both sides of the aisle.

The purpose of this, Mr. Speaker, is to ensure that this investment is used in the proper manner. It is something, Mr. Speaker, that, in my view, is long overdue. We need to ensure that we are using this money properly. I hope that members on both sides of the aisle can support the amendment.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

AMENDMENT WITHDRAWN

The SPEAKER. The gentleman, Mr. Evans, withdraws his amendment.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. **GABIG** offered the following amendment No. **A2761**:

Amend Sec. 6, page 59, by inserting between lines 1 and 2

(A) Cumberland County Historical Society, completion of museum project	800,000
--	---------

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Gabig, for a brief explanation.

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. The Chair rescinds. The amendment will go over temporarily.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. **D. EVANS** offered the following amendment No. **A2703**:

Amend Sec. 6, page 41, line 8, by striking out all of said line and inserting

tourism facility, estimated total project cost of \$1,000,000	200,000
---	---------

Amend Sec. 6, page 55, by inserting between lines 2 and 3

(G) Acquisition, construction, rehabilitation and infrastructure improvements for an incubator/multitenant business facility as part of the Johnstown Renewal Project	1,000,000
---	-----------

Amend Sec. 6, page 56, by inserting between lines 17 and 18

(D) Acquisition, construction, site preparation and development and infrastructure development and improvements for the National Center for the American Revolution	7,000,000
---	-----------

Amend Sec. 6, page 66, by inserting between lines 18 and 19

(L) Property acquisition, reconstruction and rehabilitation of Lancaster Square including the Ramada/Brunswick Hotel and Bulova Building for the Phoenix Art Center Project	20,000,000
---	------------

Amend Sec. 6, page 85, by inserting between lines 16 and 17

(LL) Schuylkill River vacant industrial sites, acquisition and remediation of vacant industrial sites	40,000,000
---	------------

(MM) Schuylkill River Development Corporation, waterfront infrastructure improvements	22,500,000
---	------------

(NN) Cahill Trust Building, reconstruction and expansion including gymnasium, theater and fine art center	10,000,000
---	------------

(OO) Friends Hospital, site preparation and building renovations	6,250,000
--	-----------

(PP) North Broad Street, construction of urban mixed-use commercial and retail development	4,000,000
--	-----------

(QQ) Center City Mixed Use Theater, construction of new mixed-use theater complex	5,000,000
---	-----------

(RR) Philadelphia Naval Business Center Industrial Building, renovations to accommodate sound stage and production space	5,000,000
--	-----------

Amend Sec. 6, page 89, line 20, by striking out all of said line and inserting

recreational facility, estimated total project cost of \$1,200,000	250,000
--	---------

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Evans, for the purpose of an explanation.

Mr. **D. EVANS**. Mr. Speaker, this amendment is a cleanup amendment, and there were some projects that were missing from the capital bill that we wanted to put into the bill. I hope that members can support it on both sides of the aisle. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.

Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. **GABIG** reoffered the following amendment No. **A2761**:

Amend Sec. 6, page 59, by inserting between lines 1 and 2

(A) Cumberland County Historical Society, completion of museum project 800,000

On the question recurring,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Gabig, for the purpose of explaining the amendment.

For the information of the members, the Gabig amendment is the Cumberland County Historical Society completion of the museum project of \$800,000.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally

Fleagle

Hess

Watson

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 1626, PN 2053**, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further defining "taxable income" for purposes of corporate net income tax.

On the question,

Will the House agree to the bill on third consideration?

Mr. **NICKOL** offered the following amendment No. **A2625**:

Amend Sec. 1 (Sec. 401), page 2, line 2, by striking out "3" and inserting

(3)

Amend Sec. 1 (Sec. 401), page 3, lines 5 through 12, by striking out all of said lines and inserting

loss deduction in a taxable year under subparagraphs (1) and (2) shall not apply to the deduction of start-up period losses incurred by a start-up corporation. For the purposes of this subparagraph:

(A) The term "start-up period losses" shall mean the sum of the net loss or losses incurred in the corporation's first taxable year beginning with the corporation's date of incorporation plus its nine succeeding taxable years.

(B) The term "start-up corporation" shall mean a corporation that is:

(I) Newly organized;

(II) Not a subsidiary or affiliate of a preexisting corporation; and

(III) Not a corporation resulting from a reorganization, as the term is defined under section 303(a)(3)(iv)(B) of this act, of related or affiliated corporations.

(C) In the event of a statutory merger or consolidation involving two or more unrelated or unaffiliated start-up corporations, the remaining start-up period of the surviving start-up corporation shall be limited to the least remaining number of taxable years available for any start-up corporation a party to the merger or consolidation.

(D) This subparagraph shall apply to a foreign start-up corporation from the date of its incorporation and not from the date of first becoming subject to taxation in this Commonwealth.

(4) In enacting subparagraph (3), the General Assembly finds that:

(a) The continuing health, stability and growth of business and industry in this Commonwealth is of great importance to this Commonwealth's economy and to the residents of this Commonwealth.

(b) The attraction, establishment and growth of new start-up corporations in this Commonwealth will help to foster these objectives.

(c) Start-up corporations generally incur substantial start-up period losses.

(d) The ability of start-up corporations to deduct available start-up period losses at their earliest opportunity is essential in order to ensure their viability and continued existence in this Commonwealth.

(e) It is in the public interest to permit start-up corporations to use available start-up period losses at their earliest opportunity to help to ensure the health, stability and growth of new business and industry in this Commonwealth and its attendant benefits to all residents of this Commonwealth.

Amend Bill, page 3, by inserting between lines 13 and 14

Section 2. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Amend Sec. 2, page 3, line 14, by striking out “2” and inserting
3

Amend Sec. 2, page 3, line 15, by striking out “2002” and inserting

2003

Amend Sec. 3, page 3, line 16, by striking out “3” and inserting
4

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Nickol, for an explanation of the amendment.

Mr. NICKOL. Thank you, Mr. Speaker.

The language of this amendment was drafted in consultation with the Department of Revenue. It tightens the definition of a startup corporation to eliminate some possibility that it might include corporations which were not intended from the onset. It also changes the effective date from December 2002 to December 2003.

The effect of the amendment will also change the fiscal note. In the immediate fiscal year, it will reduce the cost impact of this legislation from an estimated \$18.85 million to \$4.6 million.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Levdansky.

Mr. LEVDANSKY. Mr. Speaker, I appreciate the explanation given by the sponsor on the amendment. I think it is a good amendment, and I would rather be recognized to speak on final passage, but I do support the amendment.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavella
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil

Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Gruclera	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horse	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnarowski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

GUESTS INTRODUCED

The SPEAKER. The Chair welcomes to the hall of the House Sgt. Clinton Donnie Mullins, who serves with the Marines 2d Battalion, 8th Marine and 2d Divisions. Sergeant Mullins served in Iraq for 6 months. He is currently on leave. He is here with his wife, Elizabeth Mullins, and family members Cindy Albrecht and Allyssa Albrecht. They are the guests of Representative Tom Caltagirone. They are seated to the left of the Speaker. Would those guests please rise and be recognized.

CONSIDERATION OF HB 1626 CONTINUED

On the question,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On that question, the Chair recognizes the gentleman from Allegheny, Mr. Levdansky.

Mr. LEVDANSKY. Thank you, Mr. Speaker.

Mr. Speaker, I would like to interrogate the maker of the bill.

The SPEAKER. The gentleman, Mr. Nickol, indicates that he will stand for interrogation.

Mr. LEVDANSKY. Thank you, Mr. Speaker.

Mr. Speaker, as amended, this legislation would remove the \$2 million cap that presently exists on new startup companies for the purposes of the net loss provisions of the State business tax code, the CNI (corporate net income). You just offered an amendment, and prior to the amendment, I had seen a fiscal note that indicated that the cost of this tax benefit could range anywhere from \$18.8 million in the next fiscal year up to perhaps \$37.7 million in tax revenue not received. You know, as amended, how much would this cost the State Treasury?

Mr. NICKOL. Mr. Speaker, the fiscal note that was issued with regard to the amendment gives the following figures: HB 1626, before being amended, would estimate a cost of \$18.85 million in 2003-2004 fiscal year, \$17.75 million in 2004-2005. With the adoption of the amendment, the fiscal note says the cost to the Commonwealth in the year 2003-2004 will be \$4.6 million, and the cost in the following year, 2004-2005, would be \$14.25 million.

Mr. LEVDANSKY. Let me make sure I understand this.

The \$18,850,000 figure that was in the fiscal note was based on estimating that the language in the bill and the amendment that would disallow corporate reorganizations from qualifying for the tax credit, it would disallow that, and let me quote from the fiscal note: "This incorporation date would include a corporate restructure or reorganization, which, according to the language in the bill, does not qualify for the provisions of the start-up...losses." Also, "The Department of Revenue has made no attempt" – no attempt – "to adjust the incorporation date to exclude such reorganizations.... Therefore, to the extent that the incorporation date does not reflect true start-ups, the Department of Revenue cost estimate is overstated."

So we are just assuming that half of the original amount will be what is actually utilized in the next fiscal year. Is that correct?

Mr. NICKOL. Mr. Speaker, we have had a difficult time getting fiscal notes from the Department of Revenue, and it has been amazing to me the fact that fiscal notes issued by the Department of Revenue in the last year of the Schweiker administration are totally different than the fiscal notes issued in the first year of the Rendell administration, so I think it is fair to say that the figures are somewhat suspect because of the varying changes.

The problem with the Rendell administration, the current Secretary of Revenue, the fiscal note that has been issued, they looked at all the filings for corporations, looked at the time of incorporation, and based what they gave our staff on all corporations if they have been incorporated within the 10-year period. The problem is, they did not back out a number of the corporations that would not qualify for this, so our Appropriations Committee staff was left to back out those corporations that would not qualify. For example, you might

have a corporation move into Pennsylvania from New Jersey, and they would include them when they incorporated in Pennsylvania for the full 10 years, but they would not qualify under this proposal for that, except if they became first incorporated in New Jersey 8 years ago and moved into Pennsylvania, they may qualify for 2 years in Pennsylvania but not the full 10 years. Or it also backs out a number of corporations that may be set up by another existing company – they set up an affiliated corporation – and the date of incorporation is within 10 years. They are not intended to and would not qualify under this. However, the figures supplied by the Department of Revenue counted them, nevertheless.

That is why the need to back off the number given by the Department of Revenue, because they would not give us sound figures.

Mr. LEVDANSKY. Let me rephrase the question just another way.

The \$18.8 million in the fiscal note is one cost estimate. Now you say it is \$14.-some million. What is the difference? I mean, I know it is \$4 million, but why is it?

Mr. NICKOL. The difference, you are talking about the second year, I presume?

Mr. LEVDANSKY. Okay. So that is the second year. Okay.

Mr. Speaker, I would like to speak on final passage.

Thank you, Mr. Speaker.

The SPEAKER. The gentleman is in order and may proceed.

Mr. LEVDANSKY. Mr. Speaker, economic development and job growth in the State takes many forms. Part of it is attracting international capital to Pennsylvania to make investments, but a real key component to job creation is to help foster a climate and make strategic investments to help small businesses grow. This legislation gives preferences to startup businesses, and that is really important, because startup businesses need special help, in my judgment, in the tax code, recognizing that it takes several years for an investment to start producing profits, and in that time the company needs to make significant investments in order to capture market share and grow to the point that it is a strong, viable corporation and a responsible corporate tax citizen. So this legislation is a good idea, and I supported it in committee in reporting it because of that.

However, Mr. Speaker, this good idea is presented before this body at a bad time, a bad time because of the fiscal constraints that the Commonwealth is under right now.

Last year we eliminated the State Rainy Day Fund and drained that fund, and in the last year's budget, we provided that we would reestablish the Rainy Day Fund and fund it at a \$300 million level for fiscal year 2002-2003, but the March quickie budget that this General Assembly passed eliminated that repayment requirement. So thus, we drained the Rainy Day account and failed to replenish it, and I might point out, Mr. Speaker, that the Rainy Day Fund is important because it is a fund that was created in a bipartisan fashion more than a decade ago and has served Democrat and Republican administrations fiscally well.

You know, strictly technically speaking, we ended the fiscal year with a balanced budget, but that is only because of the dramatic, sustained cuts that were put into the 2002-2003 budget by both the Schweiker and Rendell administrations. But we have a \$500 million structural deficit as we begin the next fiscal year. This represents the amount of one-time fixes,

one-time fixes that were incorporated into the 2002-2003 budget that we adopted last June. These same one-time fixes are not available, are not available this year.

Another one-time fix that is tempting for us to solve our fiscal dilemma is the \$950 million in Federal funds that Pennsylvania will receive pursuant to the Federal stimulus package. This will be spread out over 2 years. This is a short-term revenue source, but it is just that, short term. It does not provide any long-term, sustained sources of revenue to the Commonwealth.

We do have a structural deficit, and that structural deficit demands a structural fiscal solution. The bottom line, Mr. Speaker, is this: We cannot balance, we cannot balance the fiscal year 2003-2004 budget and whichever budget we are talking about without an increase in both the amount and sources of revenue to the Commonwealth. The easy fixes, the easy fiscal choices, have been exhausted and have been utilized. We are truly at this point between a fiscal rock and a fiscal hard spot.

Passing HB 1626 today only makes the rock and the hard spot even more challenging to overcome. This is a good idea, a good piece of legislation, but is absolutely the wrong time for us to consider it. The fiscally responsible thing to do would be to incorporate this idea in the revenue package that is going to be an intrinsic part of this year's budget discussions.

With that, Mr. Speaker, given that reality – it is a good idea, it is a bad time, and we do not have the money to pay for it – whether it is \$14 1/2 million or \$17 1/2 million or \$37.7 million, that is real dollars to the Pennsylvania Treasury that we do not have. We do not have that money to spend on other things.

We need to make a decision about this piece of legislation in the context of the broader spending and revenue plan that the Commonwealth has under discussion and that we will sooner or later pass.

MOTION TO TABLE

Mr. LEVDANSKY. And because of those reasons, Mr. Speaker, I would urge that we table this legislation until such time as we have a tax, a spending and revenue package, to present before the General Assembly so that we could deal with this issue in the context of the greater spending and revenue plan by the Commonwealth.

So I so move to table HB 1626.

The SPEAKER. The gentleman has motioned to table HB 1626, PN 2053.

On the question,

Will the House agree to the motion?

The SPEAKER. That motion is debatable only by the floor leaders.

Does the gentleman, Mr. Smith, wish to be recognized or have someone speak for him?

The gentleman, Mr. Smith, yields to the gentleman, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I think it is necessary for Pennsylvania to better position itself for the future. Back in 1991 we shot ourselves in the foot. Not only did we have the highest corporate tax rates in the nation but Pennsylvania also eliminated the 20-year

net operating loss carry-forward without a cap. We imposed a 10-year net operating loss carry-forward, and we put a \$2 million cap on that. That position left us with the highest effective corporate tax rates in the nation. We have since backed off of that to some degree by taking the net operating loss carry-forward to 20 years, but we still have the \$2 million cap.

Governor Rendell has recognized the need to address the future of Pennsylvania in terms of our investment policy. He has done that with regard to his own proposals on the research and development tax credit, which he wants to take from \$15 million this year to \$60 million. This is a much smaller figure than what the Governor has proposed with regard to research and development tax credits.

With our investment policy, what we have to consider is this Commonwealth is a slow-growth State, and part of it is our own fault that we are a slow-growth State. We have to do what we can to encourage companies to form and invest in themselves in Pennsylvania, and most critical is new companies, startup companies. I would like to be able to address the whole net operating loss carry-forward for all companies, but I think today it is just a start. We are addressing it for the small startup corporations. These are the ones where people step up and invest their own money and perhaps lose money for the first 5, 6, 7 years of operation before they turn a profit. The net operating loss carry-forward penalizes these people in trying to recover, when they start making a profit, trying to recover the money that was spent in the early years of development of that company.

We must look at that to allow companies to grow and develop in Pennsylvania. We also even have to look more broadly to encourage individuals to invest in Pennsylvania, but that is for another day. Our tax law is replete with all kinds of problems; for example, in personal income tax, how a husband's losses cannot be offset against a wife's losses, but again, that is for another day.

This is a very small start. This is a price tag in the immediate fiscal year of \$4 million. I am under no delusion that this bill is going to go flying through and become enacted on its own. What I am hoping to do is advance this bill to the point of consideration as the budget determinations are being made over the next several weeks, and I would urge members to vote against tabling the legislation. Let us face up to this problem and the need to change the investment policy in Pennsylvania.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Philadelphia, Mr. Evans.

Mr. D. EVANS. Thank you, Mr. Speaker.

Mr. Speaker, I normally would not disagree with the gentleman on the other side of the aisle on the substance of the issue, but as the chairman on this side from the Finance Committee expressed, I think it is a question of timing. I do not think it is a question of the debate of the substance of the issue; I think it is a question of timing, and I think as the chairman on this side of the aisle expressed, I think he expressed some very legitimate issues that we should address.

As we go through this particular process with our fiscal situation, I just do not think at this moment that we should be addressing this particular bill. I think that members on our side of the aisle would be more than supportive of this particular concept, and we, too, are not against this idea of addressing this issue, but I think at this particular time the gentleman has only

asked that it be tabled. Obviously, we can remove it from the table, and I would support the motion of it being tabled.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—94

Allen	Eachus	Levdansky	Santoni
Bebko-Jones	Evans, D.	Manderino	Scrimenti
Belardi	Fabrizio	Mann	Shaner
Belfanti	Frankel	Markosek	Solobay
Biancucci	Freeman	McCall	Staback
Bishop	George	McGeehan	Stetler
Blaum	Gergely	Melio	Sturla
Butkovitz	Goodman	Mundy	Surra
Buxton	Grucela	Myers	Tangretti
Caltagirone	Gruitza	Oliver	Thomas
Casorio	Haluska	Pallone	Tigue
Cawley	Hanna	Petrarca	Travaglio
Cohen	Harhai	Petrone	Veon
Corrigan	Horsey	Pistella	Vitali
Costa	James	Preston	Walko
Coy	Josephs	Readshaw	Wansacz
Cruz	Keller	Rieger	Washington
Curry	Kirkland	Roberts	Waters
Daley	Kotik	Roebuck	Wheatley
DeLuca	LaGrotta	Rooney	Wojnaroski
Dermody	Laughlin	Ruffing	Yewcic
DeWeese	Leach	Sainato	Youngblood
Diven	Lederer	Samuelson	Yudichak
Donatucci	Lescovitz		

NAYS—103

Adolph	Feese	Mackereth	Ross
Argall	Fichter	Maher	Rubley
Armstrong	Flick	Maitland	Sather
Baker	Forcier	Major	Saylor
Baldwin	Gabig	Marsico	Scavello
Bard	Gannon	McGill	Schroder
Barrar	Geist	McIlhattan	Semmel
Bastian	Gillespie	McIlhinney	Smith, B.
Benninghoff	Gingrich	McNaughton	Smith, S. H.
Birmelin	Godshall	Metcalfe	Stairs
Boyd	Gordner	Micozzie	Steil
Browne	Habay	Miller, R.	Stern
Bunt	Harhart	Miller, S.	Stevenson, R.
Cappelli	Harper	Mustio	Stevenson, T.
Causar	Harris	Nailor	Taylor, E. Z.
Civera	Hasay	Nickol	Taylor, J.
Clymer	Hennessey	O'Brien	True
Coleman	Herman	O'Neill	Turzai
Cornell	Hershey	Payne	Vance
Crahalla	Hickernell	Petri	Weber
Creighton	Hutchinson	Phillips	Wilt
Dailey	Kenney	Pickett	Wright
Denlinger	Killion	Raymond	Zug
DiGirolamo	Leh	Reed	
Egolf	Lewis	Reichley	Perzel,
Evans, J.	Lynch	Rohrer	Speaker
Fairchild			

NOT VOTING—1

Williams

EXCUSED—4

Dally

Fleagle

Hess

Watson

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Shall the bill pass finally?

The SPEAKER. The Chair recognizes the gentleman from Cumberland, Mr. Gabig.

Mr. GABIG. Thank you, Mr. Speaker.

May I interrogate the maker?

The SPEAKER. The gentleman, Mr. Nickol, indicates that he will stand for interrogation. The gentleman may proceed.

Mr. GABIG. Mr. Speaker, I appreciated the gentleman from York County's comments on the motion and he actually addressed many of my concerns, but I wanted to make sure I had it clear in my mind what we are getting ready to vote on.

Does this have to do with startup companies, new companies that are starting up, that currently are not paying any taxes if they are startup companies. Is that right, Mr. Speaker?

Mr. NICKOL. Mr. Speaker, what this has to do with are our startup companies. Most of these companies in the first years of operation will typically lose money, and it is their ability to offset those losses against profits that they make in the later years that there is a net operating loss carry-forward; they are carrying forward those losses to years when they are profitable to be able to take them as deductions in terms of determining what their tax liability may be. But it is specifically limited to startup companies, and you cannot take the deduction until you actually start making a profit.

Mr. GABIG. So then I guess this is designed, among other things, to encourage economic growth in the Commonwealth of Pennsylvania. Is that correct, Mr. Speaker?

Mr. NICKOL. Mr. Speaker, the gentleman is absolutely correct, and it is most critical with these new startup companies, because these are the small companies that grow to become the replacement companies for many of the giants in Pennsylvania who kind of faltered and have been shedding jobs in recent years, and this has become a very critical issue for many of these small startup companies. In fact, Pennsylvania finds itself at somewhat of a competitive disadvantage on this score. The State of Delaware, for example, recently approached a small startup company in Pennsylvania who was just starting to turn a profit and they offered to allow that company to reincorporate into Delaware, move their operations there, and not only would they give them the net operating loss carry-forward with no cap, but they would even allow them to take the losses they incurred in Pennsylvania in developing that company to transfer those losses and use them as an offset against future Delaware taxes.

Mr. GABIG. I would thank the gentleman for those responses, and if I could speak on the final passage.

The SPEAKER. The gentleman is in order and may proceed.

Mr. GABIG. The only point that I wanted to make — and those responses clarified the issue for me, because I was having some problem following the gentleman from Allegheny County's comments — what we need to do in Pennsylvania is grow the economy. We need to have startup

firms that are going to hire people, make a profit, and then pay taxes down the road, but when they first start off, they are not making a profit, and that is what this is designed to do, is encourage economic growth here in the Commonwealth in Cumberland County and Allegheny County, and if we do that, we will have more revenues here at the State to take care of libraries and human services and museums and other things. So we need to grow the economy, and that is what this is designed to do.

I think if you look at it in the static, the pie is just so big, you get to where the gentleman from Allegheny County was, but if you look at it as a dynamic growing economy – and this is designed to stimulate that growth – we will have more revenue in the State. That is called supply-side economics, and I think that many on both sides should support this very wise legislation.

Thank you very much, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Levdansky, for the second time. Mr. Levdansky.

Mr. LEVDANSKY. Thank you, Mr. Speaker.

I apologize, Mr. Speaker; I am having a little difficulty hearing.

That was the classic supply-side economic theory, but it has not worked in Pennsylvania for the last 8 years. We rank 47th in terms of job generation in this Commonwealth. We have cut business taxes over \$5 billion in the last decade in Pennsylvania, and what have we got for it? We rank 47th or 48th in job creation in the Commonwealth. We have cut \$5 billion worth of business taxes. Now we are going to cut somewhere between \$5 and \$18 or \$36 million more. I mean, I am not saying I understand this. So we need a little more trickle-down. We have had \$5 billion worth of trickle-down that has not worked, but we are going to get just a couple more drops and then it is going to start working. That is absurd; that is absurd.

Job growth happens by strategic targeted investments and other important factors that affect economic development. There is not just some magic wand or simple panacea that just cut taxes and economic development and job growth will happen. If it were that simple, we would not rank 47th in job creation over, you know, presently.

But let us get back to the point here. Let us get back to the point that we in Pennsylvania have cut, we have cut funding to our hospitals; we have cut funding to mass transit; we have cut money for our libraries; we have cut money for our universities and colleges; we have cut human services; we have cut, cut, cut, but here we are, here we are going to give another tax break to the business community.

Again, and I do not doubt the merits of this particular provision in this legislation, but again, this is the wrong time to be considering this.

This is the height of fiscal irresponsibility. We do not have the revenue to pay for this but we are going to pass it anyhow. You know, we cannot have our cake and eat it, too. If you vote for this, that is essentially what you are saying.

One final point, Mr. Speaker. Given the fact, you know, members who vote for this – and you know that we do not have the money to pay for this; we do not have the revenue to afford this – I trust that those same members that are going to vote for this legislation are going to be there in a couple of weeks when

we need the votes to raise State taxes to pay for this kind of program.

With that, Mr. Speaker, because I believe it is the ultimate fiscal irresponsibility at this point to vote for this, even though, even though in another context if it were affordable, I would support it, I would urge a negative vote.

The SPEAKER. The Chair recognizes the gentleman from Warren, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Speaker.

In 1991 when this body and the Senate and the Governor signed into law – and I was not here then – that tremendous tax increase, without a doubt the stupidest provision that they put in there was the elimination of the net loss carry-forward. Had they left that thing in there, I would not be here, because I wanted to run against my predecessor who voted to eliminate it.

I heard the gentleman from Allegheny County making the argument that this is another tax for business. No, no. Let us get this straight who this is for. This is for startup businesses and seasonal businesses almost exclusively. This is for the people of Pennsylvania, not the business community, and if you do not know anything about economics, come over and I will give you a discussion of it in the back of the room.

Vote “yes” on this. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from York, Mr. Nickol.

Mr. NICKOL. Thank you, Mr. Speaker.

I live in a relatively small community of about 50,000 people called Hanover. It is located about 7 miles from the Maryland line.

I am always amused by people who kind of take the position that taxes do not matter, because I can see graphically in my community how much they do matter. We are so near that State line.

If you look at Hanover, we are the fifth largest retail trading area in the Commonwealth of Pennsylvania, with only 50,000 people. Why? It is because most people from northern and western Maryland come to Hanover to do their shopping because our sales tax situation is preferred. We do not tax clothing. So we promote all that cross-border traffic of people avoiding taxes. If you want to find the liquor stores, just look for the Mason-Dixon line. Everybody, it is not people from Maryland who would like to drive north leisurely to get to the Mason-Dixon line to buy their liquor, it is all the people from Pennsylvania traveling south to get a break on taxes. They do not have to pay the Johnstown flood tax. Look at homebuilding in my community, because there is a big tax differential in property taxes with Maryland and on income taxes. The whole southern end of Pennsylvania is filling with people moving out of the Baltimore-Washington areas into our neighborhoods. Taxes do matter, Mr. Speaker.

And the gentleman from Warren County is correct. In 1991 we did one of the worst things we ever could have done in eliminating the net operating loss carry-forward, and that has translated itself. Sure there have been a number of small nudges and nips and tucks at corporate taxes between now and then, but taxes today paid by these C corporations are still a much higher effective rate than they were before 1991. We have not undone that damage.

I ask the members to give consideration and support for this piece of legislation, and in doing so, I want to quote the gentleman from Allegheny County who actually rose to oppose

the legislation. In his speech he said that we were 47th in job growth. He is correct, and, Mr. Speaker, that is why we need to pass this bill.

Thank you.

The SPEAKER. The Chair thanks the gentleman, and the Chair recognizes the gentleman from Allegheny, Mr. Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

I rise to support this legislation.

I think this tax cut is a critical and a strategically targeted tax cut that speaks to the small glimmer of vitality that we do have in Pennsylvania, and that is startup companies, small businesses, that are really critical in their creating of job growth.

In my district in western Pennsylvania, I have the University of Pittsburgh and Carnegie Mellon University. They are graduating extraordinary talent for information technology, biotechnology, and business in general. And we talk about the brain drain in this State. This legislation will help incentivize those graduates who are leaving those universities and want to start businesses to stay here.

I believe that this is a very important piece of legislation to move forward. I do believe that it sends a message to the Governor and all of our leadership that this should be a part of the budget this year and our tax bill. So I think it is an important thing that we are doing here today. It is timely; it is a critical voice to endorse small business creation and to keep, particularly, young people here in the State of Pennsylvania.

I urge its approval. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—196

Adolph	Evans, D.	Lynch	Samuelson
Allen	Evans, J.	Mackereth	Santoni
Argall	Fabrizio	Maher	Sather
Armstrong	Fairchild	Maitland	Saylor
Baker	Feese	Major	Scavella
Baldwin	Fichter	Manderino	Schroder
Bard	Flick	Mann	Scrimenti
Barrar	Forcier	Markosek	Semmel
Bastian	Frankel	Marsico	Shaner
Bebko-Jones	Freeman	McCall	Smith, B.
Belardi	Gabig	McGeehan	Smith, S. H.
Belfanti	Gannon	McGill	Solobay
Benninghoff	Geist	McIlhattan	Staback
Bianucci	George	McIlhinney	Stairs
Birmelin	Gergely	McNaughton	Steil
Bishop	Gillespie	Melio	Stern
Blaum	Gingrich	Metcalfe	Stetler
Boyd	Godshall	Micozzie	Stevenson, R.
Browne	Goodman	Miller, R.	Stevenson, T.
Bunt	Gordner	Miller, S.	Sturla
Butkovitz	Grucela	Mundy	Surra
Buxton	Gruitza	Mustio	Tangretti
Caltagirone	Habay	Myers	Taylor, E. Z.
Cappelli	Haluska	Nailor	Taylor, J.
Casorio	Hanna	Nickol	Thomas
Causser	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance

Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hickernell	Phillips	Wansacz
Coy	Horsey	Pickett	Washington
Crahalla	Hutchinson	Pistella	Waters
Creighton	James	Preston	Weber
Cruz	Josephs	Raymond	Wheatley
Curry	Keller	Readshaw	Williams
Dailey	Kenney	Reed	Wilt
Daley	Killion	Reichley	Wojnarowski
DeLuca	Kirkland	Rieger	Wright
Denlinger	Kotik	Roberts	Yewcic
Dermody	LaGrotta	Roebuck	Youngblood
DeWeese	Laughlin	Rohrer	Yudichak
DiGirolamo	Leach	Rooney	Zug
Diven	Lederer	Ross	
Donatucci	Leh	Rubley	
Eachus	Lescovitz	Sainato	Perzel,
Egolf	Lewis		Speaker

NAYS—1

Levdansky

NOT VOTING—1

Ruffing

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman, Mr. Argall, for the committee meeting.

Mr. ARGALL. Thank you, Mr. Speaker.

At the declaration of the recess, the House Appropriations Committee will meet in room 245.

The SPEAKER. There will be a meeting of the Appropriations Committee in room 245 at the recess.

HEALTH AND HUMAN SERVICES COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman, Mr. Kenney, for the purpose of a meeting announcement.

Mr. KENNEY. Thank you, Mr. Speaker.

At the break the Health and Human Services Committee will meet in the rear of the House. Thank you.

The SPEAKER. There will be a meeting of the Health and Human Services Committee at the rear of the House at the break.

FINANCE COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman, Mr. Flick.

Mr. FLICK. Thank you, Mr. Speaker.

At the break the Finance Committee, which recessed earlier this morning, will reconvene in the rear of the hall of the House for the purposes of considering HB 1822.

Thank you, Mr. Speaker.

The SPEAKER. The Finance Committee will reconvene their morning meeting in the rear of the House at the break.

RUSSIAN LEADERS PRESENTED

The SPEAKER. The Chair would like to recognize Representative Stairs.

Mr. STAIRS. Thank you, Mr. Speaker.

We have some very distinguished guests, so give me your attention for a few moments.

On behalf of the Westmoreland County delegation and our community college in Westmoreland County, we have some visitors from Russia. These gentlemen are legislators, and as we were debating the bills and discussing legislation, they were asking me questions. So I hope that after we introduce them, you have a chance to come down and say hello to them. They would be colleagues of ours in Russia, but I will ask a person who is a professor at the Westmoreland County Community College, Vitaly Penkovsky, to introduce our guests from Russia who are in the Open World Program for Russian legislators, who have come to the United States to study how we do legislation in a democracy.

So, Vitaly, would you introduce our very distinguished guests.

Mr. PENKOVSKY. Hello.

We have three members of the Russian legislature here. The gentleman on my left, the first gentleman, his name is Nikolay Devyatkin, and he is the Speaker of the House of the Perm Region in Russia. Perm is a large region in the Ural Mountains. The gentleman next to him, his name is Valeriy Solovyev, and he is a special assistant to Senator Shelehov of the Russian Congress. The third gentleman in the dark suit, his name is Vasiliy Kurkin, and he is a mayor of the Sobolevo City; that is in Kamchatka Region, the far east of Russia. If any of you are interested in hunting bear, that is the place to be.

We have one young gentleman, his name is Aleksandr Konoplyastyy. He accompanies this group on behalf of the Open World Leadership Center, and he is from Moscow. He is a graduate of Moscow Institute of Foreign Affairs.

We just want to, on behalf of the whole delegation, I would like to thank you for an opportunity to observe American democracy in action, and we are just very pleased to be here and meet with American legislatures and have a discussion and exchange an opinion and have a first-hand experience of the American political process.

Thank you very much.

CHILDREN AND YOUTH COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman, Mr. Birmelin.

Mr. BIRMELIN. Thank you, Mr. Speaker.

There is an immediate meeting of the Children and Youth Committee at the rear of the hall of the House upon the declaration of the recess.

The SPEAKER. The Chair thanks the gentleman.

There will be a meeting of the Children and Youth Committee at the rear of the House at the recess.

HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 356 By Representatives MUNDY, DAILEY, BIANCUCCI, DeLUCA, D. EVANS, BEBKO-JONES, BROWNE, COY, CRUZ, CURRY, EACHUS, FRANKEL, FREEMAN, GEORGE, GERGELY, GOODMAN, GRUCELA, HARHAI, HERSHEY, LEACH, LEDERER, LEVDANSKY, MANDERINO, PETRI, READSHAW, ROONEY, SURRA, TANGRETTI, TIGUE, WASHINGTON, WHEATLEY, YOUNGBLOOD and VANCE

A Resolution directing the Legislative Budget and Finance Committee to study certain issues related to health care facilities.

Referred to Committee on AGING AND OLDER ADULT SERVICES, July 8, 2003.

DEMOCRATIC CAUCUS

The SPEAKER. The Chair recognizes the gentleman, Mr. Coy.

Mr. COY. Thank you, Mr. Speaker.

Mr. Speaker, there will be a Democratic caucus commencing upon the recess to include informal discussions and also some consideration of pending legislation.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

RECESS

The SPEAKER. This House will stand in recess until 1:30.

AFTER RECESS

The time of recess having expired, the House was called to order.

CALENDAR CONTINUED

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 277, PN 1685**, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for information on child-care personnel; and providing for notice of arrest for school or child-care service employees.

On the question,
Will the House agree to the bill on third consideration?

BILL RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader.

Mr. S. SMITH. Mr. Speaker, I move that HB 277, PN 1685, be recommitted to the Rules Committee.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL REPORTED AND REREFERRED
TO COMMITTEE ON STATE GOVERNMENT

HB 1477, PN 1863 By Rep. FLICK

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, providing service credits for campus police officers of universities of the State System of Higher Education.

FINANCE.

BILLS REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND
RECOMMITTED TO COMMITTEE ON RULES

HB 41, PN 2376 (Amended) By Rep. FLICK

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for tax levies and information related to taxes; authorizing the imposition of personal income taxes by school district; making editorial changes; and making a repeal.

FINANCE.

HB 774, PN 908 By Rep. FLICK

An Act amending the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, further defining "daily drawing."

FINANCE.

HB 1173, PN 1389 By Rep. FLICK

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further defining "poverty income" for purposes of personal income tax.

FINANCE.

HB 1464, PN 2377 (Amended) By Rep. FLICK

An Act amending the act of July 11, 1990 (P.L.465, No.113), known as the Tax Increment Financing Act, further providing for redevelopment area and for reporting requirements; and making an editorial change.

FINANCE.

BILL REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND TABLED

SB 100, PN 1075 (Amended) By Rep. FLICK

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for per capita taxes; providing for the imposition and collection of an earned income and net profits tax or personal income tax by school districts after approval by the electors; providing for applicability of referendum exceptions; and further providing for the mandate waiver program.

FINANCE.

RESOLUTION

Mr. HENNESSEY called up **HR 348, PN 2335**, entitled:

A Concurrent Resolution urging the President of the United States to maintain the Section 201 steel tariffs for their scheduled three-year duration.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavella
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio

Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority of the members elected to the House having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

Ordered, That the clerk present the same to the Senate for concurrence.

REMARKS SUBMITTED FOR THE RECORD

The SPEAKER. The Chair recognizes the gentleman, Mr. Hennessey.

Mr. HENNESSEY. Thank you, Mr. Speaker.

May I submit remarks in connection with the passage of HR 348 for the record?

The SPEAKER. The gentleman is in order and may proceed.

Mr. HENNESSEY. Thank you.

The SPEAKER. Send the remarks down.

Mr. HENNESSEY submitted the following remarks for the Legislative Journal:

Mr. Speaker, before us for consideration is HR 348, a request that the President of the United States continue the section 201 tariffs on steel which were imposed in March of 2002. Those tariffs are scheduled for a midterm review in September 2003, 18 months into their intended 3-year life.

The section 201 tariffs have had a salutary effect since they were imposed 16 months ago. They have helped to stabilize the financial underpinnings of our domestic steel industry, while also prompting a dramatic restructuring of the industry by mergers, consolidations, and acquisitions. Such restructuring will serve the industry well as the United States moves more substantially into the 21st century.

A strong and vibrant and reliable domestic steel industry is vital to the public interests of the United States and positions our nation to maintain its place as the primary defender of freedom in the free world. We can and should assure its continued strength and dependability by

all reasonable means. The continuation of the section 201 tariffs for their full intended term will do just that.

I ask for your vote in favor of HR 348.

REMARKS SUBMITTED FOR THE RECORD

Mr. HARHAI submitted the following remarks for the Legislative Journal:

Pennsylvania's steel industry has weathered quite a number of storms in the past few years. We have gone from being the birthplace of the American steel industry and home to the country's largest steel producer to being eviscerated by foreign imports. As Democratic chairman of the Steel Caucus, I rise today in support of a resolution that will ensure the United States does not again become the world's steel dumping ground.

The section 201 steel tariffs imposed by the Federal government have been beneficial in reducing foreign steel dumping and helping to advance a newer and more modern United States steel industry. We have highly skilled workers in sleek, clean, and highly automated plants.

American steel is strong, it is economical, and it is environmentally friendly. It has a solid future, but for progress to continue, we must ensure that the United States trade laws are enforced and anti-dumping duties are imposed. In short, we need section 201 steel tariffs to continue.

We have an opportunity to advocate for a more competitive global marketplace that will ensure the steel industry regains its place in America's economy.

Please join me in support of HR 348.

"Stand up for Steel – Stand up for America."

RESOLUTION PURSUANT TO RULE 35

Mr. ALLEN called up **HR 352, PN 2352**, entitled:

A Resolution recognizing the 125th anniversary of the founding of the Pennsylvania Pharmacists Association.

On the question,

Will the House adopt the resolution?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti

Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causer	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnarowski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally Fleagle Hess Watson

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

RESOLUTIONS REPORTED FROM COMMITTEES

HR 338, PN 2234

By Rep. KENNEY

A Concurrent Resolution directing the Legislative Budget and Finance Committee to provide a comprehensive report to the General Assembly and the Governor on data collected and evaluated by national experts, with the support of the United States Department of Health and Human Services and facilitated by the Council of State Governments, of two county-based mental health diversion programs and one program that works with offenders with mental illnesses released from State prisons in this Commonwealth and to demonstrate the fiscal impact of these programs and the desirability, viability and appropriateness of encouraging similar program development, implementation and funding options throughout this Commonwealth.

HEALTH AND HUMAN SERVICES.

HR 347, PN 2308

By Rep. BIRMELIN

A Resolution recognizing the week of September 22 through 28, 2003, as "Equal Parents' Week."

CHILDREN AND YOUTH.

BILLS REREPORTED FROM COMMITTEE

HB 1189, PN 2188

By Rep. ARGALL

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for restitution for injuries to person or property.

APPROPRIATIONS.

SB 521, PN 1053

By Rep. ARGALL

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for assessment and commitment of certain sexually violent persons.

APPROPRIATIONS.

BILL REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND RECOMMITTED TO COMMITTEE ON RULES

HB 1822, PN 2368

By Rep. FLICK

An Act amending the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, further defining "dispensing machine," "games of chance" and "passive selection device."

FINANCE.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 72, PN 1028**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for aggravated assault; further defining "criminal justice agency"; and further providing for expungement and for use of records for employment.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Vitali.

Mr. VITALI. We are just looking for a brief explanation of that bill.

The SPEAKER. The Chair recognizes the gentleman, Mr. Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

This bill was covered in the Judiciary Committee. It amends the aggravated assault statute to include public utility workers in the protected class for bringing a felony assault upon those individuals.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,
Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnarowski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

* * *

The House proceeded to third consideration of **HB 173, PN 203**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for obedience to signal indicating approach of train.

On the question,

Will the House agree to the bill on third consideration?

Mr. **SOLOBAY** offered the following amendment No. **A2189**:

Amend Title, page 1, line 2, by inserting after “for” definitions and for

Amend Bill, page 1, lines 6 and 7, by striking out all of said lines and inserting

Section 1. The definition of “emergency vehicle” in section 102 of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

“Emergency vehicle.” A fire department vehicle, police vehicle, sheriff vehicle, ambulance, blood delivery vehicle, human organ delivery vehicle, hazardous material response vehicle, armed forces emergency vehicle, one vehicle operated by a coroner or chief county medical examiner and one vehicle operated by a chief deputy coroner or deputy chief county medical examiner used for answering emergency calls, or any other vehicle designated by the State Police under section 6106 (relating to designation of emergency vehicles by Pennsylvania State Police), or a privately owned vehicle used in answering an emergency call when used by any of the following:

(1) A police chief and assistant chief.

(2) A fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief.

(3) A fire police captain and fire police lieutenant.

(4) An ambulance corps commander and assistant commander.

(5) A river rescue commander and assistant commander.

(6) A county emergency management coordinator.

(7) A fire marshal.

(8) A rescue service chief and assistant chief.

(9) Chief or operations director of a county hazardous materials response team.

* * *

Section 2. Section 3341 of Title 75 is amended by adding a subsection to read:

Amend Sec. 2, page 2, line 7, by striking out “2” and inserting
3

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair rescinds.

The gentleman, Mr. Solobay, withdraws the amendment, all three amendments.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. **SURRA** offered the following amendment No. **A2203**:

Amend Title, page 1, line 3, by removing the period after “train” and inserting

and for restraint systems.

Amend Bill, page 2, by inserting between lines 6 and 7

Section 2. Section 4581(a)(1.1), introductory paragraph of (2) and (b) and (c) of Title 75 are amended to read:

§ 4581. Restraint systems.

(a) Occupant protection.—

[(1.1) Any person who is operating a passenger car, Class I truck, Class II truck, classic motor vehicle, antique motor vehicle or motor home and who transports a child four years of age or older but under eight years of age anywhere in the motor vehicle, including the cargo area, shall fasten such child securely in a fastened safety seat belt system and in an appropriately fitting child booster seat, as defined in subsection (d). This paragraph shall apply to all persons while they are operators of motor vehicles where a seating position is available which is equipped with a seat safety belt or other means to secure the systems or where the seating position was originally equipped with seat safety belts. A conviction under this paragraph by State or local law enforcement agencies shall occur only as a secondary action when a driver of a motor vehicle has been convicted of violating any other provision of this title.]

(2) Except for children under eight years of age and except as provided in [paragraphs (1) and (1.1)] paragraph (1), each driver and front seat occupant of a passenger car, Class I truck, Class II truck or motor home operated in this Commonwealth shall wear a properly adjusted and fastened safety seat belt system. A conviction under this paragraph by State or local law enforcement agencies shall occur only as a secondary action when a driver of a motor vehicle has been convicted of any other provision of this title. The driver of a passenger automobile shall secure or cause to be secured in a properly adjusted and fastened safety seat belt system any occupant who is eight years of age or older and less than 18 years of age. This paragraph shall not apply to:

(b) Offense.—Anyone who fails to comply with the provisions of subsection (a)(1) [or (1.1)] shall be guilty of a summary offense with a maximum fine of \$100. The court imposing and collecting any such fines shall transfer the fines thus collected to the State Treasurer for deposit in the Child Passenger Restraint Fund, pursuant to section 4582 (relating to Child Passenger Restraint Fund). Anyone who violates subsection (a)(2) or (3) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$10. No person shall be convicted of a violation of subsection (a)(2) unless the person is also convicted of another violation of this title which occurred at the same time. No costs as described in 42 Pa.C.S. § 1725.1 (relating to costs) shall be imposed for summary conviction of subsection (a)(2) or (3). Conviction under this subsection shall not constitute a moving violation.

(c) Waiver of fine.—If a person receives a citation issued by the proper authority for violation of subsection (a)(1) [or (1.1)], a district justice, magistrate or judge shall dismiss the charges if the person prior to or at his hearing displays evidence of acquisition of a child

passenger restraint system or child booster seat to such district justice, magistrate or judge. Sufficient evidence shall include a receipt mailed to the appropriate court officer which evidences purchase, rental, transferal from another child seat owner (evidenced by notarized letter) or bailment from a bona fide loaner program of a child passenger restraint system or child booster seat.

Amend Sec. 2, page 2, line 7, by striking out “2” and inserting
3

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Surra.

Mr. SURRA. Thank you, Mr. Speaker.

Mr. Speaker, I believe this amendment simply repeals the booster seat legislation that we put in place last year. I have had some strong interest from my constituents who think that between the ages of 4 and 8 years old it should be a parental decision, and I promised them that I would bring this matter up for a vote before the General Assembly, and I would appreciate the members’ support. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Carbon, Mr. McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I would ask the members to oppose this amendment.

Mr. Speaker, we passed this language last year in HB 2410 in an amendment that was inserted in the Senate.

I do not think I have to tell the members of this General Assembly that the booster seat language that we placed in HB 2410 saves lives. The number one cause of death in this Commonwealth, the number one cause of death in this Commonwealth is children involved in motor vehicle crashes that are either in adult seatbelts or in no seatbelt at all. These booster seats save lives, Mr. Speaker.

And, Mr. Speaker, I think it is important that the members understand that when we passed this language in this bill, that the language was not intended to be punitive. Rather, it was intended to be instructive, and let me explain why that is the case. It is a secondary offense. So if your children are not in a booster seat, you cannot be pulled over for that child not being in a booster seat. You have to be convicted of something else before the effective law takes place.

The second thing is that if you are in fact convicted of not having your children in a booster seat and you go out and buy a booster seat, that the fine that would be imposed on you is waived. So again, no intent to be punitive here, rather instructive.

And furthermore, if you cannot afford to buy a booster seat, you could get a free or a loaner seat, and that is provided for in this law.

Mr. Speaker, I think it is important to note there are a number of groups that strongly support booster seats in this Commonwealth. Eighty-eight percent of 4- to 8-year-olds in Pennsylvania were restrained in adult seatbelts before we passed this legislation. Those children that are in adult seatbelts are four times more likely, four times more likely, to suffer serious bodily injury that a child that is properly restrained in a booster seat will not experience, and that is from the Children’s Hospital of Philadelphia who did that study.

Kids that are in adult seatbelts experience more severe injuries and even death because of lacerations to their spleen, their stomach, or they actually have broken necks because of the use of adult seatbelts.

Mr. Speaker, this is a bad amendment, and if we are serious about protecting the lives of children – the number one cause of death, motor vehicle accidents – we will vote against this amendment.

The SPEAKER. The Chair recognizes the gentleman from Blair, Mr. Geist.

Mr. GEIST. Thank you very much, Mr. Speaker.

I would like to echo the remarks of Representative McCall as being 100 percent accurate, and I also would like to point out that in this amendment there is a drafting flaw. Under the way that this amendment is drafted, 4-year-olds to 7-year-olds would not have to be belted in a car, nothing; kids 8 and above would have to be restrained.

I would strongly suggest that the amendment be, really, withdrawn and redrafted. I do not think anybody in this General Assembly wants to make a vote on having kids 4 to 7 years old be allowed to travel in cars without using restraints.

I oppose the amendment for all the reasons that Representative McCall said and would think it would be absolutely foolish for us in Pennsylvania to put young children at risk.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Lawrence, Mr. Sainato.

Mr. SAINATO. Thank you, Mr. Speaker.

I rise to support this amendment by the gentleman from Elk County.

I know that this is something they think is good to protect children. We always had a safety seat law in Pennsylvania for children 4 and under, but to make 5-year-olds, 6-year-olds, 7-year-olds, 8-year-olds be placed into a booster seat, that decision should lie with the parents; it should not lie with the legislature. We should not be getting involved in parental decisions. I have had more phone calls on this issue than most issues within this past year in the General Assembly. We are taking parents' rights away from them. They should be the ones who make that decision. If you want to put your 7-year-old in a booster seat— And there are 7-year-olds who are big kids. It is humiliating for some of them to have to go in a booster seat, and some parents are just ignoring it. That is a decision I think the parents should make, not us as a legislature. We just cannot dictate to everybody on everything to try to be safe with everything, and I think most parents are responsible. If their child is small and they feel they need to go in a safety seat, they will buy one and put them in it.

And as a prior speaker said, this is a secondary offense. So you cannot be pulled over for not doing it anyway.

Second of all, think about this as we debate this issue; think about this: You have to take your kids to a Little League game, and the kids are 7 years old, and a parent is supposed to take four kids. You have got to take four booster seats, to put them in a car, to pick someone up to take them to a Little League game. It is not going to happen. I mean, it is just not – I know they mean well by passing this law. As a matter of fact, this law was not that great, because last time they debated it in the House, they could not get the votes to pass it. It went over to the Senate,

and the Senate stuck it in a big transportation bill. So if this bill was so good, the votes would have been here in the House to pass it, and that did not happen. It happened over in the Senate when it was part of a big transportation bill.

So I would encourage my colleagues to think about this. This is a bill not just with safety. This is a parental rights issue, Mr. Speaker. It is a parental rights issue, which we as legislators do not have a right to take away a parent's right to decide whether they are going to put their kid in a safety seat or not.

And second of all, what about the school districts? Is this going to be an added burden on school districts? Are we going to have to put these kids in safety seats to ride on a little bus when they go on a field trip? There is more burden on our schools. We are supposed to be talking about ways to helping public education. We want schools to spend more money.

Let us get realistic. Let us vote for the Surra amendment. Let us repeal this today and send a message we believe in parental rights in this State of Pennsylvania.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Surra.

Mr. SURRA. Thank you, Mr. Speaker.

Mr. Speaker, according to our staff on the Transportation Committee, the bill still requires children in backseats from 4 to 8 years old to be strapped in with the adult harnesses. It does not in any way, shape, or form say that they can just bounce around in the backseat of a car. They still must be strapped in with the existing seatbelts.

Mr. Speaker, those are all good arguments. Certainly it is a tragedy when any young person is injured in a car accident. It is a tragedy when anybody gets hurt in a car accident, but I think there is a point in time – and the old law was under 4 years old – I think at that point parents should make that decision.

You know, there are all kinds of dangerous behavior that we as a government can start to regulate. Skateboarders get hurt all the time. Kids on tricycles get hurt all the time. Little League is very dangerous; midget football. I mean, where do we draw the line? There comes a point in time in an individual's life when that family, those parents, should make that decision.

And frankly, Mr. Speaker, this law is being wholesaley disobeyed in Pennsylvania. I venture to say if any State trooper would go up to a Little League practice, they could arrest every carload of 4- to 8-year-olds that leave the practice field. Every person that goes, every person that goes and picks their children up from Brownies or Boy Scouts, you mean to tell me that they have five or six booster seats in their vehicle?

When we pass legislation that forces good people to break the law, I think we should take another look at that legislation. I feel strongly about this. I am going to vote in favor of it. If you feel very strongly that we, that government, should step into people's lives and do that, then we do, but I would appreciate an affirmative vote. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Geist.

Mr. GEIST. Thank you, Mr. Speaker.

Would the chairman of the Democratic Transportation Committee stand for a brief interrogation, please?

The SPEAKER. The gentleman indicates that he will.

Mr. GEIST. This language that is in here strikes all the language for children 4 through 7. Is that correct?

Mr. McCALL. That is correct.

Mr. GEIST. Thank you, Mr. Speaker.
May I please speak on the amendment?

The SPEAKER. The gentleman is in order and may proceed.

Mr. GEIST. Thank you, Mr. Speaker.

The amendment as drafted is very flawed. If you vote for this amendment, you are voting for children from 4 to 7 not to use any kind of restraint whatsoever. I believe it is really flawed. I think it should be withdrawn, but if we are going to vote it, we should vote “no.” I do not think anybody wants to put up a vote that is going to allow children of that age to be free in a vehicle without being restrained. I urge a “no” vote. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—39

Armstrong	DeWeese	LaGrotta	Sainato
Barrar	Donatucci	Manderino	Shaner
Bebko-Jones	Egolf	McIlhinney	Smith, S. H.
Belardi	Evans, D.	Metcalfe	Stevenson, R.
Belfanti	Forcier	Petrarca	Surra
Birmelin	Gannon	Preston	Veon
Buxton	Gergely	Readshaw	Walko
Casorio	Haluska	Roberts	Williams
Causar	Hanna	Rohrer	Yewcic
Denlinger	Hutchinson	Rooney	

NAYS—159

Adolph	Fichter	Mackereth	Santoni
Allen	Flick	Maher	Sather
Argall	Frankel	Maitland	Saylor
Baker	Freeman	Major	Scavello
Baldwin	Gabig	Mann	Schroder
Bard	Geist	Markosek	Scrimenti
Bastian	George	Marsico	Semmel
Benninghoff	Gillespie	McCall	Smith, B.
Bianucci	Gingrich	McGeehan	Solobay
Bishop	Godshall	McGill	Staback
Blaum	Goodman	McIlhattan	Stairs
Boyd	Gordner	McNaughton	Steil
Browne	Grucela	Melio	Stern
Bunt	Gruitza	Micozzie	Stetler
Butkovitz	Habay	Miller, R.	Stevenson, T.
Caltagirone	Harhai	Miller, S.	Sturla
Cappelli	Harhart	Mundy	Tangretti
Cawley	Harper	Mustio	Taylor, E. Z.
Civera	Harris	Myers	Taylor, J.
Clymer	Hasay	Nailor	Thomas
Cohen	Hennessey	Nickol	Tigue
Coleman	Herman	O'Brien	Travaglio
Cornell	Hershey	Oliver	True
Corrigan	Hickernell	O'Neill	Turzai
Costa	Horsey	Pallone	Vance
Coy	James	Payne	Vitali
Crahalla	Josephs	Petri	Wansacz
Creighton	Keller	Petrone	Washington
Cruz	Kenney	Phillips	Waters
Curry	Killion	Pickett	Weber
Dailey	Kirkland	Pistella	Wheatley
Daley	Kotik	Raymond	Wilt
DeLuca	Laughlin	Reed	Wojnarowski
Dermody	Leach	Reichley	Wright
DiGirolando	Lederer	Rieger	Youngblood
Diven	Leh	Roebuck	Yudichak
Eachus	Lescovitz	Ross	Zug
Evans, J.	Levdansky	Rubley	

Fabrizio
Fairchild
Feese

Lewis
Lynch

Ruffing
Samuelson

Perzel,
Speaker

NOT VOTING—0

EXCUSED—4

Dally

Fleagle

Hess

Watson

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,
Will the House agree to the bill on third consideration?

Mr. **CASORIO** offered the following amendment No. **A2238**:

Amend Title, page 1, line 3, by removing the period after “train” and inserting
; and imposing a moratorium on the implementation or continued use of a vehicle emission inspection program until certain standards and studies of on-board vehicle emission diagnostic testing systems are completed.

Amend Bill, page 2, by inserting between lines 6 and 7

Section 2. Title 75 is amended by adding a section to read:

§ 4706.2. Moratorium on emission inspection program.

Notwithstanding any of the provisions of this chapter or any law to the contrary, neither the department nor any other department or agency of the Commonwealth shall continue or implement any vehicle emission inspection program until the following occurs:

(1) The Environmental Protection Agency approves and issues rules and regulations for the use and implementation of on-board vehicle emission diagnostic testing systems that can provide less expensive and more convenient exhaust checks.

(2) A joint department and Department of Environmental Protection emission inspection policy review panel issues findings and recommendations for the use and implementation in this Commonwealth of on-board vehicle emission diagnostic testing systems to the Transportation Committee of the Senate and the Transportation Committee of the House of Representatives. Any vehicle emission program currently in effect shall cease immediately until legislative action can occur to implement such findings and recommendations.

Amend Sec. 2, page 2, line 7, by striking out “2” and inserting

3

On the question,
Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Casorio, for a brief explanation of the amendment.

Mr. CASORIO. Thank you, Mr. Speaker.

Mr. Speaker, this amendment would amend Title 75 to place a moratorium on the auto emissions testing program. Those individuals in the western and eastern parts of the State have believed for a long time, as many of us have, that this plan has been unpatently and unfairly implemented, is unconstitutional under the uniformity clause of the Commonwealth of Pennsylvania, Mr. Speaker, and should be at least placed on hold until we can get some guidelines in place for the onboard

diagnostic testing program, and I would ask for an affirmative vote.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Blair, Mr. Geist.

Mr. GEIST. Thank you very much, Mr. Speaker.

It probably seems odd that I am going to rise to oppose the amendment, because our Governor Rendell worked out the agreement with the EPA (Environmental Protection Agency), and I believe that that agreement is fair and equitable. I believe that if we pass this amendment, it would put Federal funds at jeopardy for the State of Pennsylvania.

Therefore, I would urge we support Governor Rendell and vote "no" on the amendment.

The SPEAKER. The Chair recognizes the gentleman from Carbon, Mr. McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, I agree with the previous speaker.

I think the members have to understand that last year the Commonwealth was sued by the Delaware Valley Clean Air Council and PennFuture, and I think the Lung Association was also involved in that lawsuit. In that lawsuit the Commonwealth lost, and the court said either the Commonwealth negotiate a new State implementation plan on how we will roll out our emissions program or the court – the court – will implement an emissions program. I think that the administration did an excellent job in negotiating with all of the persons who were involved in that lawsuit. We have gotten agreement from the courts that they will accept that negotiated agreement that was negotiated between the Department of Transportation, the Department of Environmental Protection, and the Governor's Office, and I think the SIP (State implementation plan) that we have submitted to the EPA is fair and it does an appropriate job to help clean up our air.

Therefore, I would ask that the members respectfully not support this amendment.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Westmoreland, Mr. Pallone.

Mr. PALLONE. Thank you, Mr. Speaker.

I rise to support the amendment from my distinguished colleague from Westmoreland County in that the application of the testing is currently arbitrary and capricious, and while we acknowledge Representative McCall's remarks that in fact the new deal will in fact remove or somehow alter the way that testing is implemented, right now today we have people that are being caused to have testing done on their cars when it may not be necessary, and it is done as an opportunity to try and improve the air quality, particularly in the heavily populated areas.

In my district alone, because it is applied through ZIP Codes and through no other reasonable manner, I can have an individual who lives in a ZIP Code and drives into a community that does not require that but yet they have to have the emissions sticker, and then I can have other people in my district that live in the Gilpin Township area, for example, and work in the city of Pittsburgh and they do not have to have the emissions sticker.

It is arbitrary, it is capricious, and it is unfair to the property owners in terms of their vehicle and what they do with their vehicle in my district, and I think that applies across the board

in most of the districts, at least in the regions where this particular inspection is required.

So I would encourage a vote in favor of the Casorio amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Westmoreland, Mr. Stairs.

Mr. STAIRS. Thank you, Mr. Speaker.

This is a very controversial amendment and probably an item that brings up as much discussion in my area.

In my legislative area in Westmoreland County, I am surrounded by Fayette and Somerset and Indiana, and people who are neighbors of each other, depending upon which side of the creek they might live on or which side of the hill they live on, have an emission inspection or do not have it, and people cannot understand that there are many, many motorists who use our roads in Westmoreland County who do not need emission inspection, but they live there and they have to have the inspection.

You know, I applaud the Governor, and we have come a long way going through the diagnostic testing, which I think is an improvement, but we still have a long ways to go, and this amendment I support because of the unfairness of our present system and where neighbors are pitted against neighbors, you might say, because they live in one geographic area compared to another.

So I would hope that maybe by passing this amendment, we would get the attention and make this program more fair and equitable and something that if we are serious about cleaning up the air and making this area a safer place to live, we do it in a more fair and a less partisan way.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Luzerne, Mr. Hasay.

Mr. HASAY. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the amendment.

Northeast Pennsylvania, in the years I served on the House Conservation Committee, in the last 10 years the air has actually gotten cleaner in northeast Pennsylvania.

I do not think we need another government mandate on the people of parts of Luzerne, Wyoming, and Columbia Counties to have another auto emissions inspection.

When I served on the House Conservation Committee with Chairman George, we saw to it that gasoline was made to burn cleaner, would oxidize gasoline, catalytic converters, cleaner automobiles that burn cleaner.

So I rise to support it. I do not think an auto emissions inspection is needed. I think it is overreaction, and I support the amendment.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Carbon, Mr. McCall.

Mr. McCALL. Thank you, Mr. Speaker.

First and foremost, if you want to stop the emissions program in this Commonwealth, call your Congressman and call the President and tell them you want them to repeal the Clean Air Act. That is the first step, because we are under court order right now to implement a program. If you want to go ahead and pass a moratorium, I am going to tell you, go ahead and do that, and if you think for one second the court is going to

impose a better program than we have right now, you are sadly mistaken. If you want every region of this Commonwealth to have a tailpipe test, vote for this amendment, because that is exactly what is going to happen.

Now, the previous speakers are talking about ZIP Codes and the people who live across the street. That is totally inaccurate, and if you would have read the new SIP that was submitted to the administration, you would know that it is a statewide test anymore, that there are no ZIP Code areas and it is county by county. We are not talking about ZIP Codes anymore; this is a statewide program. Some of those areas of the Commonwealth are just going to have a simple visual test. They are going to check to make sure you have a catalytic converter and check to make sure that there is no vapor loss from your gas cap. Other areas of the Commonwealth are going to have onboard diagnostic testing, something that this amendment speaks to.

We in January of this year – Westmoreland County, Pittsburgh, and western Pennsylvania – we are going to allow onboard diagnostic testing for cars that have been manufactured from 1996 and forward, and then in some of the more polluted areas like Philadelphia, we still have the same tailpipe test that they have been running for the last 10 or 15 or 20 years. Mr. Speaker, do not kid yourself. You do not want the courts, you do not want the courts to implement an emissions program in this Commonwealth. If you do, if you want the courts to dictate this issue, vote for the Casorio amendment. If you do not want the courts to dictate this issue and leave the emissions program the way it is right now – and believe me, it is a good, fair program as it stands today – you will vote to not support the Casorio amendment.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Washington, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

I do not know what is so good about a program that is only to 12 counties and the people of those 12 counties. I do not know what is so fair about a program that only those people residing in those 12 counties have to have their cars tested. If you do not reside in those 12 counties, then what you ought to do is vote against this amendment, but if you do represent constituents in those 12 counties, you need to vote for this amendment, because several years ago a Federal judge, an unelected, appointed Federal judge named Judge Bechtel, came upon this idea, and he implemented this program and cut \$100 million worth of highway funding for Pennsylvania and they said you had to implement this testing program. They set up the test program in Pittsburgh at a bus stop, and they said Pittsburgh is polluted, Philadelphia is polluted, Harrisburg is polluted, and so is Wilkes-Barre, Scranton, and Erie. So they set up the program in these counties, and only people in some of these counties, parts of these counties, that were ZIPed in were considered to be eligible for the test, and then all of a sudden they broadened it out to wider areas. Now, that is the most unfair, blatant misapplication of big government I have ever seen.

If you are opposed to big government putting its foot on our neck and squeezing us, then you vote for the Casorio amendment. This amendment simply says, let us put a moratorium on this. We all know that the cars pollute less now. We know in western Pennsylvania that we do not have the pollution like we did before, because we do not have the mills and we do not have the jobs. They are all gone to Ohio, but they

do not get their cars tested, and all that wind blows from Ohio into western Pennsylvania polluting our air, but they still test our air.

Mr. Speaker, I ask for a “yes” vote on the Casorio amendment.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny, Mr. Petrone. He waives off.

The Chair recognizes the gentleman from Blair, Mr. Geist, for the second time.

Mr. GEIST. Thank you, Mr. Speaker.

The program is statewide now. We have a much better deal, done by us, negotiated by the Secretary of DEP and the Secretary of Transportation, Katie McGinty and Secretary Biehler. I believe the work that they did was the very best deal that we could get for the State of Pennsylvania. If we allow a judge to do this, it is going to be much worse. I think that that deal that was made was actually good politics.

I would urge us not to undo what has been done right, not to undo a program for the whole State, and vote “no” on the amendment.

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Hershey.

Mr. HERSHEY. Mr. Speaker, I rise to oppose this amendment. We in the southeast have been doing emissions testing since 1984. We did not like it either, but we are getting some relief on automobiles that were built since 1996. It will be a cheaper method. It is an onboard diagnostic test. Any car built after 1996, I call it the suitcase method. The garage will just have a little box, open the lid, plug in your car, and get a test of the emissions for a very small fee. Under this agreement that the previous speaker just reported, all the counties around Harrisburg now will be coming under that program, which is less costly than the old tailpipe or the dynamometer that we have to do now in the southeast, and any car built after 1996 will have a much, much cheaper method. And we know this gas that is produced is unseen. People think automobiles do not pollute, but I invited people to have that discussion in their garage with the motor running and the garage doors closed. Nobody ever took me up on that, Mr. Speaker.

I oppose this amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman, Mr. Pallone, for the second time.

Mr. PALLONE. Thank you, Mr. Speaker.

And while I acknowledge that there has been a deal cut with the EPA relative to emissions and vehicle testing in Pennsylvania, we do not have a fixed date as to when that is going to be implemented. And again, this moratorium on this particular testing initiative will allow those people who are currently being tested a little bit of relief until that agreement is actually finally struck and finally implemented so that people end up having to participate.

The second piece of it is while the State law says that all people throughout the Commonwealth of Pennsylvania should have the testing, that is what the law says has to happen, but that is not what is being currently done. It is only being implemented in the counties or the areas actually that were under the old procedure that used the ZIP Codes. It is not being uniformly applied across the Commonwealth, and in fact it has not been particularly because of the debacle under the Ridge administration with Envirotesting. So it goes back to all of that.

We are still sitting in a situation, and I can tell you right in my own district, just as Representative Stairs indicated, we have people who are neighbors, who live on the same street for that matter. If they have two different ZIP Codes, they in fact either have to or not have to participate in this program. All we are asking is to support the moratorium offered by the Casorio amendment so that this does not have to happen until a uniform program can be implemented for all Pennsylvanians, not those who live in particular ZIP Codes.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Bucks, Mr. Melio.

Mr. MELIO. Thank you, Mr. Speaker.

I was one of the first legislators that opposed the emissions program, and I know it is in my district, and I feel very strongly that they did make a good agreement with the Federal government. I support both the chairmen of the Transportation Committee. I think that having a moratorium would be a mistake. I hope that all the people that I talked to here on the floor of the House will support a “no” vote for this amendment.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Montgomery, Mr. McGill.

Mr. MCGILL. Thank you, Mr. Speaker.

I rise in support of the Casorio amendment.

For the life of me I cannot understand why somebody from Montgomery County such as me has to prove time and time again on a yearly basis that Ford Motor Company made my car correctly. If I lived in Potter County and it came off the assembly line just after my car, I would not have to prove that Ford made the car correctly, because they are exempt. But those of us in the southeastern part of Pennsylvania have to prove that our cars were made correctly and that the emissions are correct, and we should not have to do that.

And to go back to a previous speaker who said that maybe if the court were to decide. I feel maybe if the court decided, it would be maybe a little bit leveler playing field than it currently is. We should not have to, we should not have to prove in various areas of this Commonwealth that we are in compliance and other areas are not mandated to do so.

So I would hope we have an affirmative vote on the Casorio amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—60

Bebko-Jones	Dermody	Lescovitz	Roberts
Belardi	Diven	Markosek	Rohrer
Biancucci	Egolf	McGill	Ruffing
Birmelin	Fabrizio	McIlhinney	Sainato
Browne	Forcier	Metcalfe	Solobay
Buxton	Gergely	Miller, S.	Stairs
Caltagirone	Godshall	Pallone	Stevenson, R.
Casorio	Gruitza	Payne	Stevenson, T.
Cawley	Habay	Petrarca	Turzai
Coleman	Haluska	Petrone	Veon
Cornell	Harhart	Pistella	Walko

Costa
Creighton
Daley
DeLuca

Hasay
Kotik
LaGrotta
Laughlin

Preston
Readshaw
Reed
Reichley

Wilt
Wojnaroski
Yewcic
Zug

NAYS—138

Adolph	Feese	Lynch	Saylor
Allen	Fichter	Mackereth	Scavello
Argall	Flick	Maher	Schroder
Armstrong	Frankel	Maitland	Scrimenti
Baker	Freeman	Major	Semmel
Baldwin	Gabig	Manderino	Shaner
Bard	Gannon	Mann	Smith, B.
Barrar	Geist	Marsico	Smith, S. H.
Bastian	George	McCall	Staback
Belfanti	Gillespie	McGeehan	Steil
Benninghoff	Gingrich	McIlhattan	Stern
Bishop	Goodman	McNaughton	Stetler
Blaum	Gordner	Melio	Sturla
Boyd	Grucela	Micozzie	Surra
Bunt	Hanna	Miller, R.	Tangretti
Butkovitz	Harhai	Mundy	Taylor, E. Z.
Cappelli	Harper	Mustio	Taylor, J.
Causar	Harris	Myers	Thomas
Civera	Hennessey	Nailor	Tigue
Clymer	Herman	Nickol	Travaglio
Cohen	Hershey	O'Brien	True
Corrigan	Hickernell	Oliver	Vance
Coy	Horse	O'Neill	Vitali
Crahalla	Hutchinson	Petri	Wansacz
Cruz	James	Phillips	Washington
Curry	Josephs	Pickett	Waters
Daley	Keller	Raymond	Weber
Denlinger	Kenney	Rieger	Wheatley
DeWeese	Killion	Roebuck	Williams
DiGirolamo	Kirkland	Rooney	Wright
Donatucci	Leach	Ross	Youngblood
Eachus	Lederer	Rubley	Yudichak
Evans, D.	Leh	Samuelson	
Evans, J.	Levdansky	Santoni	Perzel,
Fairchild	Lewis	Sather	Speaker

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

GUESTS INTRODUCED

The SPEAKER. The Chair would like to greet to the hall of the House Jeanne Cassidy and Omar Bravo. Omar Bravo is from the Bronx, New York City, and is one of the many fine representatives of the Fresh Air Fund visiting Lancaster County this year. He is spending 10 days with the Cassidy family of Maytown. They are the guests here today of the gentleman from Lancaster, Mr. Hickernell, and the gentleman from Philadelphia, Mr. Cohen. Would those guests please rise.

CONSIDERATION OF HB 173 CONTINUED

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. DeLUCA offered the following amendment No. A2244:

Amend Title, page 1, line 3, by removing the period after “train” and inserting

, for stop intersections or junctions and for traffic-control devices.

Amend Bill, page 2, by inserting between lines 6 and 7

Section 2. Sections 6109(e) and 6122(a) of Title 75 are amended to read:

§ 6109. Specific powers of department and local authorities.

* * *

(e) Engineering and traffic investigation required.—

(1) Action by local authorities under this section shall be taken only after completing an engineering and traffic investigation when and in such manner as required by regulations promulgated by the department. No engineering and traffic investigation is required to establish a speed limit under section 3362(a)(1.2) (relating to maximum speed limits).

(2) This subsection shall not apply to actions by local authorities in adopting regulations or ordinances designating any intersection or junction of non-Federal and noninterstate highways or roadways within a residence district as a stop intersection or junction and in erecting official traffic-control devices giving notice of such designation.

* * *

§ 6122. Authority to erect traffic-control devices.

(a) General rule.—The department on State-designated highways and local authorities on any highway within their boundaries may erect official traffic-control devices, which shall be installed and maintained in conformance with the manual and regulations published by the department upon all highways as required to carry out the provisions of this title or to regulate, restrict, direct, warn, prohibit or guide traffic.

(1) [Local] Except as provided in paragraph (3), local authorities shall obtain approval of the department prior to erecting an official traffic-control device on a State-designated highway except where department regulations provide otherwise.

(2) [Local] Except as provided in paragraph (3), local authorities shall obtain approval of the department prior to erecting any traffic signal except in a municipality with a traffic engineer qualified in accordance with department regulations.

(3) Notwithstanding any other provision of this section, a local authority may erect a stop sign on a non-Federal and noninterstate highway in a residence district within its boundaries without the approval of the department.

* * *

Amend Sec. 2, page 2, line 7, by striking out “2” and inserting
3

On the question,
Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. DeLuca, for a brief explanation of the amendment.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, this is an amendment that has passed the House twice before in amended form and also in bill form pertaining to our local municipalities, giving them the authority to erect stop signs without going through the costly expenses of an engineering study, which sometimes curtails a municipality in putting up some of these safety regulations mainly because of the costs and not related to the safety of its citizens.

This is a good amendment. It passed overwhelmingly before, and I would ask for an affirmative vote on this amendment today.

Thank you, Mr. Speaker.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—182

Adolph	Egolf	Lescovitz	Ruffing
Allen	Evans, D.	Levdansky	Sainato
Argall	Evans, J.	Lewis	Samuelson
Armstrong	Fabrizio	Lynch	Santoni
Baker	Fairchild	Mackereth	Saylor
Baldwin	Feese	Maher	Scavello
Barrar	Fichter	Maitland	Schroder
Bastian	Flick	Major	Scrimenti
Bebko-Jones	Forcier	Manderino	Semmel
Belardi	Frankel	Mann	Shaner
Belfanti	Freeman	Markosek	Smith, B.
Benninghoff	Gabig	Marsico	Smith, S. H.
Biancucci	Gannon	McCall	Solobay
Birmelin	Geist	McGeehan	Staback
Bishop	George	McIlhatten	Stairs
Blaum	Gergely	McIlhinney	Stetler
Boyd	Gillespie	McNaughton	Stevenson, R.
Browne	Gingrich	Melio	Sturla
Bunt	Goodman	Metcalfe	Surra
Butkovitz	Gordner	Micozzie	Tangretti
Buxton	Grucela	Miller, R.	Taylor, E. Z.
Caltagirone	Gruitza	Miller, S.	Taylor, J.
Cappelli	Haluska	Mundy	Thomas
Casorio	Hanna	Mustio	Tigue
Causar	Harhai	Myers	Travaglio
Cawley	Harhart	Nailor	True
Civera	Harper	Nickol	Turzai
Cohen	Harris	O'Brien	Vance
Coleman	Hasay	Oliver	Veon
Cornell	Hennessey	Pallone	Vitali
Corrigan	Herman	Payne	Walko
Costa	Hickernell	Petrarca	Wansacz
Coy	Horse	Petrone	Washington
Creighton	Hutchinson	Phillips	Waters
Cruz	James	Pickett	Wheatley
Curry	Josephs	Pistella	Williams
Daley	Keller	Preston	Wilt
Daley	Kenney	Raymond	Wojnaroski
DeLuca	Killion	Readshaw	Wright
Denlinger	Kirkland	Reed	Yewcic
Dermody	Kotik	Reichley	Youngblood
DeWeese	LaGrotta	Rieger	Yudichak
DiGirolamo	Laughlin	Roberts	Zug
Diven	Leach	Roebuck	
Donatucci	Lederer	Rohrer	Perzel,
Eachus	Leh	Rooney	Speaker

NAYS—16

Bard	Habay	Petri	Steil
Clymer	Hershey	Ross	Stern
Crahalla	McGill	Rubley	Stevenson, T.
Godshall	O'Neill	Sather	Weber

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,
Will the House agree to the bill on third consideration as amended?

The SPEAKER. Does the gentleman, Mr. Ruffing, still have an amendment for this bill? The gentleman waives off.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. **WILT** offered the following amendment No. **A2342**:

Amend Sec. 1, page 1, line 7, by striking out “a subsection” and inserting

subsections

Amend Sec. 1 (Sec. 3341), page 1, line 12, by inserting after “signs”

at appropriate locations

Amend Sec. 1 (Sec. 3341), page 1, lines 14 through 16; page 2, lines 1 through 6, by striking out “A railroad company shall post and maintain” in line 14 and all of lines 15 and 16, page 1; and all of lines 1 through 6, page 2 and inserting

(b.2) Emergency notification system.—The department shall work with railroads, the Rail Freight Advisory Committee, the Federal Railroad Administration and the Pennsylvania Public Utilities Commission to expand an emergency notification system at all railroad crossings, which includes:

(1) Posting of a toll-free number to a centralized emergency response center.

(2) Maintenance of software and database of emergency responders including contacts with participating railroad companies.

(3) Funding for establishing, maintaining and posting of crossings shall be provided from transportation safety allocation to the department, homeland security funds from various Federal agencies designated for transportation or any other dedicated source of funding for emergency response agencies.

* * *

(d) Modification.—Nothing in this section is intended to supersede or modify 49 U.S.C. § 20153 (relating to audible warnings at highway-rail grade crossing), and related rules and regulations for the Federal Emergency Notification System.

On the question,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereith	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern

Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causer	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnarowski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. **WILT** offered the following amendment No. **A2734**:

Amend Title, page 1, line 3, by removing the period after “train” and inserting

and for refunds of tax imposed upon liquid fuels or certain other fuels.

Amend Bill, page 2, by inserting between lines 6 and 7

Section 2. Section 9017(d) of Title 75 is amended and the section is amended by adding a subsection to read:

§ 9017. Refunds.

* * *

[(d) Off-highway recreational vehicles.—

(1) When the tax imposed by this chapter has been paid on fuel used in off-highway recreational vehicles within this Commonwealth, an amount equal to the revenue generated by the tax, but not derived therefrom, may be appropriated through the General Fund to the Department of Conservation and Natural Resources. It is the intent of this chapter that all proceeds from the tax paid on fuel used in off-highway recreational vehicles

within this Commonwealth be paid without diminution of the Motor License Fund.

(2) The Department of Conservation and Natural Resources shall biennially calculate the amount of liquid fuel consumed by off-highway recreational vehicles and furnish information relating to its calculations and data as may be required by the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives.

(3) The General Assembly shall review the fuel consumption calculations of the Department of Conservation and Natural Resources to determine the amount of liquid fuels tax paid on liquid fuels consumed in the propulsion of off-highway recreational vehicles in this Commonwealth and may annually appropriate to the Department of Conservation and Natural Resources the amount so determined.

(4) Money appropriated under paragraph (3) shall be used for the benefit of motorized and nonmotorized recreational trails by the Department of Conservation and Natural Resources as provided in the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914.)

(d.1) Motorized recreational vehicles.—

(1) When the tax imposed by this chapter has been paid and the fuel on which the tax has been imposed has been consumed in the operation of motorized recreational vehicles on designated roads and bridges used as trails within and bordering on this Commonwealth, the amount of \$1,000,000 of the full amount of such taxes shall be refunded to the restricted account established in section 7706 (relating to restricted account) upon petition to the Board of Finance and Revenue.

(2) In accordance with prescribed procedures, the Department of Conservation and Natural Resources shall biennially calculate the amount of liquid fuels consumed by motorized recreational vehicles and furnish such information, relating to its calculations and data to the Board of Finance and Revenue. The board shall review the petition and motorized recreational vehicle fuel consumption calculations of the Department of Conservation and Natural Resources to determine the full amount of taxes paid and shall certify to the State Treasurer to refund annually \$1,000,000 of the full amount of such taxes to the restricted account established in section 7706.

(3) This money shall be used by the Department of Conservation and Natural Resources for the purposes established in section 7706, including the construction, reconstruction and maintenance of designated roads and bridges used as trails within and bordering on this Commonwealth on which motorized recreational vehicles are authorized by the Department of Conservation and Natural Resources or a municipality to operate and for safety enforcement of this chapter in State parks and State forests.

* * *

Amend Sec. 2, page 2, line 7, by striking out “2” and inserting
3

On the question,
Will the House agree to the amendment?

The SPEAKER. Those in favor of the amendment will vote “aye”; those opposed, “no.” The members— The Chair recognizes the gentleman, Mr. Samuelson.

Mr. SAMUELSON. I would just like to ask the maker of the amendment for an explanation of the amendment and how it would change— I think this amendment pertains to the ATV (all-terrain vehicle) trails. Could he just give us an explanation of what he is proposing to do.

The SPEAKER. The gentleman indicates that he will. The gentleman, Mr. Wilt.

Mr. WILT. Thank you, Mr. Speaker.

Mr. Speaker, this is an amendment that this chamber has passed on a number of occasions. It has been rewritten slightly from last year, and what this does is it would direct from the Motor License Fund the gas tax that is paid into the fund by snowmobiles, ATVs, motorcyclists, to be transferred to DCNR (Department of Conservation and Natural Resources) for the ultimate construction of recreational trails through the Trail Advisory Committee.

The SPEAKER. Mr. Samuelson.

Mr. SAMUELSON. And the total amount, is it \$1 million a year?

Is it optional for the DCNR to build the trails or is it required that DCNR build these trails in our State forests?

Mr. WILT. Mr. Speaker, based on DCNR’s numbers, those entities pay in to the Motor License Fund about \$3.7 million. This is a transfer of \$1 million, and it would actually go through a rating process over at DCNR, which is the Trail Advisory Committee, which has been set up with all the stakeholders, and they would review eligible projects as they would come to them through application.

Mr. SAMUELSON. Does your amendment require that the trails be built, or do the folks at DCNR have discretion on this matter?

Mr. WILT. Mr. Speaker, again, the people that make these decisions are not DCNR in a vacuum. It is the Trail Advisory Council, which is made up of a number of stakeholder groups from around Pennsylvania that review projects. There is no mandate that there are so many projects approved. As these applications are made, they are approved by the Trail Advisory Council, and they decide whether there is money granted.

Mr. SAMUELSON. Thank you, Mr. Speaker.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—186

Adolph	Egolf	Lescovitz	Sainato
Allen	Evans, D.	Lewis	Santoni
Argall	Evans, J.	Lynch	Sather
Armstrong	Fabrizio	Mackereth	Saylor
Baker	Fairchild	Maher	Scavello
Baldwin	Feese	Maitland	Schroder
Bard	Fichter	Major	Scrimenti
Barrar	Flick	Mann	Semmel
Bastian	Forcier	Markosek	Shaner
Bebko-Jones	Frankel	Marsico	Smith, B.
Belardi	Gabig	McCall	Smith, S. H.
Belfanti	Gannon	McGeehan	Solobay
Benninghoff	Geist	McGill	Staback
Biancucci	George	McIlhattan	Stairs
Birmelin	Gergely	McIlhinney	Stern
Bishop	Gillespie	McNaughton	Stetler
Blaum	Gingrich	Melio	Stevenson, R.
Boyd	Godshall	Metcalfe	Stevenson, T.
Browne	Goodman	Micozzie	Sturla
Bunt	Gordner	Miller, R.	Surra
Butkovitz	Grucela	Miller, S.	Tangretti
Buxton	Gruitza	Mustio	Taylor, E. Z.
Caltagirone	Habay	Myers	Taylor, J.
Cappelli	Haluska	Nailor	Thomas
Casorio	Hanna	Nickol	Tigue
Causar	Harhai	O’Brien	Travaglio
Cawley	Harhart	Oliver	True

Civera	Harper	O'Neill	Turzai
Clymer	Harris	Pallone	Vance
Coleman	Hennessey	Payne	Veon
Cornell	Herman	Petrarca	Walko
Corrigan	Hershey	Petri	Wansacz
Costa	Hickernell	Petrone	Washington
Coy	Horsey	Phillips	Waters
Crahalla	Hutchinson	Pickett	Weber
Creighton	James	Pistella	Wheatley
Cruz	Josephs	Preston	Williams
Dailey	Keller	Raymond	Wilt
Daley	Kenney	Readshaw	Wojnaroski
DeLuca	Killion	Reed	Wright
Denlinger	Kirkland	Reichley	Yewcic
Dermody	Kotik	Rieger	Youngblood
DeWeese	LaGrotta	Roberts	Yudichak
DiGirolamo	Laughlin	Roebuck	Zug
Diven	Leach	Rohrer	Perzel,
Donatucci	Lederer	Rooney	Speaker
Eachus	Leh	Ross	

NAYS—12

Cohen	Hasay	Mundy	Samuelson
Curry	Levdansky	Rubley	Steil
Freeman	Manderino	Ruffing	Vitali

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the gentleman, Mr. Geist.

Mr. GEIST. Thank you, Mr. Speaker.

This bill was originally sponsored by Representative Boyes. He was very, very active in supporting us in the grade crossings and the safety of railroad crossings. He had put \$10 million in the budget for this program, and this bill was a pet bill of his, and I hope that Karl is looking down upon us today with favor as we pass his legislation.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causer	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	Perzel,
Eachus	Lescovitz	Rubley	Speaker
Egolf	Levdansky	Ruffing	

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 550, PN 652**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for standing and parking prohibitions.

On the question,
Will the House agree to the bill on third consideration?

The SPEAKER. Does the gentleman, Mr. Solobay, still have the three amendments? The Chair is under the impression that all amendments have been withdrawn. That is DeLuca, Wilt, and Solobay.

On the question recurring,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Flocier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley

Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnarowski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 1206, PN 1444**, entitled:

An Act amending the act of December 9, 2002 (P.L.1364, No.166), entitled "An act amending the act of December 31, 1965 (P.L.1257, No.511), entitled 'An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employees to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court,' further providing for delegation of taxing powers and restrictions and for definitions," providing for applicability.

On the question,
Will the House agree to the bill on third consideration?

Mr. **MAHER** offered the following amendment No. **A2550**:

Amend Title, page 1, lines 1 through 25, by striking out all of said lines and inserting

Amending the act of December 31, 1965 (P.L.1257, No.511), entitled "An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject

to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employees to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court," further providing for limitations on rates of specific taxes; and providing for certain applicability.

Amend Bill, page 1, lines 28 and 29; page 2, lines 1 through 25, by striking out all of said lines on said pages and inserting

Section 1. Section 8(6) of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended October 11, 1984 (P.L.885, No.172), is amended to read:

Section 8. Limitations on Rates of Specific Taxes.—No taxes levied under the provisions of this act shall be levied by any political subdivision on the following subjects exceeding the rates specified in this section:

* * *

(6) On admissions to places of amusement, athletic events and the like, and on motion picture theatres in cities of the second class, ten percent. In cities of the second class where a public service foundation is created under section 7(b) of the act of November 26, 1997 (P.L.508, No.55), known as the "Institutions of Purely Public Charity Act," the term "amusement" for tax purposes under this act shall not include any form of performing arts, regardless of the nature thereof, for which the net proceeds inure to the benefit of an institution of purely public charity.

* * *

Section 2. The amendment of section 2 of the act and the amendment of the definitions of "earned income" and "net profits" in section 13 I of the act of December 9, 2002 (P.L.1364, No.166), entitled "An act amending the act of December 31, 1965 (P.L.1257, No.511), entitled 'An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employees to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court,' further providing for delegation of taxing powers and restrictions and for definitions," shall apply to taxable years beginning after December 31, 2002.

Section 3. This act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Maher.

The Chair recognizes the gentleman from Delaware, Mr. Vitali.

Mr. VITALI. I am just looking for a brief explanation.

The SPEAKER. The Chair recognizes the gentleman, Mr. Maher, for a brief explanation of the amendment.

Mr. MAHER. Thank you, Mr. Speaker.

This amendment provides that the city of Pittsburgh will discontinue the amusement tax levied on nonprofit performing arts groups such as the Symphony, the Civic Light Opera, the Public Theater, and so forth in the event that a foundation provided for under the Institutions of Purely Public Charity Act, a public service foundation, is created in that city.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—197

Adolph	Evans, J.	Lynch	Samuelson
Allen	Fabrizio	Mackereth	Santoni
Argall	Fairchild	Maher	Sather
Armstrong	Feese	Maitland	Saylor
Baker	Fichter	Major	Scavello
Baldwin	Flick	Manderino	Schroder
Bard	Forcier	Mann	Scrimenti
Barrar	Frankel	Markosek	Semmel
Bastian	Freeman	Marsico	Shaner
Bebko-Jones	Gabig	McCall	Smith, B.
Belardi	Gannon	McGeehan	Smith, S. H.
Belfanti	Geist	McGill	Solobay
Benninghoff	George	McIlhatten	Staback
Biancucci	Gergely	McIlhinney	Stairs
Birmelin	Gillespie	McNaughton	Steil
Bishop	Gingrich	Melio	Stern
Blaum	Godshall	Metcalf	Stetler
Boyd	Goodman	Micozzie	Stevenson, R.
Browne	Gordner	Miller, R.	Stevenson, T.
Bunt	Grucela	Miller, S.	Sturla
Butkovitz	Gruitza	Mundy	Surra
Buxton	Habay	Mustio	Tangretti
Caltagirone	Haluska	Myers	Taylor, E. Z.
Cappelli	Hanna	Nailor	Taylor, J.
Casorio	Harhai	Nickol	Thomas
Causar	Harhart	O'Brien	Tigue
Cawley	Harper	Oliver	Travaglio
Civera	Harris	O'Neill	True
Clymer	Hasay	Pallone	Turzai
Cohen	Hennessey	Payne	Vance
Coleman	Herman	Petrarca	Veon
Cornell	Hershey	Petri	Vitali
Corrigan	Hickernell	Petrone	Walko
Costa	Horse	Phillips	Wansacz
Coy	Hutchinson	Pickett	Washington
Crahalla	James	Pistella	Waters
Creighton	Josephs	Preston	Weber
Cruz	Keller	Raymond	Wheatley
Curry	Kenney	Readshaw	Williams
Dailey	Killion	Reed	Wilt
Daley	Kirkland	Reichley	Wojnaroski
DeLuca	Kotik	Rieger	Wright
Denlinger	LaGrotta	Roberts	Yewcic
Dermody	Laughlin	Roebuck	Youngblood
DeWeese	Leach	Rohrer	Yudichak
DiGirolamo	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	
Egolf	Levdansky	Ruffing	Perzel,
Evans, D.	Lewis	Sainato	Speaker

NAYS—1

Diven

NOT VOTING—0

EXCUSED—4

Dally Fleagle Hess Watson

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

POINT OF ORDER

The SPEAKER. For what purpose does Representative Pistella rise?

Mr. PISTELLA. Mr. Speaker, I rise for a point of order on the last vote that was taken.

The SPEAKER. The gentleman will state his point of order.

Mr. PISTELLA. Mr. Speaker, I recall at one point during the time that I have served in this legislature that the gentleman from Philadelphia, who later became a Senator, attempted to offer an amendment that would take effect contingent upon the adoption of another piece of legislation. At that time Speaker Irvis then ruled that that amendment was out of order, because the effectiveness of the amendment being offered by then Representative Hank Salvatore would only be conditioned upon taking effect when a subsequent piece of legislation considered by another body was adopted.

I am of the opinion that the amendment being offered by the gentleman from Allegheny County meets that same criteria and, therefore, would ask the Chair to rule that that particular amendment is unconstitutional.

The SPEAKER. Would the gentleman please come to the podium.

Mr. PISTELLA. Pardon me, Mr. Speaker?

The SPEAKER. Would you please come up to the podium.

(Conference held at Speaker's podium.)

**THE SPEAKER PRO TEMPORE
(ROBERT J. FLICK) PRESIDING**

The SPEAKER pro tempore. The gentleman, Mr. Pistella, has withdrawn his personal point of order, so we are on final passage of HB 1206.

On the question,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—197

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Travaglio
Civera	Harper	Oliver	True
Clymer	Harris	O'Neill	Turzai
Cohen	Hasay	Pallone	Vance
Coleman	Hennessey	Payne	Veon
Cornell	Herman	Petrarca	Vitali
Corrigan	Hershey	Petri	Walko
Costa	Hickernell	Petrone	Wansacz
Coy	Horsey	Phillips	Washington
Crahalla	Hutchinson	Pickett	Waters
Creighton	James	Pistella	Weber
Cruz	Josephs	Preston	Wheatley
Curry	Keller	Raymond	Williams
Dailey	Kenney	Readshaw	Wilt
Daley	Killion	Reed	Wojnaroski
DeLuca	Kirkland	Reichley	Wright
Denlinger	Kotik	Rieger	Yewcic
Dermody	LaGrotta	Roberts	Youngblood
DeWeese	Laughlin	Roebuck	Yudichak
DiGirolamo	Leach	Rohrer	Zug
Diven	Lederer	Rooney	
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—1

Tigue

NOT VOTING—0

EXCUSED—4

Dally Fleagle Hess Watson

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **SB 441, PN 1029**, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for persons qualified to solemnize marriages.

On the question,
Will the House agree to the bill on third consideration?

Mr. **COHEN** offered the following amendment No. **A2364**:

Amend Sec. 1 (Sec. 1503), page 1, by inserting between lines 16 and 17

(2.1) An administrative law judge appointed under 66 Pa.C.S. § 304 (relating to administrative law judges) or section 212 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, who is a resident of this Commonwealth.

Amend Sec. 1 (Sec. 1503), page 2, by inserting between lines 9 and 10

(4.1) An administrative law judge appointed under 5 U.S.C. § 3105 (relating to appointment of administrative law judges), who is a resident of this Commonwealth.

On the question,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—180

Adolph	Egolf	Leh	Rubley
Allen	Evans, D.	Lescovitz	Ruffing
Argall	Evans, J.	Levdansky	Sainato
Armstrong	Fabrizio	Lewis	Samuelson
Baker	Fairchild	Lynch	Santoni
Baldwin	Feese	Mackereth	Saylor
Bard	Fichter	Maher	Scavello
Barrar	Flick	Maitland	Schroder
Bastian	Forcier	Major	Scrimenti
Bebko-Jones	Frankel	Manderino	Semmel
Belardi	Freeman	Mann	Smith, B.
Belfanti	Gannon	Markosek	Smith, S. H.
Benninghoff	Geist	Marsico	Solobay
Bianucci	George	McCall	Staback
Bishop	Gergely	McGeehan	Stairs
Blaum	Gillespie	McGill	Steil
Boyd	Gingrich	McIlhinney	Stetler
Browne	Godshall	McNaughton	Stevenson, R.
Bunt	Goodman	Melio	Stevenson, T.
Butkovitz	Gordner	Micozzie	Sturla
Buxton	Grucela	Miller, R.	Surra
Caltagirone	Gruitza	Miller, S.	Tangretti
Cappelli	Habay	Mundy	Taylor, E. Z.
Casorio	Haluska	Mustio	Taylor, J.
Causar	Hanna	Myers	Thomas
Civera	Harhai	Nickol	Travaglio
Clymer	Harhart	O'Brien	True
Cohen	Harper	Oliver	Turzai
Coleman	Harris	O'Neill	Veon
Cornell	Hasay	Payne	Vitali
Corrigan	Hennessey	Petri	Walko
Costa	Herman	Petrone	Wansacz
Coy	Hershey	Phillips	Washington
Creighton	Hickernell	Pickett	Waters
Cruz	Horsey	Pistella	Wheatley
Curry	James	Preston	Williams
Dailey	Josephs	Raymond	Wilt
Daley	Keller	Readshaw	Wojnaroski

DeLuca	Kenney	Reed	Wright
Denlinger	Killion	Rieger	Youngblood
Dermody	Kirkland	Roberts	Yudichak
DeWeese	Kotik	Roebuck	Zug
DiGirolamo	LaGrotta	Rohrer	
Diven	Laughlin	Rooney	
Donatucci	Leach	Ross	Perzel,
Eachus	Lederer		Speaker

NAYS—18

Birmelin	McIlhatten	Reichley	Tigue
Cawley	Metcalfe	Sather	Vance
Crahalla	Nailor	Shaner	Weber
Gabig	Pallone	Stern	Yewcic
Hutchinson	Petrarca		

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,
Will the House agree to the bill on third consideration as amended?

Mr. **SCAVELLO** offered the following amendment No. **A2769**:

Amend Sec. 1 (Sec. 1503), page 2, by inserting between lines 10 and 11

(5.1) A former mayor of any city or borough of this Commonwealth who is a resident of this Commonwealth.

On the question,
Will the House agree to the amendment?

The SPEAKER pro tempore. For what purpose does the gentleman, Representative Vitali, rise?

Mr. VITALI. Interrogation.

The SPEAKER pro tempore. The gentleman, Mr. Scavello. Will the gentleman, Mr. Scavello, agree to an interrogation? The gentleman indicates he will. Representative Vitali is recognized.

Mr. VITALI. Mr. Speaker, could we have a brief explanation of that amendment?

Mr. SCAVELLO. I am sorry, but I did not hear you.

Mr. VITALI. Just a brief explanation.

The SPEAKER pro tempore. The House will come to order. The gentleman cannot hear.

Mr. SCAVELLO. The amendment calls for, in some areas we have mayors in our boroughs where we have a tremendous amount of visitors, especially up in Monroe County, and the mayors just do not have the time to do the ceremonies, but we have ex-mayors that are retired that would love to do the wedding ceremonies, and I am sure that you have those situations in other areas as well. It is just holding on to the power of being able to do the ceremonies. There are other

States that do allow, once a mayor has, like, for example, in New York City, New York, the same would apply here.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—142

Adolph	Donatucci	Lewis	Ross
Allen	Evans, D.	Lynch	Rubley
Argall	Evans, J.	Maher	Ruffing
Armstrong	Fabrizio	Maitland	Sainato
Baker	Feese	Major	Santoni
Baldwin	Fichter	Manderino	Saylor
Bard	Flick	Mann	Scavello
Barrar	Forcier	Markosek	Scrimenti
Bastian	Frankel	Marsico	Semmel
Bebko-Jones	Gannon	McCall	Smith, B.
Belardi	Geist	McGeehan	Smith, S. H.
Belfanti	George	McGill	Solobay
Biancucci	Gergely	McIlhatten	Stairs
Bishop	Gillespie	McIlhinney	Stevenson, R.
Browne	Goodman	Micozzie	Stevenson, T.
Bunt	Grucela	Miller, R.	Taylor, E. Z.
Butkovitz	Gruitza	Miller, S.	Taylor, J.
Caltagirone	Haluska	Mustio	Thomas
Cappelli	Harhart	Myers	Travaglio
Casorio	Harper	Nickol	Turzai
Causer	Hennessey	O'Brien	Veon
Cawley	Hershey	Oliver	Vitali
Civera	Horsley	O'Neill	Walko
Cohen	Hutchinson	Payne	Washington
Coleman	James	Petri	Waters
Cornell	Josephs	Petrone	Wheatley
Costa	Keller	Pickett	Williams
Creighton	Kenney	Preston	Wilt
Cruz	Killion	Raymond	Wojnaroski
Dailey	Kirkland	Readshaw	Wright
Daley	LaGrotta	Reed	Youngblood
DeLuca	Laughlin	Rieger	Yudichak
Dermody	Leach	Roberts	Zug
DeWeese	Lederer	Roebuck	
DiGirolamo	Leh	Rohrer	Perzel,
Diven	Lescovitz	Rooney	Speaker

NAYS—55

Benninghoff	Freeman	McNaughton	Staback
Birmelin	Gabig	Melio	Steil
Blaum	Gingrich	Metcalfe	Stern
Boyd	Godshall	Mundy	Stetler
Buxton	Gordner	Nailor	Sturla
Clymer	Habay	Pallone	Surra
Corrigan	Harhai	Petrarca	Tangretti
Coy	Harris	Phillips	Tigue
Crahalla	Hasay	Pistella	True
Curry	Herman	Reichley	Vance
Denlinger	Hickernell	Samuelson	Wansacz
Eachus	Kotik	Sather	Weber
Egolf	Levdansky	Schroder	Yewcic
Fairchild	Mackereth	Shaner	

NOT VOTING—1

Hanna

EXCUSED—4

Dally Fleagle Hess Watson

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?
Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?
Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—184

Adolph	Evans, J.	Levdansky	Rubley
Allen	Fabrizio	Lewis	Ruffing
Argall	Fairchild	Lynch	Sainato
Armstrong	Feese	Mackereth	Santoni
Baker	Fichter	Maher	Sather
Baldwin	Flick	Maitland	Saylor
Bard	Forcier	Major	Scavello
Barrar	Frankel	Manderino	Scrimenti
Bastian	Freeman	Mann	Semmel
Bebko-Jones	Gabig	Markosek	Shaner
Belardi	Gannon	Marsico	Smith, B.
Belfanti	Geist	McCall	Smith, S. H.
Biancucci	George	McGeehan	Solobay
Bishop	Gergely	McGill	Staback
Blaum	Gillespie	McIlhatten	Stairs
Boyd	Gingrich	McIlhinney	Steil
Browne	Godshall	McNaughton	Stetler
Bunt	Goodman	Melio	Stevenson, R.
Butkovitz	Gordner	Micozzie	Stevenson, T.
Buxton	Grucela	Miller, R.	Sturla
Caltagirone	Gruitza	Miller, S.	Surra
Cappelli	Habay	Mundy	Tangretti
Casorio	Haluska	Mustio	Taylor, E. Z.
Causer	Hanna	Myers	Taylor, J.
Cawley	Harhai	Nailor	Thomas
Civera	Harhart	Nickol	Travaglio
Clymer	Harper	O'Brien	True
Cohen	Harris	Oliver	Turzai
Coleman	Hennessey	O'Neill	Vance
Cornell	Herman	Payne	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsley	Phillips	Wansacz
Cruz	Hutchinson	Pickett	Washington
Curry	James	Pistella	Waters
Dailey	Josephs	Preston	Wheatley
Daley	Keller	Raymond	Williams
DeLuca	Kenney	Readshaw	Wilt
Denlinger	Killion	Reed	Wojnaroski
Dermody	Kirkland	Reichley	Wright
DeWeese	Kotik	Rieger	Youngblood
DiGirolamo	LaGrotta	Roberts	Yudichak
Diven	Laughlin	Roebuck	Zug
Donatucci	Leach	Rohrer	
Eachus	Lederer	Rooney	
Egolf	Leh	Ross	Perzel,
Evans, D.	Lescovitz		Speaker

NAYS—14

Benninghoff	Hasay	Samuelson	Tigue
Birmelin	Metcalfe	Schroder	Weber
Crahalla	Pallone	Stern	Yewcic
Creighton	Petrarca		

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

* * *

The House proceeded to third consideration of **HB 1117, PN 1319**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of trespassing on railroad property; and providing for penalties.

On the question,
Will the House agree to the bill on third consideration?

Mr. **MAHER** offered the following amendment No. **A2641**:

Amend Sec. 1 (Sec. 3504), page 1, lines 8 through 17; page 2, lines 1 through 10, by striking out all of said lines on said pages and inserting

§ 3504. Railroad protection, railroad vandalism and interference with transportation facilities.

(a) Damage to railroad or delay of railroad operations.—

(1) A person commits an offense if, without lawful authority or the railroad carrier's consent, he causes damage to property that he knows or reasonably should have known to be railroad property, including the railroad right-of-way or yard, or causes a delay in railroad operations, by an act including, but not limited to:

(i) Knowingly, purposefully or recklessly disrupting, delaying or preventing the operation of any train, jitney, trolley or any other facility of transportation.

(ii) Driving or operating a recreational vehicle or nonrecreational vehicle, including, but not limited to, a bicycle, motorcycle, snowmobile, all-terrain vehicle, car or truck.

(iii) Knowingly, purposefully or recklessly damaging railroad property, railroad infrastructure or railroad equipment or using railroad property to access adjoining property to commit acts of vandalism, theft or other criminal acts.

(2) An offense under this subsection constitutes a misdemeanor of the third degree.

Amend Sec. 1 (Sec. 3504), page 2, lines 18 through 30; page 3, lines 1 through 20, by striking out all of said lines on said pages and inserting

(c) Limitation on liability.—

(1) A railroad carrier owes no duty of care to keep its railroad property safe for entry or use by any person who enters

upon any railroad property or railroad right-of-way or to give any warning to such person entering or going on that railroad property of a dangerous condition, use or activity thereon.

(2) Except as set forth in paragraph (3), a railroad carrier shall not:

(i) Be presumed to extend any assurance to a person entering or going on railroad property without the railroad carrier's consent that the railroad property is safe for any purpose.

(ii) Incur any duty of care toward a person entering or going on railroad property without the railroad carrier's consent.

(iii) Become liable for any injury to a person entering or going on railroad property without the railroad carrier's consent caused by an act or omission of such person.

(3) Nothing in this subsection limits in any way any liability which otherwise exists for willful or malicious failure to guard or warn against a dangerous condition, use or activity.

Amend Sec. 1 (Sec. 3504), page 3, lines 24 through 26, by striking out all of said lines

Amend Sec. 1 (Sec. 3504), page 4, line 6, by inserting after "person"

, including, but not limited to, an owner or operator

On the question,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavella
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causser	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley

Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causser	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True

Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **SB 8, PN 1054**, entitled:

An Act amending Titles 18 (Crimes and Offenses), 30 (Fish), 34 (Game), 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for impairment due to alcohol or controlled substances, for Department of Transportation records, for investigation by police officers and for certain surcharges; and making editorial changes.

On the question,

Will the House agree to the bill on third consideration?

Mr. **GEIST** offered the following amendment No. **A2753**:

Amend Bill, page 79, lines 20 through 30; pages 80 through 144, lines 1 through 30; page 145, lines 1 through 13, by striking out all of said lines on said pages and inserting

Section 1. Sections 6105(c)(3) and 7508.1(b) and (c) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.

* * *

(c) Other persons.—In addition to any person who has been convicted of any offense listed under subsection (b), the following persons shall be subject to the prohibition of subsection (a):

* * *

(3) A person who has been convicted of driving under the influence of alcohol or controlled substance as provided in 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of

alcohol or controlled substance) on three or more separate occasions within a five-year period. For the purposes of this paragraph only, the prohibition of subsection (a) shall only apply to transfers or purchases of firearms after the third conviction.

§ 7508.1. Substance Abuse Education and Demand Reduction Fund.

(b) Imposition.—Unless the court finds that undue hardship would result, a mandatory cost of \$100, which shall be in addition to any other costs imposed pursuant to statutory authority, shall automatically be assessed on any individual convicted, adjudicated delinquent or granted Accelerated Rehabilitative Disposition or any individual who pleads guilty or nolo contendere for a violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or a violation of 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance).

(c) Additional assessment.—In addition to the assessment required by subsection (b), a person convicted of or adjudicated delinquent for a violation of 75 Pa.C.S. § [3731] 3802 shall be assessed \$200 where the amount of alcohol by weight in the blood of the person is equal to or greater than [.15%] .16% at the time a chemical test is performed on a sample of the person's breath, blood or urine. For the purposes of this subsection, the sample of the person's blood, breath or urine shall be taken within [two] three hours after the person is placed under arrest.

Section 2. Section 7514 of Title 18 is repealed.

Section 3. Section 5502(a)(4) and (a.1)(1) of Title 30 are amended to read:

§ 5502. Operating watercraft under influence of alcohol or controlled substance.

(a) General rule.—No person shall operate or be in actual physical control of the movement of a watercraft upon, in or through the waters of this Commonwealth:

(4) while the amount of alcohol by weight in the blood of:

- (i) an adult is [0.10%] 0.08% or greater; or
- (ii) a minor is 0.02% or greater.

(a.1) Prima facie evidence.—

(1) It is prima facie evidence that:

(i) an adult had [0.10%] 0.08% or more by weight of alcohol in his or her blood at the time of operating or being in actual physical control of the movement of a watercraft if the amount of alcohol by weight in the blood of the person is equal to or greater than [0.10%] 0.08% at the time a chemical test is performed on a sample of the person's breath, blood or urine; and

(ii) a minor had 0.02% or more by weight of alcohol in his or her blood at the time of operating or being in actual physical control of the movement of a watercraft if the amount of alcohol by weight in the blood of the minor is equal to or greater than 0.02% at the time a chemical test is performed on a sample of the person's breath, blood or urine.

Section 4. Sections 2501(a)(4) and (a.1)(1)(i) and (b) and 2502(d)(2) and (3) of Title 34 are amended to read:

§ 2501. Hunting or furtaking prohibited while under influence of alcohol or controlled substance.

(a) General rule.—It is unlawful to hunt or take game, furbearers or wildlife or aid, abet, assist or conspire to hunt or take game, furbearers or wildlife anywhere in this Commonwealth while in possession of a firearm of any kind or a bow and arrow if:

(4) the amount of alcohol by weight in the blood of:

- (i) an adult is [0.10%] 0.08% or greater; or
- (ii) a minor is 0.02% or greater.

(a.1) Prima facie evidence.—

(1) It is prima facie evidence that:

(i) an adult had [0.10%] 0.08% or more by weight of alcohol in his or her blood at the time of hunting or taking of game, furbearers or wildlife or the aiding, abetting, assisting or conspiring to hunt or take game, furbearers or wildlife if the amount of alcohol by weight in the blood of the person is equal to or greater than [0.10%] 0.08% at the time a chemical test is performed on a sample of the person's breath, blood or urine; or

(b) Penalty.—

(1) A violation of the provisions of this section shall be a summary offense if the amount of alcohol by weight in the blood of the individual is at least 0.08% but less than 0.10%.

(2) A violation of the provisions of this section shall be a misdemeanor of the third degree if the amount of alcohol by weight in the blood of the individual is at least 0.10%.

(3) In addition to any penalty, the violator shall be denied the right to hunt or trap in this Commonwealth, with or without a license, for a period of one year.

§ 2502. Chemical test to determine amount of alcohol.

(d) Presumptions from amount of alcohol.—If chemical analysis of a person's breath, blood or urine shows:

(2) That the amount of alcohol by weight in the blood of the person tested is in excess of 0.05% but less than [0.10%] 0.08%, this fact shall not give rise to any presumption that the person tested was or was not under the influence of alcohol, but this fact may be considered with other competent evidence in determining whether the person was or was not under the influence of alcohol.

(3) That the amount of alcohol by weight in the blood of the person tested is [0.10%] 0.08% or more, it shall be presumed that the defendant was under the influence of alcohol.

Section 5. Sections 933(a)(1)(ii), 1515(a)(5), 1725.3(a), 3571(b)(4) and 3573(b)(3) of Title 42 are amended to read:

§ 933. Appeals from government agencies.

(a) General rule.—Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have jurisdiction of appeals from final orders of government agencies in the following cases:

(1) Appeals from Commonwealth agencies in the following cases:

(ii) Determinations of the Department of Transportation appealable under the following provisions of Title 75 (relating to vehicles):

Section 1377 (relating to judicial review).

Section 1550 (relating to judicial review).

Section 4724(b) (relating to judicial review).

Section 7303(b) (relating to judicial review).

Section 7503(b) (relating to judicial review).

Except as otherwise prescribed by general rules, the venue shall be in the county of the principal place of business of any salvor or messenger service, the location of any inspection station involved, the county where the arrest for a violation of 75 Pa.C.S. § [3731] 3802

(relating to driving under influence of alcohol or controlled substance) was made in appeals involving the suspension of operating privileges under 75 Pa.C.S. § 1547 (relating to chemical testing to determine amount of alcohol or controlled substance) or the residence of any individual appellant where the venue is not otherwise fixed by this sentence. In the case of a nonresident individual venue, except as otherwise prescribed by general rules, shall be in the county in which the offense giving rise to the recall, cancellation, suspension or revocation of operating privileges occurred.

§ 1515. Jurisdiction and venue.

(a) Jurisdiction.—Except as otherwise prescribed by general rule adopted pursuant to section 503 (relating to reassignment of matters), district justices shall, under procedures prescribed by general rule, have jurisdiction of all of the following matters:

(5) Offenses under 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance), if the following criteria are met:

(i) The offense is the first offense by the defendant under such provision in this Commonwealth.

(ii) No personal injury (other than to the defendant [or the immediate family of the defendant]) resulted from the offense.

(iii) The defendant pleads guilty.

(iv) No property damage in excess of \$500 other than to the defendant's property resulted from the violation.

(v) The defendant is not subject to the provisions of Chapter 63 (relating to juvenile matters).

(vi) The arresting authority shall cause to be transmitted a copy of the charge of any violation of 75 Pa.C.S. § [3731] 3802 to the office of the clerk of the court of common pleas within five days after the preliminary arraignment.

In determining that the above criteria are met the district justice shall rely on the certification of the arresting authority. Certification that the criteria are met need not be in writing. Within ten days after the disposition, the district justice shall certify the disposition to the office of the clerk of the court of common pleas in writing.

§ 1725.3. Criminal laboratory user fee.

(a) Imposition.—A person who is placed on probation without verdict pursuant to section 17 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or who receives Accelerated Rehabilitative Disposition or who pleads guilty to or nolo contendere to or who is convicted of a crime as defined in 18 Pa.C.S. § 106 (relating to classes of offenses) or 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance) or 3735 (relating to homicide by vehicle while driving under influence) or a violation of The Controlled Substance, Drug, Device and Cosmetic Act shall, in addition to any fines, penalties or costs, in every case where laboratory services were required to prosecute the crime or violation, be sentenced to pay a criminal laboratory user fee which shall include, but not be limited to, the cost of sending a laboratory technician to court proceedings.

§ 3571. Commonwealth portion of fines, etc.

(b) Vehicle offenses.—

(4) When prosecution under 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance) is the result of State Police action, 50% of all fines,

forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the Commonwealth, for credit to the Motor License Fund, and 50% shall be payable to the county which shall be further divided as follows:

(i) Fifty percent of the moneys received shall be allocated to the appropriate county authority which implements the county drug and alcohol program to be used solely for the purposes of aiding programs promoting drug abuse and alcoholism prevention, education, treatment and research. Programs under this subparagraph include Project DARE (Drug and Alcohol Resistance Education) and Mothers Against Drunk Driving Victim Impact Panels.

(ii) Fifty percent of the moneys received shall be used for expenditures incurred for county jails, prisons, workhouses and detention centers.

§ 3573. Municipal corporation portion of fines, etc.

(b) Vehicle offenses.—

(3) When prosecution under 75 Pa.C.S. § [3731] 3802 (relating to driving under influence of alcohol or controlled substance) is the result of local police action, 50% of all fines, forfeited recognizances and other forfeitures imposed, lost or forfeited shall be payable to the municipal corporation under which the local police are organized, and 50% shall be payable to the county which shall be further divided as follows:

(i) Fifty percent of the moneys received shall be allocated to the appropriate county authority which implements the county drug and alcohol program to be used solely for the purposes of aiding programs promoting drug abuse and alcoholism prevention, education, treatment and research. Programs under this subparagraph include Project DARE (Drug and Alcohol Resistance Education).

(ii) Fifty percent of the moneys received shall be used for expenditures incurred for county jails, prisons, workhouses and detention centers.

Section 6. Chapter 70 of Title 42 is repealed.

Section 7. Section 9763(c) of Title 42 is amended to read:

§ 9763. Sentence of intermediate punishment.

(c) Restriction.—

(1) A defendant [convicted under] subject to 75 Pa.C.S. § [3731(e) (relating to driving under influence of alcohol or controlled substance)] 3804 (relating to penalties) may only be sentenced to intermediate punishment:

[(1) in a residential inpatient program or in a residential rehabilitative center; or

(2) by house arrest or electronic surveillance combined with drug and alcohol treatment.]

(i) for a first, second or third offense under 75 Pa.C.S. Ch. 38 (relating to driving while impaired); and

(ii) after undergoing an assessment under 75 Pa.C.S. § 3814 (relating to drug and alcohol assessments).

(2) If the defendant is determined to be in need of drug and alcohol treatment, the defendant may only be sentenced to intermediate punishment which includes participation in drug and alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to mandatory sentencing). Such treatment may be combined with house arrest with electronic surveillance or a partial confinement program, such as work release, a work camp or a halfway facility.

(3) If the defendant is determined not to be in need of drug and alcohol treatment, the defendant may only be sentenced to intermediate punishment:

- (i) by house arrest or electronic surveillance;
- (ii) partial confinement programs, such as work release, work camps and halfway facilities; or
- (iii) any combination of the programs set forth in this subsection.

Section 8. Section 9804(b)(3) of Title 42 is amended and the subsection is amended by adding paragraphs to read:
§ 9804. County intermediate punishment programs.

(b) Eligibility.—

[(3) Any person receiving a penalty imposed pursuant to 75 Pa.C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked) or 3731(e) (relating to driving under influence of alcohol or controlled substance) may only be sentenced to intermediate punishment program in:

- (i) a residential inpatient program or a residential rehabilitative center;
- (ii) house arrest and electronic surveillance combined with drug and alcohol treatment; or
- (iii) partial confinement programs, such as work release, work camps and halfway facilities, combined with drug and alcohol treatment.]

(4) (i) Any person receiving a penalty imposed pursuant to 75 Pa.C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked) or 3804 (relating to penalties) shall undergo an assessment under 75 Pa.C.S. § 3814 (relating to drug and alcohol assessments).

(ii) If the defendant is determined to be in need of drug and alcohol treatment, a sentence to intermediate punishment shall include participation in drug and alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to mandatory sentencing). Such treatment may be combined with house arrest with electronic surveillance or a partial confinement program, such as work release, a work camp or a halfway facility.

(iii) If the defendant is determined not to be in need of drug and alcohol treatment, the defendant may only be sentenced to intermediate punishment program in:

- (A) house arrest and electronic surveillance;
- (B) partial confinement programs, such as work release, work camps and halfway facilities; or
- (C) any combination of the programs set forth in this paragraph.

(5) A defendant subject to 75 Pa.C.S. § 3804 (relating to penalties) may only be sentenced to intermediate punishment for a first, second or third offense under 75 Pa.C.S. Ch. 38 (relating to driving while impaired).

Section 9. Sections 1516(c) and (d) and 1532(b)(3) of Title 75 are amended to read:

§ 1516. Department records.

(c) Dismissal of charges for violations.—If a charge for violation of any of the provisions of this title against any person is dismissed where there have been no prior convictions by any court of competent jurisdiction, no record of the charge and dismissal shall be included in the driving record of the person. If the person has been previously convicted of the charge and suspension was imposed by the department, which suspension was either partially or fully served, the department may keep a record of the offense for the purpose of

showing the suspension was imposed against the person[.], but the offense shall not be used for the purpose of calculating the requisite number of offenses under section 1542 (relating to revocation of habitual offender's license). In addition, the department may keep records of charges that have been filed with the courts in order to determine a person's eligibility for a probationary license under the provisions of section 1554(b)(3) (relating to probationary license). All records maintained pursuant to this subsection shall be maintained for administrative and law enforcement use only and shall not be released for any other purpose.

(d) Updating driving record.—Drivers wishing to have their record reviewed by the department may make such a request in order that the record be brought up to date. In updating records, the department shall include recalculation of suspension or revocation segments and the assignment and crediting of any suspension or revocation time previously assigned or credited toward a suspension or revocation which resulted from a conviction which has been vacated, overturned, dismissed or withdrawn. Any fully or partially served suspension or revocation time may only be reassigned or credited toward a suspension or revocation segment processed on the driver's record as of the actual commencement date of the fully or partially served suspension or revocation time.

§ 1532. Suspension of operating privilege.

(b) Suspension.—

(3) The department shall suspend the operating privilege of any driver for 12 months upon receiving a certified record of the driver's conviction of section [3731 (relating to driving under influence of alcohol or controlled substance) or] 3733 (relating to fleeing or attempting to elude police officer)[.] or a substantially similar [offenses] offense reported to the department under Article III of section 1581 (relating to Driver's License Compact), or an adjudication of delinquency based on section [3731 or] 3733. The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of a consent decree granted under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) based on section [3731 or] 3733.

Section 10. Section 1534(b) of Title 75 is amended and the section is amended by adding subsections to read:

§ 1534. Notice of acceptance of Accelerated Rehabilitative Disposition.

(b) Exception.—If a person is arrested for any offense enumerated in section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) and is offered and accepts Accelerated Rehabilitative Disposition under general rules, the court shall promptly notify the department. The department shall maintain a record of the acceptance of Accelerated Rehabilitative Disposition for a period of [seven] ten years from the date of notification. This record shall not be expunged by order of court[.] or prior to the expiration of the ten-year period.

(c) Expungement.—Immediately following the expiration of the ten-year period, the department shall expunge the record of the acceptance of Accelerated Rehabilitative Disposition. The Department shall not require an order of court to expunge the record.

(d) Exceptions to expungement.—The department shall not be required to expunge the record of acceptance of Accelerated Rehabilitative Disposition if:

(1) during the ten-year period, the department revokes the operating privileges of a person pursuant to section 1542 (relating to revocation of habitual offender's license); or

(2) the person was a commercial driver at the time of the violation causing the disposition.

Section 11. Sections 1541(a.1) and (d), 1542(b), 1543(b), 1545, 1547(b)(1) and (2), (c), (d), (e) and (i), 1548 and 1552 of Title 75 are amended to read:

§ 1541. Period of disqualification, revocation or suspension of operating privilege.

(a.1) Credit toward serving period of suspension for certain violations.—Credit toward serving the period of suspension or revocation imposed for sections [3731 (relating to driving under influence of alcohol or controlled substance),] 3732 (relating to homicide by vehicle), 3735 (relating to homicide by vehicle while driving under the influence) [and], 3735.1 (relating to aggravated assault by vehicle while driving under the influence) and 3802 (relating to driving under influence of alcohol or controlled substance) shall not commence until the date of the person's release from prison.

(d) Continued suspension of operating privilege.—A defendant ordered by the court under section [1548] 3816 (relating to requirements for driving under influence offenders), as the result of a conviction or Accelerated Rehabilitative Disposition of a violation of section [3731 (relating to driving under influence of alcohol or controlled substance)] 3802, to attend a treatment program for alcohol or drug addiction must successfully complete all requirements of the treatment program ordered by the court before the defendant's operating privilege may be restored. Successful completion of a treatment program includes the payment of all court-imposed fines and costs, as well as fees to be paid to the treatment program by the defendant. If a defendant fails to successfully complete the requirements of a treatment program, the suspension shall remain in effect until the defendant completes the program and is otherwise eligible for restoration of his operating privilege. The treatment agency shall immediately notify the court of successful completion of the treatment program. The final decision as to whether a defendant has successfully completed the treatment program rests with the court.

§ 1542. Revocation of habitual offender's license.

(b) Offenses enumerated.—Three convictions arising from separate acts of any one or more of the following offenses committed by any person shall result in such person being designated as a habitual offender:

(1) Any violation of Subchapter B of Chapter 37 (relating to serious traffic offenses).

(1.1) Any violation of Chapter 38 (relating to driving while impaired).

(2) Any violation of section 3367 (relating to racing on highways).

(3) Any violation of section 3742 (relating to accidents involving death or personal injury).

(3.1) Any violation of section 3742.1 (relating to accidents involving death or personal injury while not properly licensed).

(4) Any violation of section 3743 (relating to accidents involving damage to attended vehicle or property).

§ 1543. Driving while operating privilege is suspended or revoked.

(b) Certain offenses.—

(1) A person who drives a motor vehicle on a highway or trafficway of this Commonwealth at a time when the person's operating privilege is suspended or revoked as a condition of acceptance of Accelerated Rehabilitative Disposition for a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) or because of a violation of section 1547(b)(1) (relating to suspension for refusal) or [3731] 3802 or is suspended under section 1581 (relating to Driver's License Compact) for an offense substantially similar to a violation of section [3731] 3802 shall, upon conviction, be guilty of a summary offense and shall be sentenced to pay a fine of [\$1,000] \$500 and to undergo imprisonment for a period of not less than [90] 60 days.

(1.1) (i) A person who has an amount of alcohol by weight in his blood that is equal to or greater than .02% or [is under the influence of a controlled substance as defined in section 1603 (relating to definitions)] who has any amount of a Schedule I, II or III controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or its metabolite, which has not been medically prescribed for the individual and who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when the person's operating privilege is suspended or revoked as a condition of acceptance of Accelerated Rehabilitative Disposition for a violation of section [3731] 3802 or because of a violation of section 1547(b)(1) or [3731] 3802 or is suspended under section 1581 for an offense substantially similar to a violation of section [3731] 3802 shall, upon a first conviction, be guilty of a summary offense and shall be sentenced to pay a fine of \$1,000 and to undergo imprisonment for a period of not less than 90 days.

(ii) A second violation of this paragraph shall constitute a misdemeanor of the third degree, and upon conviction thereof the person shall be sentenced to pay a fine of \$2,500 and to undergo imprisonment for not less than six months.

(iii) A third or subsequent violation of this paragraph shall constitute a misdemeanor of the first degree, and upon conviction thereof the person shall be sentenced to pay a fine of \$5,000 and to undergo imprisonment for not less than two years.

(2) This subsection shall apply to any person against whom one of these suspensions has been imposed whether the person is currently serving this suspension or whether the effective date of suspension has been deferred under any of the provisions of section 1544 (relating to additional period of revocation or suspension). This provision shall also apply until the person has had the operating privilege restored. This subsection shall also apply to any revocation imposed pursuant to section 1542 (relating to revocation of habitual offender's license) if any of the enumerated offenses was for a violation of section [3731] 3802 or for an out-of-State offense that is substantially similar to a violation of section [3731] 3802 for which a revocation is imposed under section 1581.

§ 1545. Restoration of operating privilege.

Upon the restoration of any person's operating privilege which has been suspended or revoked pursuant to this subchapter or pursuant to Chapter 38 (relating to driving while impaired), such person's record shall show five points, except that any additional points assessed against the person since the date of the last violation resulting in the suspension or revocation shall be added to such five points unless the person has served an additional period of suspension or revocation pursuant to section 1544(a) (relating to additional period of revocation or suspension). This section shall not apply to section 1533 (relating to suspension of operating privilege for failure to respond to citation) or to 18 Pa.C.S. § 6310.4 (relating to restriction of operating privileges).

§ 1547. Chemical testing to determine amount of alcohol or controlled substance.

(b) Suspension for refusal.—

(1) If any person placed under arrest for a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) is requested to submit to chemical testing and refuses to do so, the testing shall not be conducted but upon notice by the police officer, the department shall suspend the operating privilege of the person [for a period of 12 months.] as follows:

(i) Except as set forth in subparagraph (ii), for a period of 12 months.

(ii) For a period of 24 months if any of the following apply:

(A) The person's operating privileges have previously been suspended under this subsection.

(B) The person has, prior to the refusal under this paragraph, been sentenced for:

(I) an offense under former section 3731;

(II) an offense under section 3802 (relating to driving under influence of alcohol or controlled substance);

(III) an offense equivalent to an offense under subclause (I) or (II); or

(IV) a combination of the offenses set forth in this clause.

(2) It shall be the duty of the police officer to inform the person that:

(i) the person's operating privilege will be suspended upon refusal to submit to chemical testing[.]; and

(ii) upon conviction, plea or adjudication of delinquency for violating section 3802(a), the person will be subject to the penalties provided in section 3804(c) (relating to penalties).

(c) Test results admissible in evidence.—In any summary proceeding or criminal proceeding in which the defendant is charged with a violation of section [3731] 3802 or any other violation of this title arising out of the same action, the amount of alcohol or controlled substance in the defendant's blood, as shown by chemical testing of the person's breath, blood or urine, which tests were conducted by qualified persons using approved equipment, shall be admissible in evidence.

(1) Chemical tests of breath shall be performed on devices approved by the Department of Health using procedures prescribed jointly by regulations of the Departments of Health and Transportation. Devices shall have been calibrated and tested for accuracy within a period of time and in a manner specified by regulations of the Departments of Health and Transportation. For purposes of breath testing, a qualified person means a person who has fulfilled the training requirement in the use of the equipment in a training program approved by the Departments of Health and Transportation. A certificate or log showing that a device was calibrated and tested for accuracy and that the device was accurate shall be presumptive evidence of those facts in every proceeding in which a violation of this title is charged.

(2) Chemical tests of blood or urine, if conducted by a facility located in this Commonwealth, shall be performed by a clinical laboratory licensed and approved by the Department of Health for this purpose using procedures and equipment prescribed by the Department of Health or by a Pennsylvania State Police criminal laboratory. For purposes of blood and urine testing, qualified person means an individual who is authorized to perform those chemical tests under the act of September 26, 1951 (P.L.1539, No.389), known as The Clinical Laboratory Act.

(3) Chemical tests of blood or urine, if conducted by a facility located outside this Commonwealth, shall be performed:

(i) by a facility licensed by the Department of Health; or

(ii) by a facility licensed to conduct the tests by the state in which the facility is located and licensed pursuant to the Clinical Laboratory Improvement Amendments of 1988 (Public Law 100-578, 102 Stat. 2903).

[(d) Presumptions from amount of alcohol.—If chemical testing of a person's breath, blood or urine shows:

(1) That the amount of alcohol by weight in the blood of an adult is 0.05% or less, it shall be presumed that the adult was not under the influence of alcohol and the adult shall not be charged with any violation under section 3731(a)(1), (4) or (5) (relating to driving under influence of alcohol or controlled substance), or, if the adult was so charged prior to the test, the charge shall be void ab initio. This fact shall not give rise to any presumption concerning a violation of section 3731(a)(2) or (3) or (i).

(2) That the amount of alcohol by weight in the blood of an adult is in excess of 0.05% but less than 0.10%, this fact shall not give rise to any presumption that the adult was or was not under the influence of alcohol, but this fact may be considered with other competent evidence in determining whether the adult was or was not under the influence of alcohol. This provision shall not negate the provisions of section 3731(i).

(3) That the amount of alcohol by weight in the blood of:

(i) an adult is 0.10% or more; or

(ii) a minor is 0.02% or more,

this fact may be introduced into evidence if the person is charged with violating section 3731.]

(e) Refusal admissible in evidence.—In any summary proceeding or criminal proceeding in which the defendant is charged with a violation of section [3731] 3802 or any other violation of this title arising out of the same action, the fact that the defendant refused to submit to chemical testing as required by subsection (a) may be introduced in evidence along with other testimony concerning the circumstances of the refusal. No presumptions shall arise from this evidence but it may be considered along with other factors concerning the charge.

(i) Request by driver for test.—Any person involved in an accident or placed under arrest for a violation of section [3731] 3802 may request a chemical test of his breath, blood or urine. Such requests shall be honored when it is reasonably practicable to do so.

§ 1548. Requirements for driving under influence offenders.

[(a) Evaluation using Court Reporting Network.—In addition to any other requirements of the court, every person convicted of a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) and every person offered Accelerated Rehabilitative Disposition as a result of a charge of a violation of section 3731 shall, prior to sentencing or receiving Accelerated Rehabilitative Disposition or other preliminary disposition, be evaluated using Court Reporting Network instruments issued by the department and any other additional evaluation techniques deemed appropriate by the court to determine the extent of the person's involvement with alcohol or controlled substances and to assist the court in determining what sentencing, probation or conditions of Accelerated Rehabilitative Disposition would benefit the person or the public.

(b) Attendance at alcohol highway safety school.—In addition to any other requirements of the court, every person convicted of a first offense under section 3731 and every person placed on Accelerated Rehabilitative Disposition or other preliminary disposition as a result of a charge of a violation of section 3731 shall, as a part of sentencing or as a condition of parole, probation or Accelerated Rehabilitative Disposition, be required to attend and successfully complete an approved alcohol highway safety school established pursuant to section 1549 (relating to establishment of schools). All persons required to participate in this program shall be given both oral and written notice of the provisions of section 1543(b) (relating to driving while operating privilege is suspended or revoked). Persons convicted of a second or subsequent offense under section 3731 shall be required by the court to be treated for alcohol or drug addiction pursuant to subsection (d).]

(c) Results of evaluation.—

(1) This subsection shall apply as follows:(i) To offenders sentenced under section 3804(a)(3), (b)(2) and (c)(1) (relating to penalties) after September 29, 2003, and before July 1, 2006.(ii) To offenders sentenced under section 3804(a)(1) and (2) and (b)(1) after September 29, 2003, and before July 1, 2009.

(2) Based on the results of evaluation and any additional information and evidence, the court may in addition to any other requirements of the court or this title determine and require, as part of sentencing or condition of parole, probation or Accelerated Rehabilitative Disposition or other preliminary disposition, that the person successfully complete a prescribed program of individual or group intervention or supervised inpatient or outpatient treatment or any combination of these programs or treatments for a period of up to two years in duration. Any program of individual or group intervention or supervised inpatient or outpatient treatment shall be of a type approved by the Department of Health or operated by a facility or hospital that is under the authority of the United States Armed Forces or the Department of Veterans Affairs. Based on periodic reviews of the person's progress, the court may alter, modify or shorten or extend the duration of the requirements.

(3) This subsection shall expire July 1, 2009.

(d) Order for alcohol or drug commitment.—

(1) This subsection shall apply as follows:(i) To offenders sentenced under section 3804(a)(3), (b)(2) and (c)(1) after September 29, 2003, and before July 1, 2006.(ii) To offenders sentenced under section 3804(a)(1) and (2) and (b)(1) after September 29, 2003, and before July 1, 2009.

(2) If after evaluation and further examination and hearing it is determined that a defendant is an alleged chronic abuser of alcohol or controlled substances or that the person is a severely debilitated controlled substance or alcohol abuser who represents a demonstrated and serious threat, the court may order the person committed for treatment at a facility or institution approved by the Department of Health or operated by a facility or hospital that is under the authority of the United States Armed Forces or the Department of Veterans Affairs. If the defendant has been convicted of a previous violation of section 3731, the court shall order the person committed to a drug and alcohol treatment program licensed by the Office of Drug and Alcohol Programs of the Department of Health or operated by a facility or hospital that is under the authority of the United States Armed Forces or the Department of Veterans Affairs:

[(1) (i) Any person subject to this subsection may be examined by an appropriate physician of the person's choosing and the result of the examination shall be considered by the court.

[(2) (ii) Upon motion duly made by the committed person, an attorney or an attending physician, the court at any time after an order of commitment may review the order. After determining the progress of treatment, the court may order its continuation, the person's release or supervised treatment on an outpatient basis.

[(3) (iii) Any person ordered by the court to receive treatment after a first offense, and any person required to receive treatment after a second offense under section 3731 must demonstrate to the court that the defendant has successfully completed treatment according to all guidelines required by the program before the person's operating privilege may be restored.

(3) This subsection shall expire July 1, 2009.

[(e) Costs.—Costs of any and all requirements applied under this section shall be in addition to any other penalty required or allowed by law and shall be the responsibility of the person upon whom the requirements are placed.]

(f) Court-ordered intervention or treatment.—

(1) This subsection shall apply as follows:(i) To offenders sentenced under section 3804(a)(3), (b)(2) and (c)(1) after September 29, 2003, and before July 1, 2006.(ii) To offenders sentenced under section 3804(a)(1) and (2) and (b)(1) after September 29, 2003, and before July 1, 2009.

(2) A record shall be submitted to the department as to whether the court did or did not order a defendant to attend a program of supervised individual or group counseling treatment or supervised inpatient or outpatient treatment. If the court orders treatment, a report shall be forwarded to the department as to whether the defendant successfully completed the program. If a defendant fails to successfully complete a program of treatment as ordered by the court, the suspension shall remain in effect until the department is notified by the court that the defendant has successfully completed treatment and the defendant is otherwise eligible for restoration of his operating privilege. In order to implement the recordkeeping requirements of this section, the department and the court shall work together to exchange pertinent information about a defendant's case, including attendance and completion of treatment or failure to complete treatment.

(3) This subsection shall expire July 1, 2009.

§ 1552. Accelerated Rehabilitative Disposition.

The court of common pleas in each judicial district and the Municipal Court of Philadelphia shall establish and implement a program for Accelerated Rehabilitative Disposition for persons charged with a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) in accordance with the provisions of this chapter and rules adopted by the Supreme Court.

Section 12. Section 1553(d)(6), (8), (9) and (16), (e) and (f)(1) of Title 75 are amended and the section is amended by adding subsections to read:

§ 1553. Occupational limited license.

* * *

(d) Unauthorized issuance.—The department shall prohibit issuance of an occupational limited license to:

* * *

(6) [Any] Except as set forth in subsection (d.1) or (d.2) any person who has been adjudicated delinquent or convicted of driving under the influence of alcohol or controlled substance unless the suspension or revocation imposed for that conviction has been fully served.

* * *

(8) [Any] Except as set forth in subsections (d.1) and (d.2), any person who has been granted a consent decree or Accelerated Rehabilitative Disposition for driving under the influence of alcohol or controlled substance and whose license has been suspended by the department unless the suspension imposed has been fully served.

(9) [Any] Except as set forth in subsection (d.4), any person whose operating privilege has been suspended for a violation of 18 Pa.C.S. § 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) unless the suspension imposed has been fully served.

* * *

(16) [Any] Except as set forth in subsection (d.3), any person whose operating privilege has been suspended under an interjurisdictional agreement as provided for in section 6146 as the result of a conviction or adjudication if the conviction or adjudication for an equivalent offense in this Commonwealth

would have prohibited the issuance of an occupational limited license.

* * *

(d.1) Adjudication eligibility.—An individual who has been adjudicated delinquent, convicted, granted a consent decree or granted Accelerated Rehabilitation Disposition for driving under the influence of alcohol or controlled substance and does not have a prior offense as defined in section 3806(a) (relating to prior offenses) shall be eligible for an occupational limited license.

(d.2) Suspension eligibility.—

(1) An individual whose license has been suspended for a period of 24 months under section 1547(b)(1)(ii) (relating to chemical testing to determine amount of alcohol or controlled substance) or 3804(e)(2)(ii) (relating to penalties) shall not be prohibited from obtaining an occupational limited license under this section if the individual:

(i) is otherwise eligible for restoration;

(ii) has served at least 12 months of the license suspension;

(iii) only operates a motor vehicle equipped with an ignition interlock system as defined in section 3801 (relating to definitions); and

(iv) has certified to the department under paragraph (3).

(2) A period of ignition interlock accepted under this subsection shall not count towards the one-year mandatory period of ignition interlock imposed under section 3805 (relating to ignition interlock).

(3) If an individual seeks an occupational limited license under this subsection, the department shall require that each motor vehicle owned or registered to the person has been equipped with an approved ignition interlock system as a condition of issuing an occupational limited license with an ignition interlock restriction.

(d.3) Interjurisdictional suspensions.—An individual whose operating privilege has been suspended pursuant to an interjurisdictional agreement under section 6146 as the result of an adjudication or conviction for driving under the influence of alcohol or controlled substance and does not have a prior offense as defined in section 3806(a) shall be eligible for an occupational limited license.

(d.4) Suspension eligibility related to Title 18 violation.—An individual whose operating privilege has been suspended for violation of 18 Pa.C.S. § 6308 shall be eligible for an occupational limited license unless the individual has previously violated 18 Pa.C.S. § 6308.

(e) Offenses committed during a period for which an occupational limited license has been issued.—Any driver who has been issued an occupational limited license and as to whom the department receives a report of conviction of an offense for which the penalty is a cancellation, disqualification, recall, suspension or revocation of operating privileges or a report under section 3815(c)(4) (relating to mandatory sentencing) shall have the occupational limited license recalled, and the driver shall surrender the limited license to the department or its agents designated under the authority of section 1540.

(f) Restrictions.—A driver who has been issued an occupational limited license shall observe the following:

(1) The driver shall operate a designated vehicle only [between];

(i) Between the driver's place of residence and place of employment or study and as necessary in the course of employment or conducting a business or pursuing a course of study where the operation of a motor vehicle is a requirement of employment or of conducting a business or of pursuing a course of study.

(ii) To and from a place for scheduled or emergency medical examination or treatment. This subparagraph includes treatment required under Chapter 38 (relating to driving while impaired).

* * *

Section 13. Sections 1554(f)(8), 1575(b), 1586, 1611(a)(1), 3101(b), 3326(c), 3327(e) and 3716(a) of Title 75 are amended to read:

§ 1554. Probationary license.

* * *

(f) Unauthorized issuance.—The department shall not issue a probationary license to:

* * *

(8) A person who has been convicted of a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) within the preceding seven years.

* * *

§ 1575. Permitting violation of title.

* * *

(b) Penalty.—Any person violating the provisions of subsection (a) is guilty of a summary offense and is subject to the same fine as the driver of the vehicle. If the driver is convicted under section [3731 (relating to driving under influence of alcohol or controlled substance) or] 3735 (relating to homicide by vehicle while driving under influence) or 3802 (relating to driving under influence of alcohol or controlled substance), the person violating subsection (a) shall also be subject to suspension or revocation, as applicable, under sections 1532 (relating to revocation or suspension of operating privilege) [and], 1542 (relating to revocation of habitual offender's license) and 3804(e) (relating to penalties).

* * *

§ 1586. Duties of department.

The department shall, for purposes of imposing a suspension or revocation under Article IV of the compact, treat reports of convictions received from party states that relate to driving, operating or being in actual physical control of a vehicle while impaired by or under the influence of alcohol, intoxicating liquor, drugs, narcotics, controlled substances or other impairing or intoxicating substance as being substantially similar to section [3731] 3802 (relating to driving under the influence of alcohol or controlled substance). The fact that the offense reported to the department by a party state may require a different degree of impairment of a person's ability to operate, drive or control a vehicle than that required to support a conviction for a violation of section [3731] 3802 shall not be a basis for determining that the party state's offense is not substantially similar to section [3731] 3802 for purposes of Article IV of the compact.

§ 1611. Disqualification.

(a) Disqualification for first violation of certain offenses.—Upon receipt of a certified copy of conviction, the department shall, in addition to any other penalties imposed under this title, disqualify any person from driving a commercial motor vehicle or school vehicle for a period of one year for the first violation of:

(1) section [3731] 3802 (relating to driving under the influence of alcohol or controlled substance), where the violation occurred while the person was operating a commercial motor vehicle or school vehicle;

* * *

§ 3101. Application of part.

* * *

(b) Serious traffic offenses.—The provisions of section 3345 (relating to meeting or overtaking school bus) [and], Subchapter B of Chapter 37 (relating to serious traffic offenses) and Chapter 38 (relating to driving while impaired) shall apply upon highways and trafficways throughout this Commonwealth.

§ 3326. Duty of driver in construction and maintenance areas or on highway safety corridors.

* * *

(c) Fines to be doubled.—For any of the following violations, when committed in an active work zone manned by workers acting in their official capacity or on a highway safety corridor designated under section 6105.1 (relating to designation of highway safety corridors), the fine shall be double the usual amount:

Section 3102 (relating to obedience to authorized persons directing traffic).

Section 3111 (relating to obedience to traffic-control devices).

Section 3112 (relating to traffic-control signals).

Section 3114 (relating to flashing signals).

Section 3302 (relating to meeting vehicle proceeding in opposite direction).

Section 3303 (relating to overtaking vehicle on the left).

Section 3304 (relating to overtaking vehicle on the right).

Section 3305 (relating to limitations on overtaking on the left).

Section 3306 (relating to limitations on driving on left side of roadway).

Section 3307 (relating to no-passing zones).

Section 3309 (relating to driving on roadways laned for traffic).

Section 3310 (relating to following too closely).

Section 3323 (relating to stop signs and yield signs).

Section 3326 (relating to duty of driver in construction and maintenance areas).

Section 3361 (relating to driving vehicle at safe speed).

Section 3362 (relating to maximum speed limits).

Section 3702 (relating to limitations on backing).

Section 3714 (relating to careless driving).

Section 3715 (relating to restriction on alcoholic beverages).

[Section 3731 (relating to driving under influence of alcohol or controlled substance).]

Section 3736 (relating to reckless driving).

Section 3802 (relating to driving under influence of alcohol or controlled substance).

§ 3327. Duty of driver in emergency response areas.

(e) Fines to be doubled.—In addition to any penalty as provided in subsection (b), the fine for any of the following violations when committed in an emergency response area manned by emergency service responders shall be double the usual amount:

Section 3102 (relating to obedience to authorized persons directing traffic).

Section 3111 (relating to obedience to traffic-control devices).

Section 3114 (relating to flashing signals).

Section 3302 (relating to meeting vehicle proceeding in opposite direction).

Section 3303 (relating to overtaking vehicle on the left).

Section 3304 (relating to overtaking vehicle on the right).

Section 3305 (relating to limitations on overtaking on the left).

Section 3306 (relating to limitations on driving on left side of roadway).

Section 3307 (relating to no-passing zones).

Section 3310 (relating to following too closely).

Section 3312 (relating to limited access highway entrances and exits).

Section 3323 (relating to stop signs and yield signs).

Section 3325 (relating to duty of driver on approach of emergency vehicle).

Section 3361 (relating to driving vehicle at safe speed).

Section 3707 (relating to driving or stopping close to fire apparatus).

Section 3710 (relating to stopping at intersection or crossing to prevent obstruction).

Section 3714 (relating to careless driving).

Section 3715.1 (relating to restriction on alcoholic beverages).

[Section 3731 (relating to driving under influence of alcohol or controlled substance).]

Section 3736 (relating to reckless driving).

Section 3802 (relating to driving under influence of alcohol or controlled substance).

§ 3716. Accidents involving overturned vehicles.

(a) Speeding, careless driving, etc.—If a commercial motor vehicle overturns in an accident resulting from a violation of section 3361 (relating to driving vehicle at safe speed), 3362 (relating to maximum speed limits), 3714 (relating to careless driving) or [3731] 3802 (relating to driving under influence of alcohol or controlled substance), the operator of the vehicle shall, upon conviction of any of the aforementioned offenses, be sentenced to pay a fine of \$2,000, in addition to any other penalty authorized by law.

Section 14. Section 3731 of Title 75 is repealed.

Section 15. Sections 3732(a), 3735(a), 3735.1(a) and 3755(a) of Title 75 are amended to read:

§ 3732. Homicide by vehicle.

(a) Offense.—Any person who recklessly or with gross negligence causes the death of another person while engaged in the violation of any law of this Commonwealth or municipal ordinance applying to the operation or use of a vehicle or to the regulation of traffic except section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) is guilty of homicide by vehicle, a felony of the third degree, when the violation is the cause of death.

§ 3735. Homicide by vehicle while driving under influence.

(a) Offense defined.—Any person who unintentionally causes the death of another person as the result of a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section [3731] 3802 is guilty of a felony of the second degree when the violation is the cause of death and the sentencing court shall order the person to serve a minimum term of imprisonment of not less than three years. A consecutive three-year term of imprisonment shall be imposed for each victim whose death is the result of the violation of section [3731] 3802.

§ 3735.1. Aggravated assault by vehicle while driving under the influence.

(a) Offense defined.—Any person who negligently causes serious bodily injury to another person as the result of a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section [3731] 3802 commits a felony of the second degree when the violation is the cause of the injury.

§ 3755. Reports by emergency room personnel.

(a) General rule.—If, as a result of a motor vehicle accident, the person who drove, operated or was in actual physical control of the movement of any involved motor vehicle requires medical treatment in an emergency room of a hospital and if probable cause exists to believe a violation of section [3731] 3802 (relating to driving under influence of alcohol or controlled substance) was involved, the emergency room physician or his designee shall promptly take blood samples from those persons and transmit them within 24 hours for testing to the Department of Health or a clinical laboratory licensed and approved by the Department of Health and specifically designated for this purpose. This section shall be applicable to all injured occupants who were capable of motor vehicle operation if the operator or person in actual physical control of the movement of the motor vehicle cannot be determined. Test results shall be released upon request of the person tested, his attorney, his physician or governmental officials or agencies.

Section 16. Title 75 is amended by adding a chapter to read:

CHAPTER 38

DRIVING WHILE IMPAIRED

Sec.

3801. Definitions.

3802. Driving under influence of alcohol or controlled substance.

3803. Grading.

3804. Penalties.

3805. Ignition interlock. (Reserved)

3806. Prior offenses.

3807. Accelerated rehabilitative disposition.

3808. Illegally operating a motor vehicle not equipped with ignition interlock.

3809. Restriction on alcoholic beverages.

3810. Authorized use not a defense.

3811. Certain arrests authorized.

3812. Preliminary hearing or arraignment.

3813. Work release.

3814. Drug and alcohol assessments.

3815. Mandatory sentencing.

3816. Requirements for driving under influence offenders.

3817. Reporting requirements for offenses.

§ 3801. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Adult.” An individual who is at least 21 years of age.

“Ignition interlock system.” A system approved by the department which prevents a vehicle from being started or operated unless the operator first provides a breath sample indicating that the operator has an alcohol level less than .025%.

“Minor.” An individual who is under 21 years of age.

§ 3802. Driving under influence of alcohol or controlled substance.

(a) General impairment.—

(1) An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the individual was incapable of safely driving, operating or being in actual physical control of the movement of the vehicle.

(2) An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is at least .08% but less than .10% within three hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(b) High rate of alcohol.—An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is at least .10% but less than .16% within three hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(c) Highest rate of alcohol.—An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is .16% or higher within three hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(d) Controlled substances.—An individual may not drive, operate or be in actual physical control of the movement of a vehicle under any of the following circumstances:

(1) There is in the individual's blood any amount of a:

(i) Schedule I controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act;

(ii) Schedule II or Schedule III controlled substance, as defined in The Controlled Substance, Drug,

Device and Cosmetic Act, which has not been medically prescribed for the individual; or

(iii) metabolite of a substance under subparagraph (i) or (ii).

(2) The individual is under the influence of a drug or combination of drugs to a degree which impairs the individual's ability to safely drive, operate or be in actual physical control of the movement of the vehicle.

(3) The individual is under the combined influence of alcohol and a drug or combination of drugs to a degree which impairs the individual's ability to safely drive, operate or be in actual physical control of the movement of the vehicle.

(4) The individual is under the influence of a solvent or noxious substance in violation of 18 Pa.C.S. § 7303 (relating to sale or illegal use of certain solvents and noxious substances).

(e) Minors.—A minor may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the minor's blood or breath is .02% or higher within three hours after the minor has driven, operated or been in actual physical control of the movement of the vehicle.

(f) Commercial school vehicles.—An individual may not drive, operate or be in actual physical control of the movement of a commercial vehicle or school vehicle in any of the following circumstances:

(1) After the individual has imbibed a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is:

(i) .04% or greater within three hours after the individual has driven, operated or been in actual physical control of the movement of a commercial vehicle other than a school bus or a school vehicle.

(ii) .02% or greater within three hours after the individual has driven, operated or been in actual physical control of the movement of a school bus or a school vehicle.

(2) After the individual has imbibed a sufficient amount of alcohol such that the individual was incapable of safely driving, operating or being in actual physical control of the movement of a commercial vehicle.

(3) While the individual is under the influence of a controlled substance or combination of controlled substances, as defined in section 1603 (relating to definitions).

(4) While the individual is under the combined influence of alcohol and a controlled substance or combination of controlled substances, as defined in section 1603.

(g) Exception to three-hour rule.—Notwithstanding the provisions of subsection (a), (b), (c), (e) or (f), where alcohol concentration in an individual's blood or breath is an element of the offense, evidence of such alcohol concentration more than three hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle is sufficient to establish that element of the offense under the following circumstances:

(1) where the Commonwealth shows good cause explaining why the chemical test could not be performed within three hours; and

(2) where the Commonwealth establishes that the individual did not imbibe any alcohol between the time the individual was arrested and the time the test was performed.

§ 3803. Grading.

(a) Basic offenses.—

(1) An individual who violates section 3802(a) (relating to driving under influence of alcohol or controlled substance) and has no more than one prior offense commits a misdemeanor for which the individual may be sentenced to a term of imprisonment of not more than six months and to pay a fine under section 3804 (relating to penalties).

(2) An individual who violates section 3802(a) and has more than one prior offense commits a misdemeanor of the second degree.

(b) Other offenses.—

(1) An individual who violates section 3802(b), (e) or (f) and who has no more than one prior offense commits a misdemeanor for which the individual may be sentenced to a term of imprisonment of not more than six months and to pay a fine under section 3804.

(2) An individual who violates section 3802(c) or (d) and who has no prior offenses commits a misdemeanor for which the individual may be sentenced to a term of imprisonment of not more than six months and to pay a fine under section 3804.

(3) An individual who violates section 3802(b), (e) or (f) and who has more than one prior offense commits a misdemeanor of the first degree.

(4) An individual who violates section 3802(c) or (d) and who has one or more prior offenses commits a misdemeanor of the first degree.

§ 3804. Penalties.

(a) General impairment.—An individual who violates section 3802(a) (relating to driving under influence of alcohol or controlled substance) shall be sentenced as follows:

(1) For a first offense, to:

(i) undergo a period of probation not to exceed six months;

(ii) pay a fine of \$300;

(iii) attend an alcohol highway safety school approved by the department; and

(iv) comply with all drug and alcohol treatment requirements imposed under section 3814 (relating to drug and alcohol assessments) and section 3815 (relating to mandatory sentencing).

(2) For a second offense, to:

(i) undergo imprisonment for not less than five days nor more than six months;

(ii) pay a fine of not less than \$300 nor more than \$2,500;

(iii) attend an alcohol highway safety school approved by the department; and

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(3) For a third or subsequent offense, to:

(i) undergo imprisonment of not less than ten days nor more than two years;

(ii) pay a fine of not less than \$500 nor more than \$5,000; and

(iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(b) High rate of blood alcohol; minors; commercial vehicles and school buses and school vehicles; accidents.—Except as set forth in subsection (c), an individual who violates section 3802(a)(1) where there was an accident resulting in bodily injury, serious bodily injury or death of any person or in damage to a vehicle or other property or who violates section 3802(b), (e) or (f) shall be sentenced as follows:

(1) For a first offense, to:

(i) undergo imprisonment of not less than 72 consecutive hours nor more than six months;

(ii) pay a fine of not less than \$500 nor more than \$5,000;

(iii) attend an alcohol highway safety school approved by the department; and

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(2) For a second offense, to:

(i) undergo imprisonment of not less than 30 days nor more than six months;

(ii) pay a fine of not less than \$750 nor more than \$5,000;

(iii) attend an alcohol highway safety school approved by the department; and

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(3) For a third offense, to:

(i) undergo imprisonment of not less than 120 days nor more than five years;

(ii) pay a fine of not less than \$1,500 nor more than \$10,000; and

(iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(4) For a fourth or subsequent offense, to:

(i) undergo imprisonment of not less than one year nor more than five years;

(ii) pay a fine of not less than \$1,500 nor more than \$10,000; and

(iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(c) Incapacity; highest blood alcohol; controlled substances.—An individual who violates section 3802(a)(1) after having refused testing of blood or breath or who violates section 3802(c) or (d) shall be sentenced as follows:

(1) For a first offense, to:

(i) undergo imprisonment of not less than five consecutive days nor more than six months;

(ii) pay a fine of not less than \$1,000 nor more than \$5,000;

(iii) attend an alcohol highway safety school approved by the department; and

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(2) For a second offense, to:

(i) undergo imprisonment of not less than 90 days nor more than five years;

(ii) pay a fine of not less than \$1,500;

(iii) attend an alcohol highway safety school approved by the department; and

(iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(3) For a third or subsequent offense, to:

(i) undergo imprisonment of not less than one year nor more than five years;

(ii) pay a fine of not less than \$2,500; and

(iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(d) Extended supervision of court.—Where a person is sentenced pursuant to this chapter and following the initial assessment required by section 3814(1), the person is determined to be in need of additional treatment pursuant to section 3814(2), the judge shall impose a minimum sentence as provided by law and a maximum sentence equal to the statutorily available maximum.

(e) Suspension of operating privileges upon conviction.—

(1) The department shall suspend the operating privilege of an individual under paragraph (2) upon receiving a certified record of the individual's conviction of or an adjudication of delinquency for:

(i) an offense under section 3802; or

(ii) a substantially similar offense reported to the department under Article III of the compact in section 1581 (relating to Driver's License Compact).

(2) Suspension under paragraph (1)(i) shall be in accordance with the following:

(i) Except as provided for in subparagraph (iii), 12 months for an ungraded misdemeanor or misdemeanor of the second degree under this chapter.

(ii) 24 months for a misdemeanor of the first degree under this chapter.

(iii) There shall be no suspension for an ungraded misdemeanor under section 3802(a) where the person is subject to the penalties provided in subsection (a) and the person has no prior offense.

(3) Notwithstanding any provision of law or enforcement agreement to the contrary, suspension imposed under paragraph (1)(ii) shall be in accordance with Chapter 15, Subchapter D (relating to the Driver's License Compact). In calculating the term of a suspension for an offense that is substantially similar to an offense enumerated in section 3802, the department shall presume that if the conduct reported has occurred in this Commonwealth then the person would have been convicted under section 3802(a)(2). The department shall suspend the operating privilege of a driver for six months upon receiving a certified record of a consent decree granted under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) based on section 3802.

(f) Community service assignments.—In addition to the penalties set forth in this section, the sentencing judge may impose up to 150 hours of community service. Where the individual has been ordered to drug and alcohol treatment pursuant to sections 3814 and 3815, the community service shall be certified by the drug and alcohol treatment program as consistent with any drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(g) Court-ordered ignition interlock.—If the person has a prior offense as defined in section 3806(a), the court shall order the department to require an ignition interlock system under section 3805 (relating to ignition interlock).

(h) Sentencing guidelines.—The sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory penalties of this section.

(i) Appeal.—The Commonwealth has the right to appeal directly to the Superior Court any order of court which imposes a sentence for violation of this section which does not meet the requirements of this section. The Superior Court shall remand the case to the sentencing court for imposition of a sentence in accordance with the provisions of this section.

(j) First class cities.—Notwithstanding the provision for direct appeal to the Superior Court, if, in a city of the first class, a person appeals from a judgment of sentence under this section from the municipal court to the common pleas court for a trial de novo, the Commonwealth shall have the right to appeal directly to the Superior Court from the order of the common pleas court if the sentence imposed is in violation of this section. If, in a city of the first class, a person appeals to the court of common pleas after conviction of a violation of this section in the municipal court and thereafter withdraws his appeal to the common pleas court, thereby reinstating the judgment of sentence of the municipal court, the Commonwealth shall have 30 days from the date of the withdrawal to appeal to the Superior Court if the sentence is in violation of this section.

(k) Additional conditions.—In addition to any other penalty imposed under law, the court may sentence a person who violates section 3802 to any other requirement or condition consistent with the treatment needs of the person, the restoration of the victim to pre-offense status or the protection of the public.

§ 3805. Ignition interlock. (Reserved)

§ 3806. Prior offenses.

(a) General rule.—Except as set forth in subsection (b), the term "prior offense" as used in this chapter shall mean a conviction, adjudication of delinquency, juvenile consent decree, acceptance of Accelerated Rehabilitative Disposition or other form of preliminary disposition before the sentencing on the present violation for any of the following:

(1) an offense under former section 3731 (relating to driving under influence of alcohol or controlled substance);

(2) an offense under section 3802 (relating to driving under influence of alcohol or controlled substance);

(3) an offense substantially similar to an offense under paragraphs (1) or (2) in another jurisdiction; or

(4) any combination of the offenses set forth in paragraphs (1), (2) or (3).

(b) Exceptions.—For purposes of section 3804 (relating to penalties), the calculation of prior and subsequent offenses shall include any conviction, adjudication of delinquency, juvenile consent decree, acceptance of Accelerated Rehabilitative Disposition or other form of preliminary disposition within the ten years before the present violation occurred for any of the following:

(1) an offense under former section 3731;

(2) an offense under section 3802;

(3) an offense substantially similar to an offense under paragraph (1) or (2) in another jurisdiction; or

(4) any combination of the offenses set forth in paragraph (1), (2) or (3).

§ 3807. Accelerated Rehabilitative Disposition.

(a) Eligibility.—

(1) Except as set forth in paragraph (2), a defendant charged with a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) may be considered by the attorney for the Commonwealth for participation in an Accelerated Rehabilitative Disposition program in a county if the program includes the minimum requirements contained in this section.

(2) The attorney for the Commonwealth shall not submit a charge brought under this chapter for Accelerated Rehabilitative Disposition if any of the following apply:

(i) The defendant has been found guilty of or accepted Accelerated Rehabilitative Disposition of a charge brought under section 3802 within ten years of the date of the current offense unless the charge was for an ungraded misdemeanor under section 3802(a)(2) and was the defendant's first offense under section 3802.

(ii) An accident occurred in connection with the events surrounding the current offense and an individual other than the defendant was killed or suffered serious bodily injury as a result of the accident.

(iii) There was a passenger under 14 years of age in the vehicle the defendant was operating.

(b) Evaluation and treatment.—

(1) A defendant offered Accelerated Rehabilitative Disposition for a violation of section 3802 is, as a condition of participation in the program, subject to the following requirements in addition to any other conditions of participation imposed by the court:

(i) The defendant must attend and successfully complete an alcohol highway safety school established under section 1549 (relating to establishment of schools). A participating defendant shall be given both oral and written notice of the provisions of section 1543(b) (relating to driving while operating privilege is suspended or revoked).

(ii) Prior to receiving Accelerated Rehabilitative Disposition or other preliminary disposition, the defendant must be evaluated under section 3816(a) (relating to requirements for driving under influence offenders) to determine the extent of the defendant's involvement with alcohol or other drug and to assist the court in determining what conditions of Accelerated Rehabilitative Disposition would benefit the defendant and the public. If the evaluation indicates there is a need for counseling or treatment, the defendant shall be subject to a full assessment for alcohol and drug addiction in accordance with the provisions of

section 3814(3) and (4) (relating to drug and alcohol assessments).

(iii) If the defendant is assessed under subparagraph (ii) to be in need of treatment, the defendant must participate and cooperate with a licensed alcohol or drug addiction treatment program. The level and duration of treatment shall be in accordance with the recommendations with the full assessment. Nothing in this subparagraph shall prevent a treatment program from refusing to accept a defendant if the program administrator deems the defendant to be inappropriate for admission to the program. A treatment program shall retain the right to immediately discharge into the custody of the probation officer an offender who fails to comply with program rules and treatment expectations or refuses to constructively engage in the treatment process.

(iv) The defendant must remain subject to court supervision for six months.

(v) The defendant must make restitution to any person that incurred determinable financial loss as a result of the defendant's actions which resulted in the offense. Restitution must be subject to court supervision.

(vi) The defendant must pay the reasonable costs of a municipal corporation in connection with the offense. Fees imposed under this subparagraph shall be distributed to the affected municipal corporation.

(vii) The defendant must pay any other fee, surcharge or cost required by law. Except as set forth in subparagraph (vi) or (viii), a fee or financial condition imposed by a judge as a condition of Accelerated Rehabilitative Disposition or any other preliminary disposition of any charge under this chapter shall be distributed as provided for in 42 Pa.C.S. §§ 3571 (relating to Commonwealth portion of fines, etc.) and 3573 (relating to municipal corporation portion of fines, etc.).

(viii) The defendant must pay the costs of compliance with subparagraphs (i), (ii) and (iii).

(2) The defendant shall be subject to a full assessment for alcohol and drug addiction if any of the following apply:

(i) The evaluation under paragraph (1)(ii) indicates a likelihood that the defendant is addicted to alcohol or other drugs.

(ii) The defendant's blood alcohol content at the time of the offense was at least .16%.

(3) The assessment under paragraph (2) shall be conducted by one of the following:

(i) The Department of Health or its designee.

(ii) The county agency with responsibility for county drug and alcohol programs or its designee.

(iii) The clinical personnel of a facility licensed by the Department of Health for the conduct of drug and alcohol addiction treatment programs.

(4) The assessment under paragraph (2) shall consider issues of public safety and shall include recommendations for all of the following:

(i) Length of stay.

(ii) Levels of care.

(iii) Follow-up care and monitoring.

(c) Insurance.—

(1) This subsection shall only apply to a health insurance, health maintenance organization or other health plan required to provide benefits under section 602-A of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(2) If an individual who is a subscriber to a health insurance, health maintenance organization or other health plan that is doing business in this Commonwealth, the individual may

not be deprived of alcohol and other drug abuse and addiction treatment or coverage within the scope of that plan due to the identification of an alcohol or other drug problem which occurs as a result of an assessment under this section.

(d) Mandatory suspension of operating privileges.—As a condition of participation in an Accelerated Rehabilitative Disposition program, the court shall order the defendant's license suspended as follows:

(1) There shall be no license suspension if the defendant's blood alcohol concentration at the time of testing was less than .10%.

(2) For 30 days, if the defendant's blood alcohol concentration at the time of testing was at least .10% but less than .16%.

(3) For 60 days, if:

(i) the defendant's blood alcohol concentration at the time of testing was .16% or higher;

(ii) the defendant's blood alcohol concentration is not known; or

(iii) an accident which resulted in bodily injury or in damage to a vehicle or other property occurred in connection with the events surrounding the current offense.

(e) Failure to comply.—

(1) A defendant who fails to complete any of the conditions of participation contained in this section shall be deemed to have unsuccessfully participated in an Accelerated Rehabilitative Disposition program, and the criminal record underlying participation in the program shall not be expunged.

(2) The court shall direct the attorney for the Commonwealth to proceed on the charges as prescribed in the Rules of Criminal Procedure if the defendant:

(i) fails to meet any of the requirements of this section;

(ii) is charged with or commits an offense under 18 Pa.C.S. (relating to crimes and offenses); or

(iii) violates any other condition imposed by the court.

§ 3808. Illegally operating a motor vehicle not equipped with ignition interlock.

(a) Offense defined.—

(1) An individual required to operate only a motor vehicle equipped with an approved ignition interlock system under section 1553(d.2) (relating to occupational limited license) or 3805 (relating to ignition interlock) who operates a motor vehicle on a highway of this Commonwealth without such a system commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$300 and not more than \$1,000 and to imprisonment for not more than 90 days.

(2) An individual required to operate only a motor vehicle equipped with an ignition interlock system under section 1553(d.2) or 3805 who operates a motor vehicle on a highway of this Commonwealth without such a system and who has an amount of alcohol by weight in his blood that is equal to or greater than .02% or who has any amount of a Schedule I, II or III controlled substance, as defined in the in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or its metabolite, which has not been medically prescribed for the individual commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,000 and to undergo imprisonment for a period of not less than 90 days.

(b) Tampering with an interlock system.—A person that tampers with an ignition interlock system required by law commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$300 nor more than \$1,000 and to undergo imprisonment for not more than 90 days. The term "tampering" in addition to any physical act which is intended to alter or interfere with the proper

functioning of an ignition interlock device required by law shall include attempting to circumvent or bypass or circumventing or bypassing an ignition interlock device by:

- (1) means of using another individual to provide a breath sample; or
- (2) providing a breath sample for the purpose of bypassing an ignition interlock device required by law.

(c) Revocation of operating privilege.—Upon receiving a certified record of the conviction of an individual under this section, the department shall revoke the individual's operating privilege for a period of one year.

§ 3809. Restriction on alcoholic beverages.

(a) General rule.—Except as set forth in subsection (b), an individual who is an operator or an occupant in a motor vehicle may not be in possession of an open alcoholic beverage container or consume a controlled substance as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or an alcoholic beverage in a motor vehicle while the motor vehicle is located on a highway in this Commonwealth.

(b) Exception.—This section does not prohibit possession or consumption by any of the following:

- (1) A passenger in the passenger area of a motor vehicle designed, maintained or used primarily for the lawful transportation of persons for compensation. This paragraph includes buses, taxis and limousines.
- (2) An individual in the living quarters of a house coach or house trailer.

(c) Penalty.—An individual who violates this section commits a summary offense.

§ 3810. Authorized use not a defense.

The fact that a person charged with violating this chapter is or has been legally entitled to use alcohol or controlled substances is not a defense to a charge of violating this chapter.

§ 3811. Certain arrests authorized.

(a) Warrant not required.—In addition to any other powers of arrest, a police officer is authorized to arrest an individual without a warrant if the officer has probable cause to believe that the individual has violated section 3802 (relating to driving under influence of alcohol or controlled substance), regardless of whether the alleged violation was committed in the presence of the police officer.

(b) Territory.—The authority under subsection (a) extends to any hospital or other medical treatment facility located beyond the territorial limits of the police officer's political subdivision at which an individual to be arrested is found or was taken or removed for purposes of emergency treatment, examination or evaluation as long as there is probable cause to believe that the violation of section 3802 occurred within the police officer's political subdivision.

§ 3812. Preliminary hearing or arraignment.

The presiding judicial officer at the preliminary hearing or preliminary arraignment relating to a charge of a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) shall not reduce or modify the original charges without the consent of the attorney for the Commonwealth.

§ 3813. Work release.

In any case in which an individual is sentenced to a period of imprisonment as a result of a conviction for violating a provision of this chapter, the judicial officer imposing the sentence shall consider assigning that individual to a daytime work release program. Any work release program permitted under this section shall be certified by the Drug and Alcohol Treatment program administration as being consistent with any drug and alcohol treatment requirements imposed under section 3814 (relating to drug and alcohol assessments).

§ 3814. Drug and alcohol assessments.

If a defendant is convicted or pleads guilty or no contest to a violation of section 3802 (relating to driving under influence of alcohol or controlled substance), the following apply prior to sentencing:

- (1) The defendant shall be evaluated under section 3816(a) (relating to requirements for driving under

influence offenders) and any other additional evaluation techniques deemed appropriate by the court to determine the extent of the defendant's involvement with alcohol or other drug and to assist the court in determining what type of sentence would benefit the defendant and the public.

(2) The defendant shall be subject to a full assessment for alcohol and drug addiction if all of the following subparagraphs apply:

- (i) The defendant, within ten years prior to the offense for which sentence is being imposed, has been sentenced for an offense under:

- (A) former section 3731 (relating to driving under influence of alcohol or controlled substance);

- (B) section 3802; or

- (C) an equivalent offense in another jurisdiction.

- (ii) Either:

- (A) the evaluation under paragraph (1) indicates there is a need for counseling or treatment; or

- (B) the defendant's blood alcohol content at the time of the offense was at least .16%.

(3) The assessment under paragraph (2) shall be conducted by one of the following:

- (i) The Department of Health or its designee.

- (ii) The county agency with responsibility for county drug and alcohol programs or its designee.

- (iii) The clinical personnel of a facility licensed by the Department of Health for the conduct of drug and alcohol addiction treatment programs.

(4) The assessment under paragraph (2) shall consider issues of public safety and shall include recommendations for all of the following:

- (i) Length of stay.

- (ii) Levels of care.

- (iii) Follow-up care and monitoring.

§ 3815. Mandatory sentencing.

(a) County supervision.—Notwithstanding the length of any maximum term of imprisonment required by section 3804 (relating to penalties), the sentencing judge may subject the offender to the supervision of the county parole system.

(b) Parole.—

(1) An offender who is determined pursuant to section 3814 (relating to drug and alcohol assessments) to be in need of drug and alcohol treatment shall be eligible for parole in accordance with the terms and conditions prescribed in this section following the expiration of the offender's mandatory minimum term of imprisonment.

(2) The following shall be conditions of parole:

- (i) If the offender is not determined under the procedures set forth in section 3814 to be addicted to alcohol or another substance, the offender must refrain from:

- (A) the use of illegal controlled substances; and

- (B) the abuse of prescription drugs, over-the-counter drugs or any other substances.

- (ii) If the offender is determined under the procedures set forth in section 3814 to be addicted to alcohol or another substance, the offender must do all of the following:

- (A) Refrain from:

- (I) the use of alcohol or illegal controlled substances; and

(II) the abuse of prescription drugs, over-the-counter drugs or any other substances.

(B) Participate in and cooperate with drug and alcohol addiction treatment under subsection (c).

(c) Treatment.—

(1) Treatment must conform to assessment recommendations made under section 3814.

(2) Treatment must be conducted by a drug and alcohol addiction treatment program licensed by the Department of Health.

(3) The treatment program shall report periodically to the assigned parole officer on the offender's progress in the treatment program. The treatment program shall promptly notify the parole officer if the offender:

- (i) fails to comply with program rules and treatment expectations;
- (ii) refuses to constructively engage in the treatment process; or
- (iii) without authorization terminates participation in the treatment program.

(4) Upon notification under paragraph (3), the parole officer shall report the offender's actions to the parole authority and to the department for compliance with section 1553(e) (relating to occupational limited license). The parole authority shall schedule a revocation hearing to consider recommendations of the parole officer and the treatment program.

(5) Nothing in this subsection shall prevent a treatment program from refusing to accept an offender if the program administrator deems the offender to be inappropriate for admission to the program. A treatment program shall retain the right to immediately discharge into the custody of the assigned parole officer an offender who fails to comply with program rules and treatment expectations or refuses to constructively engage in the treatment process.

(d) Enforcement.—

(1) This subsection applies to an offender ordered to participate in a treatment program under subsection (b)(2)(ii) who:

- (i) fails to comply with program rules and treatment expectations;
- (ii) refuses to constructively engage in the treatment process; or
- (iii) terminates participation in the treatment program without authorization.

(2) Notwithstanding any other provision of law, all of the following apply to an offender under paragraph (1):

(i) The offender's parole, prerelease, work release or any other release status shall be revoked.

(ii) The offender shall be ineligible for parole, prerelease, work release or any other release from the correctional facility prior to the expiration of the offender's maximum term unless the offender is permitted to be readmitted to a treatment program.

(3) Nothing in this subsection shall be construed to grant a legal right to parole to an offender previously ineligible for parole, on the grounds that the offender is currently prepared to participate in, comply with and constructively engage in the treatment process. Under such circumstances, parole or reparole of the offender shall be at the parole authority's discretion.

(e) Follow-up.—After an offender has completed the treatment program under subsection (c), the parole officer shall take reasonable steps to ensure that the offender does not abuse alcohol, use illegal controlled substances or abuse prescription drugs, over-the-counter drugs or any other such substances. These reasonable steps include requiring chemical testing and periodic reassessment of the offender by the treatment program.

(f) Fees.—

(1) Except as set forth in paragraph (2), the parole authority shall impose upon an offender subject to this section reasonable fees to cover the cost of any of the following:

(i) Chemical testing of the offender required under this section.

(ii) An assessment of the offender required under this section.

(iii) Drug or alcohol treatment provided in accordance with the assessment.

(2) If the parole authority finds the offender to be unable to pay the full amount of the fees required by paragraph (1) and section 1541(d) (relating to period of disqualification, revocation or suspension of operating privilege), it shall require the offender to pay as much of the fee as is consistent with the offender's ability to pay and shall direct the assigned parole officer to establish a reasonable payment schedule for the offender to pay as much of the remaining fees as is consistent with the offender's ability to pay.

(g) Insurance.—

(1) This subsection shall only apply to a health insurance, health maintenance organization or other health plan required to provide benefits under section 602-A of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(2) If an individual who is a subscriber to a health insurance, health maintenance organization or other health plan that is doing business in this Commonwealth, the individual may not be deprived of alcohol and other drug abuse and addiction treatment or coverage within the scope of that plan due to the identification of an alcohol or other drug problem which occurs as a result of an assessment under this section.

(h) Additional funding.—In order to support and augment the diagnostic assessment and treatment services provided under this section, the Department of Health, the department and the Pennsylvania Commission on Crime and Delinquency shall seek all available Federal funding, including funds available through the United States National Highway Traffic Safety Administration and the Department of Health and Human Services.

§ 3816. Requirements for driving under influence offenders.

(a) Evaluation using Court Reporting Network.—In addition to any other requirements of the court, every person convicted of a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) and every person offered accelerated rehabilitative disposition as a result of a charge of a violation of section 3802 shall, prior to sentencing or receiving accelerated rehabilitative disposition or other preliminary disposition, be evaluated using Court Reporting Network instruments issued by the department and any other additional evaluation techniques deemed appropriate by the court to determine the extent of the person's involvement with alcohol or controlled substances and to assist the court in determining what sentencing, probation or conditions of Accelerated Rehabilitative Disposition would benefit the person or the public.

(b) Court-ordered intervention or treatment.—A record shall be submitted to the department as to whether the court did or did not order a defendant to attend drug and alcohol treatment pursuant to the requirements of sections 3804 (relating to penalties), 3814 (relating to drug and alcohol assessments) and 3815 (relating to mandatory sentencing). If the court orders treatment, a report shall be forwarded to the department as to whether the defendant successfully completed the program. If a defendant fails to successfully complete a program of treatment as ordered by the court, the suspension shall remain in effect until the department is notified by the court that the defendant has successfully completed treatment and the defendant is otherwise eligible for restoration of his operating privilege. In order to implement the recordkeeping requirements of this section, the department and the court shall work together to exchange pertinent information about a

defendant's case, including attendance and completion of treatment or failure to complete treatment.

§ 3817. Reporting requirements for offenses.

(a) Requirement.—The department shall make an annual report on the administration of this chapter. The department, the courts and the Pennsylvania Sentencing Commission shall work together to exchange pertinent information necessary to complete this report.

(b) Contents.—The report shall include:

- (1) The number of offenders.
- (2) The number of offenders subject to section 3815 (relating to mandatory sentencing).
- (3) The number of offenders sent to treatment for alcohol and drug problems and addiction.
- (4) The names of the treatment facilities providing treatment and the level of care and length of stay in treatment.
- (5) The number of offenders successfully completing treatment.
- (6) The number of suspended licenses returned after completion of treatment.
- (7) The number of first, second, third and subsequent offenders.

(c) Recipients.—The annual report shall be submitted to the Judiciary Committee, Public Health and Welfare Committee and Transportation Committee of the Senate; the Health and Human Services Committee, Judiciary Committee and Transportation Committee of the House of Representatives; and the Bureau of Drug and Alcohol Programs. The report shall be made available to the public.

Section 17. Sections 6308(b) and 6506(a)(7) of Title 75 are amended to read:

§ 6308. Investigation by police officers.

(b) Authority of police officer.—Whenever a police officer is engaged in a systematic program of checking vehicles or drivers or has [articulable and reasonable grounds to suspect a violation of this title,] reasonable suspicion that a violation of this title is occurring or has occurred, he may stop a vehicle, upon request or signal, for the purpose of checking the vehicle's registration, proof of financial responsibility, vehicle identification number or engine number or the driver's license, or to secure such other information as the officer may reasonably believe to be necessary to enforce the provisions of this title.

§ 6506. Surcharge.

(a) Levy and imposition.—In addition to any fines, fees or penalties levied or imposed as provided by law, under this title or any other statute, a surcharge shall be levied for disposition in accordance with subsection (b) as follows:

(7) Upon conviction of offenses under section [3731] 3802 (relating to driving under influence of alcohol or controlled substance), or upon admission to programs for Accelerated Rehabilitative Disposition for offenses enumerated in section [3731] 3802, a surcharge, respectively, of:

- (i) \$50 for the first offense.
- (ii) \$100 for the second offense.
- (iii) \$200 for the third offense.
- (iv) \$300 for the fourth and subsequent offenses.

The provisions of this subsection shall not apply to any violation committed by the operator of a motorcycle, motor-driven cycle, pedalcycle, motorized pedalcycle or recreational vehicle not intended for highway use.

Section 18. The addition of 75 Pa.C.S. §§ 3814 and 3815 shall apply as follows:

- (1) Except as set forth in paragraph (2) or (3), after June 30, 2009, for an offender sentenced under this chapter.
- (2) On and after the effective date of this section, for an offender sentenced for a misdemeanor of the first degree.

(3) After June 30, 2006, for an offender sentenced pursuant to section 3804(a)(3), (b)(2) and (c)(1).

Section 19. The Department of Transportation has the following duties:

(1) In order to implement the addition of 75 Pa.C.S. § 3805, the following shall apply:

(i) The department shall adopt and use guidelines, which shall be published in the Pennsylvania Bulletin. The guidelines shall not be subject to review under section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(ii) By September 30, 2004, the department shall, in accordance with law, promulgate regulations to replace the guidelines under subparagraph (i).

(iii) The guidelines under subparagraph (i) shall:

- (A) take effect September 30, 2003, or immediately, whichever is later; and
- (B) expire on the earlier of:

- (I) the effective date of regulations under subparagraph (ii); or
- (II) September 30, 2005.

(2) By October 1, 2004, the department shall promulgate regulations to implement 75 Pa.C.S. § 1549(b).

Section 20. The addition of 75 Pa.C.S. Ch. 38 is a continuation of former 75 Pa.C.S. § 3731. The repeal of 75 Pa.C.S. § 3731 shall not affect offenses committed prior to the effective date of this section or civil and administrative penalties imposed as a result of those offenses.

Section 21. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

- (i) Section 19 of this act.
- (ii) This section.

(2) The remainder of this act shall take effect September 30, 2003, or immediately, whichever is later.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Vitali. For what purpose do you rise?

Mr. VITALI. To interrogate the maker of the amendment.

The SPEAKER pro tempore. The maker of the amendment indicates he will stand for interrogation. You may proceed.

Mr. VITALI. Thank you, Mr. Speaker.

We did HB 4 the other day, whose content seems very similar. Could you tell us the strategy behind revisiting the issue today?

Mr. GEIST. Thank you very much, Mr. Speaker.

The strategy is quite simple that this is a very major piece of legislation. This amendment going into the SB 8—

Mr. VITALI. I am sorry; I just missed that. The noise— This is a what piece of legislation?

The SPEAKER pro tempore. The House will be quiet. The member cannot hear the answer to the interrogation. Please be quiet.

Mr. GEIST. Could he ask the question again, please?

The SPEAKER pro tempore. Please restate your question, Mr. Vitali.

Mr. VITALI. The question is, since we did HB 4 yesterday and another amendment that appears, at least at first blush, to be very similar, the strategy behind revisiting the issue again today.

Mr. GEIST. Thank you very much, Mr. Speaker.

This is a very major piece of legislation, and it is a complete rewrite of the DUI (driving under the influence) law in Pennsylvania. We would like to have unanimity with the House and Senate, and a companion piece of legislation makes a lot of sense because they gel and blend together.

Mr. VITALI. Now, I am a little confused about that. At what point do they gel and blend together?

Mr. GEIST. Technically, both bills were moving at the same time. The Senate bill was for .08, and nothing else would have changed. We have amended it so that both bills have the same language, basically the same language, and when they get to the Senate, we hope they both go to the Governor for his signature.

Mr. VITALI. Okay. To be clear, though, only one will be signed. I mean, you know, the language is not complementary but it covers the same ground. Is that— Just to understand this.

Mr. GEIST. Basically, the only difference that I know of right now is that the interlock language is in HB 4 and it will not be in SB 8 when this amendment goes in.

Mr. VITALI. Okay. So if your amendment goes in SB 8, that will make it pretty much like we voted out HB 4 yesterday. Is that basically what you are saying?

Mr. GEIST. Yes. Once again, yes.

Mr. VITALI. Thank you.

The SPEAKER pro tempore. Thank you.

The gentleman, Mr. McCall, is recognized.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, will the chairman of the Transportation Committee stand for brief interrogation?

The SPEAKER pro tempore. He indicates he will. You may proceed.

Mr. McCALL. Mr. Speaker, you mentioned that the ignition interlock provision is not included in SB 8. I am wondering, because the National Highway or the National Transportation Safety Board requires that the States place in its DUI language a provision for the impoundment or ignition interlock on its automobiles, how would that approval be affected without having that language contained in SB 8?

Mr. GEIST. That is an excellent question. I would hope that the Senate would pass both of them, send them both to the Governor, and he would sign SB 8 first and then sign HB 4 second, and thus that language would be right on the money.

Mr. McCALL. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The gentleman, Representative Samuelson, is recognized.

Mr. SAMUELSON. I also wanted to ask the sponsor of the amendment about the differences between today's amendment and yesterday's amendment. As I just understood the previous dialogue, this amendment we are voting today does not include the ignition interlock requirements. There was a chart handed out yesterday which talked about a mandatory 1-year ignition interlock for a second offense of DUI. Yesterday this House voted to require a mandatory 1-year ignition interlock. The prime sponsor of the amendment, why is he not encouraging us to vote for the ignition interlock today? Why the difference in offering this amendment today without the ignition interlock and yesterday's amendment, which was also offered by Representative Geist, which included the ignition interlock?

Mr. GEIST. Thank you very much, Mr. Speaker.

The interlock language that was inserted into HB 4 changes the language as it presently stands. Without the language in

SB 8, then the old language for the interlock would stand. So that is the answer.

Mr. SAMUELSON. The existing law on ignition interlock would stand.

Yesterday we voted to toughen the penalties for ignition interlock? Well, I would hope that the Senate would take the tougher penalties that we passed yesterday, and I am kind of puzzled about why the prime sponsor, the chairman of the Transportation Committee, is not offering that same amendment today. I think we should send a message that we want that requirement in the final bill, and I am surprised that that is being withdrawn today.

Mr. GEIST. The language in this amendment is the interlocks are there. The language that is not there is how we are going to impose it. So what I would urge is a "yes" vote on the amendment, send them parallel to the Senate, and let us send them on to the Governor.

Mr. SAMUELSON. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causer	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski

Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

The SPEAKER pro tempore. The gentleman, Mr. Reichley, offers the following amendment, which the clerk will read. Oh, he is withdrawing his amendment.

Does the gentleman, Mr. Rooney, have an amendment at this time? The gentleman's amendment is out of order.

RULES SUSPENDED

The SPEAKER pro tempore. The gentleman, Mr. McCall, offers the following amendment, which the clerk will read.

It is my understanding, Mr. McCall, you will need to make a motion for the suspension of the rules to offer your amendment. Would that be correct?

Mr. McCALL. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. McCALL. Mr. Speaker, this is the same amendment that we inserted into HB 4 yesterday. It makes a couple of editorial changes and technical changes to the bill. I think it is an agreed-to amendment.

I would ask for a rules suspension to offer that amendment.

The SPEAKER pro tempore. The gentleman, Mr. McCall, moves for the immediate suspension of the rules for amendment A2829.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereith	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti

Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Gruclera	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. McCALL offered the following amendment No. **A2829**:

Amend Sec. 11 (Sec. 1542), page 9, line 18 (A2753), by inserting after "impaired)"

except for section 3809 (relating to restriction on alcoholic beverages)

Amend Sec. 11 (Sec. 1548), page 14, line 34 (A2753), by striking out the bracket before "(e)"

Amend Sec. 11 (Sec. 1548), page 14, line 37 (A2753), by striking out the bracket after "placed." and inserting

This subsection shall expire July 1, 2009.

Amend Sec. 16 (Sec. 3804), page 25, line 36 (A2753), by striking out “has” and inserting
had

Amend Sec. 16 (Sec. 3814), page 31, line 31 (A2753), by striking out “all” and inserting
any

On the question,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

RULES SUSPENDED

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. McGill, for a motion to suspend the rules for the purposes of considering an amendment. The gentleman is recognized. Mr. McGill.

Mr. MCGILL. Thank you, Mr. Speaker.

I would like to suspend the rules to offer amendment A2772.

On the question,
Will the House agree to the motion?

The SPEAKER pro tempore. Would the gentleman give a very brief description of the amendment, please.

Mr. MCGILL. Yes, Mr. Speaker.

This is the same amendment that I offered yesterday for HB 4. What it would do would be remove the names of DARE (Drug and Alcohol Resistance Education) and MADD (Mothers Against Drunk Driving) from the body of the language in the bill.

The SPEAKER pro tempore. Thank you.

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance

Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsley	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. **McGILL** offered the following amendment No. **A2772**:

Amend Sec. 5 (Sec. 3571), page 5, line 16 (A2753), by inserting a bracket before “Programs”

Amend Sec. 5 (Sec. 3571), page 5, lines 17 and 18 (A2753), by striking out “Education) and” in line 17 and all of line 18 and inserting Education).]

On the question,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—191

Adolph	Evans, J.	Levdansky	Sainato
Allen	Fabrizio	Lewis	Samuelson
Argall	Fairchild	Lynch	Santoni
Armstrong	Feese	Mackereth	Sather
Baker	Fichter	Maher	Saylor
Baldwin	Flick	Maitland	Scavello
Bard	Forcier	Major	Schroder
Barrar	Frankel	Manderino	Scrimenti
Bastian	Freeman	Mann	Semmel
Bebko-Jones	Gabig	Markosek	Shaner
Belardi	Gannon	Marsico	Smith, B.
Belfanti	Geist	McCall	Smith, S. H.
Benninghoff	George	McGeehan	Solobay
Biancucci	Gergely	McGill	Staback
Birmelin	Gillespie	McIlhattan	Stairs
Bishop	Gingrich	McIlhinney	Stern
Boyd	Godshall	McNaughton	Stetler
Browne	Goodman	Melio	Stevenson, R.

Bunt	Gordner	Metcalfe	Stevenson, T.
Butkovitz	Grucela	Micozzie	Sturla
Buxton	Gruitza	Miller, R.	Surra
Caltagirone	Habay	Miller, S.	Tangretti
Cappelli	Haluska	Mundy	Taylor, E. Z.
Casorio	Hanna	Mustio	Taylor, J.
Causar	Harhai	Myers	Thomas
Cawley	Harhart	Nailor	Tigue
Civera	Harper	O'Brien	Travaglio
Clymer	Harris	Oliver	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petrone	Vitali
Costa	Hickernell	Phillips	Walko
Coy	Horsley	Pickett	Wansacz
Crahalla	Hutchinson	Pistella	Washington
Creighton	James	Preston	Waters
Cruz	Josephs	Raymond	Wheatley
Curry	Keller	Readshaw	Williams
Dailey	Kenney	Reed	Wilt
Daley	Killion	Reichley	Wojnaroski
DeLuca	Kirkland	Rieger	Wright
Denlinger	Kotik	Roberts	Yewcic
Dermody	LaGrotta	Roebuck	Youngblood
DeWeese	Laughlin	Rohrer	Yudichak
Diven	Leach	Rooney	Zug
Donatucci	Lederer	Ross	
Eachus	Leh	Rubley	Perzel,
Egolf	Lescovitz	Ruffing	Speaker
Evans, D.			

NAYS—7

Blaum	Nickol	Petri	Weber
DiGirolamo	O'Neill	Steil	

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

RULES SUSPENDED

The **SPEAKER** pro tempore. The gentleman, Mr. George. For what purpose do you rise?

Mr. **GEORGE**. Mr. Speaker, I rise to seek a suspension of the rules, and I believe it could be agreed to, to place an amendment in.

The amendment, if I may, to explain it, simply states that the highway safety schools should be made available during times that accommodate a person's work schedule, including nights and weekends if necessary. With this .08—

The **SPEAKER** pro tempore. Would the gentleman yield for a second.

Would the gentleman advise the Chair, what is the amendment number that you would wish the rules to be suspended for?

Mr. GEORGE. I think the number is 2833.

On the question,
Will the House agree to the motion?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. GEORGE. I ask that my colleagues agree to suspend the rules so that we can offer this amendment. I think it is very important since the new law will change many things and many people will be required to attend these schools, and let us give them at least an opportunity to do so so they do not have to take off work if they are lucky enough to be employed.

I ask that we suspend the rules, Mr. Speaker.

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Bianucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdanský	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally

Fleagle

Hess

Watson

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. **GEORGE** offered the following amendment No. **A2833**:

Amend Sec. 11, page 8, line 31 (A2753), by inserting after "1548"

, 1549(b)

Amend Sec. 11, page 15, by inserting between lines 4 and 5 (A2753)

§ 1549. Establishment of schools.

* * *

(b) Alcohol highway safety schools.—

(1) Each county, multicounty judicial district or group of counties combined under one program shall, in compliance with regulations of the department and the Department of Health, establish and maintain a course of instruction on the problems of alcohol and driving. The time during which the course is offered shall accommodate persons' work schedules, including weekend and evening times.

(2) These regulations shall include, but not be limited to, a uniform curriculum for the course of instruction, training and certification requirements for instructors and provision for the giving of both oral and written notice of the provisions of section 1543(b) (relating to driving while operating privilege is suspended or revoked) to all program participants.

On the question,
Will the House agree to the amendment?

The SPEAKER pro tempore. The Chair recognizes the gentleman— The gentleman does not wish to be recognized? There is—

Mr. GEORGE. Well, Mr. Speaker, I ask that they agree with this amendment, and I thank them for being so up on the matter where we want to at least make things much easier. So I would believe we should all agree with this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni

Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horse	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horse	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

REMARKS SUBMITTED FOR THE RECORD

Mr. TURZAI submitted the following remarks for the Legislative Journal:

Thank you, Mr. Speaker.

Mr. Speaker, I believe that SB 8 will be instrumental in protecting the citizens of this Commonwealth from persons who choose to drive after drinking alcohol. The current DUI law in Pennsylvania is severely broken, and it is time that Pennsylvania takes this step to amend the DUI law in order to do a better job of forcing people to think before they drink and then drive. This proposed statute, which makes it an offense to drive after having imbibed a sufficient amount of alcohol such that a person's BAC is over .08 percent as determined by a test of a blood or breath sample taken within 3 hours of driving, clearly bears a rational relationship to the legitimate interest the Commonwealth has in protecting the public. Too many people have been injured and killed on our highways. It has got to stop, and this bill providing for tough civil and criminal penalties together with mandatory treatment is the way to go.

Mr. Speaker, as our current law is written, a person must have a blood alcohol level that exceeds .10 percent at the time of driving. This has led to a battle of experts in court and has resulted in many dangerous drunk drivers being acquitted of drunk driving, notwithstanding the fact that they endangered the citizens of this Commonwealth by deciding to drive under the influence of dangerous amounts of alcohol. Mr. Speaker, this is unsatisfactory, and I believe that as State legislators we need to use our broad police powers to effectuate good public policy and to do all that we can to ensure that those who choose to drink and then drive suffer the consequences of their actions. That being said, this legislation eliminates the requirement that a person's BAC exceed the legal limit at the time of driving. Rather, when this legislation is signed into law, a person will commit the offense of driving under the influence of alcohol if that person drives a vehicle after imbibing a sufficient amount of alcohol such that the person's BAC exceeds the legal limit within 3 hours after driving. This Commonwealth is no longer concerned what an individual's BAC actually is when they were driving. Instead, this General Assembly intends to make the decision that driving a vehicle after drinking an amount of alcohol such that your BAC exceeds the legal limit within 3 hours after driving is dangerous to the public, and the public interest can only be served by prohibiting such people from driving.

Mr. Speaker, many other States across the nation have laws that do not require a person's BAC to exceed the legal limit at the time of driving but rely solely on a BAC that exceeds the legal limit within 2 or 3 hours after driving. For example, the State of Georgia has a very similar DUI law to that which we propose today. The law in Georgia was challenged on constitutional grounds, and the Supreme Court of Georgia upheld the State law as a valid exercise of State police power. In this Georgia case, Bohannon v. The State of Georgia, 497 S.E.2d 552 (1998), the court stated, "...a person who consumes enough alcohol before or while driving to have an alcohol concentration of 0.10% or greater within three hours of driving must have had some amount of alcohol in their system at the time of driving; and second, that the public interest is being served by prohibiting such people from driving. Both of these conclusions are reasonable, and are reasonably related to public safety by curtailing alcohol-related accidents." Mr. Speaker, the Georgia Supreme Court is dead on, and I believe that the Commonwealth is headed in the right direction by removing "at the time of driving" as an element of this State's DUI law.

Mr. Speaker, I would be remiss not to mention our own State case law regarding this very issue. In 1996 the Pennsylvania Supreme Court

decided the case of Commonwealth v. Barud, 681 A.2d 162 (1996). This case dealt with a constitutional challenge to a DUI provision enacted by the legislature in 1992. Specifically, the amendment created a presumption that a person was driving under the influence of alcohol if their BAC was .10 percent or greater within 3 hours after the person drove. The Supreme Court held that the 1992 amendment was both vague and overbroad and thus violated both the U.S. and Pennsylvania Constitutions. The court was troubled by the fact that the current law in the Commonwealth required the person's BAC to exceed the legal limit at the time of driving and that this provision allowed a person to be convicted of an offense for activity that had not been declared unlawful in the Commonwealth. However, I note, this legislation that we are considering today will do away with this element of the offense and will in effect declare this very activity to be unlawful. Mr. Speaker, there should be no question in anyone's mind that today this General Assembly intends to do away with the "at the time of driving" requirement and declare as a matter of public policy that the General Assembly does not want anyone to drive in this Commonwealth after drinking a sufficient amount of alcohol such that their BAC would exceed the legal limit within 3 hours after driving.

The court in Barud also stated that the 1992 amendment created confusion as to exactly what level of BAC was prohibited under the law. The legislation before us today avoids confusion and basically creates the same notice that drivers have regarding prohibited BAC levels under current law. For example, under current law a person must gauge how much alcohol they can consume before driving such that their BAC will stay below the legal limit during the length of their travels, whereas under this legislation a person would have to gauge how much alcohol they can consume before driving so that the person's BAC will not exceed the legal limit within 3 hours of driving. Under this legislation, a person knows the prohibited BAC level and has to assess the effects of alcohol in their system so they do not reach the prohibited level at some later time.

During the past several months, as myself and other members of this body were drafting this legislation, we heard over and over again about how this legislation would end up catching those people who go to a bar and consume large amounts of alcohol and then quickly get in the car and drive home before the alcohol begins to affect them. With all due respect, Mr. Speaker, this is just plain bad public policy, and this argument goes a long way to show us that our current law does not work. I am shocked to learn that our current law encourages this type of behavior. I must note that drivers have no control over traffic conditions and delays that they may encounter on their travels. It is our intention to avoid this type of behavior by discouraging persons from driving at the onset of intoxication.

Mr. Speaker, as our proposed statute pertains to alcohol, the statistics and our own observations clearly show that drunk driving kills. It is the intention of this body to overhaul our current DUI law and to make drastic changes to our law in order to ensure that this Commonwealth does all that is possible to make our highways safer. Mr. Speaker, this legislation provides a bright-line rule and avoids dual theories for prosecutions; that is, this legislation does not create any presumptions regarding a person's BAC at the time of driving. To the contrary, this legislature is emphatically declaring today that a person's BAC at the time of driving is irrelevant to a DUI offense. By passing this law today, this General Assembly is recognizing the risks of driving after drinking a sufficient amount of alcohol such that a person's BAC exceeds the legal limit within 3 hours of driving. This, Mr. Speaker, is the activity that this General Assembly now deems to be unlawful in this Commonwealth. I commend this body as we are about to take this step to join many other States across this nation by adopting such an effective DUI law.

Mr. Speaker, I would now like to address the issue of drugged driving. It is our intent here today by enacting this legislation to provide for a per se prohibition against driving after using a Schedule I or nonprescribed Schedule II or III controlled substance. This step is necessary to shield the public from the potential dangers presented by persons who drive while experiencing the effects of these controlled

substances. We have determined, following the review of many reports and studies, that there is no level of illicit drug use which can be acceptably combined with driving a vehicle. The established potential for lethal consequences is far too great. Our purpose in enacting this legislation is clear: Illegal controlled substances can kill; illegal controlled substances together with the operation of a vehicle will kill.

Mr. Speaker, those of us who have worked on this legislation have come to fully realize that the arrest, prosecution, and conviction of drugged driving under our current law has indeed proven to be next to impossible. This has been largely due to the very nature of controlled substances. These substances must be differentiated in our law from alcohol. First, alcohol is not an illegal controlled substance as are the substances listed in Schedule I and those listed in Schedules II and III which have not been prescribed. Second, there is no useful indicator of impairment from these drugs because they are fundamentally different from alcohol. Essentially, there can be no meaningful quantification because of the dangers inherent in the drugs themselves and in the lack of potency predictability. Absent a reliable indicator of impairment, it is necessary for us to impose a flat ban on a person's ability to drive while these drugs or their metabolites are in a person's system. The very nature of the dangerous controlled substances at issue here (Schedule I and Schedule II and III controlled substances which are not prescribed) requires a per se prohibition.

Mr. Speaker, I would like to speak for a moment specifically to the issue of nonprescribed Schedule II and III controlled substances. I have heard grumbling by some that if a Schedule II or III controlled substance in a person's system while driving is dangerous, then it should make no difference if the substance was prescribed for the individual or not. Mr. Speaker, our citizens obtain the best health care available anywhere in the world. Individuals who are under a doctor's care and being prescribed these Schedule II and III controlled substances are receiving carefully determined and exact dosages. These individuals are instructed by their physicians and pharmacists as to all of the ill effects of using these substances, and when appropriate, they are warned and cautioned against the hazards associated with operating a vehicle while taking these prescribed medications. This is not the case when a person violates the law and uses a controlled substance that has not been specifically prescribed for them. These persons, like persons using a Schedule I controlled substance, pose a serious and unacceptable risk to law-abiding citizens on our roads. This is a risk we cannot and will not tolerate. By voting for this measure today we will be treating equally all persons who choose to violate the law by illegally using a controlled substance and then drive.

Mr. Speaker, for these reasons and in furtherance of our compelling and legitimate interest in protecting the public, we have concluded that the per se prohibition provided for in this proposed legislation is the only effective deterrent available to us. Mr. Speaker, the message to persons in this Commonwealth who choose to violate the law and use a controlled substance must be and will be clear: You are legally unable to drive if you use virtually any amount of the substances prohibited by this legislation. Plain and simple.

Mr. Speaker, just as the changes proposed to our law with regard to alcohol, we are not alone in taking this necessary step with regard to controlled substances. Per se drugged driving statutes such as the one proposed here today in both HB 4 and SB 8 are being used successfully in other States, and I believe they are saving lives. When enacted, we will join the forward-thinking States of Arizona, Georgia, Illinois, Indiana, Iowa, Minnesota, Rhode Island, and Utah as a per se drugged driving State. Taking this bold step is consistent with the recommendations of every major group studying the effects of controlled substances on the human body, including the American Bar Association. These other States and experts have found that per se drugged driving statutes not only act as a deterrent to keep people who use controlled substances from driving motor vehicles, but they are also an effective way to keep people from using controlled substances in the first place. Statutes very similar to the one proposed here today have been challenged on constitutional grounds in several of the States who have enacted them. The courts hearing challenges to these laws

have agreed with their respective legislatures and have found these statutes to be constitutional. The courts in Georgia, Arizona, and Illinois have looked closely at the statutes of those States, which are nearly identical to the statute proposed here today. Mr. Speaker, when asked to strike down these laws on the grounds that their enforcement violates the constitutional principle of equal protection, these statutes have been upheld. These courts have unequivocally found that the State's interest in protecting the public from persons who drive with a controlled substance in their system bears a rational relationship to this compelling and legitimate State interest. Likewise, when these courts were asked to strike down these laws as void for vagueness, they have found these statutes to be clear in their prohibition: Do not operate a vehicle if you have used a controlled substance. Mr. Speaker, this is the message we intend to send with our votes here today.

Mr. Speaker, I would now like to respond to the member who raised concern that the per se ban proposed here is too broad. For the reasons regarding the lack of reliable information on the dangerous effects of controlled substances I mentioned earlier in my remarks and for the reasons that follow, I wholeheartedly disagree. The gentleman from Montgomery County proposed that we allow people to drive with some level of an illegal controlled substance in their system, and he used the example of marijuana. He stated that marijuana will remain in your system for 90 days. Mr. Speaker, the gentleman is misinformed, and I would be remiss if I did not correct his remarks.

House Republicans, under the direction and leadership of the chairmen of the House Transportation and Judiciary Committees, have been studying the issue of drugged driving specifically and the effects of drugs generally for more than half a year. We have learned that these substances and their metabolites are present in urine longer than they are in blood, which is why this legislation requires that the illegal controlled substances or their metabolite be found in the person's blood and not urine. While these substances are present in a person's blood, these substances are affecting the person's brain and muscles. It is affecting their functioning. Additionally, the tests generally used to test for these substances, Cloned Enzyme Donor Eminase and Fluorescence Polarization Eminase, only result in a positive reading for marijuana on an infrequent marijuana user if the marijuana was used in the last 24 hours or so. We have studied the issue, and his concern is invalid. In light of all that we have learned about controlled substances, we must protect the citizens of the Commonwealth from the dangers of drugged driving. I am totally satisfied that this legislation as crafted will provide the Commonwealth with the law it needs to address this serious and growing problem.

Thank you, Mr. Speaker.

REMARKS SUBMITTED FOR THE RECORD

Ms. HARPER submitted the following remarks for the Legislative Journal:

Thank you, Mr. Speaker.

I rise today to urge the swift passage of the proposed bill which will not only help Pennsylvania meet the Federal requirements of beginning the criminal sanctioning of drivers when their blood alcohol content is higher than .08, it will also place Pennsylvania in the forefront of American States in sanctioning drivers who have any illegal drugs in their blood, in requiring an assessment of every driver arrested for DUI to see if treatment for an underlying addiction is warranted, and in recognizing that the hardcore drunk driver, those who have a BAC level of .16 or higher and those who repeatedly drive while under the influence, must be kept off of our roads.

Truthfully, our experience with DUI offenders and accidents has taught us a lot. For one thing, deaths caused by drunk drivers have declined nationally, but in Pennsylvania they continue to rise. We have learned that more than half of all fatal alcohol-related accidents are caused by hardcore drunken drivers, those people whose BACs are .16 or above. They are often repeat offenders.

In the next 2 weeks in Pennsylvania, whether we are here in session or not, 13 people will die as a result of accidents where alcohol was a factor. Those 13 people might include your neighbor, a favorite uncle, the minister at your church, a brother, a sister, a son, a daughter, a spouse. There is no doubt that the results of accidents caused by drinking and driving are tragic and the effects last for the lifetimes of the survivors.

Most of us would, if given the option, wave a wand to prevent any future DUI accidents from happening, but we do not have such a wand and we cannot do that. Instead, we have tried to write a law that will make drunken driving accidents less likely by making it clear that if you are under the influence of alcohol or drugs and behind the wheel in Pennsylvania, you will be punished. If you need treatment, the court will order it. If you fail or refuse to cooperate in treatment that is ordered, you will find yourself in jail.

After a period of required license suspension, if you are a repeat offender, you must install an ignition interlock system if you want to get your driving privileges back. After a period of suspension, however, if you are cooperative and complete the conditions of your probation, you will have the opportunity to apply for a bread-and-butter license so that you can get to treatment and get back to work.

For the first time, the bill proposes that having any amount of an illegal drug in the bloodstream while in operation of a motor vehicle is guilty of driving while impaired. It will also be a crime to drive after ingesting a sufficient amount of prescribed drugs or combinations of drugs that render the person incapable of safe driving.

The bill proposes a matrix of penalties, including jail time, community service, license suspensions and probation with treatment where warranted. There are penalties for refusing to submit to a blood or breath test.

Higher BACs and repeat offenders get stiffer penalties than the first-time .08 offender, but for EVERYONE charged with DUI, as well as for all of us using Pennsylvania's roads, we have made it clear that driving while under the influence of alcohol or drugs is a very serious matter in Pennsylvania.

It is my fervent hope, shared, I know, by the prime sponsors of this bill, Representatives Geist and McCall, the bipartisan chairmen of the House Transportation Committee, as well as the cosponsors of the bill and those who worked on its drafting, that this bill will result in fewer drunken driving accidents in Pennsylvania, fewer lives lost, fewer lives ruined, fewer lives changed forever in tragic ways.

* * *

Mr. Speaker, I would like to address the portion of this bill that amends section 6308 of the Vehicle Code. The topic at issue here deals with the authority of police officers to stop a vehicle in order to enforce the Vehicle Code. Pennsylvania courts have recently discarded the reasonable suspicion justification for making traffic stops in DUI cases. The Pennsylvania courts are now requiring a stricter probable cause standard to justify these stops. As evidenced by Com. v. Gleason, 785 A.2d 983 (Pa. 2001), broad, stricter limits on police authority to make these stops are permitting drunk drivers to evade accountability. Evidence of their drunkenness is being suppressed and their convictions overturned. While drunk drivers and their attorneys benefit from the elimination of the reasonable suspicion justification, this development in the Pennsylvania criminal law is cause for great concern among not only police and prosecutors but among law-abiding citizens as well, and the issue requires once again the action of the General Assembly.

Mr. Speaker, this issue is much larger than simply counting how many times a drunk driver crosses lines on the road. Gleason has created an untenable double standard for justifying traffic stops in Pennsylvania. Pennsylvania courts now require probable cause to make a traffic stop based on a Vehicle Code offense while reasonable suspicion is sufficient for other traffic stops. This dichotomy is particularly dangerous considering some of the serious offenses that fall under the Vehicle Code, including homicide by vehicle, homicide

while DUI, aggravated assault while DUI, and accidents involving death or personal injury, and of course, DUI itself.

Mr. Speaker, in order to fully explain how the Commonwealth arrived in this untenable state, a look at the historical context for justifying traffic stops is in order. In the oft-cited Terry v. Ohio, 392 U.S. 1 (1968), the U.S. Supreme Court recognized that Fourth Amendment rights could be reasonably protected in some limited investigatory situations by applying a less stringent standard than the traditional probable cause standard.

In 1975 the Pennsylvania Supreme Court applied Terry to traffic stops. The court in Commonwealth v. Murray, 331 A.2d 414, 417 (Pa. 1975), stated following Terry, "It is also clear than an investigative stop of a moving vehicle to be valid must be based upon objective facts creating a reasonable suspicion that the detained motorist is presently involved in criminal activity." In 1979 the U.S. Supreme Court followed suit in Delaware v. Prouse, 440 U.S. 648, 663 (1979), when they also applied Terry to traffic stops. The court in that case found that constitutional considerations are protected when the police have at least articulable and reasonable suspicion that a motorist has violated the law.

Subsequent to Murray and Prouse, this esteemed body codified the reasonable suspicion standard into section 6308 of the Vehicle Code: "Whenever a police officer...has articulable and reasonable grounds to suspect a violation of [the Vehicle Code], he may stop a vehicle [.]". This legislative enactment is clearly a codification of the Terry standard into Pennsylvania law.

Until recently Pennsylvania State courts had consistently applied this reasonable suspicion standard to all Terry stops, including traffic stops, as both the statute and the Pennsylvania Constitution require, some examples being the 1999 case of Commonwealth v. Cook and the 1997 case of Commonwealth v. Jackson. In 1993 the Pennsylvania Superior Court wrote in Commonwealth v. McElroy, "We are faced with a Terry stop analysis when assessing the legality of a traffic stop for a violation of the Vehicle Code."

Mr. Speaker, the standard changed in 2001, however, when the Pennsylvania Supreme Court abruptly adopted the view that the Vehicle Code required that traffic stops be justified under a stricter probable cause standard in Gleason despite the fact that the General Assembly had not amended section 6308 of the Vehicle Code. The Gleason court ruled that the reasonable suspicion standard was inappropriate for traffic stops pursuant to §6308(b). In Gleason, the court announced that the proper evaluation of these stops required "the reasonable and articulable grounds standard, i.e., the probable cause standard." The Pennsylvania Superior Court shortly followed suit in the 2002 case of Commonwealth v. Battaglia. Both Gleason and Battaglia cite another case, Commonwealth v. Whitmyer, for the proposition that §6308(b), despite the purpose for which it was originally adopted – a codification of Terry – contains a probable cause requirement for traffic stops under the Vehicle Code.

Mr. Speaker, this interpretation of Whitmyer is flawed. The suppression court in Whitmyer ruled that the officer lacked "probable cause to believe" that the defendant had violated the Vehicle Code. In fact, the Murray court had used that same term as well as "reasonable suspicion" to address the constitutionally required level of justification for traffic stops in Pennsylvania. Prior to Whitmyer, a Superior Court panel, in the 1992 case of Commonwealth v. Lopez, resolved this semantic conflict between the case law and the wording of our statute by ruling that the terms "probable cause to believe" in Murray and "articulable and reasonable grounds to suspect" in §6308(b) both describe the reasonable suspicion standard required by the Constitution and set forth in Terry. The Superior Court sitting en banc in the McElroy case later endorsed this view in a unanimous opinion, writing that "[a]lthough the two standards appear to differ, due to the use of the term 'probable cause' which usually denotes a higher level of knowledge by the police of an illegal act, e.g., 'probable cause to arrest' or 'probable cause to search', the difference is largely a matter of semantics.... However interchangeable the two standards for assessing police conduct in traffic stops may be, we herein adopt

‘articulable and reasonable grounds to suspect’ as the preferred standard. 75 Pa. C.S. §6308. In doing so, we seek to avoid any confusion which may be caused by the use of the term ‘probable cause’ to describe and assess those police encounters with citizens which do not rise to the level of an arrest or search.”

Echoing McElroy, the Whitmyer court addressed the semantic conflict between the constitutional standard set forth by Murray and the statutory standard set forth by §6308(b) with the following, and I quote:

“The crux of the Commonwealth’s argument centers on the semantic difference between the standard articulated in [Com. v. Murray] – probable cause to believe that there has been a violation of the Vehicle Code, and the language of the statute – articulable and reasonable grounds to suspect a violation of the Vehicle Code. However, when we balance the underlying interests of the individual and the government, the two standards amount to nothing more than a distinction without a difference.”

Mr. Speaker, in Whitmyer the Commonwealth had appealed claiming that the suppression court had applied a standard higher than the reasonable suspicion requirement set forth by §6308(b). The Whitmyer court affirmed suppression, agreeing with the trial judge that the officer had no justifiable basis at all to stop the defendant. Without any legal justification at all for the stop, the difference in labeling the required level of justification became semantic. More importantly, the Whitmyer court cited such Terry progeny as Murray and Prouse as guidance in applying the statutory standard under §6308(b). Therefore, the Whitmyer case actually affirmed the constitutional standard of reasonable suspicion for traffic stops under §6308(b).

Nonetheless, the Gleason court rejected this view and created an untenable double standard. According to Gleason, §6308(b) imposes a higher standard of justification for making traffic stops in Pennsylvania based on Vehicle Code violations than is constitutionally required for other traffic stops. And yet, the language of §6308(b) (“articulable and reasonable grounds to suspect”) is virtually the same as the constitutional standard set forth by Prouse (“articulable and reasonable suspicion”).

Mr. Speaker, clearly constitutional considerations are satisfied by the application of the reasonable suspicion standard to all traffic stops in Pennsylvania. The rationale of Terry is clear: “The Fourth Amendment does not require a policeman who lacks the precise level of information necessary for probable cause to arrest to simply shrug his shoulders and allow a crime to occur or a criminal to escape.” Our courts have adopted Terry for purposes of the State Constitution.

Terry permits investigatory detentions based on reasonable suspicion, a level of justification lower than probable cause. Murray, Prouse, and Whitmyer all recognized that Terry applies to traffic stops. By enacting §6308(b), the State legislature recognized that Terry applies to traffic stops.

Finally, Mr. Speaker, in the bill currently under consideration, we have used the phrase “reasonable suspicion,” which satisfies the requirements of the United States Constitution and the Pennsylvania Constitution and accurately balances the dangers of drunken driving with the right of any citizen to be secure in his person.

Mr. Speaker, this legislation is right for Pennsylvania, and I urge all members to support the bill.

Thank you, Mr. Speaker.

RULES SUSPENDED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Mr. Speaker, I move that the rules be suspended for the purposes of considering SB 201.

On the question,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereith	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O’Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O’Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnarowski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 201, PN 1058**, entitled:

An Act designating Interstate 78 in Lehigh and Northampton Counties from the Berks County Line to the Delaware River as the Walter J. Dealtrey Memorial Highway; and designating a portion of State Route 837 in Allegheny County as Charles R. McDewitt Highway.

On the question,
Will the House agree to the bill on third consideration?

Mr. **DALEY** offered the following amendment No. **A2838**:

Amend Title, page 1, line 3, by striking out "AND"

Amend Title, page 1, line 5, by removing the period after "HIGHWAY" and inserting

; and designating Exit 23 on Interstate 79 in Washington County, known as Marianna-Prosperity Exit, as the Farrell Jackson Exit.

Amend Bill, page 2, by inserting between lines 14 and 15 Section 3. Farrell Jackson Exit.

(a) Findings.—Farrell Jackson was the coroner of Washington County for many years and fought for safety projects on the interstates within the county to benefit all citizens.

(b) Designation authorized.—Exit 23 on Interstate 79 in Washington County, known as the Marianna-Prosperity Exit, is designated as the Farrell Jackson Exit.

(c) Signs.—The Department of Transportation shall erect appropriate signs at each end of the interchange displaying the designation made by this section.

Amend Sec. 3, page 2, line 15, by striking out "3" and inserting
4

On the question,
Will the House agree to the amendment?

The SPEAKER pro tempore. The gentleman, Mr. Daley, is recognized and may proceed.

Mr. **DALEY**. Mr. Speaker, thank you.

I ask the indulgence of the House to support amendment 2838, which recognizes the accomplishments of the former Washington County coroner, Farrell Jackson, by renaming the Marianna-Prosperity exit on I-79 in his honor.

During his 34 years of distinguished service, he investigated over 12,000 cases, and he is most noted for his projects for interstate safety that travel through Washington County. That would be Interstate 79 and Interstate 70.

He became nationally known in 1990 for a one-man crusade against the Chrysler Corporation. At that time Mr. Jackson investigated a double fatality involving a Plymouth minivan, which later led to the recall and repair of faulty liftgate latches on 6 million vehicles. This is just one example of how Mr. Jackson took his life's work. He always believed that the coroner's job involved not only investigating deaths but also helping to save lives, the lives of all Pennsylvanians.

He also authored a 1988 State law, the Coroners' Education Act, that required coroners to be tested and not simply step into the office as he did in 1958 when he was appointed by then former Governor George Leader. He finished 18 months when James Gray had passed away in office and then was elected to

eight consecutive 4-year terms, something we all should be proud of, and I ask for an affirmative vote, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavella
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causser	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horse	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0**NOT VOTING—0****EXCUSED—4**

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally

Fleagle

Hess

Watson

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

GUEST INTRODUCED

The SPEAKER pro tempore. The Chair welcomes from Northampton County Judge Jack Panella, who is the guest of the Northampton County delegation. He is seated to the left of the Chair. Welcome.

RULES SUSPENDED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. S. SMITH. Mr. Speaker, I move that the rules be suspended for the purposes of considering SB 271.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali

Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnarowski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 271, PN 1059**, entitled:

An Act renaming State Route 424 in Luzerne County from the Hazleton South Beltway to the Greater Hazleton Chamber of Commerce Beltway; and designating a portion of State Route 837 in Allegheny County as the Charles R. McDevitt Highway.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay

Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnarowski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

* * *

The House proceeded to third consideration of **HB 501, PN 595**, entitled:

An Act amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, further providing for adjustments from the Environmental Stewardship Fund.

On the question,
Will the House agree to the bill on third consideration?

BILL PASSED OVER

The SPEAKER pro tempore. HB 501 will go over for the day.

* * *

The House proceeded to third consideration of **SB 109, PN 106**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for law enforcement records.

On the question,
Will the House agree to the bill on third consideration?

Mrs. **TRUE** offered the following amendment No. **A1975**:

Amend Title, page 1, line 3, by removing the period after "records" and inserting

and for sentences for offenses committed with firearms.

Amend Sec. 1, page 1, lines 6 and 7, by striking out all of said lines and inserting

Section 1. Sections 6308(b)(1) and 9712(a) of Title 42 of the Pennsylvania Consolidated Statutes are amended to read:

Amend Sec. 1, page 3, by inserting between lines 29 and 30 § 9712. Sentences for offenses committed with firearms.

(a) Mandatory sentence.—

(1) Except as provided under section 9716 (relating to two or more mandatory minimum sentences applicable), any person who is convicted in any court of this Commonwealth of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses), shall, if the person visibly possessed a firearm or a replica of a firearm, whether or not the firearm or replica was loaded or functional, that placed the victim in reasonable fear of death or serious bodily injury, during the commission of the offense, be sentenced to a minimum sentence of at least five years of total confinement notwithstanding any other provision of this title or other statute to the contrary. Such persons shall not be eligible for parole, probation, work release or furlough.

(2) Any person who is convicted of a violation of section 13(a)(30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, when at the time of the offense, the person or the person's accomplice is in physical possession or control of a firearm or replica firearm, whether visible, concealed about the person or the person's accomplice or within the actor's or accomplice's reach or in close proximity to the controlled substance, shall likewise be sentenced to a minimum sentence of at least five years of total confinement.

(3) Where a defendant is subject to a mandatory minimum sentence under 18 Pa.C.S. § 7508(a) (relating to drug trafficking sentencing and penalties) and is also subject to an additional penalty under paragraph (2), and where the court elects to aggregate these penalties, the combined minimum sentence may not exceed the statutory maximum sentence of imprisonment allowable under The Controlled Substance, Drug, Device and Cosmetic Act.

* * *

On the question,
Will the House agree to the amendment?

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentlelady from Lancaster County, Mrs. True.

Mrs. TRUE. Thank you, Mr. Speaker.

This amendment originated with Representative Bard, who had a House bill that had passed handily through the House over

the last few years. It is a 5-year mandatory sentence for people committing drug crimes, selling drugs, that have a weapon.

This is such a commonsense piece of legislation. I really do not understand— Well, I sort of do understand some of the problems in the Senate. It is my hope by amending Senator O'Pake's legislation, Senator O'Pake has always been very good on the drug issue, and I would hope that this would finally clear the Senate and make its way to the Governor.

We are dealing with violent criminals. This will give our counties the opportunity, our district attorneys, to not have to try to use a Federal law but instead can prosecute drug dealers and get a 5-year mandatory so we can get them off the streets.

I would ask support for the amendment.

The SPEAKER pro tempore. The Chair thanks the lady.

For what purpose does the gentleman, Mr. Vitali, rise?

Mr. VITALI. To interrogate the maker of the amendment.

The SPEAKER pro tempore. The lady indicates she is willing. You may proceed.

Mr. VITALI. Mr. Speaker, could you tell me how many people annually do you think this will affect?

Mrs. TRUE. I hope it affects everybody that is out selling drugs to kids that has a gun. I do not know how many.

Mr. VITALI. No. I am actually looking for a number.

Mrs. TRUE. No; I do not have a number.

Mr. VITALI. Do you have any sense for the increased cost—I am assuming that it will result in people staying in jail for longer periods of time.

Mrs. TRUE. I would hope so, and I have seen the fiscal note, and I know that it is obviously going to cost money, but it is my opinion that if we do not get the violent criminals off the streets, it is going to cost us more in the end.

Mr. VITALI. That is sort of really the question. What will be the increased costs to the Pennsylvania Department of Corrections if this amendment were to pass?

Mrs. TRUE. Well, in the fiscal note that I have, the total first-year cost could be as much as \$5,900,000 for 200 inmates.

Now, I would like to add to that, since you brought it up, that since we are prosecuting the criminals under the Federal law, that is 25 years, and that is even more expense.

Mr. VITALI. Okay. So you would estimate, if we pass this, it would cost the Commonwealth \$5 million a year. Is that right?

Mrs. TRUE. That is what the fiscal note says.

Mr. VITALI. Okay.

I think that concludes my questioning. I would like to speak on the amendment.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. VITALI. I mean, first of all, I would like to congratulate the maker of the amendment, because I mean, clearly, her goals are admirable, to keep people who commit crimes, drug crimes with guns, off the street, and clearly, this amendment is going to pass overwhelmingly, so there is no point in arguing too long, but I think, frankly, it is a bad idea, and for those of us who oppose mandatory sentencing as a general principle, I just really wanted to alert them to this.

The problem with mandatory sentencing — and this argument could apply to almost any mandatory sentencing provision we pass — is, not only does it take the ability away from judges to do justice, to look at the individual circumstances of each case; it in effect shifts, it shifts discretion from judges to prosecutors, and I would argue that that really sets out of balance the system

of justice that we have set up for ourselves. It is just simply not fair.

I have practiced criminal law as a lawyer, and it really sets up unfair situations. I mean, we have heard of the cost of prosecution, the increase, and that is frankly why the Senate, as I understand it, as a matter of policy, simply is not going to pass more mandatory sentencing laws.

I think it is an idea that has really proved to be good in theory, bad in practice, and for those of you sensitive to the issue of mandatory sentencing, this would be a negative vote. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentlelady, Mrs. True.

Mrs. TRUE. Thank you, Mr. Speaker.

Mr. Speaker, if we look at the type of things that we deal with here on the House floor day after day, we did the DUI (driving under the influence) bill yesterday. We are talking about children and protecting children, and we are talking about some of the most violent criminals that we have on the streets — i.e., people that are selling their poison — and then we cannot even lock them up, and I will be perfectly honest, I would like to lock them up permanently.

But we have a coalition of the NRA (National Rifle Association) and handgun control that supports this. They did this in Virginia. They reduced their violent crime 50 percent. I would just have people think about, when you think about a 5-year mandatory, you are getting them off the streets; you are sending a strong message, do not do this here in Pennsylvania, and I would ask for your support. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentlelady.

The Chair recognizes Representative Hickernell on the amendment.

Mr. HICKERNELL. Thank you, Mr. Speaker.

I rise today to strongly support the True amendment.

Today in Pennsylvania current State penalties are inadequate for prosecuting drug dealers who carry guns in Pennsylvania. Far too many of these dangerous criminals are simply receiving a slap on the wrist and are back on our streets in a very short period of time.

Mr. Speaker, passage of this amendment would result in harsher penalties for some of the most violent and dangerous criminals who walk our streets, and it would hold them accountable for their actions. Enactment of a 5-year minimum mandatory sentence for drug dealers caught with guns will also, Mr. Speaker, serve as a deterrent for these violent criminals and let them know that this type of behavior will not be tolerated in Pennsylvania.

Mr. Speaker, I strongly urge my colleagues to support this amendment. Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Representative Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the True amendment. This amendment is very important to law enforcement in Pennsylvania. This change in the law has been requested by Pennsylvania's district attorneys as a weapon they need.

Pennsylvania has long had a mandatory sentence for the use of a firearm in the commission of a felony, but as we all know,

the perpetrators of these offenses have been very clever in having the shooter or at least the possessor of the firearm in many cases be a juvenile, and thereby, the true mastermind behind the offense escapes the mandatory penalty. That is why Pennsylvania's district attorneys have asked for this change in Pennsylvania law, in closing what has become an actual loophole for felons to wiggle their way through.

So the lady's amendment is necessary; it is a good amendment, and I ask the members for an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Philadelphia, Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, hip hip hooray for the Katie True amendment.

Mr. Speaker, in Philadelphia County we have taken aggressive steps to deal with this problem of drugs and guns. The Safe Streets program has become a model program throughout the country. But, Mr. Speaker, there is a fact that runs from one end of the Safe Streets program to the other, and that is, where there are drugs, there are also guns; where there is a drug dealer, there is also a gun, and that gun, that gun, aggravates an already devastating situation.

Mr. Speaker, we need to send a message to drug dealers not just in Philadelphia County but all across Pennsylvania, send a very clear message to them which says that enough is enough; the time is out; time is out; you will no longer be able to push your drugs and carry a gun and walk the streets of Pennsylvania for at least 5 years; 5 years you will be taken off the street, and there will be some safety and some relief to people throughout our communities.

Mr. Speaker, thank you; the people of the 181 thank you for this amendment.

Vote "yes" to the True amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—197

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Gruclala	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.

Causer	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Walko
Costa	Hickernell	Petrone	Wansacz
Coy	Horsey	Phillips	Washington
Crahalla	Hutchinson	Pickett	Waters
Creighton	James	Pistella	Weber
Cruz	Josephs	Preston	Wheatley
Curry	Keller	Raymond	Williams
Dailey	Kenney	Readshaw	Wilt
Daley	Killion	Reed	Wojnaroski
DeLuca	Kirkland	Reichley	Wright
Denlinger	Kotik	Rieger	Yewcic
Dermody	LaGrotta	Roberts	Youngblood
DeWeese	Laughlin	Roebuck	Yudichak
DiGirolamo	Leach	Rohrer	Zug
Diven	Lederer	Rooney	
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS-1

Vitali

NOT VOTING-0

EXCUSED-4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

The SPEAKER pro tempore. The gentleman, Mr. Solobay, offers the following amendment, which the clerk will read. The gentleman indicates he has withdrawn his amendment. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS-198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavello
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Biancucci	George	McIlhatten	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Gruclera	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causer	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood
DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

SUPPLEMENTAL CALENDAR A

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1189, PN 2188**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for restitution for injuries to person or property.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—198

Adolph	Evans, D.	Lewis	Sainato
Allen	Evans, J.	Lynch	Samuelson
Argall	Fabrizio	Mackereth	Santoni
Armstrong	Fairchild	Maher	Sather
Baker	Feese	Maitland	Saylor
Baldwin	Fichter	Major	Scavella
Bard	Flick	Manderino	Schroder
Barrar	Forcier	Mann	Scrimenti
Bastian	Frankel	Markosek	Semmel
Bebko-Jones	Freeman	Marsico	Shaner
Belardi	Gabig	McCall	Smith, B.
Belfanti	Gannon	McGeehan	Smith, S. H.
Benninghoff	Geist	McGill	Solobay
Bianucci	George	McIlhattan	Staback
Birmelin	Gergely	McIlhinney	Stairs
Bishop	Gillespie	McNaughton	Steil
Blaum	Gingrich	Melio	Stern
Boyd	Godshall	Metcalfe	Stetler
Browne	Goodman	Micozzie	Stevenson, R.
Bunt	Gordner	Miller, R.	Stevenson, T.
Butkovitz	Grucela	Miller, S.	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Habay	Mustio	Tangretti
Cappelli	Haluska	Myers	Taylor, E. Z.
Casorio	Hanna	Nailor	Taylor, J.
Causar	Harhai	Nickol	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	O'Neill	True
Cohen	Hasay	Pallone	Turzai
Coleman	Hennessey	Payne	Vance
Cornell	Herman	Petrarca	Veon
Corrigan	Hershey	Petri	Vitali
Costa	Hickernell	Petrone	Walko
Coy	Horsey	Phillips	Wansacz
Crahalla	Hutchinson	Pickett	Washington
Creighton	James	Pistella	Waters
Cruz	Josephs	Preston	Weber
Curry	Keller	Raymond	Wheatley
Dailey	Kenney	Readshaw	Williams
Daley	Killion	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Roebuck	Youngblood

DiGirolamo	Leach	Rohrer	Yudichak
Diven	Lederer	Rooney	Zug
Donatucci	Leh	Ross	
Eachus	Lescovitz	Rubley	Perzel,
Egolf	Levdansky	Ruffing	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—4

Dally	Fleagle	Hess	Watson
-------	---------	------	--------

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

The SPEAKER pro tempore. The Chair would like to inform the members that tomorrow will be a nonvoting session day. The House will then reconvene Tuesday, July 15, at 1 o'clock, unless sooner recalled by the Chair.

The Chair recognizes the gentleman, Mr. Cohen.

Mr. COHEN. Thank you.

Mr. Speaker, some members have expressed concern to me about the effect of moving the start of the session week to Tuesday instead of Monday. It might be helpful to the members if Thursday could be a token session day.

The SPEAKER pro tempore. The Chair expects that Thursday will be a session nonvoting day.

Mr. COHEN. Thank you very much, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair informs the members that there will be no further votes today.

QUESTION OF PERSONAL PRIVILEGE

The SPEAKER pro tempore. The Chair recognizes Representative Youngblood.

Ms. YOUNGBLOOD. Mr. Speaker, may I have a point of personal privilege?

The SPEAKER pro tempore. The Chair recognizes the lady for a point of personal privilege.

Ms. YOUNGBLOOD. Mr. Speaker, I would like to inform the members of the House that it has been 374 days since I have had any district office staff, and I hope we can have a resolution soon to this. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentlelady.

For what purpose does the gentleman, Representative Clymer, rise?

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, there is some confusion about that response to Representative Cohen. Could you just explain again what the agenda is for the coming days?

The SPEAKER pro tempore. The Chair has been informed that Wednesday will be a nonvoting session day, as will Thursday of this week. The House will reconvene at 1 o'clock on Tuesday, July 15, for the purposes of voting session.

The Chair thanks the gentleman.

REMARKS SUBMITTED FOR THE RECORD

The SPEAKER pro tempore. Representative Petri. For what reason does the gentleman rise?

Mr. PETRI. Mr. Speaker, there are some comments I would like to be added to the record, with your permission, with regard to HB 550. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman. If he will send them to the desk.

Mr. PETRI submitted the following remarks for the Legislative Journal:

HB 550, known as "Elizabeth's Amendment," authorizes municipalities to prohibit onstreet parking within 30 feet of warning signs so that drivers will be better alerted to signs indicating that visually and hearing-impaired people live in that area.

This bill provides local municipalities with the legal tools to better enforce parking regulations, especially in neighborhoods where people with visual and hearing impairments live. I named this bill after Elizabeth, a young girl in my district who is visually handicapped, so that she and others like her are better protected.

Visitors and others unaware of the special needs of the disabled oftentimes inadvertently park in front of the warning sign, thereby blocking the sign and negating the intention of the sign to warn motorists of the need to pay additional attention while driving in affected streets.

This bill, similar to the restrictions for parking near a fire hydrant, would allow a municipality to prohibit onstreet parking within 30 feet of the sign, tow violators, and impose a fine of \$50. Currently the fine for parking in front of a fire hydrant is \$15.

As elected officials, we have a responsibility to protect the health and safety of our residents. To do so, we must provide the tools to our local officials to protect them. This bill will seek to do just that, and I am pleased that my colleagues in the House recognize the importance of this bill.

VOTE CORRECTION

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Hanna. For what purpose does the gentleman rise?

Mr. HANNA. To correct the record, Mr. Speaker.

The SPEAKER pro tempore. You may proceed.

Mr. HANNA. On SB 441, amendment 2769, I was not recorded. I would like to be recorded in the negative.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. Thank you.

I am advised also, for the members, that Monday will also be a nonvoting session day. So just so we got it straight, this coming Wednesday, this coming Thursday, and the following Monday will be nonvoting session days.

The Chair thanks the House.

There will be no further votes. The members are free to go.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER pro tempore. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER pro tempore. The Chair recognizes the gentlelady from Montgomery County, Ms. Weber.

Ms. WEBER. Mr. Speaker, I move that the House do now adjourn until Wednesday, July 9, 2003, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 3:30 p.m., e.d.t., the House adjourned.