

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, MAY 25, 2010

SESSION OF 2010 194TH OF THE GENERAL ASSEMBLY

No. 30

SENATE

TUESDAY, May 25, 2010

The Senate met at 1 p.m., Eastern Daylight Saving Time.

The PRESIDING OFFICER (Senator John C. Rafferty, Jr.) in the Chair.

PRAYER

The Chaplain, Reverend CHARLES McELROY, of Saint Mary Parish, Schwenksville, offered the following prayer:

Almighty God and Creator, we acknowledge and praise and thank You for Your wonderful gifts to us - this beautiful world, the heroic vision and leadership of our Founding Fathers, the great love and service of all the many people who follow Your guidelines and work tirelessly for life and liberty and individual rights. From the deep devotion of the signers of the Declaration of Independence and the writers of the Constitutions of our nation and our Commonwealth, to the commitment of everyday individuals who work to support family and nation, Your providence inspires and protects us all.

As we gather to continue to form and review laws to benefit the citizens of our Commonwealth, we ask Your continued help. Your great spirit offers, as gifts for our minds, wisdom, understanding, and knowledge; and gifts to empower our decisions - courage, counsel, reverence, and fear of the Lord. Help our legislators, and indeed all of our leaders who are entrusted with the welfare of Your people, that they may act and understand wisely.

We know that You have a special concern for the poor and the vulnerable. We are especially troubled that in our nation today, the lives of the unborn, the disabled, and the elderly are too often severely threatened. We are especially concerned that the institution of marriage, already buffeted by promiscuity, infidelity, and divorce, is in jeopardy of being redefined to accommodate fashionable ideologies. We are concerned that the freedom of religion and the rights of conscience are gravely jeopardized by those who would use instruments of coercion to compel persons of faith to compromise their deepest convictions. So please give us courage and wisdom--especially to our legislators--to protect life, marriage, family, and individual freedom.

As Pope John Paul reminds us, "...there can be no life worthy of the human person without a culture--and a legal system--that honors and defends marriage and the family." He goes on: "The well-being of individuals and communities depends on the healthy state of the family." So bless the minds and hearts of our Senators and all their staffs and aides and supporters. Inspire them, and continue to bring our Commonwealth to an even

greater effectiveness in governing Your people. You love us with a deep, fatherly love, and we, Your sons and daughters, look expectantly to You.

And so we pray. Baruch haba b'shem Adonai. In nomine Domini nostri Jesu Christi. Allahu Akbar. Amen.

The PRESIDING OFFICER. The Chair thanks Father McElroy, who is the guest today of Senator Mensch.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

BILLS REPORTED FROM COMMITTEES

Senator BAKER, from the Committee on Veterans Affairs and Emergency Preparedness, reported the following bills:

SB 384 (Pr. No. 382)

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, providing for the offense of violation of Fort Indiantown Gap regulations and providing for the powers and duties of police officers employed at State military installations.

HB 1789 (Pr. No. 3802) (Amended)

An Act amending the act of July 9, 1990 (P.L.340, No.78), known as the Public Safety Emergency Telephone Act, further providing for definitions and for Wireless E-911 Emergency Services Fund; imposing a prepaid wireless E-911 surcharge; and requiring a study of the Legislative Budget and Finance Committee.

Senator GREENLEAF, from the Committee on Judiciary, reported the following bills:

SB 1340 (Pr. No. 1916)

An Act amending Title 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, adding a definition; and providing for salary of corrections managers.

SB 1360 (Pr. No. 1999) (Amended)

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in adoption, further providing for hearing, for alternative procedure for relinquishment and for grounds for involuntary termination; providing for voluntary agreement for continuing contact; further providing for impounding of proceedings and access to records and for medical history information; providing for records and access to information; establishing an information registry; and making editorial changes.

HB 264 (Pr. No. 3801) (Amended)

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for expungement of criminal history record and for juvenile records; providing for expungement fee; and making an editorial change.

Senator McILHINNEY, from the Committee on State Government, reported the following bill:

HB 666 (Pr. No. 3796) (Amended)

An Act authorizing and directing the Department of General Services, with the approval of the Governor, to grant and convey to the Philadelphia Authority for Industrial Development interests in certain lands situate in the 39th Ward of the City of Philadelphia; and authorizing and directing the Department of General Services, with the approval of the Governor, to grant and convey to the Philadelphia Regional Port Authority certain lands situate in the 39th Ward of the City of Philadelphia.

Senator EICHELBERGER, from the Committee on Local Government, reported the following bills:

SB 1366 (Pr. No. 1983)

An Act amending the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code, further providing for sales of personal property.

SB 1367 (Pr. No. 1984)

An Act amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, further providing for general powers.

SB 1368 (Pr. No. 1985)

An Act amending the act of May 27, 1953 (P.L.244, No.34), entitled "An act relating to and regulating the contracts of incorporated towns and providing penalties," further providing for power to convey.

SB 1369 (Pr. No. 1986)

An Act amending the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code, further providing for suits and property.

RESOLUTIONS REPORTED FROM COMMITTEES

Senator BAKER, from the Committee on Veterans Affairs and Emergency Preparedness, reported the following resolutions:

SR 205 (Pr. No. 1505)

A Resolution urging Congress of the United States to restore the presumption of a service connection for Agent Orange exposure for veterans.

SR 287 (Pr. No. 1824)

A Resolution memorializing the Congress of the United States to designate the Honor and Remember Flag as a national emblem of ser-

vice and sacrifice by the brave men and women of the United States Armed Forces who have given their lives in the line of duty.

HR 403 (Pr. No. 2421)

A Concurrent Resolution relating to the presumption of a service connection for Agent Orange exposure for certain Navy and Air Force veterans and calling on the Congressional Delegation of the Commonwealth of Pennsylvania to fully support and fund passage of the Agent Orange Equity Act of 2009.

Senator GREENLEAF, from the Committee on Judiciary, reported the following resolution:

SR 344 (Pr. No. 1982)

A Resolution directing the Joint State Government Commission to establish a criminal justice advisory committee to study the issues raised by The Philadelphia Inquirer and any other relevant issues regarding the criminal justice system in Philadelphia to develop solutions for problems that are identified and to make a report to the Senate with recommendations.

Senator EICHELBERGER, from the Committee on Local Government, reported the following resolution:

SR 323 (Pr. No. 1942)

A Resolution directing the Joint State Government Commission to conduct a comprehensive study of the number and types of mandates placed upon Pennsylvania's local governments by the Commonwealth.

The PRESIDING OFFICER. The resolutions will be placed on the Calendar.

HOUSE MESSAGE

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 441**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDING OFFICER. Pursuant to Senate Rule XIV, section 6, this bill will be referred to the Committee on Rules and Executive Nominations.

LEGISLATIVE LEAVES

The PRESIDING OFFICER. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request legislative leaves for Senator Scarnati and Senator Piccola.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, I request a legislative leave for Senator Mellow.

The PRESIDING OFFICER. Senator Pileggi requests legislative leaves for Senator Scarnati and Senator Piccola.

Senator O'Pake requests a legislative leave for Senator Mellow.

Without objection, the leaves will be granted.

LEAVES OF ABSENCE

Senator PILEGGI asked and obtained a leave of absence for Senator ARGALL, for today's Session, for personal reasons.

Senator O'PAKE asked and obtained leaves of absence for Senator LEACH, Senator LOGAN, and Senator TARTAGLIONE, for today's Session, for personal reasons.

**SPECIAL ORDER OF BUSINESS
JOURNAL APPROVED**

The PRESIDING OFFICER. The Journal of the Session of April 13, 2010, is now in print.

The Clerk proceeded to read the Journal of the Session of April 13, 2010.

Senator PILEGGI. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

On the question,
Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

YEA-46

| | | | |
|--------------|------------|-----------|----------------|
| Alloway | Ferlo | O'Pake | Vance |
| Baker | Folmer | Orie | Vogel |
| Boscola | Fontana | Piccola | Ward |
| Browne | Gordner | Pileggi | Washington |
| Brubaker | Greenleaf | Pippy | Waugh |
| Corman | Hughes | Rafferty | White, Donald |
| Costa | Kasunic | Robbins | White, Mary Jo |
| Dinniman | Kitchen | Scarnati | Williams |
| Earll | McIlhinney | Smucker | Wozniak |
| Eichelberger | Mellow | Stack | Yaw |
| Erickson | Mensch | Stout | |
| Farnese | Musto | Tomlinson | |

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDING OFFICER. The Journal is approved.

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR JANE C. ORIE
PRESENTED TO THE SENATE**

The PRESIDING OFFICER. The Chair recognizes the gentleman from Allegheny, Senator Orie.

Senator ORIE. Mr. President, I rise to congratulate the North Allegheny Varsity Swimming and Diving Team. Mr. President, yesterday, members of the PIAA Class AAA champion North Allegheny Varsity Swimming and Diving Team were here visiting in the Capitol. Unfortunately, during their visit, they were called back, and the team did not have a chance to stop by to be greeted by the Senate. I felt that today would be a good day to acknowledge their tremendous achievement, their accomplishment. Again, these were back-to-back State championships for the North Allegheny Swimming and Diving Team, and I would like to specifically commend Corky Semler, the coach; Patti McClure; Robert Semanchik; and Patrick Wenzel for leading the

North Allegheny Tigers to back-to-back championships. And, Mr. President, of all people, I know how much you would have loved to have seen my guests, but unfortunately, they are not here today, and I just want to extend to them congratulations from this august body. So thank you, Mr. President.

The PRESIDING OFFICER. The Chair agrees, and the Chair thanks the gentlewoman from Allegheny County.

(Applause.)

**GUESTS OF SENATOR CHARLES McILHINNEY
PRESENTED TO THE SENATE**

The PRESIDING OFFICER. The Chair recognizes the gentleman from Bucks, Senator McIlhinney.

Senator McILHINNEY. Mr. President, it is my pleasure to introduce a constituent and personal friend of mine from Bucks County, Tina Mazaheri. She is joined by her niece, Monica Alfieri, who is a seventh grader at Holicong Middle School. Tina is a lifelong resident of Doylestown. She has been a lawyer for over 17 years, and she is secretary of the Doylestown Historical Society. In her spare time, Tina likes spending time with her children and nieces and nephews. Please join me in giving Tina and Monica a warm Senate welcome.

The PRESIDING OFFICER. Would the guests of Senator McIlhinney please rise so that the Senate may give you its usual warm welcome.

(Applause.)

**GUEST OF SENATOR LeANNA WASHINGTON
PRESENTED TO THE SENATE**

The PRESIDING OFFICER. The Chair recognizes the gentleman from Philadelphia, Senator Washington.

Senator WASHINGTON. Mr. President, my guest today is Micah Krey. He is graduating next month from Masterman High School, the most competitive public magnet high school in Philadelphia. Micah is an excellent baseball player and, just last week, was awarded First Team All-Public for his exceptional performance in that sport. Micah has excelled in the high school choir and is receiving a scholarship in vocal performance from Lenoir-Rhyne University in North Carolina, where he will begin undergraduate studies in the fall. Micah is the son of the Reverend Dr. Philip D.W. Krey, president of the Lutheran Theological Seminary in Philadelphia, and Rene Krey, who is the registrar at Lutheran Theological Seminary. I would like my colleagues to give Micah a very warm welcome as he shares today with me in the Pennsylvania State Senate.

The PRESIDING OFFICER. Would the guest of Senator Washington please rise so the Senate may give you its usual warm welcome.

(Applause.)

**GUESTS OF SENATOR ROBERT D. ROBBINS
PRESENTED TO THE SENATE**

The PRESIDING OFFICER. The Chair recognizes the gentleman from Mercer, Senator Robbins.

Senator ROBBINS. Mr. President, I have the honor of introducing Major Gary Fleming, who is the vice commander of the Pennsylvania Wing of the Civil Air Patrol. He is with us today along with many of the CAP young people who are visiting the

Capitol and, of course, many of the leaders in the senior Civil Air Patrol. So it is a great honor that Major Gary Fleming was able to join the legislature and the legislative auxiliary wing today.

The PRESIDING OFFICER. Would the guests of Senator Robbins please rise so the Senate may offer its traditional warm welcome.

(Applause.)

RECONSIDERATION OF VOTE

BILL RECOMMITTED

HB 48 (Pr. No. 3578) -- The PRESIDING OFFICER. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I move to reconsider the vote by which the Senate concurred in House amendments to Senate amendments to House Bill No. 48 on May 5, 2010.

The PRESIDING OFFICER. Senator Pileggi moves that the vote by which the Senate concurred in House amendments to Senate amendments to House Bill No. 48 on May 5, 2010, be reconsidered.

On the question,

Will the Senate agree to the motion?

A voice vote having been taken, the question was determined in the affirmative.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I move that House Bill No. 48 be recommitted to the Committee on Rules and Executive Nominations.

On the question,

Will the Senate agree to the motion?

A voice vote having been taken, the question was determined in the affirmative.

The PRESIDING OFFICER. House Bill No. 48 is recommitted to the Committee on Rules and Executive Nominations.

RECESS

The PRESIDING OFFICER. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request a recess of the Senate for purposes of a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room immediately, to be followed by a Republican caucus to be held in the Majority Caucus Room.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, after the meeting of the Committee on Rules and Executive Nominations, I ask all Democrats to report to our caucus room for a caucus.

The PRESIDING OFFICER. For purposes of a meeting of the Committee on Rules and Executive Nominations, to be followed by Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT (Lieutenant Governor Joseph B. Scarnati III) in the Chair.

The PRESIDENT. The time of recess having expired, the Senate will come to order.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Scarnati has returned, and his legislative leave is cancelled.

CALENDAR

BILL ON CONCURRENCE IN HOUSE AMENDMENTS

SENATE CONCURS IN HOUSE AMENDMENTS

SB 828 (Pr. No. 1924) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 23, 1945 (P.L.926, No.369), referred to as the Public Eating and Drinking Place Law, further providing for definitions; and providing for applicability.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 828?

Senator PILEGGI. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 828.

On the question,

Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

YEA-46

| | | | |
|--------------|------------|-----------|----------------|
| Alloway | Ferlo | O'Pake | Vance |
| Baker | Folmer | Orie | Vogel |
| Boscola | Fontana | Piccola | Ward |
| Browne | Gordner | Pileggi | Washington |
| Brubaker | Greenleaf | Pippy | Waugh |
| Corman | Hughes | Rafferty | White, Donald |
| Costa | Kasunic | Robbins | White, Mary Jo |
| Dinniman | Kitchen | Scarnati | Williams |
| Earll | McIlhinney | Smucker | Wozniak |
| Eichelberger | Mellow | Stack | Yaw |
| Erickson | Mensch | Stout | |
| Farnese | Musto | Tomlinson | |

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

LEAVE CANCELLED

The PRESIDENT. Senator Argall has returned, and his personal leave is cancelled.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 67 (Pr. No. 3792) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, defining "interactive wireless communications device"; further providing for junior driver's license and for suspension of operating privilege; prohibiting interactive wireless communications devices; and further providing for duty of driver in construction and maintenance areas or on highway safety corridors, for duty of driver in emergency response areas, for accident report forms, for department to compile, tabulate and analyze accident reports, for television equipment, for general requirements for other vehicles transporting school children and for restraint systems.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,

Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Rafferty.

Senator RAFFERTY. Mr. President, on House Bill No. 67, I am not pleased with the amendments that were added to the bill, but I do plan to vote for the bill. At least it does something for the Commonwealth of Pennsylvania, and I am hoping that our colleagues in the House of Representatives take a good look at it when it goes back to them.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Ferlo.

Senator FERLO. Mr. President, I share the comments just raised by my colleague, Senator Rafferty, but with all due respect, I will not be voting for this legislation. In fact, I hope and pray that the House will reject this legislation and send it back for further consideration.

First and foremost, I obviously am upset that we have transferred the urgency of making this a primary offense to a secondary offense, basically gutting the essence of what should be important reform legislation, as it affects youthful drivers who utilize cell phones and continue text messaging at great harm to themselves and to the public and to other motorists. The bill is fundamentally flawed because we have the opportunity to amend Title 75 of the Vehicle Code and to do it in a comprehensive fashion.

Several years ago, there was great debate, legitimately, among the population about whether or not there should be stricter controls over unfettered use of cell phones and text messaging. That debate has continued for the last few years, but thankfully and appropriately, there has been a lot more specific scientific and medical information in the last 3 years. There is significant information now, well-documented. Again, to try to expedite this, the fact of the matter is that what was much more controversial a few years ago has gained great acceptance among all elements of the

population of those who drive vehicles, and that is greater acceptance of the urgency and the need to have a text-messaging-while-driving ban and a ban on cell phone use that is not hands-free. And it should be uniform.

I could best describe this bill, House Bill No. 67, as amended, as a "do as I say, not as I do" piece of legislation. In effect, we are letting--and I will just give this as kind of a profile example, Mr. President--we have individuals who will be driving a car, such as an adult, a younger adult parent, an older grandparent, they may have two or three kids in the car, and they will be chatting away on the cell phone, or they may even be engaging in text messaging, while the younger people who are in that car are probably going to look very perplexed and confused about why they have been denied certain prerogatives, appropriately, yet parents and older individuals driving a car erratically and irresponsibly have no such condition or requirement under the law. It is just nonsensical. It does not make sense.

We have a bill that would be stronger, that has gained widespread acceptance among most drivers, be they private car vehicles or truck vehicles, and I see no reason whatsoever that we should in any way digress from doing a comprehensive rewrite of the Vehicle Code and once and for all ban text messaging by drivers in any vehicle, regardless of their age, across the board, as well as cell phone use, except for those cell phones that are not handheld. I think we should do that in a uniform way, so I am very upset with the initial passage of this bill, regardless of the offered amendments that were approved yesterday, and I hope that the House will take this matter up, reject this piece of legislation, and really push forward for a more comprehensive approach.

I will not reiterate all of the healthcare and traffic accident statistics. We all know them well. We have a chance. We have an opportunity. The timing is now to do a comprehensive bill. We are ignoring not only the public trust but our opportunity to do so, and engaging almost in a discriminatory fashion, only singling out young drivers, when really, there should be a comprehensive ban.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I, too, rise in support and intend to vote in favor today of House Bill No. 67. However, I want to join some of my colleagues in expressing my disappointment and my concern with respect to changes that were made to what I believe to be a very important piece of legislation. Changing the penalty from a primary offense to a secondary offense, I think, no doubt weakens the piece of legislation that we are talking about, particularly when we are looking at an issue of teen driving and distractions relative to teen drivers.

I think it is very important that we recognize that the primary offense nature is something that is very critical in terms of enforcement of this legislation. I find it ironic and somewhat nonsensical that while this legislation would provide that if a teen driver were not wearing a seatbelt, a police officer could witness that and pull that individual over and cite that person for a primary offense, yet if a police officer happens to see a junior driver driving and texting and talking on the phone at the same time, he would have a problem pulling that individual over, despite what he sees with respect to the type of driving that person is doing. It does not make sense to me.

I think it is something that needs to be addressed over in the House. My hope is, when this bill goes back to the House, that they have the opportunity to either nonconcur and address this discrepancy that I believe exists, but more importantly, I hope that they continue to hold the line with regard to making these offenses, these distracted driving offenses, primary offenses. I think that is what the people of Pennsylvania would want us to do. My concern is that if they do not do that, we will have a piece of legislation that will not accomplish this very, very important goal of protecting our teen drivers and also protecting the public.

There is a clear distinction in my mind between a primary offense which relates to using a seatbelt, which is utilized inside the vehicle itself and, quite frankly, protects the driver and the passengers in that vehicle, and a distracted driver, who not only impacts the person driving the vehicle but also those folks who may be driving on that roadway as well. There could be other cars coming, and it could be a distraction that impacts pedestrians. There are a lot of reasons why we should have consistency with respect to our laws as it relates to the primary offense nature of this type of activity. Texting and driving, in my opinion, Mr. President, should be a primary offense.

That being said, as I indicated, I intend to support the legislation because I think no legislation is worse than having a secondary offense teen driving bill. So I intend to support the legislation. My hope is that the House fixes it, makes it primary, gives it back to us, and we can come to our senses and support a primary offense.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Farnese.

Senator FARNESE. Mr. President, very briefly, I just want to echo the comments of my colleagues, specifically Senator Ferlo. I follow his very thoughtful and profound remarks in that we have a serious problem in the Commonwealth of Pennsylvania with texting while driving, whether it be with young people, with teenage drivers, or just across the board. We have to address it. I think we missed an opportunity to do that yesterday. I will be supporting the bill, but again, I join in with the comments made by Senator Costa in that I hope that when the bill gets back to the House, they do the right thing and shift the offense to a primary offense, because I believe not only should we talk about that in the scope of teenage drivers but across the board as well. Again, I will be supporting the bill today because I believe that any legislation is better than nothing at this point.

Thank you, Mr. President.

The PRESIDING OFFICER (Senator John C. Rafferty, Jr.) in the Chair.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Cambria, Senator Wozniak.

Senator WOZNIAK. Mr. President, I rise to support this bill. I put the secondary offense in there because I still believe that education, not the heavy hand of law, is the best way to get people to get off of cell phones and to stop texting in automobiles. Our compliance, once again, with the secondary offense with seatbelts is exemplary compared to other States - just as much,

if not more, as those that have primary offenses for seatbelt laws. Our intention, what we want to do here, is not to have the heavy hand of the law, not to have police officers taking all of their time out making sure people are wearing seatbelts, but to educate young people and adults that it is dangerous, it is a distraction, and it could ultimately be fatal to use your cell phone and text while you are driving.

As with any law, we have to have a punishment, but what we are attempting to do is to raise awareness out there. And to throw one caveat out there, a few years ago, we inserted language into a junior license where we prevented any child without a senior license from traveling after 11 o'clock at night. I did some research, Mr. President, and not one teenager has ever been arrested because they had a junior license and they were out after 11 o'clock at night. We have to realize there is another component to this, and that is enforcement. It is next to impossible to enforce this upon the thousands upon thousands upon thousands of drivers out there. The best way that we can improve safety in Pennsylvania is education, education, education, and not fine, fine, fine.

But I do support this legislation to raise the awareness that texting and talking are dangerous, they are distracting, and they could be fatal. It could be you. But just think about this, folks. It could be somebody else, and you caused it, and you will have to live with that for the rest of your life. Do not talk on the phone, do not text on the phone. Drive your car safely.

Thank you, Mr. President.

LEGISLATIVE LEAVE CANCELLED

The PRESIDING OFFICER. Senator Piccola has returned, and his legislative leave is cancelled.

And the question recurring,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-44

| | | | |
|----------|------------|----------|----------------|
| Alloway | Farnese | O'Pake | Tomlinson |
| Argall | Fontana | Orie | Vance |
| Baker | Gordner | Piccola | Vogel |
| Boscola | Greenleaf | Pileggi | Ward |
| Browne | Hughes | Pippy | Washington |
| Brubaker | Kasunic | Rafferty | Waugh |
| Corman | Kitchen | Robbins | White, Donald |
| Costa | McIlhinney | Scarnati | White, Mary Jo |
| Dinniman | Mellow | Smucker | Williams |
| Earll | Mensch | Stack | Wozniak |
| Erickson | Musto | Stout | Yaw |

NAY-3

| | | |
|--------------|-------|--------|
| Eichelberger | Ferlo | Folmer |
|--------------|-------|--------|

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

BILL OVER IN ORDER

HB 115 -- Without objection, the bill was passed over in its order at the request of Senator WAUGH.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 214 (Pr. No. 1951) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in other offenses, further providing for the offense of greyhound racing.

Considered the third time and agreed to, And the amendments made thereto having been printed as required by the Constitution,

On the question, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YE A-47

Table with 4 columns: Alloway, Farnese, Musto, Tomlinson, Argall, Ferlo, O'Pake, Vance, Baker, Folmer, Orié, Vogel, Boscola, Fontana, Piccola, Ward, Browne, Gordner, Pileggi, Washington, Brubaker, Greenleaf, Pippy, Waugh, Corman, Hughes, Rafferty, White, Donald, Costa, Kasunic, Robbins, White, Mary Jo, Dinniman, Kitchen, Scarnati, Williams, Earl, McIlhinney, Smucker, Wozniak, Eichelberger, Mellow, Stack, Yaw, Erickson, Mensch, Stout

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

SB 620 (Pr. No. 667) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 29, 1953 (P.L.304, No.66), known as the Vital Statistics Law of 1953, providing for certificate of birth resulting in stillbirth.

Considered the third time and agreed to,

On the question, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YE A-47

Table with 4 columns: Alloway, Farnese, Musto, Tomlinson, Argall, Ferlo, O'Pake, Vance, Baker, Folmer, Orié, Vogel, Boscola, Fontana, Piccola, Ward, Browne, Gordner, Pileggi, Washington, Brubaker, Greenleaf, Pippy, Waugh, Corman, Hughes, Rafferty, White, Donald, Costa, Kasunic, Robbins, White, Mary Jo, Dinniman, Kitchen, Scarnati, Williams, Earl, McIlhinney, Smucker, Wozniak, Eichelberger, Mellow, Stack, Yaw, Erickson, Mensch, Stout

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILL AMENDED AND LAID ON THE TABLE

SB 918 (Pr. No. 1952) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, consolidating and amending the Third Class County Assessment Board Law, The Fourth to Eighth Class and Selective County Assessment Law and provisions of The County Code relating to auxiliary board of assessment appeals and assessment of signs and sign structures; and making related repeals.

On the question, Will the Senate agree to the bill on third consideration? Senator COSTA offered the following amendment No. A7087:

Amend Bill, page 1, line 6, by inserting after "structures;": providing for municipal pensions in cities of the second class; Amend Bill, page 52, by inserting between lines 10 and 11: Section 2. Part VII of Title 53 is amended by adding a subpart to read:

SUBPART D EMPLOYMENT AND EMPLOYEES

Chapter

91. Municipal Pensions

CHAPTER 91 MUNICIPAL PENSIONS

Subchapter

A. (Reserved)

B. Cities of the Second Class

SUBCHAPTER A

(RESERVED)

SUBCHAPTER B

CITIES OF THE SECOND CLASS

Sec.

9111. Scope of subchapter.

9112. Deposits of certain proceeds.

9113. Timing of transfer of administration of pension system fund.

§ 9111. Scope of subchapter.

This subchapter shall apply to pensions in cities of the second class.

§ 9112. Deposits of certain proceeds.

Notwithstanding the provisions of section 902(a)(2) of the act of December 18, 1984 (P.L. 1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, in order to exercise the additional taxing authority granted under that section, net proceeds of the lease or sale of a city of a second class' parking au-

thority garages must be deposited as follows:

(1) into the city's municipal pension system fund; or
 (2) with the Pennsylvania Municipal Retirement System and credited to the city's account in the event the administration of the city's municipal pension system fund has been transferred to the Pennsylvania Municipal Retirement System under section 902(c) of the Municipal Pension Plan Funding Standard and Recovery Act, § 9113. Timing of transfer of administration of pension system fund.
Notwithstanding the provisions of section 902(c) of the Municipal Pension Plan Funding Standard and Recovery Act, if the administration of a city of the second class' municipal pension system fund is to be transferred to the Pennsylvania Municipal Retirement System under that section, the transfer shall be accomplished by October 30, 2011.

Amend Bill, page 52, line 11, by striking out "2" and inserting:
3

Amend Bill, page 52, line 28, by striking out "3" and inserting:
4

Amend Bill, page 53, line 4, by striking out "4" and inserting:
5

Amend Bill, page 53, line 22, by striking out "5" and inserting:
6

Amend Bill, page 54, line 17, by striking out "6" and inserting:
7

Amend Bill, page 54, line 17, by striking out "January 1, 2011." and inserting:
as follows:

(1) The addition of 53 Pa.C.S. Pt. VII Subpt. D shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect January 1, 2011.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Upon motion of Senator WAUGH, and agreed to by voice vote, the bill, as amended, was laid on the table.

SB 918 TAKEN FROM THE TABLE

Senator WAUGH. Mr. President, I move that Senate Bill No. 918, Printer's No. 2000, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.

The PRESIDING OFFICER. The bill will be placed on the Calendar.

BILL AMENDED

SB 1011 (Pr. No. 1953) -- The Senate proceeded to consideration of the bill, entitled:

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 certificates qualifying persons to teach and for kinds of State certificates; and providing for residency certificates.

On the question,

Will the Senate agree to the bill on third consideration?

PICCOLA AMENDMENT A7156

Senator PICCOLA offered the following amendment No. A7156:

Amend Bill, page 1, line 5, by inserting after "thereto," in school districts, further providing for State report card; providing for

value-added assessment system and for school report card; in certification of teachers,

Amend Bill, page 1, line 7, by striking out "and providing for residency certificates" and inserting:
providing for postbaccalaureate certification; further providing for disqualifications relating to teacher's certificate; in school health services, providing for medical examinations of teachers and other persons; and, in education empowerment, further providing for boards of control in certain school districts and for expiration

Amend Bill, page 1, lines 10 through 13, by striking out all of said lines and inserting:

Section 1. Section 220(a)(2) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended July 7, 2006 (P.L.611, No.94), is amended to read:

Section 220. State Report Card.--(a) The department shall create a State Report Card based on the information collected pursuant to this section. The department:

(2) Shall publish on its World Wide Web site the State Report Card, providing information at the State, local education agency and school levels. The State Report Card shall include all of the following:

(I) Information regarding the number of schools and school districts that have achieved adequate yearly progress and the number of schools and school districts that have not achieved adequate yearly progress.

(ii) Information regarding the number of schools and school districts that have achieved each academic performance target and the number of schools and school districts that have not achieved each academic performance target.

(iii) Information regarding the number of schools and school districts in which more than five percent (5%) of the students to whom the PSSA test was administered were enrolled in the school district for less than two (2) school years as of the day on which the PSSA test was administered.

(iv) Information regarding the number of schools and school districts identified under subparagraph (iii) that have achieved each academic performance target and the number of schools and school districts that have not achieved each academic performance target. For the purposes of this subparagraph, achievement of the academic performance target shall be calculated by excluding the PSSA test score of any student who was enrolled in the school district for less than two (2) school years as of the day on which the PSSA test was administered.

(v) Information regarding the number of schools and school districts in which more than five percent (5%) of the students to whom the PSSA test was administered were classified as limited English proficient as of the day on which the PSSA test was administered.

(vi) Information regarding the number of schools and school districts identified under subparagraph (v) that have achieved each academic performance target and the number of schools and school districts that have not achieved each academic performance target. For the purposes of this subparagraph, achievement of the academic performance target shall be calculated by excluding the PSSA test score of any student who was classified as limited English proficient as of the day on which the PSSA test was administered.

(vii) Information regarding the number of schools and school districts in which more than sixteen percent (16%) of the students to whom the PSSA test was administered were classified as students with a disability as of the day on which the PSSA test was administered.

(viii) Information regarding the number of schools and school districts identified under subparagraph (vii) that have achieved each academic performance target and the number of schools and school districts that have not achieved each academic performance target. For the purposes of this subparagraph, achievement of the academic performance target shall be calculated by excluding the PSSA test score of any student who was classified as a student with a disability as of the day on which the PSSA test was administered.

(ix) A list of the schools, including public elementary and secondary schools, charter schools, cyber charter schools and area vocational-technical schools, that scored in the lowest measured group of five percent (5%) in either math or reading on the most recent Pennsylvania System of School Assessment test or any other test established by the State Board of Education to meet the requirements of section 2603-B(d)(10)(I) pursuant to 22 Pa. Code § 403.3 (relating to single accountability system). With the exception of cyber charter schools, the list

shall exclude all schools that are part of or located within a school district of the first class.

Section 2. The act is amended by adding sections to read:

Section 221. Value-added Assessment System.--(a) Beginning on the effective date of this section, the Department of Education shall make available on its publicly accessible Internet website the following:

(1) Value-added assessment system data for the school district level and the school level. The Department of Education's disclosure of value-added assessment system data shall be subject to the Family Educational Rights and Privacy Act of 1974 (Public Law 90-247, 20 U.S.C. § 1232g) or a successor Federal statute.

(2) Instructions that may assist the public in understanding and interpreting the data provided under paragraph (1).

(b) For purposes of this section:

"Value-added assessment system" shall mean a statistical analysis of results on the Pennsylvania System of School Assessment test or any other test established by the State Board of Education to meet the requirements of section 2603-B(d)(10)(I) pursuant to 22 Pa. Code § 403.3 (relating to single accountability system) that uses measures of student learning to enable the estimation of school or school district statistical distributions.

Section 222. School Report Card.--(a) Within thirty (30) days after being identified by the Department of Education under section 220(a)(2)(ix) as scoring in the lowest measured five percent (5%) in math or reading on the most recent Pennsylvania System of School Assessment test or any other test established by the State Board of Education to meet the requirements of section 2603-B(d)(10)(I) pursuant to 22 Pa. Code § 403.3 (relating to single accountability system), the governing body of the school shall post a school report card on the school's or school district's publicly accessible Internet website. The governing body of the school shall provide a paper copy of the school report card to any resident of the school district upon request. The governing body may comply with this section by including the information required under subsection (b) in a report card distributed in compliance with the No Child Left Behind Act or its successor Federal statute.

(b) The Department of Education shall establish guidelines for the contents of the school report card, which shall include:

(1) Subject to the Family Educational Rights and Privacy Act of 1974 (Public Law 90-247, 20 U.S.C. § 1232g) or a successor Federal statute, all value-added assessment system data generated for the school district and the school.

(2) A statement that the school scored in the lowest measured five percent (5%) in either math or reading on the most recent Pennsylvania System of School Assessment test or any other test established by the State Board of Education to meet the requirements of section 2603-B(d)(10)(I) pursuant to 22 Pa. Code § 403.3.

(3) Notification of the following:

(i) That a student attending the school may transfer to another school of the student's grade level within the school district upon the request of a parent, consistent with provisions of the No Child Left Behind Act (Public Law 107-110, 115 Stat. 1425) or its successor Federal statute related to intradistrict transfers.

(ii) Whether there are other schools of the student's grade level within the school district. If there are other schools of the student's grade level within the school district, the school report card shall include:

(A) A list of other schools of the student's grade level within the school district.

(B) For each school listed under clause (A), the information required under paragraph (1).

(iii) Instructions for exercising the student's option to transfer to a school listed under subparagraph (ii)(A), consistent with provisions of the No Child Left Behind Act or its successor Federal statute related to intradistrict transfers.

(4) Instructions for interpreting the information required to be provided under subsection (b)(1).

(5) Contact information for a school employe to whom parents may direct questions concerning the school report card.

Section 3. Section 1201 of the act, amended January 14, 1970 (1969 P.L.468, No.192), is amended to read:

Amend Bill, page 2, line 13, by striking out "2" and inserting:

4

Amend Bill, page 2, line 23, by striking out the underscored period

after "Certificates" and inserting an underscored comma

Amend Bill, page 2, by inserting between lines 23 and 24:

Intern Certificates.

Amend Bill, page 3, line 25, by striking out "3" and inserting:

5

Amend Bill, page 7, line 26, by inserting after "(d)":

(1)

Amend Bill, page 7, line 29, by striking out "(1)"

Amend Bill, page 7, line 29, by inserting after "(1)":

(1)

Amend Bill, page 8, line 1, by striking out "(2)" and inserting:

(ii)

Amend Bill, page 8, line 3, by striking out "(3)" and inserting:

(iii)

Amend Bill, page 8, line 5, by striking out "(4)" and inserting:

(iv)

Amend Bill, page 8, by inserting between lines 10 and 11:

(2) The Secretary of Education may adopt standards and guidelines as necessary to implement this section.

Amend Bill, page 8, line 18, by striking out all of said line and inserting:

Section 6. Section 1209 of the act, amended April 15, 1959 (P.L.41, No.16) and June 24, 1959 (P.L.485, No.110), is amended to read:

Section 1209. Disqualifications.--No teacher's certificate shall be granted to any person who [has]:

(1) Has not submitted, upon a blank furnished by the [Superintendent of Public Instruction] Secretary of Education, a certificate from a physician [legally qualified to practice medicine], certified registered nurse practitioner or physician assistant licensed or certified in this Commonwealth, or in any other state or the District of Columbia, setting forth that [said] the applicant is [neither mentally nor physically disqualified, by reason of tuberculosis or any other communicable disease or by reason of mental disorder] not disqualified by reason of a mental or physical disability or a communicable disease from the successful performance of the [duties of a teacher; nor to any person who has not] essential functions of a teacher with or without a reasonable accommodation.

(2) Does not have a good moral character[, or who is].

(3) [in the habit of using opium or other narcotic drugs in any form, or any intoxicating drink as a beverage, or to any applicant who has a major physical disability or defect unless such a person submits a certificate signed by an official of the college or university from which he was graduated or of an appropriate rehabilitation agency, certifying that in the opinion of such official the applicant, by his work and activities, demonstrated that he is sufficiently adjusted, trained and motivated to perform the duties of a teacher, notwithstanding his impediment.] Engages in the illegal use of controlled substances or alcoholic beverages. An applicant for certification may overcome the disqualification under this paragraph and receive a teaching certificate if the applicant is reviewed by the Department of Education pursuant to the requirement of paragraph (2) and determined to be of good moral character.

Section 7. Section 1418(d) of the act, amended July 14, 1971 (P.L.229, No.47), is amended to read:

Section 1418. Medical Examinations of Teachers and Other Persons.--***

(d) Medical examinations shall be made by the school physician of the district if provision therefor is made by the district or joint school board or by a physician, certified registered nurse practitioner or physician assistant of the employe's own choice [legally qualified to practice medicine and surgery or osteopathy or osteopathic surgery in the] licensed or certified in this Commonwealth.

Section 8. Section 1707-B of the act, amended November 22, 2000 (P.L.672, No.91) and July 20, 2007 (P.L.278, No.45), is amended to read:

Section 1707-B. Boards of Control for Certain School Districts.--(a) The General Assembly finds and declares as follows:

(1) In addition to the operation of failing school districts by a state, other jurisdictions across the nation are utilizing other models to reform failing urban school districts in which the chief executive of the city government is empowered to control the governance of the public schools serving the city. For example, Chicago has implemented a reform model operated by the mayor.

