NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 29, 2002

11:18 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: With us this morning to give the invocation is the Reverend Peter G. Young, from Blessed Sacrament Church in Bolton Landing, New York.

REVEREND YOUNG: Let us pray.

As we gather in the chamber, let us remember all of our Senators so that they will guide our government for a just and caring society.

May God strengthen them, lead them, and give them wisdom and understanding as they work for the good of all of our New York State citizens.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate,

Monday, January 28, the Senate met pursuant to adjournment. The Journal of Sunday, January 27, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Local Governments Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Local Governments Committee in the Majority Conference Room.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Kuhl, from the Committee on Education, reports the following bills:

Senate Print 833, by Senator Morahan, an act to amend the Education Law;

1785, by Senator Kuhl, an act to amend the Education Law;

3061, by Senator Kuhl, an act to amend the Education Law; and

5485, by Senator Kuhl, an act in relation to authorizing.

THE PRESIDENT: Without objection, all bills reported direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

On behalf of Senator Balboni, I move the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Number 2072, Senate Number 5321A, Senate Number 5646.

THE PRESIDENT: So ordered, Senator.

SENATOR MARCELLINO: On behalf of

Senator Johnson, I move the following bill be discharged from its committee and be recommitted with instructions to strike the enacting clause. And that's Senate Bill Number 5065.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: On behalf of Senator Volker, I move the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause. That's Senate Print Number 3313.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: Madam President, on behalf of Senator Volker, on page number 9 I offer the following amendments to Calendar Number 81, Senate Print Number 5313, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received, Senator, and the bill will retain its place on the Third Reading Calendar.

SENATOR MARCELLINO: Madam President, on behalf of Senator Wright, on

page number 7 I offer the following amendments to Calendar Number 58, Senate Print Number 5709A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR MARCELLINO: Thank you, Madam President.

THE PRESIDENT: You're welcome.

Senator Skelos.

SENATOR SKELOS: Madam President, may we please adopt the Resolution Calendar, with the exception of Resolution 3859.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, with the exception of Resolution 3859, please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President,

may we please have the title read on Resolution 3859 and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Padavan, Legislative Resolution Number 3859, memorializing Governor George E. Pataki to proclaim February 4 through 8, 2002, as National School Counseling Week in the State of New York.

THE PRESIDENT: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, Senator Padavan would like to open up the resolution for cosponsorship. With the consent of the Minority, we can put everybody on the resolution. And if anybody wishes not

to be on the resolution, they should notify the desk.

THE PRESIDENT: The resolution is opened for cosponsorship. And if you do not wish to be a cosponsor, please so notify the desk.

SENATOR DOLLINGER: Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If we could have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 26, by Senator LaValle, Senate Print 2589, an act to amend Chapter 554 of the Laws of 1996.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 85, by Senator Fuschillo, Senate Print 5476A

SENATOR HEVESI: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 86, by Senator Saland, Senate Print 6120, an act to amend the Vehicle and Traffic Law, in relation to suspension of certain driver's licenses.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 90, by Senator Maltese, Senate Print 1854, an act to amend the Vehicle and Traffic Law, in relation to increasing the penalty for obstructing access.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of

November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 93, by Senator Johnson, Senate Print 6264, an act to amend the Vehicle and Traffic Law, in relation to implementing.

SENATOR DOLLINGER: Would you lay that aside, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

THE PRESIDENT: All those in favor of accepting the message of necessity please say aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message of

necessity is accepted.

And the bill is laid aside at the request of Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

THE PRESIDENT: Senator Skelos, that completes the reading of the noncontroversial calendar.

SENATOR SKELOS: Madam President, if we could go to the controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 85, by Senator Fuschillo, Senate Print 5476A, an act to amend the Vehicle and Traffic Law and the Penal Law, in relation to enacting the DWI Omnibus Act of 2002.

SENATOR HEVESI: Explanation.

THE PRESIDENT: Senator Fuschillo, an explanation has been requested.

SENATOR FUSCHILLO: Thank you, Madam President.

This bill had passed the house last year and is probably one of the most comprehensive DWI bills that we've done in

many years. It lowers the blood alcohol level to .08. It institutes mandatory jail terms or community service for repeat offenders. It also provides for stricter fines. It relates to license revocations, deals with unlawfully dealing with a child in the first degree.

New York State has made significant strides over the years. In fact, since 1982 the DWI fatalities have decreased by approximately 34 percent. But last year 1999, to compare it to the year 199 -- to compare it to the year 2000, the fatalities with respect to DWIs unfortunately have increased. And in 2000, 419 alcohol-related fatalities were in New York State.

Throughout the nation, states are making great strides by lowering the blood alcohol level to .08. If enacted, New York State would be the 31st state. By enacting this legislation, we will conform with the federal requirements in lowering the blood alcohol to .08, and also the federal requirement of the ISTEA Restoration Act.

By failing to enact this legislation, New York State would be subjected

to losing approximately $13 million in 2003. It increases as time goes on.

SENATOR HEVESI: Madam President.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President. Would the sponsor please yield?

SENATOR FUSCHILLO: Yes.

THE PRESIDENT: Senator Fuschillo yields.

Senator Skelos.

Excuse me, Senator Hevesi.

SENATOR SKELOS: Pardon me for a minute.

There will be an immediate meeting of the Cities Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Cities Committee in the Majority Conference Room.

Senator Hevesi, you have a question? You may proceed.

SENATOR HEVESI: Yes, thank you, Madam President.

My question to the sponsor is which specific components of this bill, or do all of

them, constitute the requirement under the federal guidelines that would obviate the need to forfeit the money? Is it every particular piece of this bill, or is it just the reduction in the blood alcohol level?

SENATOR FUSCHILLO: There's two requirements. One is for repeat offenders, which the bill addresses. And one is for .08. So together it addresses both of them.

SENATOR HEVESI: Madam President, would the sponsor continue to yield?

THE PRESIDENT: Senator Fuschillo, do you yield for a question?

SENATOR FUSCHILLO: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR HEVESI: Thank you, Madam President.

We passed this legislation last year. I supported this legislation last year, and I'm going to support it again this year. My concern, however, is that my understanding -- and the sponsor can correct me if I'm wrong -- is that this legislation could conceivably wait to be enacted until

late next year before we would forfeit any of the money.

And I'm concerned, as a result, that since we passed it last year and it didn't pass in the other house and become law, that there may be some reason why it didn't pass in the other house.

And I guess my question to the sponsor is two parts. One, is it true that we do in fact not forfeit any money unless this is enacted by October of next year, or is there a graded time period?

And the second component of it: Is there some obstacle contained within this that is preventing its passage into law?

SENATOR FUSCHILLO: Madam President, through you.

To answer the first part of your question, you're correct. We would not forfeit, lose any funds if it's not enacted by October.

One of the things, Senator Hevesi, that has come to me is that the Assembly was reluctant on passing the legislation that it increased fines and mandatory jail sentences

in going after the repeat offenders.

Now, if you look at the trend in the last ten years in the state and throughout the country, 55 percent of those who have been arrested have had prior convictions.

I don't want to make it a fiscal issue, and it shouldn't be a fiscal issue. And I appreciate the support that you've given on this.

SENATOR HEVESI: Madam President, would the sponsor continue to yield?

THE PRESIDENT: Senator Fuschillo, do you yield?

SENATOR FUSCHILLO: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR HEVESI: I just want to understand correctly. One of the issues that you think is an obstacle to passage in the Assembly is the mandatory jail time. I believe that that is one of the criteria that you stated that the federal government will require of us. Is that accurate?

SENATOR FUSCHILLO: Or community service.

But it's not just that, Senator Hevesi, that the Assembly has taken an issue with. They have just taken an issue with going after repeat offenders. They were pushing primarily just passing .08.

And I believe, if you look at the stats, as I just mentioned, we should combat the problem by going after the repeat offenders and also lowering the blood alcohol level to .08.

SENATOR HEVESI: Thank you. Madam President, on the bill.

THE PRESIDENT: You may proceed, Senator.

SENATOR HEVESI: Thank you. There are a couple of points I want to make here.

The first is I very much appreciate the sponsor's efforts in this area. This is an important move that we should have made a number of years ago.

Unfortunately, as is often the case here in New York, we don't make public policy decisions, even though they're prudent sometimes, until we are forced to do it. And

I would suggest that we're going to do this because of the forfeiture of funds that would come along with not doing this.

Having said that, while I respect the Assembly's position in terms of their concerns with jail sentences, that's not a concern that I share. But I do believe that they do have a concern, which in committee yesterday my colleague Senator Hassell-Thompson mentioned, which was that none of these bills -- specifically, the one we're talking about today -- provide mandatory treatment and the requisite funding to ensure that you are able to take individuals who have been convicted of DWI offenses and ensure that they are treated.

And we have all kinds of statistics, and I've spoken on the floor of this house many times about this, that if you provide funding for mandatory treatment and impose a mandatory treatment requirement, you will greatly diminish the recidivism rate of those individuals who are predisposed, for whatever reason, be it that they are alcoholics or that they are just unethical

individuals who don't worry about the risks to themselves or to others and therefore compromise their lives and the lives of others on the road.

But we know for a fact that if you treat these people, that they are going to reoffend less often.

And so while this is a good bill and we need to pass it and I very much hope that the Assembly can look past that particular deficiency in this bill, which I'm looking past by voting yes for this, that they will in fact go ahead and pass the bill and that we will, as a whole Legislature, take up this issue of treatment.

Because in Senator McGee's committee so often we see pieces of legislation that are good bills that I vote for, that many members on that committee vote for, and that both sides of the aisle support, but don't have the treatment component in it, which is penny-wise and pound-foolish.

Because the latest stats show that it costs $32,000 a year to incarcerate somebody, $18,000 a year to treat them. And

if you spend less money to treat them, you are more likely to incarcerate them in the future at a higher price.

So I support this legislation and commend the sponsor for bringing it.

Thank you, Madam President.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, thank you.

And, Senator Hevesi, thank you for your support. What you said is the most important part of this, to keep them off the street and help them.

But there is a provision that as a part of sentencing the DWI offenders, they must undergo an alcohol or drug dependency assessment which will allow the judicial system to place them if need be.

You know, as somebody who ran a nonprofit agency before I got elected to the Senate, and ran the alternative to incarceration programs and alcohol and drug dependency programs, I couldn't agree with you more. One of the most successful programs we

ran at the agency was TASC, Treatment Alternative to Street Crime, which did exactly what you are saying, lowered the cost to the state, kept them out of jail and gave them opportunity for a better life to get off of drugs or alcohol.

But there is an assessment provision in the bill.

Thank you.

THE PRESIDENT: Senator Dollinger.

Excuse me, Senator Skelos first. Thank you, Senator Dollinger.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room.

Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield to a question?

THE PRESIDENT: Senator Fuschillo, do you yield?

SENATOR FUSCHILLO: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: Senator, in reading this bill -- I think I've voted for this in the past, and I'm going to vote for it again. But I have two questions on the text of the bill.

On page 12 of the bill we establish a new offense of aggravated driving while intoxicated. And I note that in this bill, Senator, you have been very careful to make the enhanced penalty provisions apply not only to the driving of a motor vehicle but to the operation of a boat.

And my question is, is it your intention to take this aggravated driving while intoxicated, which only refers to a motor vehicle, and make that applicable to those who operate a boat with a blood alcohol content of higher than .20?

SENATOR FUSCHILLO: Yes.

SENATOR DOLLINGER: But my concern is, Senator, it doesn't actually say that. It says "operating a motor vehicle," and it doesn't make a reference. Is there a prior reference to "motor vehicle" that would make this apply to both the operation of an automobile and a boat?

The reason why I ask, Senator, is that this amends a portion of the Vehicle and Traffic Law. And I think in every other case in the bill where you talk about lowering the blood alcohol content and making other provisions, you also refer to the Navigation Law, which is the provision that includes boats.

SENATOR FUSCHILLO: Right. I believe it is mentioned in here, I just don't have the section it is.

And if it's not, Senator, I can assure you during negotiations it will be.

SENATOR DOLLINGER: Okay.

Secondly -- through you, Madam President, if Senator Fuschillo will yield to one other question about the text of the bill.

THE PRESIDENT: Senator

Fuschillo, do you yield for a question?

SENATOR FUSCHILLO: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: Also on page 12, the new provision that we're including about the original record of the chemical test to be included as part of the accusatory instrument, we are relieving the requirement that it be certified, that it be sworn to, the authenticity of the test.

Why are we relieving that provision? That's part of the requirement that in charging someone with a felony or with a class A misdemeanor, that the test actually be certified, that someone swear to the authenticity of the test.

SENATOR FUSCHILLO: And I remember, Richard, I think you asked me this -- Senator Dollinger, you asked me this question last year. And I think it's -- and I believe my answer was for streamlining the procedure and to try to deal with it in an expeditious manner.

SENATOR DOLLINGER: Okay. Through you, Madam President, just briefly on the bill.

I appreciate Senator Fuschillo's continuing clarification. I think I did raise that issue last year about -- and my concern is, Madam President, that generally in the indictment for a felony or in the prosecution of a Class A misdemeanor, we require the government to certify the test results, that the test results -- there's a simple certification and it says: You've conducted the test properly.

The results are administered, there's a chain of evidence and a chain of control of the test results that would meet a simple verification by someone in authority that these -- that the fundamental foundation for the admission of this test has been established.

I think that's a good provision. And I'm concerned about relieving the government and relieving the prosecution from the obligation of certifying that the test was performed accurately as a predicate to a

charge either for a Class A misdemeanor or a felony.

Nonetheless, Madam President, I'm going to vote in favor of this bill. I think the concept of lowering the blood alcohol requirement is a good one. And I think it will continue, as Senator Fuschillo has well articulated, the trend in New York to drive down the number of deaths and unfortunate mishaps, accidents, and senseless loss of life and pain and suffering that occurs because of excessive drunken driving and operation of other vehicles as well.

I do hope, however, Senator Fuschillo, that when this bill passes the Senate, as I think it will, that we do get to a conference committee. This is just the type of bill to put into a conference committee. We have done it before with Vehicle and Traffic Law issues -- I know right from the start your predecessor, Senator Levy, when we did the 65 mile-an-hour bill.

It seems to me that this is just the kind of thing we ought to take to the Assembly and that we should not only bring

ourselves in compliance for federal purposes but, quite frankly, send a clear message that whether you live in New York or come here as our guest, you're going to comply with a very stringent restriction on driving while intoxicated.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 36. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 86, by Senator Saland, Senate Print 6120, an act to amend the Vehicle and Traffic Law, in relation to suspension of certain driver's licenses.

SENATOR DOLLINGER: Explanation, please.

THE PRESIDENT: Senator Saland, an explanation has been requested.

SENATOR SALAND: Thank you, Madam President.

This bill is a bill which arises from a set of very unfortunate -- in fact, tragic -- circumstances that occurred within my district.

There was a young man who was a passenger in a vehicle shortly after the turn of the New Year, New Year's Day, early morning hours, a car being driven by another young man, a friend of his. Both of these young people were 17 years old. There were a couple of other passengers in the car. And the driver of that car was involved in an automobile accident in which the passenger, Sean French, was killed.

A second passenger, badly injured, I believe has been recently discharged from the hospital, paralyzed, at least in part.

And the driver of the vehicle, a young man who was also 17, was previously arrested less than three weeks prior to this incident for driving while ability-impaired.

And at that time he was permitted, as the law provided, to continue driving.

And in response to the fact that this junior-licensed driver was in fact somebody who was a high-risk driver, given his history less than three weeks previously, and in response to conversations with the family of young Sean French, we have drafted this legislation to accomplish, hopefully, three things.

The first would be that if a junior-licensed driver is charged with driving while ability-impaired, his or her license would be suspended virtually immediately, upon first appearance, in conjunction with arraignment. That were the vehicle that he or she was driving to be registered in his or her name, the registration would similarly be suspended.

And there would be a duty imposed upon the court to make a reasonable effort to notify the parents of the fact that the driver of the vehicle -- their child, the parent or guardian -- had in fact been driving under the influence or while ability-impaired and that

their registration had been suspended, as had their license.

This is an effort to deal with not merely the tragedy -- we obviously can't that has since occurred, but this is an effort to try and learn from the horrific experiences that the Frenches have endured, to try and create some type of a mechanism that will take higher-risk young drivers who disproportionately are involved in fatal automobile accidents, and in accidents, to try and craft some way by which we can limit the likelihood of these terrible human tragedies occurring.

The French family full well knows that it's obviously beyond their ability to do anything that will in any way enable them to recover the horrible loss that they've experienced, and they are hopeful that this will provide a mechanism that may spare other parents the absolutely anguishing and horrific tragedy that they have been forced to endure and are still far from recovering from.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Senator Oppenheimer.

SENATOR OPPENHEIMER: Is this the graduated driver's license bill, Madam President?

THE PRESIDENT: Senator Saland, will you yield for a question?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed with your question, Senator Oppenheimer.

SENATOR OPPENHEIMER: Actually, I was just questioning, because I was out of the room, if this is the graduated driver's license bill.

SENATOR SALAND: No, this is not, Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you very much.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

I'm going to vote no on this. My concern has to do with the removal of the registration for a vehicle and the negative impact that could have on an entire family.

In some cases there is only one car for an entire family, and removing the registration would make it difficult if not impossible for other members of the family to get to work or to get rides to school.

I certainly agree that we have to be very strict and stern, in fact harsh, on the issue of drunken driving. However, I don't think that a whole family should be at risk of being punished for a terrible and dangerous mistake made by one member of the family.

So I'll be voting no on this bill, Madam President.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator

Duane.

The Secretary will announce the results.

THE SECRETARY: Ayes, 54. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 93, by Senator Johnson, Senate Print 6264, an act to amend the Vehicle and Traffic Law, in relation to implementing.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Thank you, Madam President.

This bill has been designed to deal with the untimely deaths of young people. The principal cause of death of teenagers in this state -- and indeed in the nation -- is automobile crashes. Those crashes are usually -- the cars are driven by teenagers, and usually those who die in the cars are teenagers.

And it's really because they get their license at a young age, they don't have sufficient experience before they get a license and are turned loose on the highway.

This bill will provide that everyone with a permit must have six months' experience before they can take the test and get their junior license. And of course it limits, even when they have a junior license, the number of passengers in the car, thereby seeking to limit not only the number of accidents, because they have more experience, but the number of passengers in the car itself at the time of the accident.

There are many other provisions in this law, but let's just say that to save the lives of our young people and make them safer and better drivers and give them a little more experience before they're turned loose on the road, this bill has been designed.

And they will be able to get their junior license only after six months' experience on a permit, and they'll only be able to get their senior license at age 18.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. Would the sponsor yield, please?

THE PRESIDENT: Senator Johnson, will you yield for a question?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: The statistics that say that the greatest cause of death for young people is driving accidents, I'm just wondering where those statistics are from.

SENATOR JOHNSON: Senator, are you asking me where the statistics came from? That's background material gathered by my staff.

SENATOR DUANE: And through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Johnson, will you yield for a question?

SENATOR JOHNSON: Yes.

THE PRESIDENT: Excuse me, Senator Duane.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Corporations, Authorities and Commissions Committee.

THE PRESIDENT: There will be an immediate meeting of the Corporations, Authorities and Commissions Committee, I assume in the Majority Conference Room.

Senator Duane, you may proceed with your question.

SENATOR DUANE: Thank you, Madam President.

I'm just wondering if the Senator could be slightly more specific about what those studies are.

SENATOR JOHNSON: Yes, I can, Senator. My staff informs me it's the National Highway Traffic Safety Administration which gave us those figures.

SENATOR DUANE: Thank you. And, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes, Madam

President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm wondering if the sponsor knows what the second-highest statistic of people dying by accidents is, and how does that compare to the young people statistic.

SENATOR JOHNSON: No, I cannot, Senator, because I didn't research that -- oh, let me see.

My trusty staff has it. What do you have here?

SENATOR DUANE: And more specifically, Madam President, the age group.

SENATOR JOHNSON: I don't think so. No, Senator, we don't have a list of all the causes of teenage deaths in our country or in our state. We don't have that available.

SENATOR DUANE: Madam President, just a clarification. What I meant to ask was what age group is second in terms of the number of accidents.

SENATOR JOHNSON: Well, Senator, up to age 25 there are more crashes and deaths

in automobiles than there are over 25. That's the next category. Up to 19 and up to 25.

And among adults, automobile accidents and deaths have gone down quite a lot over the past ten years, because of safer roads, safer cars, and more experience, perhaps. But among teenagers, they've doubled. So that's why we really have to deal with this issue now.

SENATOR DUANE: Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane, with a question.

SENATOR DUANE: Does that mean that drivers between the ages of 16 and 21 have double the number of deadly accidents than those between 21 and 25?

SENATOR JOHNSON: All right. With your permission, I would like to read you some figures here.

They're not applicable. We don't

have the figures here between 21 and 25, but -- I don't have the list of all the statistics.

We're dealing with this group of people who are not permitted to have a senior license. Above 18, they have a senior license, and we don't have all those figures. But we know they are much greater than they are for people over 25. I'd say perhaps up to 18 is twice as much as 18 to 25.

I've seen figures in the past, but I don't have them here before me.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Johnson, will you yield for another question?

SENATOR JOHNSON: Yes, Senator.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I'm wondering if the sponsor is familiar with the statistics which show that, in addition to alcohol being at issue, so too

is the issue of having more than one teenager in the car, and if he's aware of a correlation between the number of accidents, even without alcohol being involved, and the number of other teenagers in the car.

My point being maybe one of the bans should have to do with the number of passengers and their ages in the car as opposed to just grading it by age.

Actually, Madam President, I'm going to withdraw that question, because I see it's actually -- it is spoken of in the bill. I'm sorry about that.

THE PRESIDENT: Do you have an additional question?

SENATOR DUANE: I'm just wondering what other states have implemented this system.

THE PRESIDENT: Senator, do you yield for an additional question?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: Would you mind repeating your question, Senator?

SENATOR DUANE: Thank you, Madam

President.

I'm just curious whether any other states have implemented this system.

SENATOR JOHNSON: Yes, they have. Forty-three states have implemented this, and they've had decreases in accidents and deaths from 5 percent to 57 percent, over a various range of states.

SENATOR DUANE: Thank you, Madam President.

I do have one final question which I think -- I'm not sure -- I guess it goes to the sponsor. But I'm just wondering why there's a message of necessity attached to this bill.

THE PRESIDENT: Senator, the question -- do you yield for this question?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: Could you repeat the question, Senator Duane?

SENATOR DUANE: Thank you, Madam President.

I'm wondering why there's a message of necessity attached to this bill today.

SENATOR JOHNSON: Yes, there is. There is a message.

Why is there a message of necessity? Because we desire to do the bill today, and that was required in order to have it on the floor.

SENATOR DUANE: Well, through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Why is it important that we do this bill today instead of maybe next week? Why is it so urgently needed that we pass it today? Because I don't think the Assembly -- I don't think this is an agreed-upon bill with the Assembly.

SENATOR JOHNSON: Senator, I don't know if you get the newspapers we get in the suburban areas, in upstate. But every weekend we see stories of youngsters in a

car -- one, two, three, four in a car having accidents and dying on the roads.

Now, this bill has been before this chamber for two years running. Two years ago, it passed. Last year it didn't pass. We tried to get an agreement, we couldn't get one. We don't want to see another weekend with stories of children being killed on the roads or killing each other in automobile accidents with three or four people in the car. So we want to get this on the floor immediately.

We hope the Assembly will join us in doing this bill or communicate with us very promptly in order that we may get one on the books, let's say within the month, or just as soon as we can, because we want to stop this continuing carnage on the highways.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Johnson, will you yield for a question?

SENATOR JOHNSON: Yes, Madam President.

SENATOR DUANE: I certainly don't want to see another person die in a traffic accident.

But I am curious as to whether or not there's an agreement with the Assembly and the Governor that they would sign this bill today, and that's why we have the message of necessity.

Because my understanding of messages of necessity means that it has to be that there's an urgency to signing it into law today. And yet I haven't heard from the other chamber or from the Governor that everyone has agreed that this will get signed into law today. And I'm wondering if the Senator has other information about that.

SENATOR JOHNSON: My staff has been in touch with two different sponsors of a similar bill in the other house. We do not have an agreement with them at this point.

But this is a Governor's program bill. Obviously he is in favor of this iteration of the bill, and he will sign the bill just as soon as it gets passed in the other house.

SENATOR DUANE: And through you, Madam President, one final question.

THE PRESIDENT: Senator Johnson, will you yield for a final question?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed with a final question, Senator Duane.

SENATOR DUANE: Thank you, Madam President.

Isn't it true, though, that even if we did pass this law today and the other house passed the bill and the Governor signed it into law that it couldn't take effect until January 1, 2003?

SENATOR JOHNSON: Unfortunately, that's true, Senator. And the reason it's true is because the DMV feels it will take them that long to get up to speed.

I think we should put a little heat under them and it should be a shorter time period. But that is -- they also had input into the drafting of the bill, and that's their provision.

But however long we take to pass

it, add that week or month or year to the time it finally takes to get it into place. So let's try to get it going right away.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thanks.

THE PRESIDENT: Senator, do you have a question?

SENATOR OPPENHEIMER: Yes.

THE PRESIDENT: All right. Senator Johnson, will you yield for a question from Senator Oppenheimer?

SENATOR OPPENHEIMER: Well, actually I guess it's a question and a statement.

And I want to applaud Senator Johnson for sticking with this. We, as some of us who have been working on this bill, I think it's been not two years, not four years, probably more like six or seven. And there's been a lot of division between different geographic areas of our state on this bill.

And that's why we're seeing a bill

now that is just New York City and the five suburban counties, because that is where we have the most traffic on our roads. And it permits the more rural areas and the farm areas to still have different criteria. And so the bill is really separated into two parts, one which deals with downstate and the other which deals with upstate.

My question or concern is that there are certain areas, issues that we were very concerned about in prior bills that, in order to get passage in both houses and have it signed by the Governor, we have taken out.

And I guess my question is, can there be some interaction between the two houses concerning some of those other areas that you and I have talked about, Senator Johnson, such as designating the number of hours -- be it 30 hours, 50 hours -- where the driving, which is being done in the company of an adult who will be supervising the driving, where we can see that a certain number of hours has been fulfilled?

And in those hours there would be time spent not just driving in parking lots

and in country roads, but also on highways, in nighttime driving.

Because it is, as we all agree, the lack of experience under different circumstances that causes many of our youngsters to have these crashes. And the crashes are not just fender benders, usually. They do result in very horrible accidents or deaths.

So my question, I guess, is will we be able to see some more attention to the detail, not -- we now are down, in this bill, to one person in the car, in addition, so there can't be what Senator Duane was talking about, several youngsters in the car. But some of these other pieces that I know you were very interested in, will we be able to see some accommodation between the two houses on some of these other pieces?

SENATOR JOHNSON: Senator Oppenheimer, I'm not sure if I heard you clearly, but there is a provision that a person with a permit or a junior license can only have one other person in the car under 21. That is in this law too.

SENATOR OPPENHEIMER: Yes.

SENATOR JOHNSON: The other provision is about the number of hours that you must have behind the wheel, certified and verified. That was not acceptable to this house or to the Governor's office.

And so essentially we've kept all the good ingredients of this cake that we could possibly keep in it. And those which are not in it, which you and I have supported in the past, have gone the way of all flesh, I guess, and they will not be in this bill as far as I know.

Now, we will be discussing it with the other house, as you said. Maybe there will be some changes that can be made that meet with your suggestions, and I hope so, but I cannot be sure of that.

SENATOR OPPENHEIMER: Thank you, Senator Johnson.

And I know we're in agreement on these other issues. And the question is merely what can be passed in both houses and made into law, because that's what we're all seeking.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, will the sponsor yield to a question?

THE PRESIDENT: Senator Johnson, will you yield for a question?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR DOLLINGER: Senator Johnson, as I understand this bill -- and I'd like you just to use an example which is pertinent to my own family. I have a 17-year-old son who doesn't have a senior driver's permit. He plays for the number-25-ranked basketball team in the country.

We play away games, and he gets in the car with his license and he drives and picks up three other members of the team. They're all under age 18, and not one of them has a senior driver's license.

Is he breaking this law when he drives them to the next game?

SENATOR JOHNSON: I believe he would be breaking the law if he did not have an exemption which is provided or will be available north of New York City and the suburbs.

SENATOR DOLLINGER: Through you, Madam President, if the sponsor will continue to yield.

THE PRESIDENT: Senator Johnson, will you yield to another question?

SENATOR JOHNSON: Yes.

SENATOR DOLLINGER: Could you tell me, Senator Johnson, how does he get that exemption when he leaves my house to pick up his fellow players to go to the game?

SENATOR JOHNSON: Any exemption which might be provided would be in accordance with the regulations of the Motor Vehicle Department.

SENATOR DOLLINGER: But as I understand it, Senator Johnson, if he were going to an approved school event, he's not violating this rule; is that correct?

SENATOR JOHNSON: Apparently, if he has more than one, he is violating. If he

doesn't have more than one additional passenger, he isn't.

SENATOR DOLLINGER: But through you, Madam President, if Senator Johnson will continue to yield.

THE PRESIDENT: Senator Johnson, will you yield to an additional question?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: So he can pick up one player, but he can't pick up two; is that correct?

SENATOR JOHNSON: Unless he has a senior license, that's correct.

SENATOR DOLLINGER: And through you, Madam President, if Senator Johnson will continue to yield.

THE PRESIDENT: Senator Johnson, will you yield?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DOLLINGER: And under this legislation, those two basketball players can both sit in the back seat but they can't sit in the front seat; is that correct?

SENATOR JOHNSON: That's not correct.

SENATOR DOLLINGER: That's correct?

SENATOR JOHNSON: It is not correct. One of them may sit in the front seat.

SENATOR DOLLINGER: Excuse me, I didn't

SENATOR JOHNSON: One of them may sit in the front seat. Not more than one.

SENATOR DOLLINGER: So again, I just want to be clear. If my son picks up these other basketball players and drives to a game, he is in violation of the law of the State of New York under this bill; is that correct, Senator Johnson?

SENATOR JOHNSON: Well, of course, he's going to be 18 by the time the bill becomes effective, as was pointed out by Senator Duane. So don't worry about it.

(Laughter.)

SENATOR DOLLINGER: Senator Johnson, I've sat in this chamber for ten years and that's one of the best answers I've ever heard.

(Laughter.)

SENATOR DOLLINGER: But if this bill became law today, Senator Johnson, would he be in violation of the law of this state, if this bill becomes law?

SENATOR JOHNSON: He wouldn't be, because as your son he would obey the law, of course. He would obey the law, of course. So he wouldn't be in violation of it.

SENATOR DOLLINGER: But my question -- through you, Madam President, if Senator Johnson will continue to yield.

THE PRESIDENT: Senator Johnson, do you yield to a question?

SENATOR DOLLINGER: As I understand this bill, if he picks up two of his high-school classmates and goes to a basketball game, he doesn't violate this law because he's doing something that's part of his education; isn't that correct?

SENATOR JOHNSON: Uno, in every case.

SENATOR DOLLINGER: So through you, Madam President, if my son picks up two people who are the same age as he is and drives around in his car, he's violating the laws of the State of New York because it turns out he's not 18, he's only 17 3/4. He turns 18, Senator Johnson, about 45 days from today.

Is that correct, he'd be in violation of this law?

SENATOR JOHNSON: Unless he took driver ed, in which case he could have the license at 17½.

SENATOR DOLLINGER: Correct. In other words, unless he gets a senior license privilege.

SENATOR JOHNSON: Right.

SENATOR DOLLINGER: Through you, Madam President, if Senator Johnson will continue to yield.

THE PRESIDENT: Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: If I as a parent send my 17-year-old son out to pick up his niece and nephew, who are 14 years old and 8 years old, and he puts them both in the car, can he drive with those two children in the car?

SENATOR JOHNSON: He should take his siblings, which would be legal, but not his cousins.

SENATOR DOLLINGER: Okay. Through you, Madam President, if I sent my 17-year-old son -- if Senator Johnson will continue to yield.

THE PRESIDENT: Senator Johnson?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR DOLLINGER: If I sent my 17-year-old son to pick up his 14-year-old nephew and his 7-year-old niece, he couldn't do that without violating the laws of the State of New York under this bill; isn't that correct?

SENATOR JOHNSON: He could pick up one, but not two.

SENATOR DOLLINGER: Okay. Through you, Madam President, if Senator Johnson will continue to yield.

THE PRESIDENT: Senator Johnson?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DOLLINGER: Maybe I don't understand the operation of this bill. But if my son were to pick up two children in the car that he was driving, and he was doing it as part of his employment -- he was, let's say, taking his friends, he picks up two friends who work at the same golf course, as they all did last summer, and they get in the car and they drive to employment, is that a violation of this law?

SENATOR JOHNSON: Senator, I'd like to explain something about this bill. This bill intends to do something about the carloads of kids who are dying in accidents on the highways.

Now, if you want a bill which has no restrictions on the number of people in the car, that could be your bill. That can't be my bill.

This bill has to have restrictions on the number of children in the car, to save lives. And that's what it is. And if it passes, yes, you'd have to live with it.

SENATOR DOLLINGER: But through you, Madam President, my question, Senator Johnson, deals with who are the children in the car. That's the point I'm trying to make.

If my 17-year-old son goes to pick up two 4-year-olds, he won't communicate with them, he's not going to be distracted by them, he straps them in their childcare seats in the back seat -- he's picking up two 4-year-olds.

This is not the same situation that your bill addresses, which is that notion that somehow they're all 17 years old, they're playing music, they're distracting the driver, doing those things that 17-year-olds do.

My question is, when I send my 17-year-old to pick up two 4-year-olds who are strapped into their car seats, under this

bill, does he break the law?

SENATOR JOHNSON: Senator, how would you feel if your son had a fatal crash with the two 4-year-old friends or neighbors? Is that something that you would be satisfied with and say that's just one of those things that happens? Or maybe those kids shouldn't have been picked up except by an adult.

SENATOR DOLLINGER: Through you, Madam President, did Senator Johnson ask me to yield in response to my request to ask him to yield?

I'm not sure where we stand, Madam President. I understand the rhetorical nature

SENATOR JOHNSON: That was just a P.S. It wasn't really a response or a question.

SENATOR DOLLINGER: Just for the record, Madam President, I would feel terrible if my son were killed or injured in a car all alone, whether there's anybody else in the car with him. I mean, I would regard that as an added tragedy. But quite frankly, Senator Johnson, I would feel terrible if my son were

in the car all alone.

My point is I understand what you're trying to get at with this bill, but it seems to me you're using the wrong tool. You're trying to deal with an incision when you've got a hammer in your hand.

And that is, you're trying to cut down on the number of fatalities that occur, the difference between fatalities that occur when an underage driver is driving all by himself and the possibility that when he's driving with others there will be others who are impacted by his lack of judgment. Which I think is a very laudable goal.

But I would suggest, Senator Johnson, that this bill acts like a bludgeon. Because what it says to everyone under the age of 18 who doesn't have a senior license is that we don't trust you to go pick up anybody.

I would give you another example. When I make a decision to send my 17-year-old son to pick up my other two children, if they're my children -- that happened all the time when I had a 17-year-old son who was a driver who didn't have a senior license, and I

would say to him, "Would you drive and pick up your younger brother and your younger sister?"

I would suggest that's a decision that I make as a parent, to entrust a motor vehicle to my child.

And quite frankly, Senator Johnson, it just seems to me that this is going to create enormous havoc for families with new drivers, it's going to create enormous difficulties for parents.

It's going to create enormous difficulties for the McQuaid Jesuit High School basketball team, because their players tend to drive to games, they're all under the age of 17, they want as few drivers on the road as possible, so they tend to carpool. They tend to have a 17-year-old driver go up and pick up the 15-and-16-year-olds who also play on the team.

They will, under this bill, be breaking the law. And I would suggest that that's not a prudent way to deal with this problem, with the heavy-handed bludgeon nature of a total restriction.

In addition, Senator Johnson, I'm

enormously concerned about the potential that this bill has to become a tool for harassing kids that are driving a motor vehicle. Every time a young person is behind the wheel of a motor vehicle -- look at the line of interns sitting in the chamber. Look at all those young faces. They'll be driving down with four people in a car, and some police officer is going to say: "My gosh, if they're under age 18, we ought to stop them, because they're breaking the law."

We're going to demand proof from all of them that they're at least 18 years old and have a senior driver's license, or that one of them is an adult, that one of them is 21 and therefore capable of supervising what goes on in the car.

I think this is a noble idea, an interesting idea, and potentially even a good idea. But I don't think this bill is the way to do it. And I would just suggest that we're going to empower the police in this state to stop every single car in which there are more than two young people in it. I don't know that we have the capacity in the police

departments in this state to do that. I don't know that it's the right thing to do.

I also question why we would have one rule for those very urban areas like Nassau, Suffolk, Kings, Queens, New York, Bronx, Richmond, Westchester, Rockland, Putnam. With all due respect to my colleague from Westchester, those other rural and farm counties could have another rule.

Well, there are two other counties called Monroe and Erie that look very much like Rockland and Bronx and Westchester and Nassau and Suffolk, but they're not included in the bill.

I would suggest this is going to be an enforcement nightmare. It is going to lead to the police surveillance and questioning of thousands of young people who are out driving legally, trying to perform the family duties and the driving of the McQuaid basketball team to their next game.

I would suggest under these circumstances I'm not going to vote in favor of it. I don't mind the idea, but I think that the solution here is wrong-headed. If

this ever gets to a conference committee, come up with a different way to do it.

This bill is going to be an enforcement nightmare and unfortunately cast a pall over every young driver in this state who happens to be driving to work, driving to pick up his brothers and sisters, driving to pick up his parents with brother and sister in the car.

I suggest this is a nightmare. I'll be voting no.

SENATOR JOHNSON: Madam President.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: I would like to correct what I feel is a misapprehension on the part of Senator Dollinger.

There are no restrictions on picking up or carrying siblings in your car. If they want to pick up members of the basketball team, if there's a coach or a teacher or other adult with them, they can take as many as they like, as fit in the car.

So it's not quite as bad as you may have pictured it, Senator.

Thank you.

SENATOR HEVESI: Madam President.

THE PRESIDENT: Senator Marcellino asked to speak first.

SENATOR HEVESI: Oh, I'm sorry.

SENATOR MARCELLINO: Thank you, Madam President. I appreciate being recognized.

I wish to congratulate my colleague Senator Johnson for bringing up this bill at this time. The statistics are undeniable. The status quo is unacceptable. Too many young people are dying on our roads. The carnage is outrageous.

I look to my own personal experience with this, when my children were graduating from high school and couldn't wait to get their driver's licenses, going off to college. And I noted that over the first year, each and every one of my daughters' friends -- and I mean each and every one of them -- who had access to a vehicle wiped it out in the first year. They all came from good homes, they're all decent kids, not lawbreakers, but they're children. They're

kids. And they're subject to the same problems that any young person suffers from that's out there.

We've all done it, we've all been there. Some of us a lot further back than others, but we can remember. The gray doesn't necessarily indicate a lack of memory.

Fortunately, none of them were killed or seriously injured. It's also fortunate that none of them injured other people in their actions in any serious way.

And that's where I have a problem with Senator Dollinger's points. Some of them are well-taken. But when a parent gives permission, when you give permission to your child to get in a vehicle and drive on the public roads, you're not only impacting your child, who you have a right to give permission to, you're impacting me and my child and my friends and relatives and other people in the community.

That's not a decision we can allow just by "Well, it's my right to do this." Because you're impacting, by that decision, who knows how many thousands of others that

that child will pass on the road or come in contact with. We're trying to save lives.

Everybody says it's a terrible thing that young people are dying. And it is. It's a tragedy. It's an absolute tragedy. I've been to those funerals. They're no fun. The families are destroyed as a result of that.

We have a chance here to take some action that will just simply say: Take your time before you get that license. Give them some chance to mature. Give them some experience behind the wheel with an experienced driver sitting next to them. I don't think that's a bad thing.

We can all look for every possible exception to this rule. We can all go to the extremists and find a point that would negate this thing and say, We can put this aside, don't do it now.

Every day we waste, more kids are going to die. Every day we waste, more kids are going to die. Let me say that again. Every day, more kids are going to die on the roads when we don't act.

This is not budget negotiations where we're talking about money going here and there, because money can go anytime. We're talking about people dying. So, yes, it may not be perfection personified, and Senator Johnson recognizes that. It's a product of negotiations. The final bill will be the product of more negotiations.

Why should we wait? Move on. Let's get this bill out there. Let's do that. Let's start those negotiations. Let's jump-start it with action. Let's send a message out there that we care in this house -- and I know we do, and I don't mean to imply that people out there who may have an opposing point of view don't care. I know you all do. Everybody does.

I suggest we have to move. I suggest this is the right bill at the right time. I suggest we can't afford to wait. It's common sense that we have to act. And if it has to be negotiated further, fine. Let's put this bill on the table and get the negotiations started now.

I will vote aye on this bill, Madam

President.

THE PRESIDENT: Senator Hevesi?

Does any other member wish to be heard on this bill?

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

I appreciate my colleague Senator Marcellino's comments, and I think they have merit.

I think, however, there are two things, Senator, that I think we need to differentiate about this bill. And that is that there's no question that having young drivers on the road increases the potential that we're all going to be in accidents.

You talked about your daughters' friends being involved in motor vehicle accidents. I don't have to go any further than to look at the back bumper of my Dodge Intrepid. My Dodge Intrepid has the Senate license plate on it, Senator. It is crumpled into little pieces. Each one of my children has had an accident in my car. They don't get involved in accidents with their mother's car,

they don't get involved in accidents with the car that we bought for our children. They always seem to be driving my car when they get into an accident.

And quite frankly, my little Senate license plate is rippled like a potato chip because it's been involved in three collisions.

But my point is this, Senator Marcellino. You make the point about the danger that young drivers pose to all of us. This bill doesn't address that danger. What this bill addresses is the incremental danger that's created when there's more than one person in the car. Because this bill doesn't say that my 17-year-old can't go out and drive a car all by himself. He can clearly do that. And he clearly poses a danger because his bad judgment, as you properly point out, is dangerous to all of us.

But this bill doesn't say that a young driver can't get behind the wheel all by himself and drive anywhere he wants. This bill says that there's some incremental danger created by having a second passenger in the

car who happens to also be underage. This bill deals with that fact alone.

And I'm not convinced that that incremental danger is of such a gravity as to warrant the penalty that's imposed here, because I have not seen evidence that suggests the mere presence of another person in the car substantially decreases the judgment on behalf of the driver.

That's what this bill does, Senator Marcellino. It is different from a bill and this bill I would vote for, Senator Marcellino. If we had the courage to say to the kids in this state "You don't get a driver's license until you're 18," I would be willing to vote for that. Because I agree with you, Senator Marcellino. Bad judgment behind the wheel is devastating to all of us. It's devastating to our children, it's devastating to the general population that we expose them to.

But we have a law in this state that says you can qualify for a license at 16, you qualify for a permit, you get a license, you can't drive at night, under certain

conditions. Those are conditions that create risks to all of us.

My point is simple. If you want to reduce that risk of drivers between 16 and 18 and the danger they pose to all of us and to themselves and to their friends and to their relatives who are in a motor vehicle, let's do what is necessary to eliminate that risk. Change the age of eligibility for driving from 16 to 18.

If what we do instead is come to a stopgap measure that says we're going to start to police who's in the car, we're going to have the police of this state stopping every single young driver and saying: "Excuse me, how old are you, Mr. Passenger? Are you related to the driver? Are you 21? Could you prove to me that you're 21? You're only 20. You're only 17. You're only 18. This driver is violating the law."

Senator Marcellino, I agree with you that reducing the risk of children driving motor vehicles is something we should be concerned about. But it seems to me that what this bill does is this says there's some other

risk associated with more children in the car, and yet we're going to allow -- we're going to give the police the ability to restrict those numbers.

I would predict, Senator Marcellino -- and I understand your view. And believe me, as a father of young children, I would love to reduce that risk. I'm willing to vote for the other bill which says they don't get a license until they're 18. Then we'll minimize that risk as well. And the goal that Senator Johnson wants to achieve, which is reducing the number of fatalities of children between 16 and 18, we will actually get there when we do that.

To do this is not the right stopgap measure.

THE PRESIDENT: Senator Alesi.

SENATOR ALESI: Thank you, Madam President.

Just listening to my friend and colleague Senator Dollinger, I'm also familiar with McQuaid Jesuit High School, having attended it myself for a while. I'm also familiar with the high level of excitement

that goes with McQuaid's basketball, even though it was 1962, I think, when I first experienced that.

And I can't help but think that when Senator Dollinger mentioned that the school wants as few cars on the road as possible -- to paraphrase what the Senator said -- that implied in that statement, I would assume, is a recognition by the Senator that

(Cell phone interruption.)

SENATOR ALESI: The auto club.

-- implied by the Senator that he is recognizing the dangers when he says that the school itself wants as few cars on the road as possible.

And when the Senator says that he has no statistical proof, I believe that the State of Massachusetts has made that law and the statistics bear out, first of all, by having a large number of similarly-aged people in the car, that there is a distraction. And based on those statistics that Senator Dollinger lacks, they can now show that the safety factor has been improved by eliminating

the number of people similarly-aged in the car.

And finally, then, I would say, to Senator Dollinger's proposal to raise the age of licensing to 18, with all due respect, then probably none of the basketball players at McQuaid Jesuit High School would have the ability to drive themselves to these basketball games, because a large number of those 18-year-olds will have been graduated and will have moved on to college.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Senator Johnson.

SENATOR JOHNSON: Madam President, I don't want to drag this out, certainly. But we do have statistics about the number of accidents taking place with a certain number of children in the car. And I'd just like to read this for Senator Dollinger's edification.

For 17-year-old drivers, the percentage of fatal accidents, say, of -- the average is 48 percent higher if they have a

teen passenger than if they're driving alone. This is for 17-year-old drivers. 158 percent more accidents occur than the norm with two teen passengers, and 207 percent more accidents with three or more teen passengers.

Proving that the distraction of the teenagers in the car, and probably the desire to race the teenagers in the next car, all increases with the amount of excitement in this car, and it leads into many more fatalities as a result.

The other thing I'd like to tell you, Senator Dollinger, is that one of the principal provisions of this bill requires six months with a learner's permit before you can get a license, and that's very significant.

Carl knows about it, I know about it from family and friends that these kids can get a learner's permit and they can go out in three days and take their test and get a junior license. I mean three weeks; you don't get an appointment in three days. But within three weeks, I know they've gotten it.

And we're trying to restrict that. We're trying to have a longer period of

driving under some adult supervision before they get a junior license. I think this is one of the major provisions of the bill. But I don't want you to dispute it with me, I just want to explain it to you.

So there is a very definite correlation between the number of people in the car and the number of accidents that take place.

Thank you.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

There is no perfect bill, nor is there legislation that I've seen that addresses the needs and concerns of every part of the constituencies that we represent.

This bill, frankly, says we're trying to give the children, the young people who get their license for the first time, their permit, more time behind the wheel in a more responsible way, with some supervision, so the experience they gain will make them better qualified.

So it's all about experience. When

you talk about distractions in the car and how many people they can carry and not carry, it seems just common sense to me that if you have limited experience and greater distraction, the opportunity for a tragedy or an accident is increased.

Therefore, this bill, while maybe not meeting everyone's needs or all concerns, or covering every eventuality, moves us in the right direction and, in the final analysis, protects the young people of this state.

I've had seven daughters, who all beat a path down there at age 16 to get their license, save one. And I could see, as they went around -- I don't know that they had three accidents, Senator Dollinger, but I know there were some fender benders.

And I know young people do have a way of getting boisterous, exuberant, talking about the basketball game, talking about the one they're going to, that may present a greater distraction.

Even adults face those distractions. We did that with the cellphone bill, recognizing that distractions in cars

are a potential for fatalities.

Thank you, Madam President. I'm going to vote in the affirmative.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 13. This act shall take effect January 1, 2003.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Dollinger, to explain his vote.

THE SECRETARY: Madam President, I rise just to explain my vote.

Senator Johnson, I'll bet you those statistics are absolutely correct. I'm willing to concede they're absolutely correct.

And I am also willing to bet, consistent with the theory that there are lies and there are statistics, that the facts that you brought out about the number of people in the car affecting the judgment of the driver is true in every single age. It's true at 17, it's true at 25, it's true at 35, it's true at

45.

And you know when else it's true, Senator Johnson? It's true at age 75, when you have drivers who are on the other end of their life spectrum who are out driving around, talking and chitchatting in the car and not necessarily paying attention.

I would suggest if we're going to have one rule for young people in this state we should have another rule, the same rule, for those who maybe are in their older years.

And when we have the courage to pass those bills in which we say they shouldn't have a license until they're 18 Senator Morahan is correct. Give them more time, give them more time for judgment. Senator Alesi is correct. Maybe the basketball team couldn't drive around. Maybe they'd have to change their habits.

But the bottom line is this bill is going to be all but unenforceable, or it's going to be stringently enforced and the police are going to be stopping every car with a young face behind the wheel and a series of people behind it.

I see the problem, Senator Johnson. I have tremendous sympathy for the problem. I'd like to solve the problem. This bill, in my judgment, will not do it. I vote no.

THE PRESIDENT: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: When this bill was first drafted, I was going to vote no for many, many different reasons. I looked at the bill initially as a bill that really picks out one age group and assumes for the sake of that age group that they're more irresponsible than people of other age groups.

But as this bill has been debated over the years, I really have looked at it in a different way. And I think Senator Morahan hit it right on the nose, where what we're talking about is we're talking about someone being able to put themselves in a vehicle that has such substantial danger to themselves and others when they have but a week or two or three or four weeks of experience.

Now, that just doesn't make sense. It's not a question of responsibility. There's irresponsible teenagers; there's

responsible teenagers. But to have that privilege of driving, I think it's very important that the experience that goes with it has to be developed.

This is really only pushing the age six months later. I mean, we're not penalizing anybody for a very significant period of time. I think the limited additional requirements are definitely justified in view of the need for experience in driving for young people.

As far as older people, there's other ways to get licenses away from older people if they're causing accidents or if they're violating the law.

But this is a question of experience. First-time drivers should have that opportunity. I vote yes.

THE PRESIDENT: Senator DeFrancisco, you will be so recorded as voting in the affirmative.

Senator Dollinger will be recorded as voting in the negative on this bill.

The Secretary will announce the results.

THE SECRETARY: Ayes, 55. Nays, 1. Senator Dollinger recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Balboni.

SENATOR BALBONI: If we could return to motions and resolutions, I believe there are two privileged resolutions at the desk by Senator Morahan. May we please ask that the titles be read.

THE PRESIDENT: Motions and resolutions.

The Secretary will read.

SENATOR BALBONI: Thank you very much.

THE SECRETARY: By Senator Morahan, Legislative Resolution Number 3900, paying tribute to the life of Timothy P. Finn, founder of the Rockland County Shields, on January 30, 2002.

And by Senator Morahan, Legislative Resolution Number 3904, honoring outgoing President John J. Crapanzano upon the occasion of his designation for special recognition by

the Rockland County Shields on January 30, 2002.

THE PRESIDENT: The question is on these two resolutions. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolutions are adopted.

Senator Balboni.

SENATOR BALBONI: Madam President, can we please return to reports of standing committees. There are apparently two reports at the desk.

Thank you.

THE PRESIDENT: We will return to the order of reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Leibell, from the Committee on Civil Service and Pensions, reports the following bills:

Senate Print 2365, by Senator Leibell, an act to amend the Civil Service Law;

2536A, by Senator Leibell, an act to amend the Civil Service Law;

And 5630A, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law.

Senator Marchi, from the Committee on Corporations, Authorities and Commissions, reports:

Senate Print 1433, by Senator Marchi, an act to amend the Not-for-Profit Corporation Law;

And 5160C, by Senator Marchi, an act to amend the Public Authorities Law.

Senator Rath, from the Committee on Local Government, reports:

Senate Print 2655A, by Senator Larkin, an act to amend the General Municipal Law and the Town Law;

4030, by Senator Wright, an act to amend the General Municipal Law;

4096, by Senator Rath, an act to amend the Municipal Home Rule Law;

And 4159, by Senator Rath, an act to amend the General Municipal Law and the State Finance Law.

And Senator Padavan, from the Committee on Cities, reports:

Senate Print 67, by Senator Velella, an act to amend the General City Law and the Penal Law;

2089, by Senator Maltese, an act to amend Chapter 164 of the Laws of 1907;

And Senate Print 3089, by Senator McGee, an act to amend the General City Law and others.

Senator Hannon, from the Committee on Health, reports:

Senate Print 520, by Senator Alesi, an act to amend the Public Health Law;

2218A, by Senator Alesi, an act to amend the Public Health Law;

2451, by Senator Hannon, an act to amend the Public Health Law;

2471, by Senator LaValle, an act to amend the Public Health Law and others;

2820A, by Senator Hannon, an act to amend the Public Health Law;

And 4625, with amendments, by Senator Hannon, an act to amend the Public Health Law.

All bills ordered direct to third reading.

THE PRESIDENT: Without objection, all bills ordered direct to third reading.

Senator Wright.

SENATOR WRIGHT: Madam President, on behalf of Senator Volker I move that the following bill be discharged from the committee and be recommitted with instructions to strike the enacting clause: Senate Number 6082.

THE PRESIDENT: So ordered.

SENATOR WRIGHT: Thank you.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Madam President, is there any housekeeping at the desk?

THE PRESIDENT: No, there isn't, Senator.

SENATOR BALBONI: There being no further business, I move we adjourn until Monday, February 4th, at 3:00 p.m., the intervening days being legislative days.

THE PRESIDENT: On motion, the

Senate stands adjourned until Monday, February 4th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:38 p.m., the Senate adjourned.)