

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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7
8 ALBANY, NEW YORK

9
10 February 29, 2012

11 3:33 p.m.

12
13
14 REGULAR SESSION

15
16
17
18 SENATOR JOSEPH E. ROBACH, Acting President

19 FRANCIS W. PATIENCE, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT ROBACH: The
3 Senate will come to order.

4 I ask everyone present to please
5 rise and join me in the Pledge of Allegiance.

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

8 ACTING PRESIDENT ROBACH: In the
9 absence of clergy, may we all bow our heads in
10 a moment of silence.

11 And I'd ask you to keep in mind
12 the victims of the shooting tragedy at the
13 Chardon High School in Ohio that took place
14 earlier this week.

15 (Whereupon, the assemblage
16 respected a moment of silence.)

17 ACTING PRESIDENT ROBACH: The
18 reading of the Journal.

19 THE SECRETARY: In Senate,
20 Tuesday, February 28th, the Senate met
21 pursuant to adjournment. The Journal of
22 Monday, February 27th, was read and approved.
23 On motion, Senate adjourned.

24 ACTING PRESIDENT ROBACH:
25 Without objection, the Journal stands approved

1 as read.

2 Presentation of petitions.

3 Messages from the Assembly.

4 Messages from the Governor.

5 Reports of standing committees.

6 Reports of select committees.

7 Communications and reports from
8 state officers.

9 Motions and resolutions.

10 Senator Libous.

11 SENATOR LIBOUS: Mr. President,
12 would you call on Senator Carlucci for a
13 motion, please.

14 ACTING PRESIDENT ROBACH:
15 Senator Carlucci.

16 SENATOR CARLUCCI: Yes,
17 Mr. President. I move that the following bill
18 be discharged from its respective committee
19 and be recommitted with instructions to strike
20 the enacting clause: Senate Number 6304.

21 ACTING PRESIDENT ROBACH: So
22 ordered.

23 Senator Libous.

24 SENATOR LIBOUS: Mr. President,
25 thank you. I too have some motions, if I may.

1 On behalf of Senator Lanza, on
2 page 14 I offer the following amendments to
3 Calendar Number 195, Senate Print 5878A, and ask
4 that said bill retain its place on the Third
5 Reading Calendar.

6 ACTING PRESIDENT ROBACH: The
7 amendments are accepted, and the bill will retain
8 its place on the Third Reading Calendar.

9 Senator Libous.

10 SENATOR LIBOUS: Mr. President, on
11 behalf of Senator Ball, I move that the following
12 bill be discharged from its respective committee
13 and be recommitted with instructions to strike
14 the enacting clause. And that would be Senate
15 Print 5433A.

16 ACTING PRESIDENT ROBACH: So
17 ordered.

18 SENATOR LIBOUS: And I have
19 another one. On behalf of Senator Nozzolio,
20 Mr. President, on page 6 I offer the following
21 amendments to Calendar Number 44, Senate Print
22 5208, and ask that said bill retain its place on
23 the Third Reading Calendar.

24 ACTING PRESIDENT ROBACH: The
25 amendments are received, and the bill will retain

1 its place on the Third Reading Calendar.

2 Senator Libous.

3 SENATOR LIBOUS: Mr. President, at
4 this time could we have the reading of the
5 noncontroversial calendar.

6 ACTING PRESIDENT ROBACH: The
7 Secretary will read.

8 THE SECRETARY: Calendar Number
9 46, by Senator Saland, Senate Print 2192A, an act
10 to amend the Vehicle and Traffic Law.

11 ACTING PRESIDENT ROBACH: Read the
12 last section.

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

15 ACTING PRESIDENT ROBACH: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 53.

19 ACTING PRESIDENT ROBACH: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 49, by Senator Ritchie --

23 SENATOR BRESLIN: Lay it aside.

24 ACTING PRESIDENT ROBACH: The bill
25 is laid aside.

1 THE SECRETARY: Calendar Number
2 53, by Senator Nozzolio, Senate Print 4673A --
3 SENATOR BRESLIN: Lay it aside.
4 ACTING PRESIDENT ROBACH: The bill
5 is laid aside by Senator Breslin.
6 THE SECRETARY: Calendar Number
7 109, by Senator Marcellino, Senate Print 948A, an
8 act to amend the Vehicle and Traffic Law.
9 ACTING PRESIDENT ROBACH: Read the
10 last section.
11 THE SECRETARY: Section 2. This
12 act shall take effect on the 60th day.
13 ACTING PRESIDENT ROBACH: Call the
14 roll.
15 (The Secretary called the roll.)
16 THE SECRETARY: Ayes, 53.
17 ACTING PRESIDENT ROBACH: The bill
18 is passed.
19 THE SECRETARY: Calendar Number
20 110, by Senator Marcellino, Senate Print 957, an
21 act to amend the Vehicle and Traffic Law.
22 ACTING PRESIDENT ROBACH: Read the
23 last section.
24 THE SECRETARY: Section 4. This
25 act shall take effect on the first of November.

1 ACTING PRESIDENT ROBACH: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 52. Nays,
5 1. Senator Duane recorded in the negative.

6 ACTING PRESIDENT ROBACH: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 114, by Senator Huntley, Senate Print 3022, an
10 act to amend the Vehicle and Traffic Law.

11 ACTING PRESIDENT ROBACH: Read the
12 last section.

13 THE SECRETARY: Section 2. This
14 act shall take effect on the first of November.

15 ACTING PRESIDENT ROBACH: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 53.

19 ACTING PRESIDENT ROBACH: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 132, by Senator Seward, Senate Print 2557, an act
23 to amend the Insurance Law.

24 ACTING PRESIDENT ROBACH: Read the
25 last section.

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

3 ACTING PRESIDENT ROBACH: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 52. Nays,
7 1. Senator Avella recorded in the negative.

8 ACTING PRESIDENT ROBACH: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 141, by Senator Bonacic, Senate Print 5533, an
12 act to amend the Business Corporation Law.

13 ACTING PRESIDENT ROBACH: Read the
14 last section.

15 THE SECRETARY: Section 17. This
16 act shall take effect immediately.

17 ACTING PRESIDENT ROBACH: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 53.

21 ACTING PRESIDENT ROBACH: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 153, by Senator DeFrancisco --

25 SENATOR BRESLIN: Lay the bill

1 aside.

2 ACTING PRESIDENT ROBACH: The bill
3 is laid aside.

4 THE SECRETARY: Calendar Number
5 168, by Senator Gallivan, Senate Print 5557A, an
6 act to amend the Real Property Tax Law.

7 ACTING PRESIDENT ROBACH: Read the
8 last section.

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

11 ACTING PRESIDENT ROBACH: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 55.

15 ACTING PRESIDENT ROBACH: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 169, by Senator Martins, Senate Print 6307A, an
19 act to amend the Real Property Tax Law.

20 ACTING PRESIDENT ROBACH: Read the
21 last section.

22 THE SECRETARY: Section 4. This
23 act shall take effect immediately.

24 ACTING PRESIDENT ROBACH: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 55.

3 ACTING PRESIDENT ROBACH: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 178, by Senator Maziarz, Senate Print 241, an act
7 to amend the Penal Law.

8 ACTING PRESIDENT ROBACH: Read the
9 last section.

10 THE SECRETARY: Section 2. This
11 act shall take effect on the first of November.

12 ACTING PRESIDENT ROBACH: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 55.

16 ACTING PRESIDENT ROBACH: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 179, by Senator Golden, Senate Print 641B, an act
20 to amend the Penal Law.

21 ACTING PRESIDENT ROBACH: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect on the first of November.

25 ACTING PRESIDENT ROBACH: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 54. Nays,

4 1. Senator Duane recorded in the negative.

5 ACTING PRESIDENT ROBACH: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 180, by Senator Marcellino, Senate Print 943, an
9 act to amend the Penal Law.

10 ACTING PRESIDENT ROBACH: Read the
11 last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect on the first of January.

14 ACTING PRESIDENT ROBACH: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 55.

18 ACTING PRESIDENT ROBACH: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 181, by Senator Saland, Senate Print 2599, an act
22 to amend the Penal Law.

23 ACTING PRESIDENT ROBACH: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the first of November.

2 ACTING PRESIDENT ROBACH: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 55.

6 ACTING PRESIDENT ROBACH: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 182, by Senator Zeldin, Senate Print 4073B, an
10 act to amend the Election Law.

11 ACTING PRESIDENT ROBACH: Read the
12 last section.

13 THE SECRETARY: Section 3. This
14 act shall take effect on the 120th day.

15 ACTING PRESIDENT ROBACH: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 55.

19 ACTING PRESIDENT ROBACH: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 183, by Senator Flanagan, Senate Print 4396, an
23 act to amend the Penal Law.

24 ACTING PRESIDENT ROBACH: Read the
25 last section.

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

3 ACTING PRESIDENT ROBACH: Call the
4 roll.

5 (The Secretary called the roll.)

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

8 ACTING PRESIDENT ROBACH: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 187, by Senator Ritchie, Senate Print 5161, an
12 act to amend the Environmental Conservation Law.

13 ACTING PRESIDENT ROBACH: Read the
14 last section.

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

17 ACTING PRESIDENT ROBACH: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 55.

21 ACTING PRESIDENT ROBACH: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 188, by Senator Little, Senate Print 6127, an act
25 to amend the Environmental Conservation Law.

1 ACTING PRESIDENT ROBACH: Read the
2 last section.

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

5 ACTING PRESIDENT ROBACH: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 55.

9 ACTING PRESIDENT ROBACH: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 191, by Senator DeFrancisco, Senate Print 6064,
13 an act to amend the Education Law.

14 ACTING PRESIDENT ROBACH: Read the
15 last section.

16 THE SECRETARY: Section 4. This
17 act shall take effect immediately.

18 ACTING PRESIDENT ROBACH: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 55.

22 ACTING PRESIDENT ROBACH: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 192, by Senator Martins, Senate Print 6296, an

1 act to amend Chapter 359 of the Laws of 2010.

2 ACTING PRESIDENT ROBACH: Read the
3 last section.

4 THE SECRETARY: Section 5. This
5 act shall take effect immediately.

6 ACTING PRESIDENT ROBACH: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 53. Nays,
10 2. Senators Duane and Rivera recorded in the
11 negative.

12 ACTING PRESIDENT ROBACH: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 194, by Senator Ranzenhofer, Senate Print 5370,
16 an act to amend the Not-for-Profit Corporation
17 Law.

18 ACTING PRESIDENT ROBACH: Read the
19 last section.

20 THE SECRETARY: Section 3. This
21 act shall take effect immediately.

22 ACTING PRESIDENT ROBACH: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 55.

1 ACTING PRESIDENT ROBACH: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 196, by Senator Bonacic, Senate Print 6287, an
5 act to amend Chapter 672 of the Laws of 1993.

6 ACTING PRESIDENT ROBACH: Read the
7 last section.

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

10 ACTING PRESIDENT ROBACH: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 55.

14 ACTING PRESIDENT ROBACH: The bill
15 is passed.

16 Senator Libous, that completes the
17 noncontroversial reading of the calendar.

18 SENATOR LIBOUS: Mr. President,
19 quite efficiently, I might add. Could we now go
20 to the reading of the controversial calendar.

21 ACTING PRESIDENT ROBACH: If we
22 can ring the bells and get the members into the
23 chamber for the controversial reading of the
24 calendar.

25 The quicker members get in, the

1 more expeditiously we can get to our calendar and
2 our business here.

3 SENATOR LIBOUS: Mr. President, if
4 we can proceed to the controversial calendar.

5 ACTING PRESIDENT ROBACH: The
6 Secretary will read.

7 THE SECRETARY: Calendar Number
8 49, by Senator Ritchie, Senate Print 3318, an act
9 to amend the Vehicle and Traffic Law.

10 SENATOR BRESLIN: Explanation.

11 ACTING PRESIDENT ROBACH: Senator
12 Ritchie, Senator Breslin has asked for an
13 explanation, please.

14 SENATOR RITCHIE: The bill just
15 redefines "all-terrain vehicle." It increases
16 the drive weight from 1000 pounds to 1500.

17 ACTING PRESIDENT ROBACH: If there
18 is no other Senator wishing to be heard, the
19 debate is closed.

20 The Secretary will ring the bell,
21 and I again ask the members to come to the
22 chamber to cast their vote.

23 Read the last section.

24 THE SECRETARY: Section 2. This
25 act shall take effect on the 30th day.

1 ACTING PRESIDENT ROBACH: Call the
2 roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT ROBACH: The
5 Secretary will announce the results.

6 THE SECRETARY: Those recorded in
7 the negative in relation to Calendar Number 49
8 are Senators Addabbo, Avella, Ball, Breslin,
9 Diaz, Duane, Espaillat, Gianaris,
10 Hassell-Thompson, Huntley, Kennedy, LaValle,
11 Marcellino, Montgomery, Parker, Peralta, Rivera,
12 Serrano, Squadron, Stavisky and Stewart-Cousins.

13 Absent from voting: Senator
14 Perkins.

15 Absent from voting pursuant to
16 Rule 9: Senator Krueger.

17 Ayes, 36. Nays, 21.

18 ACTING PRESIDENT ROBACH: The bill
19 is passed.

20 SENATOR LIBOUS: Mr. President.

21 ACTING PRESIDENT ROBACH: Senator
22 Libous.

23 SENATOR LIBOUS: Could we just
24 jump out of order and go to Number 153, by
25 Senator DeFrancisco.

1 ACTING PRESIDENT ROBACH:

2 Certainly. I want to alert the members that we
3 will be going directly to Calendar 153.

4 The Secretary will read Calendar
5 Number 153.

6 THE SECRETARY: Calendar Number
7 153, by Senator DeFrancisco, Senate Print 6063A,
8 an act to amend the Labor Law.

9 SENATOR BRESLIN: Explanation.

10 ACTING PRESIDENT ROBACH: An
11 explanation has been asked for, Senator
12 DeFrancisco.

13 SENATOR DeFRANCISCO: Yes. Back
14 in 2010, Section 195 of the Labor Law was
15 amended, and there were several significant
16 amendments to the Labor Law. This bill would
17 repeal only one of those.

18 The part that it would repeal is
19 the section of the law that requires employers on
20 an annual basis to provide the following notice
21 to employees: Whether the employee is paid by
22 hour, shift, day, week, salary; any employee
23 allowances as part of the minimum wage, including
24 tip, meal or lodging; the regular pay day
25 designated by the employer in accordance with

1 Section 191 of the Labor Law; the name of the
2 employer; any "doing business as" designation of
3 the employer; the physical address of the
4 employer's main office or principal office, and a
5 mailing address, if different; the telephone
6 number of the employer; plus any other
7 information the commissioner deems material and
8 necessary.

9 This resulted this year in every
10 employer sending out notices to every employee
11 and requiring a confirmation of these terms of
12 employment on an annual basis. And if you don't
13 do it and you violate the law, you can be fined
14 \$50 per employee that didn't receive the notice
15 and provide a confirmation of receipt of the
16 notice.

17 We're in the State of New York --
18 and most states are in this situation now, of an
19 economic decline. We're trying to get out of the
20 economic doldrums. It's not the time to provide
21 notifications such as this on an annual basis to
22 employees.

23 And this bill, by eliminating this
24 requirement, would be saving substantial dollars
25 for employers and hopefully allow employers to

1 actually make profits so that they create some
2 jobs and have other taxpayers that pay taxes and
3 provide more revenue to the State of New York.
4 That's what this bill would do if passed.

5 ACTING PRESIDENT ROBACH: Thank
6 you, Senator DeFrancisco.

7 Senator Savino.

8 SENATOR SAVINO: Thank you,
9 Mr. President. On the bill.

10 ACTING PRESIDENT ROBACH: On the
11 bill.

12 SENATOR SAVINO: I was the author
13 of the Wage Theft Prevention act two years ago.
14 It was probably one of the most comprehensive
15 pieces of legislation I've ever been involved in
16 the development of.

17 And in fact when it came to the
18 floor in this house, it passed by 33 votes --
19 32 Democrats and Senator Frank Padavan.

20 By the time the bill came to the
21 floor, it was an H print. It had gone through
22 numerous revisions and input from various people,
23 including a lot of small business owners.

24 The Business Council chose not to
25 participate in the discussion around the wage

1 theft bill. And if they had participated in the
2 discussion at the time, they might have been able
3 to make the case that the annual notification was
4 in fact unnecessary. But they didn't. They
5 chose to be in opposition to the bill, and they
6 didn't engage in the conversation.

7 Well, two years later we're in a
8 different place. Now, the Wage Theft Prevention
9 Act has only been in effect a few months. It is
10 very difficult to assume that this particular
11 notification, it's one piece of paper -- we're
12 not allowed to use props on the floor of the
13 Senate, but this is it, in case anybody is
14 looking -- is going to put anybody out of
15 business.

16 However, that being said, our goal
17 always with the Wage Theft Prevention Act was not
18 going after good employers. We wanted to
19 eliminate the competitive disadvantage that they
20 were up against with bad actors, people who short
21 their employees, people who don't pay them their
22 hourly rate of pay, people who don't compensate
23 them for their overtime, people who don't give
24 them a biweekly notice, people who deprive them
25 of their rights under the law.

1 That's who our goal was. We were
2 focusing on them. We don't want to create a
3 burden for good businesses.

4 I've met with some of the business
5 owners. And as we speak, I'm working on
6 legislation that will address a couple of things
7 that actually will provide real solutions to
8 businesses, which could address the issue of the
9 annual notification.

10 Which, by the way, I firmly believe
11 that this issue could be dealt with
12 administratively by the Department of Labor, and
13 we're asking them to do just that before next
14 year.

15 But we also want to do something
16 else in the legislation that I will be bringing
17 to this floor relatively soon and I'm going to
18 ask all of you to support it. It will do things
19 like address this annual notification. It will
20 also act on reducing unnecessary paperwork that a
21 lot of small businesses do have to comply with,
22 particularly those who use a paycheck system,
23 particularly those who utilize a direct deposit
24 system.

25 So I'm going to vote no on this

1 because I don't think this really provides a real
2 solution. I understand Senator DeFrancisco's
3 concern, and I echo his concern. I don't agree
4 with his solution right now.

5 And I would ask my colleagues to
6 continue to support me in protecting low-wage
7 workers from being cheated by their employers and
8 protecting the State of New York from being
9 cheated by bad actors, and wait for the
10 legislation that will be coming shortly that will
11 address this issue and other issue for small
12 employers.

13 Thank you, Mr. President.

14 ACTING PRESIDENT ROBACH: Thank
15 you, Senator Savino.

16 Are there any other Senators
17 wishing to be heard?

18 Seeing none, the debate is closed.
19 The Secretary will ring the bell. We ask the
20 members to please come to the chamber for the
21 vote.

22 Read the last section.

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

25 ACTING PRESIDENT ROBACH: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT ROBACH: Senator
4 DeFrancisco to explain his vote.

5 SENATOR DeFRANCISCO: I'm going to
6 vote aye on this bill.

7 We're in a state of economic
8 decline in the State of New York; hopefully we're
9 moving out of it. But it just boggles my mind
10 that there's this many people that are going to
11 vote no on a bill that actually gives information
12 that the employee already knows.

13 And to give that information
14 annually, and to have them sign for that
15 annually, it's unbelievable that they would want
16 to require employers to go through that needless
17 expense.

18 And as to Senator Savino, I don't
19 quite understand the no vote when she has asked
20 for the department to do this administratively,
21 what we're doing by the law, the bill that we're
22 passing today, and she's going to prepare another
23 bill that will do the same thing plus other
24 things.

25 Well, if you agree with this bill,

1 it would seem that you would vote yes. And I
2 would urge the other Senators who are raising
3 their hands to understand that we want to create
4 jobs in this state, and needless paperwork is not
5 the way to do it, and needless cost to
6 businesses.

7 I vote aye.

8 ACTING PRESIDENT ROBACH: Senator
9 DeFrancisco will be recorded in the affirmative.
10 Senator Rivera to explain his vote.

11 SENATOR RIVERA: Thank you,
12 Mr. President.

13 I was not here when this bill was
14 passed. I wish I was. Because Senator Savino
15 laid it out: this is an incredibly serious issue
16 in the State of New York, and it's a serious
17 issue that was brought about by the experiences
18 of workers all across the state. It was a
19 thoughtful piece of legislation that took some
20 time to figure out exactly how to make sure that
21 employees do not have wages stolen from them.

22 This piece of legislation that
23 we're voting on today would be taking away a part
24 of this large piece of legislation that, again,
25 was very well thought out. And in my view, it

1 would be trying to chip away at what ultimately
2 some of its opponents would want to do, which
3 would be to strip the entire bill completely out
4 of the law books in New York State.

5 I stand strongly with my colleagues
6 that passed this bill. I congratulate them for
7 passing it before. And I want to make sure that
8 we stand very strongly against it on the floor of
9 the Senate and in the State of New York.

10 I will be voting in the negative on
11 this piece of legislation. Thank you.

12 ACTING PRESIDENT ROBACH: Senator
13 Rivera will be recorded in the negative.

14 Senator Little to explain her vote.

15 SENATOR LITTLE: Thank you,
16 Mr. President.

17 I think if we went back through the
18 legislative record for the last 10 years we would
19 see that mandate relief was discussed many, many,
20 many, many times.

21 I'm on the Mandate Relief Council.
22 We are listening to businesses coming in. This
23 is one of the things that business would like for
24 mandate relief, as well as municipalities and
25 everyone else.

1 So I would encourage my colleagues
2 to, instead of just talking about mandate relief,
3 let's take this step and give some mandate relief
4 to the businesses in our communities. And I vote
5 aye.

6 ACTING PRESIDENT ROBACH: Senator
7 Little will be recorded in the affirmative.

8 Announce the results.

9 THE SECRETARY: In relation to
10 Calendar Number 153, those recorded in the
11 negative are Senators Addabbo, Avella, Breslin,
12 Carlucci, Diaz, Dilan, Duane, Espaillat,
13 Gianaris, Hassell-Thompson, Huntley, Kennedy,
14 Klein, Montgomery, Parker, Peralta, Rivera,
15 Sampson, Savino, Serrano, Squadron, Stavisky, and
16 Stewart-Cousins.

17 Absent from voting: Senator
18 Perkins.

19 Absent from voting pursuant to
20 Rule 9: Senator Krueger.

21 Ayes, 34. Nays, 23.

22 ACTING PRESIDENT ROBACH: The bill
23 is passed.

24 Senator Libous.

25 SENATOR LIBOUS: Mr. President, if

1 we can go back to Senator Nozzolio's bill,
2 Calendar Number 53.

3 ACTING PRESIDENT ROBACH: The
4 Secretary will read Calendar 53.

5 THE SECRETARY: Calendar Number
6 53, by Senator Nozzolio, Senate Print 4673A, an
7 act to amend the Vehicle and Traffic Law.

8 SENATOR BRESLIN: Explanation.

9 ACTING PRESIDENT ROBACH: Senator
10 Breslin has asked for an explanation, Senator
11 Nozzolio.

12 SENATOR NOZZOLIO: I'll be glad to
13 provide that explanation.

14 Mr. President and my colleagues,
15 this measure simply allows the use of all-terrain
16 vehicles, when explicitly for agricultural
17 purposes, to go from one acreage on the farm to a
18 public highway back to that acreage, for the
19 purposes of growing crops, producing revenue,
20 growing jobs, and growing the economy of the
21 State of New York.

22 ACTING PRESIDENT ROBACH: Senator
23 Squadron.

24 SENATOR SQUADRON: Will the
25 sponsor yield for a question.

1 ACTING PRESIDENT ROBACH: Senator
2 Nozzolio, will you yield for a question?

3 SENATOR NOZZOLIO: Yes,
4 Mr. President.

5 ACTING PRESIDENT ROBACH: Senator
6 Squadron.

7 SENATOR SQUADRON: Thank you.
8 Through you, Mr. President, does
9 the sponsor know if ATVs are currently defined as
10 motor vehicles in the Vehicle and Traffic Law?

11 SENATOR NOZZOLIO: I'm sorry,
12 Mr. President, I couldn't hear the end of Senator
13 Squadron's question.

14 ACTING PRESIDENT ROBACH: Senator
15 Squadron, could you repeat the question, please?

16 SENATOR SQUADRON: Sure.

17 Does the sponsor know if ATVs are
18 currently defined as motor vehicles in the
19 Vehicle and Traffic Law?

20 SENATOR NOZZOLIO: Are they
21 currently motor vehicles?

22 SENATOR SQUADRON: Correct.

23 SENATOR NOZZOLIO: Yes, they are.
24 And they are governed, Mr. President, by the
25 Vehicle and Traffic Law.

1 SENATOR SQUADRON: Through you,
2 Mr. President, is the sponsor suggesting that
3 ATVs are governed by the same registration and
4 safety and emissions requirements as passenger
5 automobiles?

6 SENATOR NOZZOLIO: I'm not sure,
7 Mr. President.

8 SENATOR SQUADRON: So if the
9 sponsor wouldn't mind clarifying, then, what he
10 means when he says yes, they're defined as motor
11 vehicles in the Vehicle and Traffic Law.

12 SENATOR NOZZOLIO: I don't know --
13 Senator Squadron, Mr. President, I'm having
14 trouble hearing the end of your comments.
15 They're kind of trailing off. Would you be so
16 kind as to repeat them?

17 ACTING PRESIDENT ROBACH: And
18 maybe, everybody, can we just get a little order
19 in here so our fellow members can hear the
20 question and we can all hear the dialogue.

21 Senator Squadron, would you please
22 repeat the question? I'm sorry.

23 SENATOR SQUADRON: Sure. Thank
24 you. And if the sponsor would continue to yield,
25 I just wanted to understand the answer to the two

1 different questions.

2 The sponsor seems to say that ATVs
3 are defined as motor vehicles in the VTL and
4 doesn't know if they are governed by the same
5 safety and emissions standards as passenger
6 automobiles. I wanted to ask under what method
7 are they governed, in the sponsor's view?

8 SENATOR NOZZOLIO: Mr. President,
9 under Section 2281 of the Vehicle and Traffic
10 Law, ATVs are in fact regulated, that they are
11 defined, that they have certain provisions that
12 they are required to put forward.

13 However, they are not allowed
14 currently on major highways. And that's hence
15 this measure, which amends the Vehicle and
16 Traffic Law, Section 401, to provide the
17 opportunity, when the vehicles are for
18 agricultural purposes, that those vehicles be
19 allowed to go from one part of the farm onto a
20 public highway to the other part of the farm.

21 Now, there is precedent for this,
22 Mr. President, precedent for other vehicles.
23 When an individual, for instance, has a truck
24 that's not licensed for highway use, that truck
25 is allowed to go from the north 40 to the

1 south 40 as long as the truck is used for
2 agricultural purposes.

3 This legislation amends the Vehicle
4 and Traffic Law to allow ATVs, which are utilized
5 by farmers to get from one end of the farm to the
6 other, once in a while they have to go on public
7 highways to do that.

8 This provision, though, does not
9 allow ATVs to further ride on highways other than
10 to get from one portion of a farm to another.

11 SENATOR SQUADRON: Thank you. If
12 the sponsor would continue to yield.

13 ACTING PRESIDENT ROBACH: Do you
14 continue to yield, Senator Nozzolio?

15 SENATOR NOZZOLIO: Yes,
16 Mr. President.

17 ACTING PRESIDENT ROBACH:
18 Continue.

19 SENATOR SQUADRON: I appreciate
20 that sort of broader description of the bill from
21 the sponsor. But just to get back to the safety
22 standards for ATVs as compared to motor vehicles
23 as defined in the Vehicle and Traffic Law, would
24 the sponsor say that the safety and emissions
25 standards are less stringent for ATVs than for

1 motor vehicles, passenger cars in the VTL?

2 SENATOR NOZZOLIO: Mr. President,
3 in response to Senator Squadron's question, I'd
4 simply say ATVs are not allowed on the highway
5 now, that they're not allowed for taking a Sunday
6 afternoon drive, but rather are to be utilized
7 for trails and other rural-oriented,
8 non-highway-oriented development, to get from one
9 end of a rural area to another, primarily.

10 This does not allow ATVs to now
11 have highway usage other than going from one end
12 of the farm to the other end of the farm.

13 SENATOR SQUADRON: If the sponsor
14 would continue to yield.

15 ACTING PRESIDENT ROBACH: Will you
16 continue to yield, Senator Nozzolio?

17 SENATOR NOZZOLIO: Yes,
18 Mr. President.

19 SENATOR SQUADRON: I appreciate
20 the sponsor's point that currently ATVs are not
21 allowed to use the roads and the highways in the
22 State of New York, and that this bill would allow
23 that.

24 Let me ask, does this bill also, in
25 allowing that, increase the safety standards or

1 the emissions standards of ATVs to the level
2 allowed for the vehicles currently allowed on
3 New York State's highways and roads?

4 SENATOR NOZZOLIO: In response to
5 Senator Squadron's question, Mr. President, I
6 must report to my colleagues that Section 2406 of
7 the Vehicle and Traffic Law talks about and
8 speaks to the issue of equipment on ATVs.

9 And those equipment qualifications,
10 as set forth in the statute, clearly, no person
11 shall operate an ATV under New York State Vehicle
12 and Traffic Law unless that ATV is equipped with
13 brakes in good operating condition, has a muffler
14 system in good operating condition -- which, by
15 the way, meets federal standards.

16 It also establishes a requirement
17 for ATVs, as you are running them, to have a
18 spark arrester approved by the United States
19 Forest Service.

20 You also have to have tires that
21 are at least 2/32nds of an inch of tread with no
22 visible breaks, cuts, exposed cords, bumps or
23 bulges. All these requirements are in the
24 statute.

25 There are also requirements in the

1 statute to have lighted white headlights approved
2 by the commissioner of the Department of Motor
3 Vehicles, a lighted red taillight approved by the
4 commissioner of the Department of Motor Vehicles,
5 and that they certainly, when operated at night,
6 must have these in good working condition.

7 There also is a requirement under
8 the Vehicle and Traffic Law, Mr. President, that
9 a person operating an ATV or riding as a
10 passenger in an ATV must be wearing a protective
11 helmet. As well, that helmet must be approved by
12 the commissioner of the Department of Motor
13 Vehicles.

14 ACTING PRESIDENT ROBACH: Thank
15 you, Senator Nozzolio.

16 SENATOR NOZZOLIO: There are other
17 conditions, Mr. President, within this statute.

18 And to further explain the
19 situation that there are qualifications on the
20 type of tires that you can equip ATVs with and
21 that -- that, I think, responds in detail to my
22 colleague's question.

23 ACTING PRESIDENT ROBACH: Thank
24 you.

25 SENATOR SQUADRON: If the sponsor

1 would continue to yield.

2 ACTING PRESIDENT ROBACH: Senator
3 Nozzolio, will you continue to yield?

4 SENATOR NOZZOLIO: Yes,
5 Mr. President.

6 SENATOR SQUADRON: Through you,
7 Mr. President, there are certainly some standards
8 laid out. Again, are those standards lesser than
9 or equal to the safety standards that we
10 currently require on our roads and highways?

11 SENATOR NOZZOLIO: Mr. President,
12 I don't know.

13 But I do know this. That the ATVs
14 are established under certain standards, just as
15 hay wagons are, just as vehicles that may be not
16 licensed for road operations.

17 The purpose of these vehicles is
18 not to take a joyride from one area of the
19 highway to the next, it's to transport farmers
20 and farm employees from the north 40 to the
21 south 40. That's what the purpose of this
22 legislation is, Mr. President.

23 And that we're establishing that
24 the ATVs have no additional standards than
25 already exist in Vehicle and Traffic Law to

1 achieve this objective, except for the condition
2 that it is strictly for agricultural purposes.

3 ACTING PRESIDENT ROBACH: Thank
4 you, Senator Nozzolio.

5 SENATOR SQUADRON: Thank you. If
6 the sponsor would continue to yield.

7 ACTING PRESIDENT ROBACH: Will you
8 continue to yield, Senator Nozzolio?

9 SENATOR NOZZOLIO: Yes,
10 Mr. President.

11 SENATOR SQUADRON: Through you,
12 Mr. President. Under this legislation would an
13 ATV, for example, be allowed on the New York
14 State Thruway?

15 SENATOR NOZZOLIO: Mr. President,
16 I'm not sure if there are too many farms that
17 require Thruway transport from the north 40 to
18 the south 40.

19 I'm not sure Senator Squadron is
20 asking this question with -- maybe he's asking
21 this question with a specific circumstance in
22 mind. But in the six counties, all the parts of
23 six counties that I represent -- and I have the
24 longest stretch of Thruway of any Senator
25 representing in this body -- I cannot envision

1 someone taking an ATV to go from one end of their
2 farm to the other using the New York State
3 Thruway.

4 ACTING PRESIDENT ROBACH: Maybe if
5 I could chime in. Unless you're an authorized
6 vehicle, you have to go through a tollbooth to
7 access the Thruway. So the answer would be
8 technically, under this case, no.

9 SENATOR SQUADRON: Thank you,
10 Mr. President. I'm not familiar with the
11 parliamentary procedure of that clarification,
12 but I --

13 ACTING PRESIDENT ROBACH: Maybe
14 I'll go one step further. You could {inaudible}
15 Senator Nozzolio's district out of Brooklyn and
16 Manhattan and take a ride on an ATV. Maybe that
17 would help clear it up for you.

18 SENATOR SQUADRON: Thank you,
19 Mr. President. Thank you to the sponsor. If the
20 sponsor would continue to yield in the interim.

21 ACTING PRESIDENT ROBACH: Senator
22 Nozzolio, will you continue to yield?

23 SENATOR NOZZOLIO: Yes,
24 Mr. President.

25 SENATOR SQUADRON: How about any

1 other interstate in the State of New York, any
2 divided interchange highway? Would this allow an
3 ATV to travel on any of those?

4 SENATOR NOZZOLIO: I can't
5 envision such a situation, Mr. President.

6 Again, Senator Squadron needs only
7 to look at current law, which allows the use of
8 nonregistered vehicles that are implemented for
9 work on the farm, to see if in fact his
10 hypothetical -- as far-fetched as it is, I
11 believe it's simply not a circumstance that
12 currently exists in New York.

13 SENATOR SQUADRON: If the sponsor
14 would continue to yield.

15 ACTING PRESIDENT ROBACH: Senator
16 Nozzolio, will you continue to yield?

17 SENATOR NOZZOLIO: Yes,
18 Mr. President.

19 ACTING PRESIDENT ROBACH:
20 Continue.

21 SENATOR SQUADRON: Does the
22 sponsor think that it would be a good idea if an
23 ATV met the safety guidance that we've discussed
24 today, for a driver of an ATV to take it on a
25 separated highway, on an interstate highway?

1 SENATOR NOZZOLIO: Mr. President,
2 I appreciate Senator Squadron's reaching out to
3 me and asking my opinion on some hypothetical
4 measure. I always enjoy colloquy between
5 colleagues and expressing individual opinions.

6 However, this measure has nothing
7 to do with the hypothetical presented by Senator
8 Squadron, and therefore I think that my
9 question -- my answer, rather, to his question is
10 "asked and answered."

11 SENATOR SQUADRON: Thank you.

12 If Senator Duane would be willing
13 to yield to a question.

14 SENATOR DUANE: No, Mr. President,
15 would you yield for a question, please?

16 ACTING PRESIDENT ROBACH: Senator
17 Duane, why do you rise?

18 SENATOR DUANE: I was wondering if
19 you, Mr. President, would yield for a question.
20 You spoke on the bill, Mr. President.

21 ACTING PRESIDENT ROBACH: I
22 probably did speak a little out of turn.

23 And I really can't yield for a
24 question. But if you really would like me to
25 answer a question, I could have somebody else

1 come up here and I'll go down to my seat.

2 SENATOR DUANE: Mr. President, you
3 spoke on the bill, it doesn't matter whether it
4 was long, short, in between. Actually twice, I
5 believe you did so. Actually, I was wondering if
6 you would yield for a question.

7 ACTING PRESIDENT ROBACH: I was
8 just trying to move the dialogue along, Senator.

9 Senator Libous, why do you rise?

10 SENATOR LIBOUS: Well, since
11 you're going to move the dialogue along, I'll sit
12 down.

13 But I just wanted to point out that
14 we need to move on to debate. I believe Senator
15 Nozzolio has the floor, and I'd like to continue
16 with the debate.

17 ACTING PRESIDENT ROBACH: Senator
18 Squadron.

19 SENATOR SQUADRON: I believe,
20 Mr. President, that I have the floor still.

21 SENATOR BRESLIN: Point of order,
22 please.

23 ACTING PRESIDENT ROBACH: Senator
24 Breslin, why do you rise?

25 SENATOR BRESLIN: I think that we

1 can solve this. That the chair is not to be
2 answering questions. And when the chair attempts
3 to either be facetious or otherwise, it's out of
4 order. And if we proceed with the rules, I don't
5 think we'll have any of these problems at all.

6 ACTING PRESIDENT ROBACH: Point
7 well taken. Let's continue.

8 SENATOR LIBOUS: Mr. President, on
9 that point, I concur that Senator Squadron has
10 the floor.

11 ACTING PRESIDENT ROBACH: Senator
12 Squadron.

13 SENATOR DUANE: Mr. President, I
14 would like to agree to that and be satisfied by
15 it. So -- because I did ask the question, since
16 you did speak on the bill. And since -- I
17 therefore am permitted to ask you, since I
18 technically have the floor. But in the
19 interests --

20 ACTING PRESIDENT ROBACH: Senator
21 Squadron has the floor.

22 SENATOR DUANE: But in the
23 interests of just so that everyone understands
24 the parliamentary procedures. And we've made
25 that point clear now, I think.

1 I believe that Senator Squadron is
2 doing an excellent job, and I'd be thrilled to
3 allow him to continue, even though I'm greatly
4 disappointed that you were not inclined to answer
5 a question after having spoken on the bill.

6 Thank you, Mr. President.

7 ACTING PRESIDENT ROBACH: Thank
8 you, Senator Duane.

9 Senator Squadron.

10 SENATOR SQUADRON: Thank you,
11 Mr. President. And thank Senator Duane for that
12 clarification as well.

13 I believe that in my conversation
14 with the bill's sponsor, the unmediated portion
15 of it, the bill's sponsor declined to say whether
16 it was a good idea to take an ATV onto a
17 separated highway, interstate highway.

18 I would say that I understand the
19 reluctance to answer that question because
20 certainly the answer is it's not safe, it is not
21 advisable, and it shouldn't be allowed.

22 In addition, there are many roads
23 throughout the State of New York that aren't
24 tolled, aren't separated highways, but where
25 vehicles are traveling at clips well over the

1 speed that would be safe for an ATV where you
2 have --

3 ACTING PRESIDENT ROBACH: Are you
4 on the bill, Senator Squadron, now? Or are you
5 going to ask a question?

6 SENATOR SQUADRON: Mr. President,
7 I'm on the bill. Thank you.

8 ACTING PRESIDENT ROBACH: On the
9 bill.

10 SENATOR SQUADRON: As I was
11 saying, there are many roads throughout the state
12 where those who would travel at a speed much
13 greater than would be safe on an ATV -- this bill
14 would allow for that.

15 This bill would allow for behavior
16 that is absolutely not safe. It's the reason, in
17 fact, that we treat ATVs and passenger vehicles
18 differently under the state law. And a 25-mile
19 radius is a very large radius.

20 And the simple idea of opening up
21 an unregistered vehicle without the same
22 emissions standards, without the same safety
23 standards, to the roads of the State of New York
24 is not safe for the users of those vehicles nor
25 for other users of the road. Whether pedestrians

1 or bicyclists or automobile drivers, it raises
2 any number of concerns.

3 And the fact that this bill
4 potentially authorizes something that the bill's
5 sponsor would not state here on the floor of the
6 State Senate is safe and advisable I think is
7 deeply concerning.

8 I appreciate the need to link
9 different portions of farms. I'd be interested
10 in the number of examples where you have
11 different portions separated by 25 miles of road
12 in this way in which, in addition, an ATV trip is
13 required to go from one to the other, very
14 different than a tractor, than a vehicle that has
15 a very specific purpose and is needed in that
16 case.

17 So for a lot of reasons, it seems
18 that to gut the protections that we give to
19 vehicles on the roads in this way, to potentially
20 allow behavior that I think no one here would
21 want to advise, and to vote in favor of that
22 behavior, doesn't make any sense.

23 So I am going to vote no on this
24 bill, and I urge my colleagues to do it. If we
25 want to open the roads to all sorts of

1 unregistered vehicles without safety standards,
2 let's admit we're doing that and have a debate
3 about that. Let's not today vote yes cloaked in
4 some other purpose.

5 Thank you, Mr. President.

6 ACTING PRESIDENT ROBACH: Thank
7 you, Senator Squadron.

8 Senator Nozzolio on the bill.

9 SENATOR NOZZOLIO: On the bill,
10 Mr. President.

11 I'm asking you to consider, in the
12 spirit of allowing Senator Squadron to sleep
13 better this evening, in knowing that this measure
14 does not allow ATVs to be given any access to
15 those limited-access highways, including the
16 New York State Thruway and all those enterprises
17 that -- all those roads in our state that are
18 defined as limited-access highways.

19 ACTING PRESIDENT ROBACH: Senator
20 Squadron, why do you rise?

21 SENATOR SQUADRON: Would the
22 sponsor yield for a question?

23 Thank you for the clarification.
24 It seems to speak directly to our conversation.

25 ACTING PRESIDENT ROBACH: Senator

1 Nozzolio, will you yield?

2 SENATOR NOZZOLIO: In spite of
3 interrupting my closing remarks, Mr. President,
4 I'd be glad to yield to Senator Squadron.

5 SENATOR SQUADRON: I thank the
6 sponsor for that clarification. And that
7 analysis is one that is consistent with ours, in
8 fact.

9 And so I want to ask the sponsor,
10 who previously declined to say whether it was
11 advisable or not for an ATV to be on a
12 limited-access highway, on an interstate-type
13 highway, whether at this point the sponsor
14 has a view about whether it makes sense for an
15 ATV to be on such a road.

16 SENATOR NOZZOLIO: Mr. President,
17 I've already responded to the question. That it
18 is a hypothetical that's not relevant to this
19 bill because this bill does not allow ATVs to be
20 on limited-access highways. It also does not
21 allow ATVs to be operational after sunset or
22 before sunrise.

23 So that those interests of Senator
24 Squadron I'm sure are legitimate and of concern.
25 I rose to further define for our colleagues

1 exactly what this bill does and what it doesn't
2 do.

3 And it certainly does not allow
4 ATVs to go on limited-access highways. It does
5 not allow them to run in any type of operation
6 that's non-agricultural-oriented, traveling from
7 one end of the farm to the other. It also does
8 not allow ATVs to be running during the darkness
9 of night or early morning.

10 SENATOR SQUADRON: If the sponsor
11 would continue to yield.

12 ACTING PRESIDENT ROBACH: Will you
13 continue to yield, Senator Nozzolio?

14 SENATOR NOZZOLIO: Yes,
15 Mr. President.

16 ACTING PRESIDENT ROBACH:
17 Continue, Senator Squadron.

18 SENATOR SQUADRON: Would the
19 sponsor say why such prohibitions are put on ATVs
20 in this bill that don't exist for passenger
21 vehicles under the law? The prohibitions that
22 were just laid out newly in the sponsor's latest
23 response.

24 SENATOR NOZZOLIO: Mr. President,
25 I think the question from Senator Squadron is

1 that why those prohibitions aren't placed on
2 other farm vehicles that are allowed to go from
3 the north 40 to the south 40.

4 Is that correct, Senator? Is that
5 the correct question, Mr. President, that Senator
6 Squadron is asking?

7 SENATOR SQUADRON: I will restate
8 the question for the sponsor. I'm happy to do
9 so.

10 The prohibitions that were laid
11 out -- the limited-access highways, the darkness,
12 different prohibitions on ATVs in this bill that
13 don't exist, as far as I know, for passenger
14 vehicles -- why did the sponsor put those
15 prohibitions in this bill? What is the reason?

16 SENATOR NOZZOLIO: Mr. President,
17 the nature of that question shows that the
18 questioner is asking something far beyond the
19 scope of this legislation.

20 This proposed measure deals with
21 the ability of farm vehicles that are not
22 registered to be able to go from the north 40 to
23 the south 40. This only adds, this measure only
24 adds ATVs to the list of vehicles that can go
25 from the north 40 to the south 40. It does not

1 create a special transportation ability of any
2 vehicle.

3 Those vehicles that currently are
4 allowed to go from the north 40 to the south 40
5 are also banned from the highway. Regardless of
6 their equipment, regardless of the standard of
7 regulation, they're unregistered vehicles or
8 registered as farm vehicles, not vehicles that
9 otherwise could be placed on the highway.

10 And we're saying that ATVs now
11 should have -- because they perform a similar
12 function for agriculture, that they should be
13 allowed also to be able to go from one end of the
14 farm to the other end of the farm.

15 SENATOR SQUADRON: If the sponsor
16 would continue to yield.

17 ACTING PRESIDENT ROBACH: Senator
18 Nozzolio, will you continue to yield?

19 SENATOR NOZZOLIO: Yes,
20 Mr. President.

21 SENATOR SQUADRON: The sponsor
22 suggested that my question was outside the scope
23 of the bill, so I would direct the sponsor to the
24 bill itself in asking why the prohibitions are
25 put on ATVs in this bill that do not exist for

1 other vehicles.

2 SENATOR NOZZOLIO: Mr. President,
3 in trying to understand Senator Squadron's
4 question, I only can state the following. That
5 the prohibitions -- or the requirements, the
6 safety requirements for the ATVs are already
7 listed in statute today. What we have
8 established is that the all-terrain vehicle must
9 comply with Department of Motor Vehicle
10 regulations as they exist in current law.

11 SENATOR SQUADRON: If I could stop
12 you there for clarification. I think I may not
13 have been clear enough in my question.

14 ACTING PRESIDENT ROBACH: Senator
15 Nozzolio.

16 SENATOR NOZZOLIO: I would always
17 welcome Senator Squadron clarifying his
18 questions.

19 SENATOR SQUADRON: Thank you. In
20 the interests of time, I would appreciate that
21 opportunity. I thank the sponsor.

22 I'm not referring to the safety
23 issues that we talked about earlier today, I'm
24 talking specifically about the limitations, the
25 limitations sunset to sunrise, the limitations on

1 certain kinds of roads, the limitations on a
2 25-mile radius. Those limitations that are put
3 on ATVs in this bill have nothing to do with the
4 safety requirements of the vehicles themselves.

5 Those specific limitations, the
6 three that I just listed, why are those put in
7 this bill?

8 SENATOR NOZZOLIO: Mr. President,
9 Senator Squadron's question about the reasons is
10 that we wanted to ensure that ATVs were in fact
11 used for agricultural purposes, that those
12 agricultural purposes are best suited during the
13 daytime rather than at night, they're best suited
14 for going from the north 40 to the south 40 when
15 you have the types of agricultural needs that are
16 necessary, and that it seemed also in line with
17 the current law which allows nonregistered
18 vehicles to go that same route.

19 SENATOR SQUADRON: If the sponsor
20 would yield for a final question.

21 ACTING PRESIDENT ROBACH: Senator
22 Nozzolio, will you yield for a final question?

23 SENATOR NOZZOLIO: I'd be happy
24 to, Mr. President.

25 SENATOR SQUADRON: So safety was

1 not a concern?

2 SENATOR NOZZOLIO: Mr. President,
3 we're always concerned with safety. That the
4 safety is a paramount concern for any time you
5 change the motor vehicle and traffic law.

6 What we're saying here is these are
7 utilized vehicles, they're strictly regulated
8 under current law in terms of their ability to
9 even operate them on off-road experiences. We're
10 saying that the only on-road experience that
11 could exist under this exemption will be for
12 agricultural purposes and limiting the time, the
13 scope, the manner of which those agricultural
14 experiences can be further defined.

15 That's the purpose of this
16 legislation, and I hope that it will be helpful
17 to New York State agriculture. I urge my
18 colleagues to pass it.

19 ACTING PRESIDENT ROBACH: Senator
20 Krueger, why do you rise?

21 SENATOR KRUEGER: Thank you,
22 Mr. President.

23 I do apologize I had to miss some
24 of the debate; I was at the revenue conference
25 with some of our colleagues and the economists.

1 But I did have some questions for
2 the sponsor that I believe were not asked
3 already, so I don't think I'll be duplicating
4 questions, if he wouldn't mind.

5 ACTING PRESIDENT ROBACH: I
6 certainly don't mind.

7 Senator Nozzolio, would you yield
8 for some questions?

9 SENATOR NOZZOLIO: I'd be happy to
10 yield to Senator Krueger, Mr. President.

11 SENATOR KRUEGER: Thank you.

12 Listening to the debate and looking
13 quickly at the bill, there's a discussion of
14 actually having these vehicles registered through
15 the DMV commissioner and a little bit of a layout
16 of how that would work.

17 So would this require annual
18 inspection, as for automobiles? Because there's
19 another section of the bill before it, talking
20 about ensuring that these vehicles do not have
21 any out-of-service defects leading to load
22 securement, brake systems, steering components
23 and/or coupling devices.

24 So I'm wondering will there be an
25 inspection system created on an annual basis,

1 like for automobiles and trucks?

2 SENATOR NOZZOLIO: Mr. President,
3 in current law I know that there needs to be
4 certain safety requirements met. Senator
5 Krueger, I read a portion of the law, referred to
6 it in response to Senator Squadron's earlier
7 question, regarding what type of safety
8 components of ATVs should be required.

9 And the Department of Motor
10 Vehicles requires a number of them, including
11 tire safety, taillight safety, headlight safety,
12 other types of equipment that has to be
13 reviewed.

14 That the inspection -- are you
15 saying that there's a specific inspection
16 requirement?

17 SENATOR KRUEGER: I'm asking if
18 there would be a specific inspection on an annual
19 basis the way we do so --

20 SENATOR NOZZOLIO: Thank you for
21 that clarification, Senator.

22 That we're not asking for any
23 additional requirements above existing law for
24 the utilization of those vehicles.

25 SENATOR KRUEGER: Mr. President,

1 if through you the sponsor would continue to
2 yield.

3 ACTING PRESIDENT ROBACH: Senator
4 Nozzolio, will you continue to yield?

5 SENATOR NOZZOLIO: Yes,
6 Mr. President.

7 SENATOR KRUEGER: So now I'll
8 clarify my question. Is there an annual
9 inspection already by the Department of Motor
10 Vehicles under existing law, so this would simply
11 be expanding that somehow?

12 SENATOR NOZZOLIO: Mr. President,
13 it's my understanding that under existing law
14 there is a registration requirement for ATVs and
15 that registration requirement must comply with --
16 just as any other vehicle registration
17 requirement in the state has certain standards
18 that must be met, and that registration
19 requirement, as articulated by the Vehicle and
20 Traffic Law, sets forward certain criteria for
21 each of those vehicles.

22 SENATOR KRUEGER: Mr. President,
23 through you, if the sponsor would continue to
24 yield.

25 ACTING PRESIDENT ROBACH: Senator

1 Nozzolio, will you continue to yield?

2 SENATOR NOZZOLIO: Yes,
3 Mr. President.

4 ACTING PRESIDENT ROBACH:
5 Continue.

6 SENATOR KRUEGER: Thank you.

7 So I confess I'm still a little
8 confused. It is true there's registration for
9 different kinds of vehicles in this state. But
10 vehicles that actually drive on our roads and
11 public highways actually go through a formal
12 inspection on an annual basis.

13 So my question again, to try to
14 make sure I'm saying it right, is if your bill
15 passed and these vehicles which currently are not
16 used on public roads and highways could be used
17 under certain circumstances on public roads and
18 highways, is it your belief that this would
19 require an actual safety inspection of the
20 vehicle on some schedule as we do with cars,
21 trucks, buses, police and fire vehicles, other
22 vehicles that ride on our roads and highways?

23 SENATOR NOZZOLIO: Mr. President,
24 in response to Senator Krueger's question I want
25 to make it very clear, particularly to the entire

1 agriculture community in this state, that this
2 measure has no intention of establishing an
3 additional inspection, regulation, requirement on
4 vehicles that are not meant for long highway use
5 in the first place.

6 That there are certain standards
7 that the equipment must be on an ATV, but this
8 legislation only allows ATVs to be on the road
9 for a very limited purpose. And that purpose is
10 to enhance New York agriculture, to make it more
11 efficient, to make it more effective. We're not
12 suggesting in any way, shape or form that this
13 legislation enhanced the cost of owning an ATV by
14 a farmer or enhanced the regulatory requirements
15 of said vehicle.

16 SENATOR KRUEGER: Mr. President,
17 if through you the sponsor would continue to
18 yield.

19 ACTING PRESIDENT ROBACH: Senator
20 Nozzolio, would you continue to yield?

21 SENATOR NOZZOLIO: Yes,
22 Mr. President.

23 ACTING PRESIDENT ROBACH:
24 Continue.

25 SENATOR KRUEGER: Thank you to the

1 sponsor for his answers to my questions.

2 So again, as I understand it, he
3 doesn't want any new requirements placed on the
4 owners of the vehicles. He does want the
5 vehicles to be able to travel on public roads and
6 highways up to 25 miles from their farms.

7 Will this law require vehicles to
8 have insurance so that if, unfortunately, there
9 is an accident between this vehicle and another
10 vehicle, this vehicle and a human being, that the
11 standards of automobile, truck, bus insurance
12 will be applied to these vehicles when they are
13 on roadways?

14 SENATOR NOZZOLIO: Mr. President,
15 it was a long question. I'm not sure I got
16 two-thirds of it.

17 But if Senator Krueger is asking
18 for a clarification of whether there should be
19 additional insurance requirements or other types
20 of requirements, the law governing ATVs already
21 establishes those requirements. We're not
22 suggesting any additional requirements be set
23 forth.

24 SENATOR KRUEGER: Thank you,
25 Mr. President. On the bill.

1 ACTING PRESIDENT ROBACH: On the
2 bill.

3 SENATOR KRUEGER: So ATVs, large,
4 motorized, with wheels -- moving forward, I
5 missed the debate, I guess, on an earlier ATV
6 bill which would expand the size of these
7 vehicles. And now with this bill we're being
8 asked to support allowing them to function not
9 unlike other transport vehicles used for work,
10 including farm work, trucks of different sizes on
11 roads and highways.

12 We require that trucks being used
13 for moving product from place to place -- could
14 be farms, could be other places -- we require
15 them to have annual inspections through
16 DMV-approved sites to ensure the safety standards
17 of those vehicles are being met.

18 We require insurance for the
19 vehicle to ensure -- as opposed to insure -- that
20 in situations where there are accidents and there
21 is harm done to body and property that there is
22 an insurance system in place.

23 It seems to me that it would be
24 logical to have a bill that allowed these
25 vehicles to do what Senator Nozzolio wants them

1 to be able to do if it also brought these
2 vehicles under the rubric of our other state DMV
3 laws and insurance laws so that these vehicles,
4 upon riding on our streets and highways, in fact
5 met safety standards and ensured that there was
6 insurance coverage to handle damages if in fact
7 there were accidents.

8 I don't believe this bill either
9 provides for insurance coverage, nor does it
10 provide for some kind of annual registration
11 inspection. And so I do not feel that we
12 ought to pass this law in the State of New York.

13 I think it could be amended to
14 address those concerns, but as it stands now,
15 through my questions and answers with the
16 sponsor -- and I greatly appreciate his
17 answers -- I don't think it passes the test for
18 allowing a new type of vehicle on our roads and
19 highways without the same standards applied to
20 them. I'll vote no.

21 Thank you, Mr. President.

22 ACTING PRESIDENT ROBACH: Thank
23 you, Senator Krueger.

24 Is there any other Senator wishing
25 to be heard?

1 Seeing none, the debate is closed.
2 The Secretary will ring the bell. We ask all
3 members to please come to the chamber for the
4 vote.

5 Read the last section.

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

8 ACTING PRESIDENT ROBACH: Call the
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT ROBACH: Senator
12 Montgomery to explain her vote.

13 SENATOR MONTGOMERY: Yes,
14 Mr. President. I want to rise to just explain
15 why I'm voting as I'm voting.

16 I appreciate the issues raised by
17 my colleagues. I see certainly the merit of some
18 of those questions that were raised, and I do
19 hope that we can work some of that out.

20 But I'm going to, however, support
21 this bill. And I want to make sure that my
22 colleagues understand I'm not doing this to
23 support Senator Nozzolio.

24 (Laughter.)

25 SENATOR MONTGOMERY: I just -- I

1 think it's important for me to distinguish.

2 I am supporting and I want to send
3 a message that we should be doing as much as we
4 can to support the farmers in our state. And
5 agriculture is a huge business. It's very, very
6 intense, labor-intensive, difficult, and
7 certainly important to our economy.

8 So I am voting yes on this, and
9 hopefully we can work out the details,
10 Senator Nozzolio.

11 ACTING PRESIDENT ROBACH: Thank
12 you, Senator Montgomery. You will be recorded in
13 the affirmative.

14 (Scattered applause.)

15 ACTING PRESIDENT ROBACH: Senator
16 Young to explain her vote.

17 SENATOR YOUNG: Thank you,
18 Mr. President.

19 I just want to rise and commend
20 Senator Nozzolio for putting forward this
21 important piece of legislation.

22 I grew up on a farm. I'm former
23 chair of the Senate Agriculture Committee. I
24 currently serve on the Agriculture Committee.
25 And we need to do everything that we can in this

1 state to help our farmers be able to have
2 efficient, effective operations.

3 On my farm my father actually
4 rented three farms that were close to one
5 another, but there was property in between. So
6 in order to get from one farm to another, he had
7 to use the roadways. And I think that's just one
8 small example of upstate, because it's not all
9 cut-and-dried. You have to get around your
10 farms, and it's not always just through the
11 fields.

12 So I think this is a very important
13 bill. And again, I want to thank Senator
14 Nozzolio for putting it forward because this will
15 help us continue to make sure that agriculture is
16 strong, that our economy is strong upstate, and
17 it's a great idea.

18 ACTING PRESIDENT ROBACH: Thank
19 you, Senator Young.

20 Announce the results.

21 THE SECRETARY: In relation to
22 Calendar Number 53, those recorded in the
23 negative are Senators Avella, Gianaris, Kennedy,
24 Krueger, Parker, Peralta, Rivera, Serrano,
25 Squadron, Stavisky and Stewart-Cousins.

1 Absent from voting: Senators
2 Huntley and Perkins.

3 Ayes, 46. Nays, 11.

4 ACTING PRESIDENT ROBACH: The bill
5 is passed.

6 Senator Libous, that concludes the
7 controversial reading of the calendar.

8 SENATOR LIBOUS: Mr. President, is
9 there any further business at the desk?

10 ACTING PRESIDENT ROBACH: We've
11 addressed all of it. There is none.

12 SENATOR LIBOUS: Thank you,
13 Mr. President.

14 There being no further business, I
15 move that we adjourn until Thursday, March 1st,
16 at 11:00 a.m.

17 ACTING PRESIDENT ROBACH: On
18 motion, the Senate stands adjourned until
19 Thursday, March 1st, at 11:00 a.m.

20 (Whereupon, at 4:50 p.m., the Senate
21 adjourned.)

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