

1 NEW YORK STATE SENATE

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3  
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 6, 2013

11 3:51 p.m.

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13  
14 REGULAR SESSION

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18 SENATOR DAVID J. VALESKY, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

4                   I ask everyone present to please  
5   rise and recite with me the Pledge of  
6   Allegiance.

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

9                   ACTING PRESIDENT VALESKY:    With us  
10   this afternoon to offer an invocation is  
11   Apostle Leeds Jean, from True Vine Ministries  
12   The Last Resort International, in Brooklyn.

13                  APOSTLE JEAN:    Our Father, we give  
14   You praise.   Our Father, we bless and magnify  
15   Your name.   Our Father, we invite Your holy  
16   presence in this place.

17                  Father God, according to the set  
18   order by which we have set for this nation, we  
19   pray for each and every person here, each and  
20   every family represented here, each and every  
21   city and state represented here.

22                  We pray, Father God, and I speak  
23   Your peace over each and every member here.   I  
24   speak Your peace, O God, over every city  
25   represented here.   And I speak that You, by the

1 spirit of wisdom, by the spirit of knowledge, by  
2 the spirit of counsel, You will enable,  
3 Father God, each and every member, Father God,  
4 that they will do what they need and have to do  
5 in this place.

6 We pray and we thank You, in Jesus'  
7 name, amen.

8 ACTING PRESIDENT VALESKY: The  
9 reading of the Journal.

10 The Secretary will read.

11 THE SECRETARY: In Senate,  
12 Tuesday, March 5th, the Senate met pursuant to  
13 adjournment. The Journal of Monday, March 4th,  
14 was read and approved. On motion, Senate  
15 adjourned.

16 ACTING PRESIDENT VALESKY: Without  
17 objection, the Journal stands approved as read.

18 Presentation of petitions.

19 Messages from the Assembly.

20 Messages from the Governor.

21 Reports of standing committees.

22 Reports of select committees.

23 Communications and reports from  
24 state officers.

25 Motions and resolutions.

1 Senator Libous.

2 SENATOR LIBOUS: Thank you,  
3 Mr. President.

4 I have three motions. And as soon  
5 as I put my glasses on, I'd be happy to move  
6 forward here.

7 On behalf of my colleague Senator  
8 Marcellino, on page 9 I offer the following  
9 amendments to Calendar Number 17, Senate Print  
10 1511, and I ask that the said bill please retain  
11 its place on the Third Reading Calendar.

12 ACTING PRESIDENT VALESKY: The  
13 amendments are received, and the bill will  
14 retain its place on the Third Reading Calendar.

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

17 On behalf of Senator Maziarz, on  
18 page 14 I offer the following amendments to  
19 Calendar Number 102, Senate Print 3806A, and ask  
20 that said bill retain its place on the Third  
21 Reading Calendar.

22 ACTING PRESIDENT VALESKY: Those  
23 amendments are also received, and the bill will  
24 retain its place on the Third Reading Calendar.

25 Senator Libous.

1                   SENATOR LIBOUS:    On behalf of  
2   Senator Ball, Mr. President, I move that the  
3   following bill be discharged from its respective  
4   committee and have it please recommitted with  
5   instructions to strike the enacting clause.  And  
6   that would be Senate Print 2567.

7                   ACTING PRESIDENT VALESKY:    So  
8   ordered.

9                   Senator Libous.

10                  SENATOR LIBOUS:    Thank you,  
11   Mr. President.  Could we hold on one second.

12                  Mr. President, at this time could we  
13   have the noncontroversial reading of the  
14   calendar, please.

15                  ACTING PRESIDENT VALESKY:    The  
16   Secretary will proceed with the noncontroversial  
17   reading of the calendar.

18                  THE SECRETARY:    Calendar Number  
19   119, by Senator Fuschillo, Senate Print 759, an  
20   act to amend the Penal Law.

21                  ACTING PRESIDENT VALESKY:    Read the  
22   last section.

23                  THE SECRETARY:    Section 6.  This  
24   act shall take effect on the first of November.

25                  ACTING PRESIDENT VALESKY:    Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 59. Nays, 1.

4 Senator Montgomery recorded in the negative.

5 ACTING PRESIDENT VALESKY: The bill  
6 is passed.

7 THE SECRETARY: Calendar Number  
8 120, by Senator Fuschillo, Senate Print 778, an  
9 act to amend the Penal Law.

10 ACTING PRESIDENT VALESKY: Read the  
11 last section.

12 THE SECRETARY: Section 3. This  
13 act shall take effect on the first of November.

14 ACTING PRESIDENT VALESKY: Call the  
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 59. Nays, 1.

18 Senator Montgomery recorded in the negative.

19 ACTING PRESIDENT VALESKY: The bill  
20 is passed.

21 THE SECRETARY: Calendar Number  
22 121, by Senator Maziarz, Senate Print 1058, an  
23 act to amend the Penal Law.

24 ACTING PRESIDENT VALESKY: Read the  
25 last section.

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

3 ACTING PRESIDENT VALESKY: Call the  
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 60.

7 ACTING PRESIDENT VALESKY: The bill  
8 is passed.

9 THE SECRETARY: Calendar Number  
10 122, by Senator Marcellino, Senate Print 1498, an  
11 act to amend the Penal Law.

12 ACTING PRESIDENT VALESKY: Read the  
13 last section.

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

16 ACTING PRESIDENT VALESKY: Call the  
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 60.

20 ACTING PRESIDENT VALESKY: The bill  
21 is passed.

22 THE SECRETARY: Calendar Number  
23 123, by Senator Marcellino, Senate Print 1507, an  
24 act to amend the Penal Law.

25 ACTING PRESIDENT VALESKY: Read the

1 last section.

2 THE SECRETARY: Section 6. This  
3 act shall take effect on the first of November.

4 ACTING PRESIDENT VALESKY: Call the  
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT VALESKY: Announce  
8 the results.

9 THE SECRETARY: In relation to  
10 Calendar Number 123, those recorded in the  
11 negative are Senators Montgomery and Perkins.

12 Ayes, 58. Nays, 2.

13 ACTING PRESIDENT VALESKY: The bill  
14 is passed.

15 THE SECRETARY: Calendar Number  
16 124, by Senator Grisanti, Senate Print 1590, an  
17 act to amend the Penal Law.

18 ACTING PRESIDENT VALESKY: Read the  
19 last section.

20 THE SECRETARY: Section 3. This  
21 act shall take effect on the 180th day.

22 ACTING PRESIDENT VALESKY: Call the  
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 60. Nays,

1 1. Senator Montgomery recorded in the negative.

2 ACTING PRESIDENT VALESKY: The bill  
3 is passed.

4 THE SECRETARY: Calendar Number  
5 125, by Senator Bonacic, Senate Print 2040, an  
6 act to amend the Penal Law.

7 SENATOR GIANARIS: Lay it aside.

8 ACTING PRESIDENT VALESKY: The bill  
9 is laid aside.

10 THE SECRETARY: Calendar Number  
11 126, by Senator Golden, Senate Print 2174, an act  
12 to amend the Civil Rights Law.

13 ACTING PRESIDENT VALESKY: Read the  
14 last section.

15 THE SECRETARY: Section 6. This  
16 act shall take effect immediately.

17 ACTING PRESIDENT VALESKY: Call the  
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60. Nays,

21 1. Senator Perkins recorded in the negative.

22 ACTING PRESIDENT VALESKY: The bill  
23 is passed.

24 THE SECRETARY: Calendar Number  
25 127, by Senator Young, Senate Print 2205, an act

1 to amend the Criminal Procedure Law.

2 ACTING PRESIDENT VALESKY: Read the  
3 last section.

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

6 ACTING PRESIDENT VALESKY: Call the  
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 61.

10 ACTING PRESIDENT VALESKY: The bill  
11 is passed.

12 THE SECRETARY: Calendar Number  
13 128, by Senator Klein, Senate Print 2322, an act  
14 to amend the Penal Law.

15 ACTING PRESIDENT VALESKY: Read the  
16 last section.

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

19 ACTING PRESIDENT VALESKY: Call the  
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: In relation to  
23 Calendar Number 128, those recorded in the  
24 negative are Senators Montgomery and Perkins.

25 Ayes, 59. Nays, 2.

1                   ACTING PRESIDENT VALESKY:    The bill  
2   is passed.

3                   THE SECRETARY:    Calendar Number  
4   129, by Senator Gallivan, Senate Print 2511, an  
5   act to amend the Penal Law.

6                   SENATOR GIANARIS:   Lay it aside.

7                   ACTING PRESIDENT VALESKY:   The bill  
8   is laid aside.

9                   THE SECRETARY:    Calendar Number  
10   133, by Senator Fuschillo, Senate Print 736, an  
11   act to amend the Vehicle and Traffic Law.

12                   ACTING PRESIDENT VALESKY:   Read the  
13   last section.

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

16                   ACTING PRESIDENT VALESKY:   Call the  
17   roll.

18                   (The Secretary called the roll.)

19                   THE SECRETARY:    Ayes, 61.

20                   ACTING PRESIDENT VALESKY:   The bill  
21   is passed.

22                   THE SECRETARY:    Calendar Number  
23   135, by Senator Fuschillo, Senate Print 753, an  
24   act to amend the Vehicle and Traffic Law.

25                   ACTING PRESIDENT VALESKY:   Read the

1 last section.

2 THE SECRETARY: Section 2. This  
3 act shall take effect on the 120th day.

4 ACTING PRESIDENT VALESKY: Call the  
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 61.

8 ACTING PRESIDENT VALESKY: The bill  
9 is passed.

10 THE SECRETARY: Calendar Number  
11 139, by Senator Lanza, Senate Print 2455, an act  
12 to enact.

13 ACTING PRESIDENT VALESKY: Read the  
14 last section.

15 THE SECRETARY: Section 3. This  
16 act shall take effect on the 180th day.

17 ACTING PRESIDENT VALESKY: Call the  
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 61.

21 ACTING PRESIDENT VALESKY: The bill  
22 is passed.

23 THE SECRETARY: Calendar Number  
24 141, by Senator Nozzolio, Senate Print 3302, an  
25 act to amend the Public Health Law.

1                   ACTING PRESIDENT VALESKY:    Read the  
2   last section.

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

5                   ACTING PRESIDENT VALESKY:    Call the  
6   roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY:    Ayes, 61.

9                   ACTING PRESIDENT VALESKY:    The bill  
10   is passed.

11                   THE SECRETARY:    Calendar Number 142,  
12   by Senator Little, Senate Print 3495, an act to  
13   authorize certain healthcare professionals.

14                   ACTING PRESIDENT VALESKY:    Read the  
15   last section.

16                   THE SECRETARY:    Section 2.   This act  
17   shall take effect July 24, 2013.

18                   ACTING PRESIDENT VALESKY:    Call the  
19   roll.

20                   (The Secretary called the roll.)

21                   THE SECRETARY:    Ayes, 61.

22                   ACTING PRESIDENT VALESKY:    The bill  
23   is passed.

24                   THE SECRETARY:    Calendar Number  
25   144, by Senator Griffo, Senate Print 2755, an act

1 to amend Chapter 912 of the Laws of 1920.

2 SENATOR GIANARIS: Lay it aside.

3 ACTING PRESIDENT VALESKY: The bill  
4 is laid aside.

5 Senator Libous, that completes the  
6 noncontroversial reading of the calendar.

7 SENATOR LIBOUS: Thank you,  
8 Mr. President.

9 At this time could we move to the  
10 controversial reading of the calendar.

11 ACTING PRESIDENT VALESKY: The  
12 Secretary will proceed with the reading of the  
13 controversial calendar. I ask that the bells be  
14 rung and that members come to the chamber so that  
15 we may proceed.

16 The Secretary will place Calendar  
17 Number 125 before the Senate.

18 THE SECRETARY: Calendar Number  
19 125, by Senator Bonacic, Senate Print 2040, an  
20 act to amend the Penal Law.

21 SENATOR SQUADRON: Explanation.

22 ACTING PRESIDENT VALESKY: Senator  
23 Bonacic, an explanation was requested by  
24 Senator Squadron.

25 SENATOR BONACIC: Thank you,

1 Mr. President.

2 Let me tell you, first of all, what  
3 the existing law is. And this legislation is an  
4 amendment to the existing law that we wish to  
5 pass. It concerns inmates and how they behave in  
6 a prison towards correction officers.

7 And right now it is a crime for an  
8 inmate to cause blood, seminal fluid, urine or  
9 feces to come into contact with a correction  
10 officer who that inmate believes is a  
11 correctional officer.

12 And the purpose of this legislation  
13 is an amendment to 240.32 of the Penal Law. And  
14 the reason for this coming forward, there was a  
15 president of the Orange County PBA by the name of  
16 David Estrada, and he said the law has to be  
17 clarified, because if there is an intent to place  
18 these substances on a correction officer, to  
19 intentionally try to spit in his direction, these  
20 things are not covered.

21 And they gave the specific instance  
22 where there was a toilet bowl that was emptied on  
23 a correction officer, placed on his body. There  
24 was no blood, there was no urine, there was no  
25 feces. And that was dismissed because the

1 existing legislation did not cover it.

2 And what we want to do is to clarify  
3 that language, that if you spit or you place  
4 these substances on a correction officer, then  
5 you will be guilty of a crime. And that's what  
6 that legislation does.

7 These correction officers are always  
8 in harm's way with the job that they do, and it's  
9 another protection that we're trying to put  
10 forward to make sure that inmates are discouraged  
11 from coming with creative ways to do harmful  
12 things without coming under the existing law.

13 That's the purpose of the  
14 legislation.

15 ACTING PRESIDENT VALESKY: Senator  
16 Squadron.

17 SENATOR SQUADRON: If the Senator  
18 would yield.

19 ACTING PRESIDENT VALESKY: Thank  
20 you.

21 Senator Bonacic, do you yield to a  
22 question?

23 SENATOR BONACIC: Of course.

24 ACTING PRESIDENT VALESKY: Senator  
25 Bonacic yields.

1                   SENATOR SQUADRON:   First of all, I  
2   thank the sponsor for his explanation of the  
3   bill.  And certainly the goal to protect  
4   correction officers who are in harm's way day in  
5   and day out is a laudable one.

6                   Let me just ask the sponsor, do you  
7   need to purposefully have a corrections officer  
8   come into contact with saliva in order to be  
9   guilty under this bill?

10                  SENATOR BONACIC:   Are you saying  
11   that the burden is on the correction officer to  
12   get in the way of what the inmate is doing?  Or  
13   does the inmate have the intent to do this to the  
14   correction officer?

15                  SENATOR SQUADRON:   Is the inmate  
16   required to have intent?

17                  SENATOR BONACIC:   Yes, he does.  
18   The inmate has to have the intent to do this.

19                  SENATOR SQUADRON:   And if the  
20   sponsor would continue to yield.

21                  SENATOR BONACIC:   Yes, I will.

22                  ACTING PRESIDENT VALESKY:   Senator  
23   Bonacic yields.

24                  SENATOR SQUADRON:   When you say "do  
25   this," what do you mean?  Can you just describe

1     what "this" is?

2                   SENATOR BONACIC:     Senator Squadron,  
3     could you speak a little more into the mike and  
4     more slowly? I'm not hearing you that well.

5                   SENATOR SQUADRON:    Absolutely.

6                   The sponsor in his response to the  
7     last question said the inmate would have to have  
8     intent to do this. I'm just wondering what  
9     "this" is, if the sponsor could just describe  
10    "this."

11                  SENATOR BONACIC:    If the inmate,  
12    let's say, has AIDS and the inmate -- and there's  
13    a correction officer that's in the proximity of  
14    the inmate. And the inmate spits, intentionally  
15    spits at the correction officer. Whether he hits  
16    him or not, it's a crime if he intentionally  
17    tried to place the spit on the correction  
18    officer.

19                  SENATOR SQUADRON:    If the sponsor  
20    would continue to yield.

21                  ACTING PRESIDENT VALESKY:    Senator  
22    Bonacic, do you continue to yield?

23                  SENATOR BONACIC:    I do.

24                  ACTING PRESIDENT VALESKY:    The  
25    Senator yields.

1                   SENATOR SQUADRON:   Thank you.

2                   Just to be clear, because as I read  
3 the legislation, there's certainly an intent  
4 component here, but the intent is to harass,  
5 annoy, threaten or alarm a person, as the chair  
6 of Codes and I discussed in a committee meeting  
7 last week. I think there are some colleagues who  
8 think that I have spoken on the floor  
9 occasionally with the intent to annoy, harass, or  
10 aggravate a colleague.

11                  SENATOR BONACIC:   I would never say  
12 that, Danny.

13                  (Laughter.)

14                  SENATOR SQUADRON:   I appreciate  
15 that.

16                  But the intent, as I read the bill,  
17 is not actually on the contact with the saliva,  
18 in the case of the first part of the amendment,  
19 but actually is the intent to irritate. And then  
20 the contact with the saliva could be mistaken; is  
21 that correct?

22                  SENATOR BONACIC:   When you say  
23 "mistaken," I gave the example of a toilet bowl  
24 being emptied on a correction officer. There was  
25 an intent to harm. But under the legislation,

1 when you try to place something on a correction  
2 officer, the language is not clear under our  
3 existing legislation. And I'm trying to give  
4 more clarity to the definition of what already  
5 exists.

6 And because there was no blood,  
7 there was no fetus {sic}, there was no urine in  
8 the contents of that fluid, the prosecution could  
9 not -- there was no crime against the correction  
10 officer. And we're trying to cover those  
11 specific situations that go on in a correction  
12 facility.

13 SENATOR SQUADRON: Would the  
14 sponsor continue to yield?

15 SENATOR BONACIC: Yes, I would, of  
16 course.

17 ACTING PRESIDENT VALESKY: The  
18 sponsor yields.

19 SENATOR SQUADRON: And certainly I  
20 hear the sponsor. Inadvertent or mistaken  
21 contact, causing inadvertent or mistaken contact  
22 with the contents of a toilet bowl are one  
23 thing. Inadvertent or mistaken contact with  
24 saliva, when the only intent is to aggravate or  
25 harass, is separate.

1                   So let me just ask -- I understand  
2                   the example about the toilet bowl. And certainly  
3                   that seems like a situation that does need to be  
4                   remedied legislatively. Are there any examples  
5                   of saliva that have not been able to be dealt  
6                   with?

7                   SENATOR BONACIC: No, not saliva,  
8                   because presently it is covered. Let me give you  
9                   an example. As I said before, the existing law,  
10                  if I cause blood, seminal fluid, urine or  
11                  feces -- what you're saying, you're raising the  
12                  issue specifically of saliva.

13                 Now, normally, if an inmate is  
14                 spitting, you have to prove that he had an intent  
15                 to want to spit at the correction officer.  
16                 Whether he hits him or not is not the crime; the  
17                 crime was to spit at him. So it's again covering  
18                 a situation where you're placing a fluid -- in  
19                 this case, saliva -- on that correction officer.  
20                 And you know, I guess it can be a communicable  
21                 disease.

22                 So that's the purpose of this  
23                 legislation, to give clarity to the existing  
24                 law. If you ask me how many instances there are  
25                 where they've been spitting at inmates {sic}, I

1 could not honestly tell you. But I will tell you  
2 this, that in 2011 this bill passed this house 59  
3 to 0 and in 2012, February of 2012, it passed 57  
4 to 3. This is the same bill.

5 ACTING PRESIDENT VALESKY: Senator  
6 Squadron.

7 SENATOR SQUADRON: If the sponsor  
8 would continue to yield.

9 ACTING PRESIDENT VALESKY: Senator  
10 Bonacic?

11 SENATOR BONACIC: I do.

12 ACTING PRESIDENT VALESKY: The  
13 sponsor yields.

14 SENATOR SQUADRON: I'm not sure  
15 that I have more clarity at this point on it.  
16 Just to understand, and then I'll speak on the  
17 bill. So the final question here.

18 The sponsor seems to have said  
19 that -- and I just want to understand the  
20 sponsor's intent -- that this creates a felony if  
21 there's the intent to spit at a corrections  
22 officer and contact is made, where currently that  
23 may or may not be the law, and this is just a  
24 clarification. Is that the sponsor's intent?

25 SENATOR BONACIC: The answer is

1     yes. The key to the criminal activity is the  
2     intent to do harm. That's the substance of the  
3     crime. And that would be a way of doing it,  
4     through saliva. It would be a question of fact  
5     whether he truly intended to spit. If he missed,  
6     you know, it's a stronger argument that there was  
7     not intent to spit on the officer.

8                     But what we're trying to do is  
9     discourage conduct that puts our correction  
10    officers in harm's way. I gave you the flagrant  
11    example of placing the toilet bowl. But any kind  
12    of fluid that you would direct with intent  
13    towards an officer by placing it on him would be  
14    encompassed in this legislation.

15                    There's -- the existing language  
16    under the law is not clear, and we're trying to  
17    give it more definition. The state correction  
18    officers have asked for this legislation, and the  
19    police benevolent associations have asked for  
20    this legislation.

21                    ACTING PRESIDENT VALESKY:    Senator  
22    Squadron.

23                    SENATOR SQUADRON:    Thank you. On  
24    the bill.

25                    ACTING PRESIDENT VALESKY:    Senator

1 Squadron on the bill.

2 SENATOR SQUADRON: And I thank the  
3 sponsor for answering my questions. And again,  
4 you know, the intent here is significant.  
5 Certainly the example -- call it the toilet bowl  
6 example -- that the sponsor gave seems to be one  
7 that does need a legislative fix.

8 The issue here is that this law  
9 vastly expands beyond that to any inadvertent  
10 contact with saliva. And I've actually got to  
11 tell you, I agree with the sponsor's intent a lot  
12 more than the reality of the bill here. If only  
13 the intent made the code.

14 The issue here is you've committed a  
15 crime under this statute if you have the intent  
16 to harass, annoy, threaten or alarm a person and  
17 then there is some contact with saliva. And  
18 you've created a felony for someone without any  
19 additional requirement at all.

20 So if someone is being harassing,  
21 annoying, threatening, alarming and there's  
22 contact with their saliva, even if it's placed --  
23 I notice we also add the word "expectorate,"  
24 which may or may not exist in the criminal code  
25 as it is. But even if it's placed on or

1 inadvertently makes contact with a corrections  
2 officer, that is a felony.

3 That just doesn't make sense and  
4 doesn't actually sound consistent with the  
5 sponsor's intent. I think the sponsor's intent,  
6 the intent of those who support this bill is a  
7 laudable one, and I look forward to seeing a bill  
8 that I can support, certainly to deal with the  
9 example that the sponsor talks about, certainly  
10 to deal with any other way in which it's not  
11 possible to protect corrections officers right  
12 now.

13 I don't think it's in anyone's  
14 interest to create a felony out of spittle in an  
15 irritating way. It's just not -- it's not a  
16 felony. It doesn't seem to be the sponsor's  
17 intent, the sponsor and I agree on that. So I  
18 would really urge that we withdraw the bill so we  
19 can pass a bill that meets the sponsor's intent,  
20 deal with what we can, not have a one-house bill  
21 that passes here annually and is not going to  
22 become law.

23 So I would urge my colleagues to  
24 vote no on the bill or urge the sponsor to  
25 withdraw the bill so that we can see one that

1 actually is going to solve the issue of  
2 protecting corrections officers who it seems  
3 currently need to be protected with a stronger  
4 law, not just a bill that would create a felon  
5 out of someone who has a spittle problem.

6 Thank you, Mr. President.

7 ACTING PRESIDENT VALESKY: Thank  
8 you, Senator Squadron.

9 Senator Nozzolio.

10 SENATOR NOZZOLIO: Mr. President,  
11 on the bill.

12 ACTING PRESIDENT VALESKY: Senator  
13 Nozzolio on the bill.

14 SENATOR NOZZOLIO: Mr. President  
15 and my colleagues, I am applauding Senator  
16 Bonacic for taking this issue up.

17 This issue is one that is an issue  
18 of workplace safety. It's an issue that we in  
19 this house established many years ago a course of  
20 conduct that we would not accept in our  
21 correctional facilities in this state. The  
22 course of conduct was that those brave men and  
23 women, those correction officers and other  
24 correctional employees who work behind the walls  
25 of our prisons, who walk the toughest law

1 enforcement beat in America, who do so under  
2 extreme peril, would be protected by the laws of  
3 this state.

4                   And the laws of this state, up until  
5 a decade ago, were woefully inadequate regarding  
6 inmates who use and deploy their bodily fluids as  
7 weapons. We're not talking about a dance hall,  
8 we're not talking about a playground, we're not  
9 talking about an athletic field, we're talking  
10 about one of the most dangerous places in  
11 America. We're talking about very serious,  
12 hardened, violent criminals.

13                   We're addressing this issue under  
14 Senator Bonacic's legislation for what purpose?  
15 We're trying to protect those brave men and women  
16 who serve at tremendous peril each and every  
17 day.

18                   Senator Squadron's arguments were  
19 raised in committee. I thought they were  
20 dispelled in committee. The fact of the matter  
21 is this Senate has a choice. The choice is  
22 simple. You either protect correction officers  
23 and those who work in the most stressful  
24 conditions in this state, or you do not. That's  
25 the choice you have.

1                   And I thank Senator Bonacic for  
2     trying to add to the protections that already  
3     exist for -- and the consequences of which have  
4     been prosecuted for those who have used other  
5     bodily fluids as weapons. There are cases across  
6     this state where the intentional use has led to a  
7     felony conviction. And believe it or not, that  
8     has also led to a reduction in this type of  
9     conduct in the first place. It is a deterrent to  
10    others who hope to gain advantage to use an  
11    attack against COs particularly, but other  
12    correctional personnel like nurses, like  
13    teachers, like custodial personnel.

14                  Thank you, Senator Bonacic, for this  
15    legislation. It will enhance workplace safety in  
16    one of the toughest workplace environments that  
17    we have in our state today.

18                  Mr. President, I support this  
19    legislation and hope it will become law.

20                  ACTING PRESIDENT VALESKY: Thank  
21    you, Senator Nozzolio.

22                  Senator Hoylman.

23                  SENATOR HOYLMAN: Mr. President, on  
24    the bill.

25                  ACTING PRESIDENT VALESKY: Senator

1     Hoylman on the bill.

2                   SENATOR HOYLMAN:    I wanted to make  
3     clear that I believe that the kernel of this bill  
4     is actually based in a profound misunderstanding  
5     as to how HIV and AIDS is transmitted.

6                   You heard the sponsor say that one  
7     of the concerns was that if an inmate spits AIDS,  
8     could be transmitted. Well, the fact of the  
9     matter is, Mr. President, AIDS and HIV is not  
10    transmitted by casual contact, which includes an  
11    individual spitting on another individual.

12                   In fact, I'll read for you the  
13    New York State Department of Health regulations,  
14    Section 6310: "Circumstances that involve  
15    significant risk shall not include exposure to  
16    urine, feces, sputum, nasal secretions and  
17    saliva."

18                   Mr. President, this bill is  
19    addressing a problem that does not exist in the  
20    reality of science or health, and I oppose this  
21    bill.

22                   ACTING PRESIDENT VALESKY:    Thank  
23    you, Senator Hoylman.

24                   Senator Bonacic to close the debate.

25                   SENATOR BONACIC:    Just on the bill.

1           The existing law does not make it a  
2 crime to do an unintentional act. That's point  
3 number one. Okay?

4           What we are trying to do here is to  
5 say that any intentional act to injure, harass,  
6 or aggravate a correction officer has to be  
7 protected and that conduct has to be discouraged  
8 by an inmate. That's the purpose of this  
9 legislation.

10           So Senator Squadron and I focused a  
11 lot in our discussions, and I kept saying intent,  
12 intent, intent. It was obvious with the toilet  
13 bowl. That was an outrageous act that you could  
14 relate to.

15           And the spitting maybe -- some  
16 Senators say it's not as outrageous and maybe it  
17 shouldn't fall into that category. That's what  
18 I'm sensing from the discussions. But I want to  
19 make it clear. Existing law, unintentional act  
20 is not a crime, no matter what the activity is or  
21 what may or may happen between an inmate and a  
22 correction officer.

23           But if it's an intentional act,  
24 whether it's spitting, fetus {sic}, urine,  
25 throwing a toilet bowl at him or everything in

1 it, we want to make that a crime.

2 Thank you, Mr. President. I vote  
3 yes.

4 ACTING PRESIDENT VALESKY: Thank  
5 you, Senator Bonacic.

6 Seeing no other Senator who wishes  
7 to be heard, the debate is closed. The Secretary  
8 will ring the bells. All Senators should proceed  
9 immediately to the chamber so that we may move  
10 forward with the roll call.

11 The Secretary will read the last  
12 section.

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

15 ACTING PRESIDENT VALESKY: Call the  
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT VALESKY: Announce  
19 the results.

20 THE SECRETARY: In relation to  
21 Calendar Number 125, those recorded in the  
22 negative are Senators Hoylman, Krueger,  
23 Montgomery, Sanders and Squadron.

24 Absent from voting: Senator Adams.

25 Ayes, 56. Nays, 5.

1                   ACTING PRESIDENT VALESKY:    The bill  
2   is passed.

3                   SENATOR LIBOUS:    Mr. President.

4                   ACTING PRESIDENT VALESKY:    Senator  
5   Libous.

6                   SENATOR LIBOUS:    Before we continue  
7   the reading of the controversial calendar, I  
8   would ask all members that we have two more bills  
9   to do today. We need you to be in your seats to  
10   vote on those bills. I would ask that if you  
11   have business, keep it directly outside the  
12   chamber, because we all would like to move the  
13   process along and we want to be fair to all of  
14   the colleagues here.

15                   And we understand that there are  
16   meetings and things going on because of  
17   negotiations. Please let your respective staff  
18   people know exactly where you're going to be,  
19   because we will move along without you if, after  
20   a reasonable amount of time, you are not  
21   present.

22                   Thank you, Mr. President. If we  
23   could continue with the calendar.

24                   ACTING PRESIDENT VALESKY:    Thank  
25   you, Senator Libous.

1                   The Secretary will place Calendar  
2                   Number 129 before the Senate.

3                   THE SECRETARY:   Calendar Number  
4                   129, by Senator Gallivan, Senate Print 2511, an  
5                   act to amend the Penal Law.

6                   SENATOR KRUEGER:   Explanation.

7                   ACTING PRESIDENT VALESKY:   Senator  
8                   Gallivan.

9                   SENATOR GALLIVAN:   Thank you,  
10                  Mr. President.

11                  This bill is known as the  
12                  Trafficking Victims Protection and Justice Act.  
13                  It came about as a result of a group of  
14                  advocates, along with prosecutors who work with  
15                  sex trafficking victims, who came to us,  
16                  identified some problem areas specifically in  
17                  helping victims in trying to work to shut down  
18                  sex trafficking.

19                  And essentially what it does, it  
20                  amends a number of laws in an effort to increase  
21                  the accountability and penalties for traffickers  
22                  and those that are patronizing those that are  
23                  victims of this, and conforms the ages of victims  
24                  in certain prostitution offenses to the ages of  
25                  victims in the rape offenses in order to protect

1 more children who are victims.

2 ACTING PRESIDENT VALESKY: Thank  
3 you, Senator Gallivan.

4 Senator Krueger.

5 SENATOR KRUEGER: Thank you,  
6 Mr. President. If through you the sponsor would  
7 yield, please.

8 ACTING PRESIDENT VALESKY: Senator  
9 Gallivan, do you yield?

10 SENATOR GALLIVAN: Yes.

11 ACTING PRESIDENT VALESKY: The  
12 sponsor yields.

13 SENATOR KRUEGER: Thank you.

14 I don't have objections to what's in  
15 this bill. My concern is why it's missing two  
16 sections that were actually in Senator Lanza's  
17 bill.

18 So the first section that's in  
19 Senator Lanza's bill but is not here -- and  
20 otherwise they're pretty parallel bills,  
21 Mr. President -- would be the Section 6 in  
22 Senator Lanza's bill, S2135, which is a same-as  
23 with Assemblywoman Paulin.

24 There was a section that the  
25 defendant's participation in the offense was a

1 result of having been a victim of sex trafficking  
2 under Section 230.34 of the Penal Law, or a  
3 victim of trafficking under the Trafficking  
4 Victims Protection Act, that that would be an  
5 affirmative defense for not being found guilty of  
6 prostitution.

7                   And then Section 25, which again is  
8 in Senator Lanza's bill but is not in Senator  
9 Gallivan's bill, which would amend the Criminal  
10 Procedure Law to amend the section heading and to  
11 add -- oh, I don't need to go through all the  
12 technical, but that would allow, if brought for  
13 arraignment upon information, simplified  
14 information or misdemeanor complaint charging  
15 such an offense on the trafficked woman who's  
16 picked up in this prostitution, that this case  
17 could be brought to the Family Court and removed  
18 from the Criminal Court.

19                   So it's a very long question, but my  
20 question is for Senator Gallivan, why are we not  
21 supporting the more complete bill that we  
22 actually have in this house through Senator  
23 Lanza's bill?

24                   SENATOR GALLIVAN: Through you,  
25 Mr. President. I am not familiar with the

1 provisions of Senator Lanza's bill, as it's not  
2 before us.

3 This particular bill was passed in  
4 exactly the form that it is in now last year,  
5 unanimously, by Senator Saland. As Senator  
6 Saland is no longer with us and this is a bill  
7 that I strongly support, I took it up and now ask  
8 my colleagues for their support as well.

9 ACTING PRESIDENT VALESKY: Senator  
10 Krueger.

11 SENATOR KRUEGER: Thank you.

12 Through you, Mr. President, would  
13 Senator Lanza yield for a question?

14 ACTING PRESIDENT VALESKY: Senator  
15 Lanza, do you yield to Senator Krueger?

16 SENATOR LANZA: No, Mr. President.

17 ACTING PRESIDENT VALESKY: Senator  
18 Krueger, Senator Lanza does not yield.

19 SENATOR KRUEGER: Oh, I'm very  
20 sorry.

21 On the bill, Mr. President.

22 ACTING PRESIDENT VALESKY: Senator  
23 Krueger on the legislation.

24 SENATOR KRUEGER: Thank you.

25 As I am pointing out, I have no

1 objection to Senator Gallivan's bill and I'm  
2 encouraging my colleagues to vote for this bill.  
3 But -- and he's justified in explaining his bill  
4 is before the floor.

5               His bill doesn't have a same-as in  
6 the Assembly. Senator Lanza's bill does have a  
7 same-as in the Assembly. So if Senator Lanza had  
8 risen, all I was going to ask him was would he  
9 bring his bill to the floor because in fact we  
10 would then have a same-as passing in both houses  
11 and it would be a more complete version of what  
12 the advocates have been asking us to do in this  
13 house for many years.

14              So I am certainly happy to vote for  
15 this bill today but disappointed that we're not  
16 voting on Senator Lanza's more complete bill,  
17 because I believe that one of the important  
18 lessons from human trafficking is that we need to  
19 do everything we can to prevent it from happening  
20 but we also have to make sure that our laws do  
21 not either demonize or continue to have the  
22 penalties on young people who are being exploited  
23 by human trafficking by being forced into a life  
24 of sexual prostitution.

25              So I strongly urge this house to

1 rush to bring Senator Lanza's bill to the floor  
2 as soon as possible, and then perhaps we can  
3 accomplish all our goals through a two-house  
4 same-as bill.

5 Thank you, Mr. President.

6 ACTING PRESIDENT VALESKY: Thank  
7 you, Senator Krueger.

8 Senator Gallivan.

9 SENATOR GALLIVAN: There currently  
10 is not -- through you, Mr. President -- a same-as  
11 bill. I'm working with several members of the  
12 Assembly who indicated support, they would bring  
13 this forward.

14 I would urge, because of this issue,  
15 that we pass this, that we try to stop the  
16 scourge of human sex trafficking as soon as  
17 possible. If we need to do more, we can be  
18 working at the same time to do more. And I  
19 certainly would look forward to working with my  
20 colleague Senator Lanza in advancing further  
21 measures.

22 ACTING PRESIDENT VALESKY: Thank  
23 you, Senator Gallivan.

24 Seeing no other Senators who wish to  
25 speak, the debate is closed.

1           The Secretary will ring the bell.  
2       Senators are urged to come to the chamber so we  
3       may move forward with the roll call.

4           Read the last section.

5           THE SECRETARY:   Section 35.   This  
6       act shall take effect on the 90th day.

7           ACTING PRESIDENT VALESKY:   Call the  
8       roll.

9           (The Secretary called the roll.)

10          ACTING PRESIDENT VALESKY:   Senator  
11       Montgomery to explain her vote.

12          SENATOR MONTGOMERY:   Yes,  
13       Mr. President.   Thank you.

14          I'm going to -- obviously we all  
15       have a great interest in dealing with the whole  
16       issue of sex trafficking.   And I believe, knowing  
17       that Senator Lanza does have a bill, I would  
18       prefer to be able to vote on that bill because it  
19       does do what we would like to see done.

20          And since it's not before us and  
21       this is a one-house bill, I'm going to vote no.  
22       And I certainly hope that I will have an  
23       opportunity to vote for Senator Lanza's bill very  
24       shortly.

25          Thank you.   I'm voting no.

1                   ACTING PRESIDENT VALESKY:    Senator  
2   Montgomery to be recorded in the negative.

3                   Announce the results.

4                   THE SECRETARY:    In relation to  
5   Calendar Number 129, those recorded in the  
6   negative are Senators Montgomery and Perkins.

7                   Absent from voting:   Senator Adams.

8                   Ayes, 59.   Nays, 2.

9                   ACTING PRESIDENT VALESKY:    The bill  
10   is passed.

11                   The Secretary will read.

12                   THE SECRETARY:    Calendar Number  
13   144, by Senator Griffio, Senate Print 2755, an act  
14   to amend Chapter 912 of the Laws of 1920.

15                   SENATOR KRUEGER:    Explanation.

16                   SENATOR LIBOUS:    Mr. President,  
17   before you bring the bill up, if I could ask for  
18   some order in the chamber.  We have a very  
19   important debate coming up, and I know there's a  
20   lot of folks here today and there's a lot going  
21   on, but I do want to hear the debate.  I'm sure  
22   there will be questions of Senator Griffio, and  
23   I'm anxious to hear how he's going to answer  
24   them.

25                   ACTING PRESIDENT VALESKY:    Thank

1       you, Senator Libous. Point well-taken.

2                       We ask that the noise be kept to a  
3       minimum.

4                       Senator Griffo, Senator Krueger has  
5       asked for an explanation.

6                       SENATOR GRIFFO: Thank you,  
7       Mr. President.

8                       I'm going to be succinct in my  
9       explanation and be available for questions. This  
10      bill has come before this house now -- this is  
11      the fourth time which we have considered and  
12      passed the bill.

13                      Essentially the purpose of this bill  
14      is to authorize the New York State Athletic  
15      Commission, at their discretion and at their  
16      direction, to add the mixed martial arts to a  
17      list of combat sports that may be held in  
18      New York State through matches and exhibitions in  
19      New York.

20                      ACTING PRESIDENT VALESKY: Senator  
21      Krueger.

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

24                      I appreciate the sponsor's  
25      explanation. And he's right, I do have some

1 questions of him, if he doesn't mind.

2 ACTING PRESIDENT VALESKY: Senator  
3 Griffo, do you yield?

4 SENATOR GRIFFO: Certainly.

5 ACTING PRESIDENT VALESKY: The  
6 sponsor yields.

7 SENATOR KRUEGER: Thank you.

8 So my understanding of mixed martial  
9 arts, also called caged fighting or ultimate  
10 fighting, which is a hybrid of traditional and  
11 nontraditional fight maneuvers, explicitly allows  
12 for punches and elbows to a grounded opponent,  
13 meaning an opponent who's already fallen to the  
14 ground.

15 If your bill passed, would that be  
16 allowed to happen in fights that took place in  
17 New York State?

18 SENATOR GRIFFO: Mr. President,  
19 through you.

20 Senator Krueger, the mixed martial  
21 arts have very specific rules and regulations  
22 which govern the competition, much similar to  
23 what we experience in professional boxing right  
24 now relative to weight classes, relative to time  
25 limits on rounds, with medical professionals

1 on-site doing examinations prior, during and  
2 after the competition.

3 So there are certain rules allowed.  
4 This is the mixed martial arts, which means  
5 there's a combination of grappling, boxing,  
6 jujitsu. And everything that is entailed in  
7 those aspects of sport would be allowed under the  
8 rules.

9 But again, I want to emphasize, when  
10 you talk about specifics and what may be germane  
11 to this sport, that there are very stringent  
12 regulations on what is done in the competition,  
13 in the same manner that we witness wrestling and  
14 boxing matches and bouts.

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

18 ACTING PRESIDENT VALESKY: Senator  
19 Griffo?

20 SENATOR GRIFFO: Sure.

21 ACTING PRESIDENT VALESKY: The  
22 sponsor yields.

23 SENATOR KRUEGER: Thank you.

24 Well, you're absolutely right, there  
25 are standards that are applied to other

1 professional sports. But I actually don't think  
2 in boxing or wrestling you are allowed to punch  
3 or elbow a grounded opponent, which was why I was  
4 asking about whether your bill would allow this  
5 to take place with mixed martial arts here in  
6 this state.

7                   So to further my questions, my  
8 understanding is that mixed martial arts has a  
9 disproportionate amount of injuries with  
10 lacerations to the -- facial lacerations the most  
11 common injury, accounting for nearly half of all  
12 injuries, followed by hand lacerations, followed  
13 by nose lacerations, followed by eye  
14 lacerations.

15                   If your bill became the law in  
16 New York State, would caged fighting include  
17 blows to the face, hands, feet, knees and elbows  
18 without any kind of padding worn by the fighters  
19 as it is in boxing, and would it allow punches  
20 and kicks to the head?

21                   SENATOR GRIFFO: Mr. President,  
22 through you.

23                   Senator Krueger, first of all, I  
24 guess you can refer to it a number of different  
25 ways, but if we're going to be accurate, this is

1 the mixed martial arts. So to call it something  
2 different is just a matter of personal opinion.  
3 And while I respect that, I think for the sake of  
4 accuracy what we're talking about is a sport  
5 known as the mixed martial arts.

6           There are different brands to the  
7 sport with names such as the Ultimate Fighting  
8 Championship, but we are dealing with this  
9 specific issue and with this particular bill on  
10 the sport of the mixed martial arts. Which is  
11 now allowed in 48 states across this country.

12           Along with that, there are rules and  
13 regulations which allow for certain activity in  
14 the match or the exhibition, which include a  
15 number of things, as I indicated earlier:  
16 Grappling moves, boxing technique.

17           So some of the things that you  
18 describe from a jab or an uppercut or a takedown,  
19 all these things are part of the sports that I  
20 have indicated to you priorly, part of wrestling  
21 or boxing. Some are jujitsu. It's all combined  
22 together. And so as a result of that, whatever  
23 is allowed in those specific sports are now  
24 combined under the mixed martial arts and  
25 therefore a part of the competition.

1                   What I want to state, though,  
2   Senator Krueger, is that you are inaccurate as  
3   far as what you are indicating relative to  
4   injuries. As I've said before, this sport  
5   obviously has really evolved since its  
6   inception. And there are very stringent rules  
7   and regulations and a number of measures put in  
8   place to ensure not only the safety of the  
9   participants but also of the spectators that come  
10  to see this sport.

11                  And it is a sport which is growing  
12  significantly in fan base across this nation.  
13  Not only can you now view this particular sport  
14  on cable or pay-per-view, but also on network  
15  television.

16                  So relative to safety rules, some of  
17  the things there are not -- for instance, to give  
18  you what cannot be done, you are not allowed  
19  strikes to the back of the head. There are no  
20  small joint manipulations allowed. There are no  
21  groin strikes allowed. There's no hair pulling  
22  or head butting allowed. There are no kicks to  
23  the head of a downed opponent. So there are a  
24  number of things that are not allowed in order to  
25  ensure the safety of those fighters.

1                   And what we're doing in this bill is  
2   to allow the State Athletic Commission, which  
3   supports this bill -- Commissioner Melvina Lathan  
4   has been a strong supporter of allowing the sport  
5   here in the State of New York. And they would  
6   have the opportunity, if they believe that  
7   something different also should be taken into  
8   consideration and implemented, because of a  
9   concern for safety in any way, this authorizes  
10  them, as I indicated in my explanation of the  
11  bill, to incorporate whatever provisions or  
12  additional regulations that they feel are  
13  necessary and appropriate to ensure safety.

14                   SENATOR KRUEGER: Through you,  
15  Mr. President, if the sponsor would continue to  
16  yield.

17                   ACTING PRESIDENT VALESKY: Senator  
18  Griffo?

19                   SENATOR GRIFFO: Yes.

20                   ACTING PRESIDENT VALESKY: The  
21  sponsor yields.

22                   SENATOR KRUEGER: Could Senator  
23  Griffo tell me what other professional sports  
24  other than MMA --

25                   SENATOR GRIFFO: Thank you.

1 (Laughter.)

2 SENATOR KRUEGER: -- allow a flurry  
3 of strikes to a grounded opponent known as a  
4 "ground and pound"?

5 SENATOR GRIFFO: Well, I --  
6 Mr. President, through you. Senator Krueger, I  
7 guess there's a number of techniques in a number  
8 of sports. And "ground and pound" is a  
9 terminology used in the mixed martial arts as  
10 part of what has developed in this particular  
11 sport.

12 There may be similar moves -- and I  
13 was not a wrestler or involved in that, but I  
14 know there are different grappling techniques  
15 that could be utilized and takedowns and things  
16 that -- and half nelsons, full nelsons. So there  
17 are things that exercised and utilized in  
18 professional sport, whether it be wrestling or  
19 boxing, that are also in that particular sport  
20 allowed. So something may be a little more  
21 unique to this sport but similar to what is  
22 taking place in other sport.

23 Because again, as I indicated prior,  
24 the concept of the mixed martial arts is a  
25 combination of a variety of sport.

1                   SENATOR KRUEGER:    Through you,  
2   Mr. President, if the sponsor would continue to  
3   yield.

4                   ACTING PRESIDENT VALESKY:    Senator  
5   Griffo, do you continue to yield?

6                   SENATOR GRIFFO:    Yes.

7                   ACTING PRESIDENT VALESKY:    The  
8   sponsor yields.

9                   SENATOR KRUEGER:    Thank you.

10                  Yes, I understand it's a combination  
11   of a number of sports, but I actually don't find  
12   other sports that allow the ground and pound as  
13   an approvable activity.

14                  But does MMA -- if we pass your  
15   bill, will the fighters here in New York State be  
16   allowed to use the chokehold, also known as the  
17   submission hold?  Which according to websites for  
18   the sport, the chokehold occurs when pressure is  
19   applied to the neck in an attempt to cut off  
20   blood flow to the brain.

21                  Can you tell me what other sports  
22   that we have legally participating in in New York  
23   State where you are allowed to and it is even  
24   described as a chokehold, attempting to cut off  
25   blood flow to the brain?  Because I distinctly

1 remember passing a law in here that doing that  
2 outside of a ring was actually against the law.  
3 So your bill would allow that to take place in  
4 the ring?

5 SENATOR GRIFFO: Mr. President,  
6 through you. Again, Senator Krueger, let me  
7 reiterate that there are various aspects to the  
8 sport. For instance, in professional boxing  
9 you're not allowed to have a takedown and yet in  
10 wrestling you are allowed to have a takedown.

11 So in this particular sport, by  
12 combining boxing, wrestling, jujitsu, muay thai,  
13 some elements of kickboxing, you have a number of  
14 these things which now take place where  
15 individually they are in a sport; now you see  
16 this collectively.

17 So there are specific aspects that  
18 are allowed in each of those particular sports,  
19 but the risk of injury is actually less severe in  
20 this sport because -- for instance, in  
21 professional boxing you are dealing with a  
22 knockout or technical knockout, which you  
23 referred to here in a hold where someone may get  
24 someone in a grappling hold where they can tap  
25 out, or it's a submission. As you call it, a

1 submission. It is submission, where they can  
2 actually tap out and not continue to fight.

3           You don't have that opportunity  
4 unless you throw the towel in in professional  
5 boxing, for instance, where you would have  
6 somebody have to throw the towel in in order to  
7 stop a fight.

8           Or a doctor at any point in time can  
9 prevent a fight if they believe that there is a  
10 risk of injury or that it is a situation that  
11 requires their attention. This is the important  
12 aspect of this right now, that any medical  
13 professional who are at ringside can stop any  
14 fight at any time for a reason that they feel  
15 poses a danger to the combatant.

16           SENATOR KRUEGER: Through you,  
17 Mr. President.

18           ACTING PRESIDENT VALESKY: Senator  
19 Krueger.

20           SENATOR KRUEGER: Like in the crime  
21 of choking someone until they pass out?  
22 Fighters, if they have passed out, can't tap out  
23 because they've passed out from being choked and  
24 having the blood cut off.

25           And again, I don't believe Senator

1 Griffio answered my question what other  
2 professional sports allow a chokehold where  
3 pressure is applied to the neck in an attempt to  
4 cut off the blood flow to the brain.

5 ACTING PRESIDENT VALESKY: Senator  
6 Krueger, are you speaking on the bill or would  
7 you like Senator --

8 SENATOR KRUEGER: No, I'm just  
9 pointing out that I believe his answer was no, he  
10 didn't know of other sports that allow that.

11 Let's talk about -- if through you,  
12 Mr. President, the sponsor will continue to  
13 yield.

14 ACTING PRESIDENT VALESKY: Senator  
15 Griffio, do you continue to yield?

16 SENATOR GRIFFIO: I do.

17 ACTING PRESIDENT VALESKY: The  
18 sponsor yields.

19 SENATOR GRIFFIO: I would like to  
20 add, before I yield, Senator Krueger, that I made  
21 an effort to try to provide you information. It  
22 may not be satisfactory to what you want, but I  
23 don't have a list of each of the activities that  
24 are allowed under the particular sports that I  
25 discussed that are a part of the mixed martial

1 arts.

2           Beyond that, I also said to you that  
3 if there is any danger posed to the athlete at  
4 any time in the manner in which you describe --  
5 which I believe would require a physician's  
6 attention -- they would not allow that. So to  
7 surmise or to indicate that they would allow  
8 significant risk or injury as you have described  
9 it, I think is inaccurate and really would not be  
10 allowed by the professionals, by the rules and  
11 regulations not only that exist but by the  
12 professionals who are at ringside, medical  
13 professionals particularly.

14           SENATOR KRUEGER: Through you,  
15 Mr. President, if the sponsor would continue to  
16 yield.

17           ACTING PRESIDENT VALESKY: Senator  
18 Griffo.

19           SENATOR GRIFFO: Sure.

20           ACTING PRESIDENT VALESKY: The  
21 sponsor yields.

22           SENATOR KRUEGER: So as I was  
23 reading about the sport and some of the stars of  
24 the sport, there seems to be a disproportionate  
25 and I find disturbing theme of neo-Nazi

1     messaging -- tattoos, statements referencing the  
2     Nazis and skinheads supporting the killing of  
3     Jews. How are we going to make sure that's not  
4     happening in our state?

5                     SENATOR GRIFFO:     Mr. President,  
6     through you. Senator Krueger, with all due  
7     respect, I would hope that -- and that's why,  
8     again, we are trying to ensure through this bill  
9     that the State Athletic Commission has the  
10    responsibility and the authorization for all  
11    oversight, monitoring and regulation of the sport  
12    here in the state. And I am sure that there  
13    would be no one that would allow such activity or  
14    imagery to be portrayed.

15                    Now, to the best of my knowledge, I  
16    have not seen such as you have described, nor has  
17    anybody in any way indicated that such activity  
18    exists.

19                    When you discuss the tattoos, I  
20    think we're looking at a culture and society of  
21    the 21st century where, whether we agree with it  
22    or not, you see a lot of people with tattoos, you  
23    see a lot of body piercing right now. I  
24    personally don't agree with a lot of that, but I  
25    know that it seems to be a generational issue.

1                   And, Senator Rivera, do you have a  
2                   tattoo?

3                   (Laughter.)

4                   SENATOR GRIFFO:    I'm sorry.

5                   So my point is I think some of this  
6                   as far as the look of the athlete, I think it may  
7                   be also a reflection of contemporary times,  
8                   whether we agree or disagree with that, relative  
9                   to tattoos. But I know of no way that the sport,  
10                  the league, or any governmental entity would  
11                  allow or tolerate any type of activity,  
12                  insinuation, or discriminatory practices against  
13                  anyone.

14                  SENATOR KRUEGER:   Thank you. I'm  
15                  glad to hear the Senator feels that way. I do  
16                  too.

17                  Unfortunately, there are fighters  
18                  with the tattoos of Nazis, swastikas, the number  
19                  88, used by neo-Nazis as shorthand for "Heil  
20                  Hitler," and they are competing in the other  
21                  states that have allowed mixed martial arts.

22                  So I'm hoping that the Senator would  
23                  agree with me that if I were to perhaps lose this  
24                  debate today and it became the law of New York  
25                  State, we wouldn't allow this type of messaging

1 through advertising, clothing, outfits worn  
2 during mixed martial arts. And I guess it would  
3 be a little hard to tell them to remove their  
4 tattoos. Perhaps we could make them cover their  
5 tattoos when they were fighting in New York  
6 State.

7 If through you, Mr. President, the  
8 sponsor would continue to yield.

9 ACTING PRESIDENT VALESKY: Senator  
10 Griffo.

11 SENATOR GRIFFO: I will.

12 And I will say this to Senator  
13 Krueger, that that's a very salient point. I  
14 think that's why I believe and trust that the  
15 State Athletic Commission, given that  
16 responsibility and authority, would ensure that  
17 what we both agree to, and I think all the  
18 members would agree to, would be adhered to.

19 SENATOR KRUEGER: Through you,  
20 Mr. President, if the sponsor would continue to  
21 yield.

22 SENATOR GRIFFO: Yes.

23 ACTING PRESIDENT VALESKY: The  
24 sponsor yields.

25 SENATOR KRUEGER: So as I read

1 about the standards in other states for the sport  
2 of mixed martial arts -- and you say we should  
3 call it mixed martial arts, but I think we will  
4 both agree there are a number of different  
5 entities that oversee this activity, and UFC is  
6 the largest promoter, and then there are several  
7 others.

8                   The drug standards for testing that  
9 they are using in several states are only about  
10 half of the standards that we use for  
11 professional sports here in New York. Does your  
12 bill allow them to continue to follow their own  
13 standards of drug testing and what is acceptable  
14 levels of steroids and I guess the proportion of  
15 drug found in the bloodstream? Because  
16 apparently in several states it's double the  
17 level that we would allow here in New York. So  
18 will they be following the standards we set for  
19 drug testing?

20                   SENATOR GRIFFO: It is my  
21 understanding that, again, in accordance with the  
22 essence of the bill, which essentially authorizes  
23 and empowers the State Athletic Commission to set  
24 regulations and standards that they believe  
25 necessary, I would say that in this particular

1 instance we would be able to do what the State  
2 Athletic Commission deems appropriate,  
3 responsible, and reasonable.

4 SENATOR KRUEGER: Thank you.

5 Through you, Mr. President, if the  
6 sponsor would continue to yield.

7 ACTING PRESIDENT VALESKY: Senator  
8 Griffo.

9 SENATOR GRIFFO: Yes.

10 ACTING PRESIDENT VALESKY: The  
11 sponsor yields.

12 SENATOR KRUEGER: Thank you.

13 Senator, in your development of this  
14 bill that's been out there for several years, as  
15 you point out, and has even passed in this house,  
16 have you done any research into the correlation  
17 of children's exposure to violence, their  
18 behavior as young adults and as adults, and the  
19 correlation to watching both violent sports and  
20 violent video games?

21 SENATOR GRIFFO: Mr. President,  
22 through you. Senator Krueger, I have not had the  
23 opportunity to do any extensive research in that  
24 regard.

25 But I believe that same research was

1 important before we were able to act on the  
2 New York SAFE Act, because many of the issues of  
3 concern there were not only the issue of guns but  
4 also mental health and society and video games  
5 and violence. So I do not have anything  
6 specific, but I would be very interested in  
7 having the opportunity to access any of that  
8 information if you have that and provide it to  
9 me.

10 I also want to add on something that  
11 you had asked earlier about any other sport. It  
12 is my understanding that Olympic judo does allow  
13 certain type of chokeholds, as you describe them,  
14 too.

15 SENATOR KRUEGER: Thank you.

16 Mr. President, on the bill.

17 ACTING PRESIDENT VALESKY: Senator  
18 Krueger on the bill.

19 SENATOR KRUEGER: It's no surprise  
20 to this house that I continue to oppose this  
21 bill. What I think is a surprise is how we are  
22 learning more because this has in fact been  
23 spreading throughout the country. And we are  
24 seeing that it's being particularly marketed to  
25 children. And we are seeing more and more

1 research about the long-term impact of violent  
2 sports even when they don't call themselves  
3 violent.

4                   We've all -- well, I don't know if  
5 we all support it, but most of us supported a  
6 bill to address proper headgear to try to  
7 decrease the rate of concussions of football  
8 players. There have been proposals for various  
9 safety equipment in other sporting activities  
10 from skiing to biking. There's more and more  
11 medical research coming out about the long-term  
12 dangers of certain contact sports.

13                   And there's more and more research  
14 coming out about the impact of exposure to  
15 extreme violence on the development of  
16 children -- not just the psychological  
17 development, but actually the way their brains  
18 development. And in fact the U.S. Department Of  
19 Justice Juvenile Justice Division has done a  
20 study on children's exposure to violence. The  
21 American Academy of Child and Adolescent  
22 Psychiatrists have done several, the American  
23 Psychological Association. The Europeans are  
24 actually farther ahead of us as to their research  
25 on the influence of exposure to violence on the

1 development of children, how they behave towards  
2 either other and their behavior patterns as they  
3 become adults.

4 I know children can watch these  
5 sports on TV, it doesn't have to take place live  
6 in our state. But I also know that as this sport  
7 is being advertised and marketed in the rest of  
8 this country and the world, its clear message is  
9 a message of violence. No rules apply. Fight to  
10 the death. You get some blood on you, even  
11 better.

12 And it's different than other  
13 martial arts. And it's different than boxing and  
14 wrestling. In fact, almost all other martial  
15 arts have as the standard that it's not  
16 violence. You're not supposed to be hurting the  
17 other person, you're just supposed to be a more  
18 accomplished athlete in that martial art.

19 And boxing has very explicit  
20 standards, particularly for young people, of what  
21 kind of equipment has to be to be worn on their  
22 heads and their hands. And wrestling, apparently  
23 there's a debate whether it's a sport or not,  
24 because the Olympics is throwing it out. But  
25 apparently it was very popular at the Times Union

1 Center last night and tonight, with a lot of  
2 children going. Which disturbed me also,  
3 frankly.

4 But what most disturbs me is we're  
5 not looking carefully enough at the impact of all  
6 this violence, both physical violence and the  
7 impact on psychological development and the  
8 development of young brains. And I don't think  
9 New York State wants to expand on that. I don't  
10 think we want to say, Oh, we're so fine with this  
11 that we're going to legalize it here.

12 I can't make it illegal other  
13 places. But I can try to stop it from becoming  
14 legal here. There are many organizations and  
15 religious leaders who have sent us memos urging  
16 us to vote no. At least so far, our colleagues  
17 in the Assembly have not seen fit to pass this.  
18 Maybe they will. If it becomes law, I think it  
19 is crucial to have much stronger regulations than  
20 they have in other states.

21 But frankly, for people who are  
22 parents, people who care about children, people  
23 who worry about the level of violence in our  
24 playgrounds and on our streets and the  
25 correlation between the lessons we teach young

1 people and what happens in our adult society, I  
2 don't think we want this sport here.

3 I'll be voting no, Mr. President.  
4 Thank you.

5 ACTING PRESIDENT VALESKY: Thank  
6 you, Senator Krueger.

7 Senator Parker.

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

10 ACTING PRESIDENT VALESKY: Senator  
11 Parker on the bill.

12 SENATOR PARKER: I rise in support  
13 of this bill. Let me thank Senator Griffo for  
14 all his hard work and his leadership in bringing  
15 this forward. As we have debated in the past,  
16 this was actually once my bill. And so, you  
17 know, I continue to support it. I think it's a  
18 good thing for the state.

19 I think there's actually two kind of  
20 main arguments for why we ought to do this. And  
21 the first I think is the idea of competition. As  
22 we start talking about violence and we talk about  
23 the tale of two cities that we're dealing with in  
24 terms of violence in our communities, we have  
25 Newtown and Aurora, but we also have Brooklyn and

1 Harlem and the Bronx and Washington Heights.

2 And so we know what happens in those  
3 communities. And the context for the violence  
4 that we're seeing in those communities is really  
5 about young people who are unengaged. They're  
6 not engaged in school because we refuse to have  
7 music, art, athletics and dance as regular parts  
8 of the curriculum. We don't have enough  
9 after-school programs. We've gotten rid of  
10 junior varsity programs and many of the varsity  
11 programs at our schools.

12 Many of our schools right now don't  
13 even have gyms in them. And then we wonder why  
14 we have obesity, and we want to blame soda.  
15 We've had Coke for 60 years and we've gotten rid  
16 of gym for 10 years and we wonder why for over 10  
17 years we now have obesity. It's easy to kind of  
18 figure out if we look at the right things.

19 This gives us an opportunity to add  
20 another dimension to the kinds of activities that  
21 young people are engaged in. And the reality is  
22 that this is something that is frankly safer than  
23 most of the sports that we think of as  
24 traditional sports. This sport is far safer than  
25 hockey, than baseball, than boxing. It is even

1 safer than soccer -- and being a soccer mom is,  
2 you know, is an icon in our community now.

3 In fact, there were 79  
4 soccer-related deaths between 1990 and 2003. And  
5 we had 300 deaths in football within that same  
6 period. And you compare this to two deaths  
7 worldwide in MMA, and only one of them actually  
8 being in a sanctioned fight.

9 I've heard lots today about the kind  
10 of activities that happen inside of the octagon.  
11 And a lot of times, you know, we use big words  
12 like laceration. A laceration is a cut. Anybody  
13 here ever got cut here before? A cut is a cut.  
14 I mean, you know, and people get cut it. It  
15 happens. And in other sports, people get cut.  
16 In baseball and football and wrestling, people  
17 get cut in those sports too. And they get cut  
18 sometimes on their face and other parts of their  
19 body. Let's not be confused by the word  
20 "laceration" and think that it's something more  
21 serious than people getting cut.

22 What you want to pay attention to  
23 are long-term injuries, things like broken  
24 bones. You want to pay attention to deaths,  
25 obviously. And you want to pay attention to

1 concussions. There are far fewer concussions in  
2 MMA than you find in sports like boxing,  
3 exponentially more concussions in things like  
4 football.

5                   And so when we start talking about,  
6 you know, submissions -- and the reason why there  
7 are far less concussions is that in fact that  
8 most bouts are actually decided by submissions.  
9 Many of those submissions are not necessarily  
10 chokeholds, some of which are in fact submissions  
11 because of manipulating of joints -- arms, legs,  
12 those kind of things.

13                   And in fact there is regulations  
14 around what you can do and how you can apply  
15 those techniques. And remember that the men and  
16 women who engage in this sport are actually  
17 professionals, they actually do this for a  
18 living. And there is in fact a referee involved  
19 who is paying attention and watching and focusing  
20 on the action and knows when to stop it. And so  
21 injuries have happened much less in these sports  
22 than others because this sport has grown up  
23 paying attention to those kind of injuries, and  
24 so we've seen a lot less.

25                   So from a safety perspective of just

1 the athletes that are engaged in MMA, these  
2 athletes are frankly in better condition than in  
3 most sports, and they're also monitored a lot  
4 better.

5 But if we're concerned, as Senator  
6 Krueger has indicated about, you know, drug  
7 testing, about the kind of padding, the kind of  
8 messages we're sending, this bill allows our  
9 Athletic Commission to set rules on those  
10 things. And as legislators we obviously have an  
11 ability to regulate it.

12 Now, 47 states already allow MMA.  
13 Right? So we're not stopping the activity by  
14 voting it down today. Right? It already  
15 exists. It's on television. There's probably a  
16 bout on somewhere right now. Actually what we  
17 like to say in my office is that "Somewhere in  
18 the world, MMA is happening." Right?

19 So this sport is happening all over  
20 the place except in New York State. And so that  
21 leads me to my second point, Mr. President, which  
22 is that we are denying ourselves a significant  
23 amount of revenue because of this. I mean,  
24 there's tons of revenue to be generated because  
25 of this sport.

1                   According to an economic impact  
2     study commissioned by the Ultimate Fighting  
3     Championship in 2008, MMA's leading organization,  
4     an event in upstate New York would generate an  
5     estimated \$11.5 million in economic activity and  
6     \$400,000 in tax revenue in New York City. It's  
7     estimated to generate \$5.3 million of economic  
8     activity just in Buffalo. That's per event.

9                   Now, I already talked to Tim  
10    Kennedy, and I think he already has some of that  
11    money spent.

12                  (Laughter.)

13                  SENATOR PARKER:    So there is lots  
14    of opportunities here -- right? And this is with  
15    the market just being raw. This is just to begin  
16    with.

17                  There's lots of opportunity here to  
18    bringing a sport that already exists in  
19    47 states, that's already been televised. And we  
20    simply would be legalizing it and regulating it  
21    in a way that's set to the standards and the  
22    protocols that we think are appropriate here in  
23    the State of New York.

24                  And so I ask my colleagues to make a  
25    common-sense vote here to vote to make mixed

1 martial arts legal in the State of New York.  
2 Let's in fact then start beginning quickly some  
3 conversations about what safety looks like, about  
4 codes of conduct, about padding and all the other  
5 things that we are concerned about. And, you  
6 know, do the right thing by the municipalities  
7 across the state that will benefit from having  
8 this. Let's talk about what's going to benefit  
9 our communities, particularly those urban  
10 communities that are looking for more activities  
11 for our young people to be engaged in, to  
12 legalize something like to this to give our young  
13 people something else to be engaged in.

14               Lastly, I hear a lot of people  
15 talking about, you know, violence in our  
16 society. And I certainly, you know, stand with  
17 you in terms of opposing that. But then, you  
18 know, let's in fact start, you know, having a  
19 campaign. And I haven't seen this campaign yet  
20 in the four or five years we've been talking  
21 about this, anyone start the campaign to start  
22 talking about the violent stuff we see on  
23 television, in movies. I haven't seen a letter,  
24 I haven't seen a resolution, I haven't seen a  
25 commission, I haven't seen a public forum, I

1 haven't even had a conversation in the lounge  
2 with anybody who says that they're opposing, you  
3 know, a movie that came out that had a lot of  
4 violence or a television show that had a lot of  
5 violence or, I don't know, the evening news that  
6 shows wars and body parts and all kinds of  
7 things.

8                   Violence is part of what we  
9 experience in our societies, and maybe too much.  
10 And I certainly could agree with that. But if  
11 that's the case, then let's look at it in its  
12 totality and let's address it in its totality.  
13 Let's not have situational ethics in which we  
14 pick and choose this one little narrow area and  
15 all of a sudden become ethical because, you know,  
16 we don't like -- it's not our taste.

17                   I'm not saying that a vote on this  
18 bill means that you have to run out and go to an  
19 MMA match. Right? But I certainly have not seen  
20 anyone with the same kind of fervor talking about  
21 banning hockey or banning soccer because people  
22 have gotten hurt or banning boxing or wrestling  
23 or any other sports where athletes are involved  
24 in combat.

25                   And so I hope that we in fact get to

1     that conversation and start addressing video  
2     games and television shows and movies. But in  
3     the meantime, let's allow MMA to be here, let's  
4     regulate it, and let's work together to make it a  
5     safe and profitable sport for the State of  
6     New York.

7                     Thank you, Mr. President.

8                     ACTING PRESIDENT VALESKY: Thank  
9     you, Senator Parker.

10                    Senator Hoylman.

11                    SENATOR HOYLMAN: Mr. President, I  
12     rise to let my colleagues know of my  
13     objections --

14                    ACTING PRESIDENT VALESKY: Senator  
15     Hoylman on the bill.

16                    SENATOR HOYLMAN: On the bill, yes,  
17     sir.

18                    I wanted to rise to let my  
19     colleagues know my objections to the bill  
20     legalizing the sport which we have  
21     euphemistically called mixed martial arts, a  
22     sport which I think many of us know participants  
23     punch, kick, knee, elbow, wrestle and choke their  
24     opponents to submission. And that was referred,  
25     apparently without any irony, to the Senate

1 Cultural Affairs Committee.

2 Now, mixed martial arts was dubbed  
3 by Senator John McCain as "the human equivalent  
4 of cockfighting." Now, based on some of the  
5 economic benefits you hear around this chamber  
6 today, you might call it the human equivalent of  
7 hydrofracking.

8 (Laughter.)

9 SENATOR HOYLMAN: And there are a  
10 multitude of arguments that we've heard today and  
11 I'll hopefully hear from some of our other  
12 colleagues on why we as a legislative body should  
13 not sanction or glorify its violence, especially  
14 given the impact that it will have on children.  
15 And as a father of a two-year-old, I weigh these  
16 arguments very heavily.

17 But instead of focusing on the  
18 health and the well-being of our society, I  
19 wanted to take a few minutes to discuss the  
20 impact of mixed martial arts on the health and  
21 well-being of the participants, the fighters.

22 Mixed martial arts. Along with  
23 boxing, stands apart from every other sanctioned  
24 sport because its aim is to cause physical harm  
25 and injury to an opponent until they are unable

1 to continue. His goal is to knock his opponent  
2 unconscious, which has been shown in numerous  
3 medical studies to result in acute brain damage.

4 Now, most of our internal organs are  
5 protected by bone or fat, skin, well-developed  
6 muscle. But the soft tissue of the brain is  
7 protected only by the thin-covered skull and  
8 three very thin membranes. In addition to these  
9 membranes, the brain is suspended in  
10 cerebrospinal fluid. Even with this protection,  
11 the brain can become bruised when the head is  
12 jarred or shaken.

13 Now, when a fighter sustains a  
14 direct blow to the head, the head rotates  
15 sharply, then returns to its normal position at a  
16 much slower speed. In addition, the different  
17 densities of the various parts of the brain also  
18 move at different rates, and the overall result,  
19 according to physicians, is a swirling effect  
20 inside the brain.

21 The resulting tissue trauma includes  
22 damage from the brain hitting the inner surface  
23 of the skull. This can be at the site of impact,  
24 where the brain moves within the skull and  
25 impacts the opposite side to the blow,

1     ricocheting. Tears to the nerve networks between  
2     the brain hemispheres, tension between the brain  
3     tissue and blood vessels may cause lesions and  
4     bleeding. Pressure waves could be created,  
5     causing differences in blood pressure to various  
6     parts of parts of the brain and blood clots.

7                 Now, the immediate effects of blows  
8     to the head include grogginess, weakness,  
9     paralysis, weakening of limbs, inability to  
10    focus, and possible loss of consciousness.

11                But I'm concerned about the  
12    long-term effects of mixed martial arts on the  
13    brains of fighters. They are cumulative and may  
14    not show immediately after a match. So any  
15    physician who is on-call to monitor an MMA match  
16    will not have the opportunity to evaluate  
17    fighters in the long term. Most signs of damage  
18    are likely to appear toward the end of a  
19    fighter's career or even after retirement. As  
20    one observer has put it, the damage accumulates  
21    like interest on a savings account.

22                According to medical experts,  
23    including the British Medical Association,  
24    fighters are more likely to suffer conditions  
25    such as dementia, Alzheimer's -- which I think

1 many of us know Muhammad Ali suffers from -- and  
2 Parkinson's.

3           Even in contact sports where head  
4 injuries are less likely to occur than mixed  
5 martial arts, we have seen the health impact of  
6 repeated chronic brain injuries. A class action  
7 lawsuit was filed just last year by more than  
8 4,000 NFL players and their wives accusing the  
9 NFL of hiding information that linked  
10 football-related head trauma to permanent brain  
11 injury. Among the illnesses cited were dementia  
12 and Alzheimer's disease. The suit accuses the  
13 NFL of mythologizing and glorifying violence  
14 through the media. Sound familiar? The  
15 plaintiffs hope to hold the NFL responsible for  
16 the care of players suffering from those health  
17 problems.

18           Is this the future that we're  
19 sanctioning today for mixed martial arts  
20 fighters? Well, it might be, except for one  
21 difference. There are no labor protections for  
22 fighters in mixed martial arts as there are  
23 currently for players in the NFL.

24           Now, there is currently a bill in  
25 California that would establish protections for

1 MMA fighters like those enjoyed by professional  
2 boxers through the federal Muhammad Ali Boxing  
3 Reform Act of 2000, which protects boxers from  
4 unscrupulous promoters and sanctioning bodies  
5 from things like contracts that automatically  
6 renew or extend without good faith negotiations  
7 and the appropriation of fighters' personal  
8 images and likeness in perpetuity.

9 But even with those protections,  
10 Mr. President, none of which are included in the  
11 bill before us today, fighters still will not be  
12 able to bargain for things like health insurance  
13 and pensions. These won't happen until they are  
14 organized into an association much like the NFL.

15 And I wish to point out,  
16 Mr. President, that the insurance provisions in  
17 this bill for fighters are scant and obligate  
18 promoters to provide only \$50,000 of medical  
19 care, apparently only while the fighter is still  
20 working for the UFC. Now, if a fighter dies  
21 while working, his family gets \$100,000 from the  
22 UFC. Now, you tell me, Mr. President, is that  
23 fair?

24 These small sums, however, do not  
25 cover any long-term care that might be envisioned

1 from a chronic brain injury like Parkinson's,  
2 Alzheimer's or dementia that might manifest  
3 decades after a fighter is no longer active.

4           Let me read to you what UFC  
5 bantamweight champion Nick Denis wrote on his  
6 blog in announcing his retirement at age 29 just  
7 a few months ago. Now, Nick Denis is a former  
8 Ph.D. student in biochemistry, I would suspect  
9 the only doctoral candidate participating in  
10 UFC. But he began his research into brain  
11 injuries following an especially vicious knockout  
12 loss in 2009.

13           He wrote: "After my first loss, a  
14 devastating knockout where another fighter  
15 dribbled my head on the canvas like a basketball,  
16 I did lots of research on concussions. As a  
17 graduate student, I had access to all  
18 peer-reviewed scientific journals." "No  
19 surprise," he writes, "to find out that  
20 concussions are bad." "However," he writes, "I  
21 found something that never occurred to me.  
22 Sub-concussive trauma. Basically, a blow to the  
23 head that doesn't lead to a concussion. When it  
24 happens, you feel fine and continue on. Even  
25 athletes who don't suffer concussions are still

1     doing damage from sub-concussive trauma."

2                     "I am a human being and I was born  
3 with only one brain, and I want to take care of  
4 it so that I will recognize the ones I love when  
5 I get older."

6                     Now, Mr. President, if we are to  
7 believe the supporters, this is a bill that is an  
8 economic silver bullet. It will generate  
9 supposedly tens of millions of dollars in  
10 economic benefits for both New York State and  
11 New York City. But the economic costs of acute  
12 brain injuries are not yet known and won't be for  
13 years or even decades. If the NFL class action  
14 lawsuit is any indication, it could cost hundreds  
15 of millions of dollars.

16                    But even if mixed martial arts  
17 fighters have the support they will certainly  
18 need for their injuries, support which is  
19 decidedly not in the bill before us today, I  
20 think you'll agree that no amount of money can  
21 compensate for permanent brain damage and  
22 possibly premature death.

23                    Mr. President, I urge my colleagues  
24 to vote no on the bill. Thank you.

25                    ACTING PRESIDENT VALESKY:    Thank

1       you, Senator Hoylman.

2                       Senator Rivera.

3                       SENATOR RIVERA:    Thank you,  
4       Mr. President.

5                       It is not every day that I so  
6       strongly disagree with some of my colleagues,  
7       certainly Senator Hoylman and Senator Krueger.  
8       But first of all, I'll say, Senator Hoylman, that  
9       I do not believe that mixed martial arts is a  
10      euphemism. It is precisely what it is. You have  
11      different arts that are being practiced, whether  
12      it's judo, jujitsu, taekwondo, karate. All of  
13      these things which I have mentioned are things  
14      that require a high level of skill to do well.

15                      So I do not believe that calling it  
16      mixed martial arts is a euphemism. I believe  
17      that calling it mixed martial arts is calling it  
18      precisely what it is.

19                      Now, as someone who has practiced  
20      martial arts -- not as much as Sensei Griffo,  
21      that's what I'm going to call him -- I can say  
22      that the best martial artists, and this comes  
23      from experience, the best martial artists are the  
24      ones that are the most disciplined.

25                      As opposed to what both

1 Senator Krueger and Senator Hoylman have  
2 mentioned on the floor, this is not an activity  
3 which actually means two people just going at  
4 each other like wild dogs. We are talking about  
5 two skilled athletes measuring each other's  
6 ability to be able to outwit the other one  
7 physically.

8                   And I can certainly understand why  
9 that would be something that you might not want  
10 to watch. If you don't like boxing, then I  
11 certainly understand why you would not like this  
12 either.

13                   However, again, when it is two very  
14 skilled individuals, when they are trained, if  
15 they are highly disciplined -- and the best  
16 martial artists and the best mixed martial  
17 artists are very disciplined, are very well  
18 trained -- this is not something that is a  
19 spectacle of violence. Instead, it is a  
20 spectacle of skill.

21                   I will also say that regarding many  
22 of the points that have been brought forward by  
23 some of the opponents of this bill and opponents  
24 of the practice in itself, there are many, many  
25 things that were mentioned as far as regulations

1     that we would have to -- that we should think  
2     about putting forth as it relates to the sport,  
3     as it relates to safety, as it relates to working  
4     conditions. And I could not agree more. It is  
5     precisely why we want to have the Athletic  
6     Commission sanction this sport and then be able  
7     to regulate it, much like many other -- or every  
8     other athletic activity in the State of New York  
9     is regulated by the Athletic Commission.

10                 So with all of that said -- and I  
11     would say that the issue of revenue is obviously  
12     one of the things that we should consider, but it  
13     would be secondary to me. As somebody who is a  
14     fan of this as an activity that I watch -- and  
15     again, not as a violent spectacle because I am  
16     looking forward to someone getting beat up. I  
17     would say that a lot of folks who watch hockey  
18     would probably have that as their ultimate goal.  
19     But in this particular instance, when I'm  
20     thinking of mixed martial arts, I think of two  
21     very highly skilled athletes competing with each  
22     other.

23                 And what we are doing, as has been  
24     mentioned by Senator Parker, by banning it in  
25     this state is limiting the amount of revenue that

1 we could get in this state, limiting the ability  
2 of folks to actually go to places right here in  
3 New York, whether it's in Madison Square Garden  
4 or Buffalo or any other place in this state. So  
5 it would be a revenue-generator.

6 But again, it is not -- I repeat one  
7 last time, I do not believe that it is just a  
8 violent activity in which two people go at each  
9 other until they're barely alive. As opposed to  
10 that, you have two very highly skilled and  
11 disciplined individuals. When you have regulated  
12 instances, regulated bouts, it is not a street  
13 fight. It is instead two very skilled, highly  
14 skilled athletes competing against each other.

15 And I believe that we in the State  
16 of New York have missed out for way too long. I  
17 hope that my colleagues in the Assembly will pass  
18 this bill and that the Governor will sign it, and  
19 I encourage my colleagues here in the Senate to  
20 vote for this bill.

21 I vote in the affirmative,  
22 Mr. President.

23 ACTING PRESIDENT VALESKY: Thank  
24 you, Senator Rivera.

25 Seeing no other Senators who wish to

1 be heard, the debate is closed. I ask the  
2 Secretary to ring the bells. All Senators are  
3 asked to proceed directly to the chamber, as we  
4 will be moving forward now with the roll call.

5 The Secretary will read the last  
6 section.

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

9 ACTING PRESIDENT VALESKY: Call the  
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT VALESKY: We have  
13 a number of Senators who wish to explain their  
14 vote. I remind Senators that we have a  
15 two-minute time limit for vote explanation, with  
16 the exception of Senator Griffo. As the sponsor  
17 of the bill, his time limit is five minutes.

18 We'll begin with Senator Grisanti to  
19 explain his vote.

20 SENATOR GRISANTI: Thank you,  
21 Mr. President.

22 You know, during that very lively  
23 debate I didn't know that we were actually having  
24 a bill here mandating somebody to actually be  
25 involved in the sport or mandating somebody to

1 actually watch it on TV or to pay for a  
2 pay-for-view event. The only thing that we're  
3 doing here is having the association of boxing  
4 commissions, the athletic commissioners, take  
5 over MMA and be able to regulate it.

6 This is a no-brainer. It's legal in  
7 47 states. Over a decade ago there was problems  
8 with MMA and UFC. Those have changed, if anybody  
9 has done their homework and looked at it. An  
10 exhibition in Toronto just this last spring sold  
11 \$11 million in ticket sales. In a short period  
12 of time, 50,000 tickets sold. Independent study  
13 done, in Buffalo it would have a \$5 million  
14 effect. It was a \$35 million event from Friday's  
15 weigh-in until Sunday. Friday's weigh-in till  
16 Sunday, in Toronto, a \$35 million draw.

17 So MMA is becoming part of the  
18 mainstream of sports. And if violence and the  
19 risk of serious injury is a concern, maybe we  
20 should ban boxing, football, ice hockey, downhill  
21 skiing, rodeo and maybe even tight-roping across  
22 Niagara Falls.

23 Because it's about time we passed  
24 this. I urge, I urge the members of the Assembly  
25 to tell Speaker Silver, Bring it to the floor.

1 You will have the votes. Bring it to the floor  
2 and see what happens. Do not hold up this  
3 measure. It's too important for this economy.

4 I vote aye, Mr. President. Thank  
5 you.

6 ACTING PRESIDENT VALESKY: Senator  
7 Grisanti to be recorded in the affirmative.

8 We ask that the noise level be kept  
9 down; it's beginning to be difficult to hear.

10 Senator Zeldin to explain his vote.

11 SENATOR ZELDIN: Mr. President, I  
12 rise to explain my vote.

13 First off, I want to thank  
14 Sensei Griffo for bringing this bill to the  
15 floor.

16 And I want to just try to clear one  
17 thing up. If there's anyone who's thinking about  
18 voting against this bill, please understand, this  
19 is about professional mixed martial arts in  
20 New York.

21 Right now we have mixed martial arts  
22 all throughout this state, legally. These bouts  
23 that take place right now, the amateur bouts that  
24 take place all across New York, they have no  
25 pre-fight medical, no MRI, no CAT scan, no blood

1 tests, no insurance, no medical oversight, no  
2 professional officials. Without regulation by  
3 the New York State Athletic Commission, this  
4 sport is actually more dangerous.

5 And I think that a lot of people  
6 don't understand that this sport actually exists  
7 right now. We just want to regulate it with the  
8 New York State Athletic Commission. So a very  
9 important point.

10 And with regards to the revenue  
11 piece, I know Senator Parker and Senator Grisanti  
12 both were speaking about the economic impact. I  
13 mean, I read one study that the hotel occupancy  
14 in Buffalo for one fight would be up over  
15 10 percent. Great economic impact, whether it's  
16 a fight in New York City or up in Buffalo.

17 But that's not my primary reason for  
18 supporting it. It's because the time is right.  
19 I too encourage Speaker Silver to bring this bill  
20 to the floor for a vote. It's time for  
21 professional mixed martial arts in New York  
22 State. It's time for the New York Athletic  
23 Commission to promulgate rules to allow it.

24 I vote aye.

25 ACTING PRESIDENT VALESKY: Senator

1     Zeldin to be recorded in the affirmative.

2                     Senator Boyle to explain his vote.

3                     SENATOR BOYLE:   Mr. President, to  
4     explain my vote.

5                     It's kind of ironic that my first  
6     statement as a member of the State Senate is  
7     going to be in favor of a mixed martial arts  
8     bill, because as a member of the Assembly  
9     15 years ago I had the first bill banning extreme  
10    fighting in the State of New York. It was taken  
11    by a majority member in the Assembly and  
12    then-Governor Pataki signed it, and he invited me  
13    to the signing. It was the only bill I've ever  
14    been invited to the signing of. I have a picture  
15    sitting next to him at the desk.

16                    But that was then, and this is now.  
17    And this is a completely different sport. Much  
18    more regulation, it's much safer, it's around the  
19    country, it's a big business and it's going to be  
20    big business for New York.

21                    I want to say that if I can feel  
22    comfortable supporting this bill, then anybody  
23    can feel comfortable supporting this bill.

24                    And I also, in closing, would like  
25    to thank my good friend and former Assemblyman

1 Dean Murray for his leadership in bringing this  
2 bill forward and making it ultimately legal in  
3 New York State.

4 I vote in the affirmative.

5 ACTING PRESIDENT VALESKY: Senator  
6 Boyle to be recorded in the affirmative.

7 Senator DeFrancisco to explain his  
8 vote.

9 SENATOR DeFRANCISCO: Yes, much of  
10 what I was going to say has already been said.  
11 I'll just add a couple of things.

12 And that is as far as the doctoral  
13 candidate that had his head dribbled on the  
14 ground, he must have been smart enough to realize  
15 he didn't have to be there if he chose not to.  
16 And when he decided he didn't want to have his  
17 head dribbled any longer, he got out of the  
18 sport. And everybody has that option. And if  
19 you choose to do it and you're capable of doing  
20 it, it's important that you have that  
21 opportunity.

22 And secondly, it's being done. I  
23 mean, it's not like you're going to ban some  
24 offensive conduct that's happening, that would  
25 happen but for our bill. It's being done. It's

1     happening. There's an audience. There's a group  
2     of young people like there were boxers that got  
3     out of the difficult situations because they have  
4     a skill and all they want to do is be able to  
5     perform that skill and make some money at it.

6                     So for those reasons, I vote yes.

7                     And secondly, I just ask, because  
8     done this before, would the Assembly put it on  
9     the floor? There's a bipartisan disagreement on  
10    the merits of the bill. That's fine. But put it  
11    on the floor. Let the Assembly make the same  
12    decision. And don't have some ancillary issue  
13    hold this up. It should be debated on its  
14    merits.

15                    I vote aye.

16                    ACTING PRESIDENT VALESKY:    Senator  
17    DeFrancisco to be recorded in the affirmative.

18                    Senator LaValle to explain his vote.

19                    SENATOR LaVALLE:    Thank you,  
20    Mr. President.

21                    Today I'm well aware our society is  
22    driven by how much money does some one item  
23    generate in our budget and also how much  
24    excitement does it produce.

25                    Look at gambling. We started with

1 the lottery, we went to Quick Draw, then racinos,  
2 casinos. Here today we're starting with MMA.  
3 And where are we going to go when this doesn't  
4 produce enough excitement? Because some of the  
5 other -- boxing doesn't produce or wrestling  
6 doesn't produce enough excitement, so now we're  
7 into mixed martial arts.

8 Will a bill, future legislatures say  
9 we're going to bring back the Roman Coliseum and  
10 have gladiators? Will that satisfy the thirst?

11 I vote no.

12 ACTING PRESIDENT VALESKY: Senator  
13 LaValle to be recorded in the negative.

14 Senator Little to explain her vote.

15 SENATOR LITTLE: Thank you.

16 Certainly much has been said about  
17 reasons to have this in New York State. And I  
18 would just like to say, as chair of the  
19 Tourism Committee, we're always looking for new  
20 ways to attract people to New York State and new  
21 events to have here.

22 This is something that, as Senator  
23 Zeldin said, is already taking place at an  
24 amateur level. There are many mixed martial arts  
25 studios in my district and throughout the state.

1 People do it for the exercise, for the fitness.

2 And I will tell you I was in  
3 California at one time, walking down the street.  
4 We had to go out into the road to get by a  
5 restaurant that had a great big TV and people  
6 were just gathered around there watching the  
7 mixed martial arts. On TV, not even attending.

8 So I do think that this is an  
9 important measure to bring to the professional  
10 level under regulation, with medical care and all  
11 of the things that we've talked about.

12 So I vote aye. Thank you.

13 ACTING PRESIDENT VALESKY: Senator  
14 Little to be recorded in the affirmative.

15 Senator Griffo to explain his vote.

16 SENATOR GRIFFO: Thank you,  
17 Mr. President.

18 Hailing from Rome, I sometimes think  
19 of all of us in the Senate as gladiators in  
20 suits.

21 First of all, let me wish a happy  
22 birthday to Kevin Parker. Happy birthday,  
23 Mr. Parker.

24 (Applause.)

25 SENATOR GRIFFO: I appreciate all

1 the support here, and I do have a lot of respect  
2 for the differences of opinions and philosophy  
3 that we have expressed here this afternoon. I  
4 appreciate a vigorous debate.

5 And I think that I respect that  
6 opinion, but I also respect the opportunity to  
7 have people make their own decisions. And I  
8 think that's what we're doing here today.

9 So just for the facts, again, what  
10 we are trying to do is allow the State Athletic  
11 Commission to have the opportunity to really  
12 regulate and monitor this activity in this  
13 state. And we have a lot of confidence in a  
14 professional organization that has served this  
15 state well over the years.

16 We will generate economic revenue,  
17 not only to the state but also to local  
18 communities. And it's by their own decisions,  
19 not that we are imposing some form of a tax on  
20 them that they have no choice in. They can  
21 participate because they decide they want to  
22 participate or spectate.

23 And we will allow home-state  
24 athletes, some of whom are with us here in the  
25 galleries today, to participate in their home

1 state. Right now they are denied that privilege  
2 and opportunity to compete in their home state.

3           There are stringent rules and  
4 regulations associated with this sport. John  
5 McCain has changed his view, for those people who  
6 are studying him. There are statistics that  
7 disprove some of what Senator Krueger has said.  
8 There's a Johns Hopkins study that disproves some  
9 of the hyperbole that was used here today in this  
10 debate.

11           And by the way, if I were looking to  
12 Europe as an example, I would not go to Pamplona  
13 when they're running the bulls. Because I think  
14 the last thing I want to do is look to Europe to  
15 tell us how to be a more cultured society and  
16 less violent, when you consider what takes place  
17 in Spain each and every year.

18           So I think today, when you look at  
19 this -- and recently we've even seen a movie come  
20 out called "Here Comes the Boom." So many  
21 families actually went to watch the movie.  
22 Parents had the opportunity to make that decision  
23 whether they wanted to go and take their  
24 children.

25           So let's have the opportunity to

1 debate this and to vote on this. I appreciate  
2 the fact that we're taking that vote here in the  
3 Senate today. I hope the Assembly will do  
4 likewise. I vote aye.

5 ACTING PRESIDENT VALESKY: Senator  
6 Griffo to be recorded in the affirmative.

7 All Senators are asked to be in  
8 their seats for the announcement of the vote.  
9 All Senators should proceed to the chamber so we  
10 may record the vote. We are on the roll call.

11 Announce the results.

12 THE SECRETARY: In relation to  
13 Calendar Number 144, those recorded in the  
14 negative are Senators Bonacic, Breslin, Felder,  
15 Fuschillo, Gipson, Hoylman, Krueger, Lanza,  
16 LaValle, Marcellino, Perkins, Sanders,  
17 Stewart-Cousins, Tkaczyk and Young.

18 Ayes, 47. Nays, 15.

19 ACTING PRESIDENT VALESKY: The bill  
20 is passed.

21 Senator Libous, that completes the  
22 controversial reading of the calendar.

23 SENATOR LIBOUS: Thank you,  
24 Mr. President.

25 Is there any further business at the

1 desk?

2 ACTING PRESIDENT VALESKY: Senator  
3 Libous, the desk is clear.

4 SENATOR LIBOUS: Could we have  
5 order in the chamber? The Senate has not  
6 adjourned.

7 ACTING PRESIDENT VALESKY:  
8 {Gaveling.} Senate has not adjourned.

9 SENATOR LIBOUS: Because you never  
10 know, I may have a very important announcement.  
11 As a matter of fact, Mr. President, I do.

12 ACTING PRESIDENT VALESKY: Senator  
13 Libous, please share.

14 SENATOR LIBOUS: There being no  
15 further business, I move that the Senate adjourn  
16 until Thursday, March 7th, at 11:00 a.m.

17 (Laughter.)

18 ACTING PRESIDENT VALESKY: On  
19 motion, the Senate stands adjourned until  
20 Thursday, March 7th, at 11:00 a.m.

21 (Whereupon, at 5:35 p.m., the Senate  
22 adjourned.)

23

24

25