NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 9, 2016

3:10 p.m.

REGULAR SESSION

SENATOR THOMAS D. CROCI, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT CROCI: The Senate will come to order.

I'd ask everyone present to please rise and recite with me the Pledge of Allegiance.

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

ACTING PRESIDENT CROCI: We have with us today Pastor Steve Dambra, from the Reform Church of Beacon in Beacon, New York, to deliver our opening prayer.

Pastor.

PASTOR DAMBRA: Thank you.

Good afternoon. Would you please bow your heads.

Dear wise and loving God, thank You. Thank You on behalf of all who are gathered here today. Thank You for the many and abundant blessings that You bestow upon us. And thank You for life itself -- for the health that we enjoy, for the prosperity that we enjoy.

Thank You for the ability to be involved in useful works and friendship. Thank You for the honor of bearing appropriate

responsibilities. Thanks as well for the freedom to embrace You or the freedom to reject You. And thank You for loving us even when we might love You.

In Scriptures You have said that citizens ought to obey the governing authorities since You've established those very authorities to promote peace and order and justice. Therefore I pray for this legislative body, for this Senate.

I am asking that You would graciously grant them wisdom to govern amid the conflicting interests and issues of our times, a sense of the welfare and true needs of all of our people, a keen thirst for justice and rightness, confidence in what is good and fitting, and the ability to work together in harmony even when there is honest disagreement.

We pray for personal peace in their lives and joy in their tasks. I pray for this agenda that is set before them today. Please give an assurance of what You would want them to do and what would benefit those who live and work in our great state.

It is in Your most blessed name

that we pray. Amen.

ACTING PRESIDENT CROCI: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 8th, the Senate met pursuant to adjournment. The Journal of Saturday, May 7th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, on page 34 I offer the following amendments to Calendar Number 611, Senate Print Number 387, by Senator Marcellino, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT CROCI: So

ordered.

SENATOR DeFRANCISCO: Also I wish to call up Senator Murphy's bill, Print Number 6577, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT CROCI: The Secretary will read.

THE SECRETARY: Calendar Number 590, by Senator Murphy, Senate Print 6577, an act to amend the Tax Law.

SENATOR DeFRANCISCO: I move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT CROCI: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 35.

ACTING PRESIDENT CROCI: The bill is restored to its place on the Third Reading Calendar.

SENATOR DeFRANCISCO: I now offer the following amendments.

ACTING PRESIDENT CROCI: The amendments are received, and the bill retains its place on the Third Reading Calendar.

SENATOR DeFRANCISCO: Now,

Mr. President, would you take up the noncontroversial reading of the calendar.

ACTING PRESIDENT CROCI: The Secretary will read.

THE SECRETARY: Calendar Number 106, by Senator Gallivan, Senate Print 398, an act to amend the Social Services Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 36.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 127, by Senator Robach, Senate Print 1965B, an act to amend the Highway Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 36.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 141, by Senator Croci, Senate Print 4520B, an act to amend the Penal Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38. Nays, 2. Senators Montgomery and Perkins recorded in the negative.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 328, by Senator Martins, Senate Print 6020A, an act to authorize.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 328: Ayes, 39. Nays 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 414, by Senator Carlucci, Senate Print 1972, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number

415, by Senator Murphy, Senate Print 4033, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37. Nays, 3. Senators Krueger, Perkins and Squadron recorded in the negative.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 416, by Senator Murphy, Senate Print 4328A, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 416, those recorded in the negative are Senators Perkins and Squadron.

Ayes, 43. Nays, 2.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 453, by Senator Gallivan, Senate Print 403, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 453, those recorded in the negative are Senators Dilan, Krueger, Montgomery, Perkins, Rivera and Squadron.

Ayes, 44. Nays, 6.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 459, by Senator Valesky, Senate Print 641, an act

to amend the Penal Law.

ACTING PRESIDENT CROCI: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 463, by Senator Golden, Senate Print 1451A, an act to amend the Penal Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 463, those recorded in the negative are Senators Comrie, DeFrancisco, Krueger, Montgomery, Murphy and Perkins.

Ayes, 44. Nays, 6.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 481, by Senator Golden, Senate Print 3281, an act to amend the Penal Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 481, those recorded in the negative are Senators Comrie, Dilan, Gianaris, Hassell-Thompson, Krueger, Montgomery, Perkins, Rivera, Serrano and Squadron.

Ayes, 40. Nays, 10.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 490, by Senator Young, Senate Print 3671, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT CROCI: Read the

last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 490, those recorded in the negative are Senators Comrie, Dilan, Hassell-Thompson, Krueger, Montgomery, Perkins, Rivera and Squadron.

Ayes, 42. Nays, 8.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 492, by Senator Golden, Senate Print 4155A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to

Calendar 492, those recorded in the negative are Senators Dilan, Hassell-Thompson, Krueger, Montgomery, Perkins and Rivera.

Ayes, 44. Nays, 6.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 494, by Senator Lanza, Senate Print 4515, an act to amend the Penal Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 494, those recorded in the negative are Senators Hassell-Thompson, Krueger, Montgomery, Perkins and Dilan.

Ayes, 45. Nays, 5.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 496, by Senator Lanza, Senate Print 4655, an act

to amend the Penal Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 2. Senators Krueger and Perkins recorded in the negative.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Also Senator Squadron in the negative.

Ayes, 47. Nays, 3.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 499, by Senator Young, Senate Print 5164, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 499, those recorded in the negative are Senators Comrie, Dilan, Krueger, Montgomery, Perkins, Rivera and Squadron.

Ayes, 43. Nays, 7.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 503, by Senator Marchione, Senate Print 6327, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 503, those recorded in the negative are Senators Comrie, Dilan, Hassell-Thompson, Krueger, Montgomery, Perkins, Rivera and Squadron.

Ayes, 42. Nays, 8.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 504, by Senator Lanza, Senate Print --

SENATOR DeFRANCISCO: Lay it aside for the day, please.

ACTING PRESIDENT CROCI: The bill will be laid aside for the day.

THE SECRETARY: Calendar Number 505, by Senator Latimer, Senate Print 6578, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 505, those recorded in the negative are Senators Comrie, Dilan, Krueger, Montgomery, Perkins and Rivera.

Ayes, 44. Nays, 6.

ACTING PRESIDENT CROCI: The bill

is passed.

THE SECRETARY: Calendar Number 506, by Senator Flanagan, Senate Print 6638, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 506, those recorded in the negative are Senators Comrie, Dilan, Hassell-Thompson, Krueger, Montgomery, Perkins, Rivera and Squadron.

Ayes, 42. Nays, 8.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 510, by Senator Seward, Senate Print 7029, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT CROCI: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 90th day.

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 510, those recorded in the negative are Senators Comrie, Dilan, Krueger, Montgomery, Perkins, Rivera and Squadron.

Ayes, 43. Nays, 7.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 535, by Senator Golden, Senate Print 6603B, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number

560, by Senator Avella, Senate Print 5387B, an act to amend the Education Law.

ACTING PRESIDENT CROCI: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 560, those recorded in the negative are Senators Comrie, Gianaris, Krueger, Rivera, Serrano, Squadron and Stewart-Cousins. Also Senator Montgomery.

Ayes, 42. Nays, 8.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 561, by Senator Marcellino, Senate Print 6445, an act in relation to legalizing, validating and ratifying.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 592, by Senator Parker, Senate Print 526, an act to amend the Public Service Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 600, by Senator O'Mara, Senate Print 6649, an act to amend the Vehicle and Traffic Law.

SENATOR GIANARIS: Lay it aside.

ACTING PRESIDENT CROCI: The bill is laid aside.

THE SECRETARY: Calendar Number 606, by Senator Golden, Senate Print 6623, an act to amend the General Business Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 1. Senator DeFrancisco recorded in the negative.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 610, by Senator Ortt, Senate Print 6916B, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT CROCI: Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT CROCI: The bill is passed.

THE SECRETARY: Calendar Number 615, by Senator Lanza, Senate Print 7181, an act to amend Chapter 704 of the Laws of 1991.

SENATOR GIANARIS: Lay it aside.

SENATOR DeFRANCISCO: Lay it aside for the day.

ACTING PRESIDENT CROCI: The bill will be laid aside for the day.

Senator DeFrancisco, that completes the noncontroversial reading of the calendar.

SENATOR DeFRANCISCO: Can we now take up the controversial reading.

ACTING PRESIDENT CROCI: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 600, by Senator O'Mara, Senate Print 6649, an act to amend the Vehicle and Traffic Law.

SENATOR KRUEGER: Explanation.

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: I asked for an explanation.

ACTING PRESIDENT CROCI: Very good.

Will the sponsor yield for an explanation?

SENATOR O'MARA: Thank you, Mr. President.

This bill is designed to increase safety for the bicyclists in this state. It adopts a safe passing distance of 3 feet when passing or overtaking a bicycle being operated on a roadway.

Twenty-six states in the U.S. currently have this standard for bike safety passage. With an increasing number of bicyclists on our roads and our efforts to encourage the use of bicycles not only for transportation but also for recreation, we desired to improve the safety for bicycling on our streets, and that's the reason for this legislation being introduced and the purpose of it.

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor would please yield.

ACTING PRESIDENT CROCI: Will the sponsor yield for a question?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: The sponsor yields.

Senator Krueger.

SENATOR KRUEGER: Thank you.

Is the sponsor aware that we already have a law in place about safe passage between cars and bicycles?

SENATOR O'MARA: Yes, I am. And this bill modifies that existing legislation by changing what is currently defined as a safe distance to a distance of not less than 3 feet until safely cleared of the bicycle.

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

ACTING PRESIDENT CROCI: Will you continue to yield for a question?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: How would we be measuring 3 feet between a vehicle and a bicycle under this law? Would it be from the bicycle handles to the car body? Would it be from the

mirror on the driver's side to the bicycle handles? Could we get a definition of how we would be using 3 feet as a measurement?

ACTING PRESIDENT CROCI: Senator O'Mara.

SENATOR O'MARA: From the left edge of the bicyclist to the further rightmost portion of the car, whether it's the edge of the car, the vehicle, the side-view mirror, or whether it's the handlebar on the bicycle or the elbow of the bicyclist, would be the measured distance.

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

ACTING PRESIDENT CROCI: Will the sponsor continue to yield?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: So it seems that a standard in law would need a little more specification than however they choose to measure, whether it's the elbow or the handlebar or the mirror or the car.

Could I get a little better

clarification of what would be used as the measuring point for legal purposes?

ACTING PRESIDENT CROCI: Senator O'Mara.

SENATOR O'MARA: Well, it's not specifically defined in this legislation, but it's certainly more clearly defined than just saying "a safe distance," which could be open to the interpretation of the operator of the vehicle to be 6 inches and trying to squeeze by as tightly as they can because maybe they're annoyed by the bicycle being in the road.

"Not less than 3 feet" is far more specific than what's in current law, and designed to give a safe passing distance between the vehicle and that car. I think a common understanding would be from the leftmost portion of the bicyclist or the bicycle and the rightmost portion of the vehicle.

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

ACTING PRESIDENT CROCI: Will the sponsor continue to yield?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: Thank you.

So again, we don't have a measuring stick with us. But based on the sponsor's answer, could I assume he would accept that the bicycle handle would add approximately a foot in one direction and the mirror sticking out from the driver's side of the car, let's say, also a foot, so it's 2 feet additional?

So you'd need 3 feet, under this law, plus assuming the foot between the mirror and the car and a foot between the handlebar and the biker, so really 5 feet between the driver of the vehicle and the driver of the bike. Is that a fair calculation?

ACTING PRESIDENT CROCI: Senator?

SENATOR O'MARA: I frankly don't understand your explanation.

SENATOR KRUEGER: I'll try again, Mr. President, through you.

ACTING PRESIDENT CROCI: Will the sponsor continue to yield?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: Senator

Krueger.

SENATOR KRUEGER: Thank you.

I'm going to rephrase my question and try to make it clearer.

So you're on a bike, you have a handlebar going each direction. I'm trying to calculate how you measure the 3 feet for purposes of this law.

So since the sponsor has answered from a handlebar to a mirror of a vehicle, I'm trying to roughly estimate. You could have approximately a foot of handlebar between the center of the bike and the edge of the bike, and you could have a foot between the edge of the mirror and the passenger in the car. So I'm assuming a total of 5 feet would apply in this law: 3 feet of safe space defined, plus the foot for the driver's mirror and a foot for the handlebar.

Is that a correct guesstimate on a total distance of 5 feet between the driver of the vehicle and the driver of the bike?

SENATOR O'MARA: I honestly, Senator, don't know the distances of what's potentially the width of a mirror off the side of

a vehicle or the breadth of handlebars. I assume it could be either more or less than that, depending on the vehicle.

SENATOR KRUEGER: Through you, Mr. President.

I'm going to take the leap that that's a reasonable guesstimate, there's a foot of each vehicle that would apply. So --

ACTING PRESIDENT CROCI: Is the Senator on the bill now?

SENATOR KRUEGER: No, I have a further set of questions. Thank you.

ACTING PRESIDENT CROCI: Will the Senator continue to yield?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: Thank you.

But my questions will work on the assumption of needing 5 feet of space between the driver of the vehicle and the driver of the bike.

Is the sponsor familiar with the width of crosstown streets in Manhattan?

SENATOR O'MARA: I am.

SENATOR KRUEGER: Through you,

Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT CROCI: Will the sponsor continue to yield?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: So I represent a decent portion of Manhattan on the East Side and in Midtown. So most of our streets in Manhattan have parking on each side, and then many of them just one lane for driving vehicles in between the two parking lane lanes. Sometimes they have a marked bike lane, but it's not protected, it's just sort of arrows on the roadway along with bike drawings. But that is quite common in Manhattan for the crosstown streets, one driving lane with bike options on it.

Does the sponsor believe that there's 5 feet of space that could be held as safe space between the biker, his handlebar, the driver's side mirror and the vehicle themselves, as they attempt to follow this law in a crosstown street in Manhattan?

ACTING PRESIDENT CROCI: Senator

O'Mara.

SENATOR O'MARA: I would say, based on my experience, in some cases yes and in some cases no.

I would point out that a bicycle has every much a right of way to the lane of travel as a vehicle has. I would ask the Senator, are you advocating that vehicles squeeze by with as minimal amount of distance as they can from a bicycle operator?

ACTING PRESIDENT CROCI: Senator, through the chair, if you might.

Senator Krueger.

SENATOR KRUEGER: So if I could just get the sponsor to separate out the answer he gave me and then ask his question of me again, I'd be happy to answer his question. I got lost between his answer and his new question.

ACTING PRESIDENT CROCI: Senator, will you restate the question, please.

SENATOR O'MARA: Yes.

A bicycle has a right of way to that lane of travel, as a car does. And are you advocating, then, that in narrower circumstances than adequate for the 5 feet that you were

talking about, that the vehicle operator be able to squeeze by that bicycle as close as he thinks he can do it with?

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: I think, Mr. President, that while this bill has much validity in most areas of the State of New York, that proposing this as a law in the City of New York could result in saying that vehicles may not pass a biker in a crosstown street -- which would radically change both bike and other vehicle traffic patterns in Manhattan, if not the entire City of New York -- and that that is a serious question a broader discussion is worthy of before a bill were to pass.

So in answer to his question, is this a bill that the City of New York has taken a position on?

SENATOR O'MARA: I am not aware of the City of New York having taken a position on this.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT CROCI: Will the sponsor continue to yield?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: Has the NYPD, which often has opinions about bike laws in New York City, taken a position on this law?

ACTING PRESIDENT CROCI: Senator O'Mara.

SENATOR O'MARA: Not to my knowledge.

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

ACTING PRESIDENT CROCI: Senator O'Mara?

SENATOR O'MARA: Yes.

SENATOR KRUEGER: Has the New York City Council, our legislative body from the City of New York, taken a position on this law?

ACTING PRESIDENT CROCI: Senator O'Mara.

SENATOR O'MARA: Not to my knowledge. I have not heard directly from either

of those organizations.

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

ACTING PRESIDENT CROCI: Do you continue to yield?

SENATOR O'MARA: I do.

ACTING PRESIDENT CROCI: The sponsor will yield.

SENATOR KRUEGER: Would the sponsor consider amending his bill for it to be local option?

SENATOR O'MARA: I'm open to a discussion of this down the road, as this bill is introduced in the Assembly at this point, awaiting action there. So I have not had direct discussions with the same-as sponsor in the Assembly at this point.

ACTING PRESIDENT CROCI: Senator Krueger, do you have an additional question?

SENATOR KRUEGER: Could you give me one moment?

Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT CROCI: Does the

sponsor yield?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: The sponsor yields.

SENATOR KRUEGER: I'm curious about how enforcement of this law would apply. Would there be a police observation required? And how would they know through visual observation that the 3-foot rule had been violated?

ACTING PRESIDENT CROCI: Senator?

SENATOR O'MARA: Well, that would be up to the evidence presented to the court on the validity of that.

I know as a matter of fact that police officers are able to reasonably estimate the speed of a vehicle without the aid of radar as evidence to be used in courts. I see this as being no different.

Three feet -- a yardstick -- is a pretty commonly interpreted distance and not one that would be difficult to explain as someone testifying in court, whether it's a law enforcement officer or a layperson.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor will continue to

yield.

ACTING PRESIDENT CROCI: Will the sponsor yield?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: The sponsor continues to yield.

Senator Krueger.

SENATOR KRUEGER: So again, I don't know if it's unique to the City of New York, but I know in the City of New York you have police officers who may be involved in bike/car incidents. You may have Department of Transportation people involved in observation of the rules of the road for bikes. You may have traffic enforcement officers involved.

Would this law apply to all three of those professions having the authority to step in under this law?

SENATOR O'MARA: My understanding is it would be any enforcement agency that's entitled to enforce the vehicle and traffic laws of the State of New York.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT CROCI: Will the sponsor continue to yield?

SENATOR O'MARA: Yes.

ACTING PRESIDENT CROCI: Senator Krueger.

SENATOR KRUEGER: Does the sponsor foresee needing special training of all these enforcement agents prior to this law going into effect?

SENATOR O'MARA: I don't think there would be any necessary or required training other than in the normal course of their -- either their Police Academy training or ongoing training that they receive. This certainly could easily be incorporated in that if there's felt to be a need to determine what distance a yardstick is.

SENATOR KRUEGER: Through you, Mr. President, on the bill.

ACTING PRESIDENT CROCI: Senator Krueger on the bill.

SENATOR KRUEGER: At least in the City of New York, I think there's a recognition by people who live there or people who represent the people of the City of New York in elected

office that there is an evolving process when it comes to the growing use of bicycles on our crowded city streets. There is tension, and yet there's an important reason that we should be making improvements in the options for bicyclers throughout the state and the city.

But the City of New York seems to have disproportionately unique issues because of the population density in our city and the frankly constant struggle between trying to provide safe pedestrian pathways, safe biking and safe vehicle driving. And it is a struggle in many of our communities every day.

We've worked hard to work with our city government to create, whenever possible, protected bike lanes, which are so valuable in helping to protect bikers from the vehicles and allow separation between bicycles and driving cars by having parking in between the two, which meets the responsibility of what this law hopes to do.

But we have large numbers of streets that could never be set up, at least under the current model of life, to have protected bike lanes. And particularly for Manhattan, there are

the avenues, which are much wider and offer some options for protected bike lanes, and there are cross streets which basically almost never offer opportunity for protected bike lanes other than the occasional double-direction crosstown streets.

The problem with this law if it were to be implemented in New York City is literally the mathematical impossibility of having a 5-foot separation -- because I'm counting the handlebar of the bicycle as well as the mirror on the side of the vehicle, and assuming you really need 5 feet. And simply on the cross streets of New York City today, many of them don't allow for 5 feet.

Which would mean, as the sponsor explained it, requiring vehicles to always stay behind bikes and never pass bikes, or vice versa, bikes stay behind vehicles and never pass the vehicle. I don't see that as realistic at the moment in the City of New York.

And for any of us who have ever visited, lived in, or represented Manhattan Island, I think if you just visualize a typical street scene in Manhattan, you would understand

that the goal of this may be very important and laudable, but the reality of attempting to implement a law like this at this point for the City of New York would be extremely problematic for bikers, pedestrians and driving vehicles.

And the scenarios I do not believe have been carefully thought through, with all due respect to my upstate colleagues who are the sponsors of the bills. And I do think it is worthwhile to explore whether there should be local option, whether there should be legislation for cities other than those larger than a million people, whether there should be public hearings at the local level.

I'm speaking only for New York City, because that is the town I know in detail. There may be parallel concerns in other cities throughout the state, and I think they might also wish to evaluate the impact on them.

So while some people think that my voting against this bill today will imply some kind of opposition to the expansion of safe bike riding in my city, I would argue just the opposite, that one needs to think about the intended and unintended consequences from a bill

such as this.

And at this point in time I would urge my colleagues and the sponsors to open themselves up to the idea of having an amendment or two either allowing local option or exempting New York City from this bill. Because I do think there are a large number of unique factors when deciding bike, road, vehicle, pedestrian planning for safe-everyone legislation. And I do think it would be almost impossible for the enforcement agencies to actually apply successfully.

So I would rather see us move a bill that could make sense for much of the state, rather than a bill that would not make sense for the city and potentially cause problems on a statewide level. I vote no and urge my colleagues to rethink this proposal.

Thank you, Mr. President.

ACTING PRESIDENT CROCI: Seeing no further member wishing to speak on the bill --

Senator DeFrancisco.

SENATOR DeFRANCISCO: If we could be at ease for one minute.

ACTING PRESIDENT CROCI: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:51 p.m.)

(Whereupon, the Senate reconvened at 3:52 p.m.)

SENATOR DeFRANCISCO: Call the roll.

ACTING PRESIDENT CROCI: The Secretary will ring the bell.

Read the last section.

Senator DeFrancisco.

SENATOR DeFRANCISCO: On consent, can we please return this bill to the noncontroversial calendar and then call the roll.

ACTING PRESIDENT CROCI: On consent, the bill will be returned to the noncontroversial calendar.

Read the last section.

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

ACTING PRESIDENT CROCI: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CROCI: Announce the result.

THE SECRETARY: In relation to

Calendar 600, those --

ACTING PRESIDENT CROCI: Can I have some order in the house.

The Secretary will announce the result.

THE SECRETARY: In relation to Calendar 600, those recorded in the negative are Senators Avella, Bonacic, Felder, Golden, Hassell-Thompson, Krueger, Lanza, Montgomery, Perkins, Persaud, Rivera, Savino and Squadron.

Ayes, 39. Nays, 13.

ACTING PRESIDENT CROCI: The bill is passed.

Senator DeFrancisco, that completes the reading of today's active list.

SENATOR DeFRANCISCO: Yes, I believe you have a hand-up at the desk from the minority.

ACTING PRESIDENT CROCI: The handout is received and will be filed in the Journal.

SENATOR DeFRANCISCO: Okay. Is there any further business at the desk?

ACTING PRESIDENT CROCI: No further business before the desk.

SENATOR DeFRANCISCO: That being the case, I move to adjourn until Tuesday, May 10th, at 3:00 p.m.

ACTING PRESIDENT CROCI: On motion, the Senate stands adjourned until Tuesday, May 10th, at 3:00 p.m.

(Whereupon, at 3:56 p.m., the Senate adjourned.)