

COMMONWEALTH OF PENNSYLVANIA  
**Legislative Journal**

TUESDAY, FEBRUARY 25, 2003

SESSION OF 2003 187TH OF THE GENERAL ASSEMBLY

No. 13

**SENATE**

TUESDAY, February 25, 2003

The Senate met at 1 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the Chair.

**PRAYER**

The Chaplain, Father THOMAS ROZMAN, of St. Patrick's Cathedral, Harrisburg, offered the following prayer:

Let us pray.

Almighty and Eternal God, You have revealed Your glory to all nations. God of power and might, wisdom and justice, through You authority is rightly administered, laws are enacted, and judgment is decreed.

Let the light of Your divine wisdom direct the deliberations of the Pennsylvania Senate and shine forth in all the proceedings and laws framed for our role in government. May they seek to preserve peace, promote the happiness of our Commonwealth and of our nation, and continue to bring us the blessings of life, liberty, and the pursuit of happiness. We pray to You who are Lord and God, forever and ever. Amen.

The PRESIDENT. The Chair thanks Father Rozman, who is my guest today.

**LEGISLATIVE LEAVES**

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request legislative leaves for Senator Kukovich, Senator LaValle, Senator Tartaglione, and Senator A.H. Williams.

The PRESIDENT. Senator Mellow requests legislative leaves for Senator Kukovich, Senator LaValle, Senator Tartaglione, and Senator A.H. Williams. Without objection, those leaves will be granted.

**JOURNAL APPROVED**

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of February 24, 2003.

The Clerk proceeded to read the Journal of the preceding Session.

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

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

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

**YEA-49**

Armstrong	Hughes	Orie	Tomlinson
Boscola	Jubelirer	Piccola	Wagner
Brightbill	Kasunic	Pileggi	Waugh
Conti	Kitchen	Punt	Wenger
Corman	Kukovich	Rafferty	White, Donald
Costa	LaValle	Rhoades	White, Mary Jo
Dent	Lemmond	Robbins	Williams, Anthony H.
Earl	Logan	Scarnati	Williams, Constance
Erickson	Madigan	Schwartz	Wonderling
Ferlo	Mellow	Stack	Wozniak
Fumo	Mowery	Stout	
Greenleaf	Musto	Tartaglione	
Helfrick	O'Pake	Thompson	

**NAY-0**

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

The PRESIDENT. The Journal is approved.

**SPECIAL ORDER OF BUSINESS  
PENNSYLVANIA'S OUTSTANDING YOUNG  
WOMAN OF 2003 PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Luzerne, Senator Musto.

Senator MUSTO. Madam President, I am pleased to introduce to my colleagues Pennsylvania's Outstanding Young Woman of 2003, Miss Shannon Doyle of Wilkes-Barre. She is a senior at E. L. Meyers High School and is here today with her parents, Maureen and Patrick Doyle, Sr., her brother, Patrick Doyle, Jr., and her grandparents, Catherine and Joseph Doyle. Also accompanying Shannon are her grandmother, Theresa Shiner; her aunts Dianne Kagay, Sheila Doyle, and Peggy Doyle; and her chaperone, Luci Adam, and her family.

This highly intelligent and articulate young lady would like to offer a few remarks, but first I ask my colleagues in the Senate to give Shannon our usual warm welcome.

(Applause.)

Ms. DOYLE. Thank you for that kind introduction, Senator Musto.

Good afternoon. As Pennsylvania's Outstanding Young Woman for 2003, I would like to express my gratitude for allowing me to address you today. It is truly an honor to speak before you. I would like to personally thank Senator Raphael Musto from the 14th District for taking the time to show me around and make this a pleasurable experience.

Being a high school senior at E. L. Meyers High School in Wilkes-Barre, Pennsylvania, I have had the opportunity to serve on the student advisory council for the Wilkes-Barre Area School District. During our sessions, we brainstorm to evaluate the needs of schools throughout our district. Over the course of this time, it became apparent to me that State funding for education can help to dictate the success of students. Although much has been done to improve the quality of education provided in Pennsylvania, such as instituting programs like Read to Succeed or requiring teachers to be continuously trained, there is much more that can be done to improve the State's education system. I have chosen to speak to you today about increasing funding for and reforming Pennsylvania's primary school system. Pennsylvania Partnerships for Children President and CEO, Joan L. Benso, once stated that from birth to 8, children learn to read. After that, they read to learn. So a firm foundation of learning and literacy from birth through third grade sets the stage for all the learning that follows. The fact that one in four fifth grade students in this State failed to achieve basic proficiency in the 2001 PSSA reading test is startling. I feel that if more of a focus were put on children in this age range, students' performance in middle school and high school would improve. Why should money be used for programs and initiatives to improve high school PSSA scores when a quarter of this State's fifth graders cannot adeptly read?

Let us tackle the problem at its roots and place our concentration on educating this State's youngest students more effectively. In an effort to do so, I propose that we attempt to take the following steps: Firstly, I feel that instituting full-day kindergarten is essential in properly educating young children. Instead of having a year of study be a mere half-day of playtime or daycare, discipline and rudimentary reading and writing skills should be instilled. The Ohio Education Office of Education Oversight reported that full-time kindergartners score higher on first grade reading readiness tests and on other standardized tests in third, fifth, and seventh grades as compared to half-day students. Also, a 1997 study by the National Association of School Psychologists reported that full-day kindergartners receive better report cards and require less remedial instruction than their peers in half-day programs. It is my hope that Governor Rendell lives up to his campaign promise and works with all of you to make full-day kindergarten a standard for all Pennsylvania school districts.

Secondly, I feel that formal education must begin prior to the age of 5 when a child attends kindergarten. Children at the ages of 3 or 4 crave learning and are capable of processing and understanding vast amounts of knowledge. However, Pennsylvania is one of nine States that does not invest in preschool. The options available to parents to begin their child's education are extremely limited to Head Start and private preschools or daycare. Allocating money to preschool type programs can offer all of Pennsylvania's parents the opportunity to commence their child's education at an early age. Also, instituting programs for parents on begin-

ning the education of their children at home at a young age could be effective. Parents are their children's first teachers, so having them prepared to take on this task can be effective.

Thirdly, reducing class size is clearly an effective means to improve the quality of education provided. Children at ages 3 to 8 often need more personal attention than do students in upper grades. So I feel that making a concerted effort to limit the class sizes in primary school will better prepare students for the remainder of their education. Since Tennessee began its Star program, which limited the class sizes of some of the State's kindergarten through third grade classes to 13 to 17 students, it has reported that these students have scored significantly higher on standardized tests. An effort to do the same in Pennsylvania will likely be just as effective.

In conclusion, I feel that investing in this State's youth at an early age will save money in the future. By implementing some of these initiatives, students will be better prepared and more confident in their abilities as they enter high school. Every child in this State deserves the right to a quality education, and I believe that funding proposals that will affect them at young, ripe ages will give each child the best opportunity to succeed academically.

Again, thank you for giving me this opportunity to speak before you. I am truly honored and appreciative.

Thank you.

(Applause.)

The PRESIDENT. Thank you, and thank your wonderful family for coming here with you today. We really appreciate it, as does Senator Musto, who is your sponsor. Thank you again.

## HOUSE MESSAGE

### HOUSE CONCURS IN SENATE CONCURRENT RESOLUTION

The Clerk of the House of Representatives informed the Senate that the House has concurred in the resolution from the Senate, entitled:

**Weekly adjournment.**

## RECESS

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, at this time I request a recess of the Senate for the purpose of a caucus by the Republicans. The caucus will be held in the Rules room to the rear of the Senate.

The PRESIDENT. The Chair recognizes the gentleman from Luzerne, Senator Musto.

Senator MUSTO. Madam President, I request that all Democratic Members report to the Minority Caucus Room upon the recess. Thank you.

The PRESIDENT. Senator Brightbill and Senator Musto have asked for a recess of the Senate for purposes of caucuses. Without objection, the Senate will stand in recess.

I would like to thank all the young students who are here today.

**AFTER RECESS**

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

**RESOLUTION INTRODUCED AND REFERRED**

The PRESIDENT laid before the Senate the following Senate Resolution numbered, entitled, and referred as follows, which was read by the Clerk:

February 25, 2003

Senators TOMLINSON, BRIGHTBILL, LOGAN, COSTA, ORIE, MUSTO, THOMPSON, KUKOVICH, EARLL, ARMSTRONG, LEMMOND, STOUT, CORMAN, TARTAGLIONE, LAVALLE, ERICKSON, CONTI, DENT, WONDERLING, GREENLEAF, PUNT, ROBBINS, RHOADES, WAUGH, KASUNIC and RAFFERTY presented to the Chair **SR 33**, entitled:

A Resolution designating the week of March 2 through 8, 2003, as "Pennsylvania One Call System Week" in Pennsylvania.

Which was committed to the Committee on RULES AND EXECUTIVE NOMINATIONS, February 25, 2003.

**APPOINTMENTS BY THE PRESIDENT PRO TEMPORE**

The PRESIDENT. The Chair wishes to announce the President pro tempore has made the following appointments:

Senator Jane C. Orie as a member of the Children's Trust Fund Board.

Mr. Burt A. Waite as a member of the Citizens Advisory Council.

**GENERAL COMMUNICATION****REPORT ON SMALL MALT BEVERAGE BREWERS IN PENNSYLVANIA**

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

COMMONWEALTH OF PENNSYLVANIA  
Department of Revenue  
Harrisburg, Pennsylvania 17128-1100

February 21, 2003

Mr. Mark R. Corrigan  
Secretary of the Senate  
462 Main Capitol  
Harrisburg, PA 17120

Dear Mr. Corrigan:

In accordance with provisions of Article 20 of the Tax Reform Code of 1971, the enclosed report represents employment, production, expenditures and tax credits authorized under Section 2010, relative to small malt beverage brewers in Pennsylvania.

Sincerely,

GREGORY C. FAJT  
Acting Secretary of Revenue

The PRESIDENT. This report will be filed in the Library.

**REPORTS FROM COMMITTEE**

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

**SB 97 (Pr. No. 96)**

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for the limited right of jurors to take notes.

**SB 153 (Pr. No. 158)**

An Act amending Title 15 (Corporations and Unincorporated Associations) of the Pennsylvania Consolidated Statutes, further providing for qualifications of directors.

**SB 164 (Pr. No. 169)**

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for criminal victim aid good Samaritan civil immunity.

**SB 296 (Pr. No. 311)**

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for court orders relating to adoption records.

**CALENDAR****SB 274 CALLED UP OUT OF ORDER**

**SB 274 (Pr. No. 266)** -- Without objection, the bill was called up out of order, from page 1 of the Third Consideration Calendar, by Senator BRIGHTBILL, as a Special Order of Business.

**BILL AMENDED**

**SB 274 (Pr. No. 266)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 23, 2002 (P.L.1982, No.229), entitled "An act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for definitions, for grounds for refusing registration and for renewal of registration; providing for motor carrier vehicles; further providing for operation following suspension of registration and for suspension of registration; providing for suspension of motor carrier vehicle registration; further providing for suspension of operating privilege, for schedule of convictions and points, for occupational limited license, for duty of driver in construction and maintenance areas, for special speed limitations, for availability of benefits, for trucks and truck tractors and for speed timing devices; providing for accidents involving certain vehicles; further providing for unlawful activities; providing for lighted head lamps in work zones; further providing for restraint systems, for operation of vehicle without official certificate of inspection and for inspection by police or Commonwealth personnel; providing for designation of highway safety corridors; further providing for erection of traffic-control devices while working; requiring certain traffic-control devices in highway work zones; and requiring a study by the Legislative Budget and Finance Committee," further providing for the effective date.

On the question,

Will the Senate agree to the bill on third consideration?

Senator MELLOW offered the following amendment No. A0020:

Amend Title, page 1, line 24, by striking out "further providing for the effective date" and inserting: providing for applicability

Amend Sec. 1, page 1, line 27, by striking out "Section 24 of the" and inserting: The

Amend Sec. 1, page 2, line 21, by inserting after "amended": by adding a section

Amend Sec. 1 (Sec. 24), page 2, lines 22 through 30; page 3, lines 1 through 21, by striking out all of said lines on said pages and inserting:

Section 23.1. The amendment of 75 Pa.C.S. § 4581 shall not apply to any "school vehicle," as defined in 75 Pa.C.S. § 102, until June 30, 2003.

Section 2. The addition of section 23.1 of the act shall apply retroactively to February 21, 2003.

Section 3. This act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, the amendment that I have offered to Senate Bill No. 274 would delay the implementation of the bill dealing with school vehicles until June 30, 2003. Madam President, the reason my amendment would delay it until June 30 is because I have been contacted by a number of school districts, not only in the district that I represent, but throughout the Commonwealth. Since I have been the prime mover of this particular proposal, they have asked me if there is some way that we might consider moving the implementation of child booster seats in school vehicles, which do not include school buses until the start of the new school year, number one, to give them the opportunity to be able to provide booster seats in vans and in cars that are operated by the school district, and, secondly, to give them the opportunity to provide financially for what the costs may be.

Madam President, also in discussing the issue with a number of transit companies that do work for school districts, they tell me that the cost is not insurmountable. However, it would be important to have the opportunity to factor it into their next budget. I have been able to ascertain from a number of different commercial outlets that they can buy a booster seat for \$19.95, and if school districts need those seats for the next school year, they can buy those seats, and the transit companies that contract with school districts to operate their vans, station wagons, and motor vehicles other than school buses could purchase seats for that amount of money.

So, Madam President, with that in mind, I have offered this amendment as it deals only with school districts. The bill actually went into effect on February 21, which was last week. So currently, as we speak, the provision dealing with booster seats in passenger vehicles is in effect only as a secondary violation, not a primary violation, which basically would mean that the motorist would have to be stopped for another violation of the Vehicle Code before he or she would be in violation of not having a child under the age of 8 in a child booster seat. That is

the law in Pennsylvania today as we speak. That is a law, Madam President, based on information that has been given to us by a number of different groups, including pediatrics, that it will save thousands and thousands of Pennsylvania children's lives over the next several months. But I do believe that school districts have a legitimate concern when they said to us that they are almost now at the end of the school year, please give them an opportunity of implementing the proposal at the start of the new school year, 2003-04.

For that reason, Madam President, I offer this amendment, which would delay the implementation, as it deals with school vehicles, to June 30, 2003, which is after the end of this school year, but prior to the start of the new school year, 2003-04. I ask support for this amendment because it is what the school districts in Pennsylvania have asked to us do, but more importantly, because it will protect the lives of the greatest natural resource that we have in this country of ours and certainly in Pennsylvania, and that is our children and grandchildren, so that they will be protected in a passenger vehicle today driven by a family member or a friend of the family, where a child under the age of 8 must be in a booster seat in Pennsylvania effective February 21, and not to delay any implementation of that. For that reason, Madam President, I ask for an affirmative vote and I ask for a roll-call vote.

#### LEGISLATIVE LEAVES CANCELLED

The PRESIDENT. Senator Kukovich, Senator LaValle, and Senator Tartaglione have returned, and their legislative leaves will be cancelled.

And the question recurring,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Punt.

Senator PUNT. Madam President, I rise in opposition to Senator Mellow's amendment. I believe Senator Mellow is moving in the right direction, but not far enough. Senator Mellow's amendment deals only, as he said, with school districts. It does not deal with our individual constituents and the problems that they are experiencing right now, that these booster seats cannot fit in the cars. If their vehicle is not equipped with a lap belt, it is physically impossible to put the booster seat in and to come into compliance with the law. It does not allow for any consideration dealing with limousine services, taxicabs, or private contractors who provide services to school districts. It does not provide for any of that. I am going to be offering an amendment, once we dispose of Senator Mellow's amendment, that will be broad-based and impact all of those folks upon whom we do need to impact, not just a selective group. For those reasons, Madam President, I urge a "no" vote on Senator Mellow's amendment.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, just for the purpose of clarification, not to be argumentative, I believe the gentleman is

not properly informed about the bill and the way it passed and the way it currently exists in statute. I will read the part of the bill in section 4581, paragraph 1.1, subsection (d). It says, "This subsection shall apply to all persons while they are operators of motor vehicles where a seating position is available which is equipped with a seat safety belt or other means to secure the systems or where the seating position was originally equipped with seat safety belts." What this basically says is exactly what Senator Punt is talking about, that if the vehicles in question do not comply and do not have the availability, based on their equipment, to be able to equip it properly with a child booster seat, then the operator need not comply with this proposal. So what the gentleman is saying is actually in the statute as it was passed back in November, voted by 40 Members of this body on three particular times and then signed by the Governor of the Commonwealth and went into effect on February 21. So what the gentleman is saying has been addressed or was addressed in the proposal and therefore is part of the statute. So if that is the reason for anyone to vote against my amendment, that particular reason has already been addressed in the statute. And for that reason, again, I ask for an affirmative vote on my amendment.

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Punt.

Senator PUNT. Madam President, again I respectfully disagree with Senator Mellow's statement. When this amendment was initially offered and became Act 229, if it had been carefully thought out, carefully thought out and planned, we would not be here discussing these issues today. Whether it was intentional or lack of foresight, nevertheless, there are problems that are being experienced all around Pennsylvania today. This amendment does not deal with those issues. It deals with only one certain portion, and that is all. I, again, urge a negative vote on the amendment, and we will deal with the real issues and those problems in a subsequent amendment.

Thank you.

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator C. Williams.

Senator C. WILLIAMS. Madam President, I rise in support of this amendment. As you know, we have a law in Pennsylvania now that children have to be in car seats and car seats need seatbelts to hold them in. So I disagree with my colleague's comments on that.

I understand that there are certainly concerns being expressed by many school districts, and it is also true there are many families facing the driver reality that challenges conventional seat placement within a vehicle. But the public really needs to know, and we all should know, that there are trained technicians throughout the State who are able to help fit the car seats and get the appropriate booster seats in the cars. The State Police offers session days like that all the time, so do some local police departments. The American Academy of Pediatrics runs some programs and can direct families to certified technicians, and all a parent needs to do is call 1-800-CAR-BELT and they will get the information they need to find out where to get the proper help for their booster seats.

Thank you, Madam President.

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

Senator WAGNER. Madam President, Senator Mellow's amendment enhances the safety of children in Pennsylvania. It is that simple. The amendment that follows harms the safety of children in Pennsylvania to a greater degree. We did something good in this General Assembly 3 months ago. We are here today to correct it, and I believe that the amendment in front of us is the amendment that best serves the children.

Thank you.

#### LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request a temporary Capitol leave for Senator Schwartz.

The PRESIDENT. Without objection, that leave will be granted.

And the question recurring,

Will the Senate agree to the amendment?

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

#### YEA-22

Boscola	Kasunic	Musto	Wagner
Costa	Kitchen	O'Pake	Williams, Anthony H.
Ferlo	Kukovich	Schwartz	Williams, Constance
Fumo	LaValle	Stack	Wozniak
Helfrick	Logan	Stout	
Hughes	Mellow	Tartaglione	

#### NAY-27

Armstrong	Greenleaf	Pileggi	Tomlinson
Brightbill	Jubelirer	Punt	Waugh
Conti	Lemmond	Rafferty	Wenger
Corman	Madigan	Rhoades	White, Donald
Dent	Mowery	Robbins	White, Mary Jo
Earl	Orie	Scarnati	Wonderling
Erickson	Piccola	Thompson	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,

Will the Senate agree to the bill on third consideration?

Senator PUNT offered the following amendment No. A0055:

Amend Sec. 1, page 1, line 27, by striking out "Section 24 of the" and inserting: The

Amend Sec. 1, page 2, line 21, by inserting after "amended": by adding a section

Amend Sec. 1, page 2, by inserting between lines 21 and 22:

Section 23.1. Upon approval of guidelines relating to the implementation of the amendment or addition of 75 Pa.C.S. §§ 4309 and 6123(b) and (c), the Department of Transportation shall publish a notice in the Pennsylvania Bulletin indicating such approval.

Section 2. Section 24 of the act is amended to read:

Amend Sec. 1 (Sec. 24), page 3, lines 11 through 16, by striking out all of said lines and inserting:

[(v) The addition of 75 Pa.C.S. § 4309.

(vi)] (v) The amendment of 75 Pa.C.S. § 4704(a) and (c).

[(vii) The amendment of 75 Pa.C.S. § 4581.

(viii) The addition of 75 Pa.C.S. § 6123(b) and (c).

(ix)] (vi) The addition of 75 Pa.C.S. § 6123.1.

Amend Sec. 1 (Sec. 24), page 3, by inserting between lines 18 and 19:

(2.2) The amendment or addition of 75 Pa.C.S. §§ 4309 and 6123(b) and (c) shall take effect three months following the publication of notice by the Department of Transportation that guidelines relating to the implementation of the amendment or addition of 75 Pa.C.S. §§ 4309 and 6123(b) and (c) have been approved.

Amend Bill, page 3, by inserting between lines 20 and 21:

Section 3. The initial guidelines relating to implementation of the amendment of 75 Pa.C.S. § 4581 by section 17 of the act shall be published no later than 30 days after the effective date of this section.

Section 4. This act shall be retroactive to February 21, 2003.

Amend Sec. 2, page 3, line 21, by striking out "2" and inserting: 5

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Punt.

Senator PUNT. Madam President, this amendment deals with three subjects. One, it deals with the booster seats, the implementation and the publishing of the criteria, the regulations, by PennDOT pertaining to such, and it deals with two other subjects that came up within the last 2 weeks that fell short within Act 229. Those two items deal with the construction signs that our utilities are required to place within construction zones, as well as the radar signs that PennDOT will be placing throughout these construction zones. The utility companies contacted me 2 weeks ago and said, quite frankly, they will be in violation of the law on February 21 because PennDOT has not published the rules and regulations concerning these construction signs. This amendment will delay the construction signs by 90 days. It will require PennDOT to publish the rules and regulations concerning these construction signs to be placed in these zones, and once they are published, the utility companies will have 90 days to purchase these signs with strobe lights, and so forth, distribute them statewide, and have them out on the construction sites. It takes utility companies 1 to 2 months just to order these signs. We have an extra 4-week plan built in just in case there would be some lead time delay, so that they can come into compliance. The utility companies had contacted me and said they were going to be in noncompliance and, therefore, what if an accident or injury should occur? What is their situation with liability toward that accident since they were not in compliance with the law, and they could not come into compliance because PennDOT has not published the rules and regulations that would allow the utility companies to come into compliance? The same thing applies with the radar signs. The rules and regulations have not been published by PennDOT as yet on that subject, so there is nothing that can be done to place those radar signs and the use of those signs until PennDOT publishes the rules and regulations. So this amendment would delay those components - construction signs, radar signs - by 90 days from the date that PennDOT publishes the rules and regulations in the Pennsylvania Bulletin.

The final area that the amendment deals with pertains to the booster seat issue in various vehicles. What we are saying in this amendment is that PennDOT has 30 days to publish the rules and regulations concerning exemptions from the booster seat law and

publish them in the Pennsylvania Bulletin. This will allow us adequate time and opportunity to review those regulations, those exemptions, to determine if they, in fact, meet the criteria and needs that we feel should be met to satisfy our constituents' vehicles, and so forth.

If I may, let me give you an example. I do not know how many of you saw in the News Clips yesterday, but last week a lady from Allegheny County could not put these booster seats in her car because they would not fit. She contacted the State Police. The State Police response was that on February 21, that is the law, no excuses. She contacted the Allegheny County Department of Health, what should she do? Do you know what the response was? Buy a new car. That was the response. That is absurd. We need to allow time to have these exemptions made so that they are practical, realistic, and reasonable. And therefore, I ask the Members to support this amendment to Senate Bill No. 274.

Thank you.

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

Senator WAGNER. Madam President, I rise to make a comment and also an inquiry and hopefully have the opportunity for some dialogue or some questions with the sponsor of the amendment. But first, Madam President, it is important to say that I believe every Member of this General Assembly originally supported House Bill No. 2410, and I believe it was originated due to a tragic accident involving a senior staff member of the Republican Leader in the House. The Members of this General Assembly had been very supportive to get this bill done in the final days of Session in November of 2002, and I doubt if any Member of the General Assembly did not support this legislation. What we are really doing here today is trying to make sure the legislation is properly implemented, and certainly the piece of the bill relating to and the amendment that is being discussed relating to booster seats and child safety regulations that was put forth by Senator Mellow is a positive addition to the Motor Vehicle Safety Code of Pennsylvania. It will save the lives of children in our Commonwealth, so we want to make sure that every aspect of this legislation is implemented as timely as possible, and I am sure Senator Mellow may speak to that aspect of the legislation.

Madam President, there are two parts of it that I am concerned about, and I am receptive to a delay in implementation of those parts, as indicated by Senator Punt. The one relates to construction signs, which would require that, within construction zones, headlights of vehicles be on. Just so the public understands, that is what one aspect of this amendment is about. The other piece of the amendment is the amendment that I made to House Bill No. 2410, which is the placement of speed monitoring devices at the entrance of construction zones where projects exceed \$300,000. And I believe that was the one aspect of this legislation related to construction zones that was not punitive to the public and gave the public the ability to know what their speed was before entering a construction zone so that they could slow down, so that they would not have an accident, so that they would not kill a construction worker, so that they would not be fined. So I look at this aspect of the bill as being very important.

But what I want to ask the sponsor of the amendment, Madam President, if it is permissible, is precisely how long the speed monitoring device will be delayed if this amendment passes? And knowing that today is February 25, when this legislation will finally pass, and when it will be published in the Pennsylvania Bulletin, and it is my understanding 3 months after that the legislation will take effect.

But even prior to asking that question, Madam President, I want to ask why has PennDOT not published the notice, even though this legislation was passed 3 months ago? Can that be answered?

The PRESIDENT. Is the gentleman directing the question to Senator Punt?

Senator WAGNER. Yes, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Punt.

Senator PUNT. Madam President, I cannot answer for PennDOT, but I would suggest that PennDOT simply has not had the time to do it yet.

Now regarding your second question, how many days would this take for that to be enforced? It would be 90 days after those rules and regulations are published in the Bulletin. Now, according to what PennDOT informed us last week, those regulations should be finalized by the end of this week or next week. So to answer your question, once those regulations are published in the Bulletin, say, for example, if it would be next week, then they would become effective and enforced 90 days from that date.

Senator WAGNER. Okay. So Madam President, if I could follow up with a question to that. Knowing that the construction season begins April 1, I think it is very realistic that these items, if not by April 15, as a matter of fact, I had a discussion today with Acting Secretary Al Biehler of Transportation, and he told me that these signage issues and speed monitoring issues could be complied with by PennDOT by April 15 or mid-April. I want to know the specific date, if this amendment passes, when would the law take effect?

Senator PUNT. Madam President, again, the date is unknown and cannot be known until the department publishes the regulations. At that point, then it would be 90 days. So contact the Secretary of the Department of Transportation and see if they will hold that until next Friday, and then add 90 days to it.

Senator WAGNER. Madam President, I appreciate the response. I simply want to say that based on the timing, the way things have been done and the track record so far, the sponsor of the amendment indicated that PennDOT has not had the time in the previous 3 months, and it concerns me greatly. It is my hope, obviously if this amendment ultimately goes through, that action is taken immediately. However, the way I look at this amendment, the earliest possible time that anything could be done, based on passage of this amendment in the House, the Governor's signature, action on the notice in the Pennsylvania Bulletin, plus 90 days after, would be mid-June, well into a construction season, and I simply think that is too long. As I indicated, I would be receptive to a 2-month delay in getting this done, but getting into another construction season is simply too long and it jeopardizes the safety of the motoring public, knowing well that other aspects of this legislation are in place.

People can be fined going into construction zones, but at the same time, they will not have the ability to understand the speed going into the zone and the posting of the speed going into the zone.

Therefore, Madam President, I ask for a "no" vote on this amendment. Thank you.

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator C. Williams.

Senator C. WILLIAMS. Madam President, I ask if the sponsor would stand for interrogation.

Senator PUNT. I will, Madam President.

The PRESIDENT. The gentlewoman may proceed.

Senator C. WILLIAMS. Madam President, I am concerned with the timing for the effective dates of the booster seat law, and I would like the gentleman to explain that. It is a different kind of delay than we are talking about for the signage. Could the gentleman just explain exactly what the timing is of the booster seat law by going back 30 days? I do not understand what the gentleman is trying to do.

Senator PUNT. Madam President, I believe if I heard the question correctly, her question was, why are we moving the date to August 15?

Senator C. WILLIAMS. Madam President, no, what is the timing? I would like the gentleman to go back and explain exactly what he is doing with the booster seat law. He is moving it forward, but he is talking about 30 days after the effect, so I would like to have an explanation of what exactly is going on.

Senator PUNT. Madam President, that has to do with the publication for the exemptions that PennDOT will be publishing, and that will be 30 days from the date PennDOT publishes those regulations in the Bulletin. The reason for that is it will allow us the time to review those regulations and give us ample time before the August 15 date would kick in. If there would need to be more refinement or something comes up that has not been considered, it would allow time for PennDOT to make those changes prior to enforcement, which would take effect on August 15. We could have delayed it and told PennDOT they could do it in 45 days or 90 days or June 30, or whatever. But I think it is responsible of us to look at a reasonable timeframe so that, A, they get those regulations published; and B, we have ample time to review those regulations to make sure that those exemptions do qualify and meet the intent of this legislation and of the conditions faced with our constituents, and so forth, throughout the State. It gives us those extra months to make changes if additional changes are needed.

Senator C. WILLIAMS. Well, Madam President, I am just concerned that this is really a delaying tactic for the bill itself. I understand in the original legislation, which is now law, there is an ability to have some exemptions, and we do not have to go through the published exemptions of this.

Senator PUNT. Madam President, unfortunately, we would like to think that, but reality is that is not the case. The department has not published the rules and regulations on this yet. And I might add, when this legislation was passed, when Act 229 was signed into law on December 23, these sections took effect 8 weeks later on February 21. Now, Maryland just passed a similar booster seat law that takes effect in September. Maryland folks have 8 months to prepare and gear for this. Act



229 gave Pennsylvanians 8 weeks, and we are not even remotely prepared to meet this yet.

Senator C. WILLIAMS. Madam President, this bill still will have to go to the House and go through the House before this is done. How will that impact the passage of the rules and regulations and what the gentleman is trying to do and the timing of this? Suppose they do not take it up?

Senator PUNT. Madam President, we can suppose anything, I guess, but we are going to work with the House leadership, the Speaker, the Majority Leader, and the chairman of the Committee on Transportation to see if we can expedite this through the House process, just as we have tried to be proactive here in the Senate in its process.

Senator C. WILLIAMS. Madam President, this is a concern for me, this delay. I am worried that this delay is really a stalling tactic for not getting this booster seat law into effect, and I regret that I probably will vote against it.

Senator PUNT. Madam President, I can only respond that there is no delaying tactic, there is no attempt to stall, but it is to make a reasonable timeframe to correct the inequities that exist right now.

Senator C. WILLIAMS. Thank you, Madam President.

And the question recurring,  
Will the Senate agree to the amendment?

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

**YEA-29**

Armstrong	Greenleaf	Pileggi	Waugh
Brightbill	Helfrick	Punt	Wenger
Conti	Jubelirer	Rafferty	White, Donald
Corman	Lemmond	Rhoades	White, Mary Jo
Dent	Madigan	Robbins	Wonderling
Earll	Mowery	Scarnati	
Erickson	Orie	Thompson	
Ferlo	Piccola	Tomlinson	

**NAY-20**

Boscola	Kitchen	Musto	Tartaglione
Costa	Kukovich	O'Pake	Wagner
Fumo	LaValle	Schwartz	Williams, Anthony H.
Hughes	Logan	Stack	Williams, Constance
Kasunic	Mellow	Stout	Wozniak

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

The PRESIDENT. The bill will go over as amended.

**SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 1**

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**SB 274 (Pr. No. 359) —** The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 23, 2002 (P.L.1982, No.229), entitled "An act amending Title 75 (Vehicles) of the

Pennsylvania Consolidated Statutes, further providing for definitions, for grounds for refusing registration and for renewal of registration; providing for motor carrier vehicles; further providing for operation following suspension of registration and for suspension of registration; providing for suspension of motor carrier vehicle registration; further providing for suspension of operating privilege, for schedule of convictions and points, for occupational limited license, for duty of driver in construction and maintenance areas, for special speed limitations, for availability of benefits, for trucks and truck tractors and for speed timing devices; providing for accidents involving certain vehicles; further providing for unlawful activities; providing for lighted head lamps in work zones; further providing for restraint systems, for operation of vehicle without official certificate of inspection and for inspection by police or Commonwealth personnel; providing for designation of highway safety corridors; further providing for erection of traffic-control devices while working; requiring certain traffic-control devices in highway work zones; and requiring a study by the Legislative Budget and Finance Committee," further providing for the effective date.

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

On the question,  
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I rise to speak against the final passage of Senate Bill No. 274, even though I fully realize that this bill is going to be passed before we leave here this afternoon. I was kind of surprised by how expediently the Majority worked on this particular proposal with regard to having printed a Supplemental Calendar and having the bill printed with their amendments prior to the vote even being taken on the floor of the Senate and the offering of the amendments. It is quite amazing how quickly that took place. I have been in this Chamber for many, many years and we have delayed the final vote for hours on very important pieces of legislation. And maybe with regard to the life of children, none more important than this particular piece of legislation, I would have thought that we probably would have had to go in recess prior to the bill being presented to us on a Supplemental Calendar on final passage, not literally minutes after the final roll call was taken on the amendment that was offered by Senator Punt.

Madam President, there are a few points of clarification that must be made, and I am sure in final passage the points of clarification will mean absolutely nothing, but I still believe there are a few points of clarification because there has been some information that has been put on the floor of this Senate today, there have been certain things put on the floor of the Senate today that are, if not inaccurate, extremely misleading as to the reason why this particular piece of legislation should pass.

Madam President, my main concern and main focus has to do with the child booster seats and their effective date, because once we take our action here this afternoon, this particular proposal for the effective date of the child booster seats will still be in effect until the House of Representatives takes their position on the bill, and then it goes to the Governor and the Governor ultimately either signs the bill or takes some other action with regard to the bill. But, Madam President, when I offered an amendment, it was



stated by the sponsor of the bill that the reason why my amendment, which would have delayed only the implementation of the child restraints for school districts until the next school year or after June 30, but would not affect implementation of the proposal with regard to passenger vehicles, it was stated that, and I am going to paraphrase, because the rules and regulations have not been promulgated with regard to various types of passenger vehicles and retrofitting vehicles based on the size of booster seats, that the bill should be delayed based on that alone to give the department more time to promulgate the regulations.

Well, Madam President, it is very, very important, once again, I know it is meaningless, but it is very important for us to know, meaningless with regard to the vote, that those issues that Senator Punt brought to the floor of the Senate have been addressed in the legislation. And if you read, "Section 4581. Restraint Systems," it specifically explains how these things must be dealt with. So let us be clear in our facts. That is very clearly expressed, Madam President, and I, for one, do believe that children are safer riding in child booster seats.

Now, Madam President, I also was allowed by Senator Madigan to speak in the meeting of the Committee on Transportation, although I am not a Member of that committee. Here is what I pointed out with regard to child booster seats, which is the main focus about which I am concerned. First of all, before I bring that point, let me go back to the date when we finally passed this bill here in the Senate and to some of the debate that took place on the floor of the Senate, Madam President. I said in my discussion that the Safe Kids Campaign gave the State of California an A grade and the State of Pennsylvania an F grade for the way we protected children in Pennsylvania in child booster seats. That F grade, once the bill went into effect on February 22, was increased dramatically to a B grade. What it said was the Safe Kids Campaign gave the State of California an A grade and the State of Pennsylvania an F grade, but at least we have been able to address some of the issues that were presented by this particular provision that has now been endorsed by the Pennsylvania Safe Kids Campaign. That particular provision was to require a child up to the age of 8 years old, regardless of weight, to be put in a child booster seat, and that particular proposal would go into effect on February 21, which was last week.

Let me point out a couple more things, Madam President. Motor vehicle crashes are the leading cause of unintentional injury-related deaths among children ages 14 and under, killing approximately 1,700 children and injuring another 248,000 children each year. Madam President, that is a national figure. Child safety seats reduce the risk of fatal injury by 71 percent for infants and 54 percent for young children in passenger vehicles. Now if we take the bill as introduced by Senator Punt and then with the amendment that he offered, if you delay the implementation, Senator Punt, by 168 days, which would go from today's date to August 15, you have no idea, when you factor in the 1,700 children nationally who would lose their lives, how many children would be in harm's way, potentially how many children in Pennsylvania would lose their lives because of not riding in a child booster seat. And of the 248,000 children who are injured in Pennsylvania during that 6-month period of time, which now under this proposal would not allow this bill to

take place, how many children in Pennsylvania will be seriously injured by the action of your bill?

Madam President, adult safety belts do not adequately protect children between the ages of 4 and 8.

I believe this is a very important piece of legislation and we should have some order in the Chamber, Madam President.

The PRESIDENT. The Senate will come to order.

Senator MELLOW. It is estimated that adult safety belts obviously do not adequately protect children ages 4 to 8. That is a very accurate statement. It is also estimated that 83 percent of children ages 4 to 8 ride improperly restrained in adult safety seatbelts. So we are now going to allow up until August 15 those same children ages 4 to 8, of which 83 percent do not ride properly in those seatbelts, to continue the problem that they may have. Pediatrics, a monthly Journal published by the American Academy of Pediatrics, reported in 2000 that children restrained only in a seatbelt versus children restrained in a booster seat were three times more likely to suffer serious injury. Senator Punt, by your bill that will allow--

#### POINT OF ORDER

Senator BRIGHTBILL. Madam President, point of order.

The PRESIDENT. The gentleman will state his point.

Senator BRIGHTBILL. Madam President, according to the manual, Senator Mellow's comments are to be directed to the Chair, not to an individual Member and reference to a Member by name I think is inappropriate. If he wants to talk about the gentleman's argument, that is perfectly appropriate, but directing comments to Senator Punt is inappropriate.

The PRESIDENT. The gentleman's point is well-taken.

Senator MELLOW. Madam President, from now on I will use the gentleman from Franklin County, and that will not be addressing directly to Senator Punt. I do appreciate that, Madam President.

Madam President, Pediatrics, a monthly journal published by the American Academy of Pediatrics, I will repeat, reported in 2000 that children restrained only with seatbelts versus a car booster seat were three times more likely to suffer serious injury. Madam President, this is a very, very, very important proposal. In a recent study, the Commonwealth of Pennsylvania was given a failing grade, which I mentioned before, by the National Safe Kids Campaign as it relates to having adequate laws to protect children, our greatest natural resource. Many of us in this Chamber have young children and grandchildren who would be affected by this proposal. The National Safe Kids Campaign gave us a failing grade prior to the enactment of this proposal. The States of New Jersey and Delaware require booster seats and do not exempt school vehicles from compliance. Why should the children of Pennsylvania expect less than what happens in the State of New Jersey or in the State of Delaware?

Madam President, the Senator from Franklin was correct when he stated that effective October 1, 2003, Maryland will require children up to 6 to use booster seats in passenger vehicles, in trucks, and in multipurpose vehicles. Madam President, this is a very emotional issue, it is a very sacred issue, it is an issue that cuts right to the heart of it that protects the greatest natural resource we have, our children and our families.

Madam President, unfortunately, the accident that Senator Wagner referred to, when a former senior staff member of the House of Representatives lost his life in a construction area, was an accident that took place coming from an event that I had in the summer of 2001. It was a very sad evening. He was a wonderful individual. He lost his life after he left my event going through a construction zone where the rear of the car was hit by a tractor trailer that was not properly equipped with the proper type of brakes. The car burst into flames, and the individual passed away. That was the impetus for the proposal to begin with. For no apparent reason for us to delay the implementation of child booster seats in passenger vehicles, excluding school districts, Madam President, is inexcusable. The seats themselves cost \$19.95. If your car cannot comply because of age or some other problems with the vehicle, it is exempt by the law that we passed. To do anything other than to allow that part of the bill to stay in effect as it has from February 21, Madam President, I believe is to jeopardize the health and safety and welfare of our children. I strongly ask both sides of the aisle to vote "no" against the proposal.

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, I am going to be brief. As I look around this Chamber, there are, I would say, two or three of us who have to deal with these car seats on a regular day-to-day basis. I know Senator Mellow does. I see Senator Dent, and I know he does, he has three young children. I have two young children. And what I find fascinating about this debate is that we are saying if we passed this law, there are children who would be placed into car seats and children who would not be placed into car seats, and that is not factually correct. Parents right now, in my personal judgment, have a responsibility for their children's safety, and that is not going to change, no matter what we do, no matter what law we pass, and they have had that responsibility for a number of years. I believe the reason we are here is because we had a mandatory law to the age of 4. There apparently were a lot of people who were under the misperception, because the law only went to the age of 4, that once a child turned 5, they no longer needed to be in a booster seat. So they then assumed that because the law did not require them to be in a booster seat, that they no longer had to be in a booster seat, so they put them in seatbelts and thought that the children were safe. Well, it turns out they are not safe, and those of us who happen to have the good fortune, for one reason or another, to be informed that children need to remain in booster seats, have booster seats and continue to have their children in booster seats. And for my example, I have a 5 1/2-year-old, and I cannot drive the car without him being in a booster seat and without the seatbelts being fastened. He will raise holy H in the back seat if I try to pull away and his seatbelts are not fastened, and he is quite capable of doing it himself. We check, we always try to make sure that he is safe, but he raises Cain.

Now, what we are doing here is not saying that some children shall not be in booster seats. Every parent has the opportunity, and I think the price is \$29.95, not \$19.95, to buy a booster seat. And what we are simply saying is this: That before the law sanctions a parent for not putting their child in a booster seat, we are going to give more time to comply. And maybe it is a little

more time than we would need to give, but if you deal with parents and if you deal with parents who have young children, people out there are getting themselves worked up about this particular law, because if you call Wal-Mart, maybe Toys 'R Us, or someplace else, the seats are not in supply.

The other problem is the problem that Senator Punt focused on. For those of us who are fortunate enough to have a recent car, a new car, installing a seat, particularly if you have a 2003 model, it is rather easy. The older the car, the more challenging it is, but every parent still has the opportunity here. We are not passing a law that says these children no longer are going to be in seats. We are passing a law that says that we are no longer going to sanction parents for not having their children in seats, but the parents, in my judgment, still have the responsibility. I understand the gentleman from Lackawanna, Senator Mellow's emotion, and I very much respect that in this setting. I very, very much respect that. We all want to do the right thing here and I think we all enjoy the same goal. But we are not taking children and turning them out of car seats and putting them in seatbelts and making them unsafe. We are merely providing a sanction on the parents who fail to do that, and we are delaying that sanction.

In the final analysis, it is the parents' responsibility. And guess what? Come August 15, there are still going to be children out there who are between the ages of 4 and 8 who are not in car seats, who are in seatbelts and perhaps are not secured. And God help us, if you are unlucky enough at that moment to be driving one of those cars, you have a serious problem. So, Madam President, I think we are being responsible here. I would ask for an affirmative vote on this bill.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Dent.

Senator DENT. Madam President. I rise in support of Senator Punt's legislation. Like many of us in this Chamber, like Senator Brightbill and others, we spent a lot of time over the past few weeks talking to mothers. As Senator Brightbill mentioned, I do have three young children and I spend a lot of time talking to other parents of young children, and many of them pointed out to me some problems with the implementation of this law. Everybody acknowledges that booster seats are beneficial, that they will certainly improve the safety of our children in motor vehicles. I do not think that is what is at issue. But when a father calls me up and says, I work for a living, I drive a sedan, I have four children between the ages of 3 and 7, I cannot fit the seats in the back of the car, child restraint seats and three boosters. There simply is not room. I do not have shoulder belts and I cannot afford a better car, my life is pretty tough. What do I do if I get pulled over? And we simply do not have the answer for him today. That is why we need a few months to revisit the issue.

Other issues pointed out to me by individuals who are advocating booster seat laws, for those of us who drive minivans, pull down the flap and a harness comes out. That harness does not count as a booster seat. That is something that I was not aware of. I thought that might meet the requirements of this act, but according to those people, they tell me that it does not. I think we need to take a little time to clarify that issue for many of us. The shoulder belt issue was mentioned. Many cars do not

have shoulder belts in the back seat. Therefore, the effectiveness of the booster seat is mitigated or perhaps eliminated altogether.

So for all the reasons articulated earlier, I believe we do need to take a few months so that we can come up with some better thoughts and ideas as to how to implement and ultimately enforce this act.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, just a couple of additional observations. I would like to thank Senator Brightbill, because I thought he was making a speech against the bill. It sounded to me like all of his comments were directed at keeping the law the way it is as of February 21. But I do appreciate knowing that he does have a young family and knowing how well he would protect his young family. I do appreciate what his comments have been on the floor. I also think it is important to put on the floor today that the individual who was just referred to having four children between the ages of 3 and 7 who would have to comply, an individual who cannot afford it, he is not going to be able to afford it anymore in August than he can in February. But the most important thing that individual must remember is that it is his responsibility to protect his children, and I only hope that particular individual is not putting children in the front of a car or putting all four children in the back seat of the car, having none of them in a seatbelt.

Madam President, let us remember what would have to take place before this bill would be implemented, before the motor vehicle violation could take place. This is not a primary offense, Madam President, this is a secondary offense. So what would have to happen, what would have to take place before somebody could be stopped by police personnel for an individual not riding in a booster seat would be this: The person would have to be driving down a street in Pennsylvania, they would have to be driving in violation of the Motor Vehicle Code. It is not this family going for a summer drive on a highway somewhere where the speed limit is 55 miles an hour and they are driving 45 miles an hour. They have to be in violation of the Motor Vehicle Code. To be in violation of the Motor Vehicle Code, the person would have to be speeding, go through a red light, run through a stop sign, drive in a reckless fashion, cross over a middle line and back, or even potentially be under the suspicion of driving while under the influence of drugs and/or alcohol, which then later would be a criminal offense. So this is what has to happen first before they could even stop the individual and say, your child, who is very vulnerable, is not riding in a child booster seat. It is not that the police officer could drive down the street, look over to his or her right or left and say, oh, there is a car going down the street and the children in that car are not riding in a child booster seat. Unless that driver is doing something other than that to violate the Motor Vehicle Code, the police personnel cannot stop that vehicle.

So let us understand what we are talking about here. We are trying to do what we can to bring public awareness to an issue where children under the age of 8 years old should be riding in a child booster seat for their own protection. In many cases there are not parents who can protect children. In many cases there are single families. We are trying to bring an awareness to single

parents or the nuclear family that we know, we are trying to bring an awareness that our children must be protected. This is not a primary offense, it is a secondary offense. We have to protect the children of Pennsylvania. And what this bill does, if it is enacted by the House of Representatives and then sent to the Governor for signature, based on today's date, there would be an additional 168 days in Pennsylvania where the children in Pennsylvania between the ages of 4 and 8 would not have to ride in a booster seat, regardless of what the record is of the driver, regardless of the violation of the person driving that vehicle, and it puts our children, any way you want to cut it, in harm's way for at least an additional 6 months, and for that reason alone, Madam President, I ask for a "no" vote on this proposal.

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Dent.

Senator DENT. Madam President, I just want to clarify something I said about an individual who had four children between the ages of 3 and 7 and his ability to comply with the booster seat act. His issue was not that he could not afford the booster seats, he could afford the booster seats. The problem was the booster seats and the child restraint seat cannot fit in the back of the car, all four of them. That was his issue. Other than buying a new car, that is his only alternative. All I am respectfully suggesting is that we allow a little bit of time so that we can think of perhaps some legitimate exemptions or exceptions to this well-intended law, and I want to be very clear about that. Also, I did not even mention another conversation that I had with a parent whose child was too tall or too large to fit in a booster seat, yet under the age of 8. There are those circumstances. There are children 8 or older who may fit in a booster seat, and children under 8 who simply do not fit in booster seats. For those of us who have children, we are aware that the sizes of children vary from family to family, and we need to account for that as well. So that is why I believe Senator Punt's legislation makes sense. It will just give us a few months to reflect and create some legitimate exemptions or exceptions to this law that is well-intended and then ultimately I suspect will provide for safer travel in Pennsylvania and protect our children.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Punt.

Senator PUNT. Madam President, let me just say that I believe the debate given here today certainly enhances the awareness, the education, the importance of why these children should be in these booster seats and belted properly. This debate also has pointed out some of the shortfalls in Act 229. This debate has pointed out the timeframe that we can correct those shortfalls and at the same time make more and more people aware of the need to protect their children. We do not need a law. The parent can do that today, they could have done it 6 years ago. When our children first came into this world, they were automatically in the seat without a law being required, and I think most responsible parents are that way.

I believe that passage of Senate Bill No. 274 is not only the right thing to do, is not only the practical thing to do, is not only the realistic thing to do, but is the responsible thing to do, and I ask all Members for their support.

And the question recurring,  
Shall the bill pass finally?

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

#### YEA-30

Armstrong	Greenleaf	Piccola	Tomlinson
Brightbill	Helfrick	Pileggi	Waugh
Conti	Jubelirer	Punt	Wenger
Corman	LaValle	Rafferty	White, Donald
Dent	Lemmond	Rhoades	White, Mary Jo
Earll	Madigan	Robbins	Wonderling
Erickson	Mowery	Scarnati	
Ferlo	Orie	Thompson	

#### NAY-19

Boscola	Kitchen	O'Pake	Wagner
Costa	Kukovich	Schwartz	Williams, Anthony H.
Fumo	Logan	Stack	Williams, Constance
Hughes	Mellow	Stout	Wozniak
Kasunic	Musto	Tartaglione	

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

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

#### RECESS

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, at this time I ask for a recess of the Senate for the purpose of a Republican caucus, which will begin immediately in the Majority Caucus Room downstairs.

The PRESIDENT. For the purpose of a Republican caucus, the Senate will stand in recess.

#### AFTER RECESS

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

#### CONSIDERATION OF CALENDAR RESUMED

##### THIRD CONSIDERATION CALENDAR

##### BILL OVER IN ORDER

SB 72 -- Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

##### SECOND CONSIDERATION CALENDAR

##### BILL ON SECOND CONSIDERATION

SB 92 (Pr. No. 91) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for six months limitations and for deficiency judgments.

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.

#### BILL REREFERRED

SB 109 (Pr. No. 106) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for law enforcement records.

Upon motion of Senator PICCOLA, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

#### BILL ON SECOND CONSIDERATION

SB 152 (Pr. No. 157) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 12 (Commerce and Trade) of the Pennsylvania Consolidated Statutes, adding provisions relating to trade secrets.

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.

#### UNFINISHED BUSINESS CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to Curtis Kratz by Senators Greenleaf and Waugh.

Congratulations of the Senate were extended to Mr. and Mrs. Harry Martz by Senator Jubelirer.

Congratulations of the Senate were extended to William Leonard Eutsey by Senator Kasunic.

Congratulations of the Senate were extended to Leslie Schreck by Senator Madigan.

Congratulations of the Senate were extended to Michael Zimmerman, Fleetwood Volunteer Fire Company Ambulance Service and to Rainbow Fire Company No. 1 of Reading by Senator O'Pake.

Congratulations of the Senate were extended to Mary Rozic by Senator Orie.

Congratulations of the Senate were extended to the Hemlock Council of the Girl Scouts of the USA of Harrisburg by Senator Piccola.

Congratulations of the Senate were extended to Paul Michael Schmeltzer, Ryan Forrest Skoog, Robert William Green, Nathaniel James Flandreau, Michael Anthony Covolus and to Matthew Leo Sides by Senator Pileggi.

Congratulations of the Senate were extended to Alex M. Razzano by Senator Rafferty.

Congratulations of the Senate were extended to Carol J. Myers by Senator Rhoades.

Congratulations of the Senate were extended to Ian Gottesfeld, Jr., Mark L. Nettle, West Chester Henderson High School Boys' Cross Country Team and to the West Chester Henderson High School Boys' Soccer Team by Senator Thompson.

Congratulations of the Senate were extended to Tommy McCloskey and to Samuel Lodise by Senator Tomlinson.

Congratulations of the Senate were extended to Raymond L. Smith II, Eric K. Classon and to Leslie A. Warner by Senator Waugh.

Congratulations of the Senate were extended to Kevin M. Essary by Senator M.J. White.

Congratulations of the Senate were extended to Kristy Wright by Senators M.J. White and LaValle.

Congratulations of the Senate were extended to Marcus C. Hansen and to Kevin Burns Collison by Senator C. Williams.

### CONDOLENCE RESOLUTION

The PRESIDENT laid before the Senate the following resolution, which was read, considered, and adopted by voice vote:

Condolences of the Senate were extended to the family of the late Vivian Ann Robinson-Chaney by Senator Hughes.

### BILLS ON FIRST CONSIDERATION

Senator FUMO. Madam President, I move that the Senate do now proceed to consideration of all bills reported from committee for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

SB 97, SB 153, SB 164 and SB 296.

And said bills having been considered for the first time,

Ordered, To be printed on the Calendar for second consideration.

### PETITIONS AND REMONSTRANCES

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

Senator FUMO. Madam President, it is that time of year again when we will shortly be considering the budget of the Commonwealth for the next fiscal year. We have read much in the press about what the Governor intends to do in his budget message, and that is that it is going to be some kind of two-step process where in the first instance he is going to present a budget that will be balanced. And we have not seen that yet, we have no more information on this side of the aisle than our colleagues do on that side of the aisle. But at some later point, we were all told via the media, and the Governor has told leadership at a breakfast at the mansion, he intends to come back in about a month with an additional proposal which will encompass educational reforms such as all-day kindergarten, smaller class size, and the all-important reduction of real estate property taxes.

Madam President, it is also important that we start to realize that I do not believe that my colleagues on that side of the aisle

are going to pass the Governor's first proposal, and I do not think that we on this side of the aisle are going to vote for that either. I think that is really just a demonstration to show that in fact such a proposal could be put together, but it would be painful and probably not fair to the citizens of the Commonwealth. So in the end, Madam President, I predict that we are going to be faced with an enormous tax increase, and let me tell you how we get to that point. I want to give you a little bit of history, because I was here in 1991 when we faced the last large tax increase, and it is important to note that during that year it was mid-term, if you will, for Governor Casey. He had just completed his first 4-year term and had just been reelected and was starting out on his second year term and we found this budget deficit of over a billion dollars, which in the end caused us to pass \$2.8 billion in new taxes. Back then we were not in the majority. We had more Members than we have today, but we were not in the majority. We put up the lion's share of the votes for that tax program, 19 votes as I recall, and the Republican Leadership put up 7 votes.

The fact situation this time is distinctly different. Here we do not have a Governor who helped create part of the problem and then fell into the problem. Here we have a Governor who was elected to office during a period of time when he and all of us were told by the last administration and the Republicans in this Senate and the House that we had a balanced budget. In fact, Madam President, in the very beginning, after the election, I believe it was Representative Argall in the House who came out with the phenomenal statement that there was no deficit, could not be a deficit because we did not even have a budget yet. Well, after a lot of that dust settled, we started to see the numbers come in, and now even Representative Argall says that we have a \$2 billion structural deficit. Now let me explain, not to you because, obviously, the Members on this floor understand what a structural deficit is, but for those people listening in on PCN, and at least it is not 3 o'clock in the morning, so I do not have to tell them that they need a life, but they should probably be eating dinner. Madam President, let me explain what is a structural deficit.

A structural deficit means that if we spend just the same amount of money next year as we spent this year, with a small increment for inflation, and we receive the same amount of tax revenues next year as we are this year, with the same small amount of inflation, we will be \$2 billion short. Now you ask yourself, how can that be in a State that requires that a balanced budget be passed each and every year? Well, the truth of the matter is that last year's budget was put together with every kind of one-time spending gimmick you can think of. They went into the cupboard and went into the cookie jar and took the savings out of there. They took money from the citizens' Rainy Day Fund. They went to the Liquor Control Board and said give me all the excess money you have. They refinanced that, they did everything they could possibly think of and came up with a way to kind of patch this thing together, but yet we find that now we are in the month of February, that this year, even though we were told that this budget was going to be balanced, is starting to show about a \$700 million deficit. Madam President, not one Democratic Senator voted for that phony budget. We did not participate in creating that problem. We are not blaming everything on the Republican Party, because a lot of it was due

to a bad economy. It just so happens that there is a Republican President who I think caused that, but I am not going to saddle my colleagues with that responsibility. The fact of the matter is that last year's budget was a phony budget. We did not vote for it, we did not participate in it, and we are not responsible for it. At least Senate Democrats are not.

So, Madam President, when we finally come to the time when we are going to pass a real budget in Pennsylvania, and that is one that will solve the structural deficit of \$2 billion and may in fact add to that number the \$2.5 billion in new spending that Governor Rendell ran on and was elected on, we are now talking about \$4.5 billion in new taxes. Now, I do not know if the number is going to be that high. I do not know if the Republicans in this Chamber and in the House are going to agree that we should have educational reform. I do not know if they are going to agree that we should have all-day kindergarten for our children. I do not know yet if they are going to agree that we should have smaller class size so our children get a first-rate education, and I do not know if they are going to agree that real estate property taxes are too high and that they should be lowered. But for the purpose of argument today, I submit to you that they are, in good conscience, going to agree with those lofty goals, and we are going to participate in passing those taxes so that Pennsylvania can move forth into the 21st century as a modern State that has a modern tax structure and that is affording a quality education to all of our children.

Madam President, my purpose in speaking today is to make sure that my colleagues on the other side of the aisle are very clear, because there was some scuttlebutt among the staffers, and when I heard about it, I said I have to set the record clear, and I am here today in this Chamber for the record, setting it clear. The comment was made by some people on that side of the aisle, well, we might be able to get our 5 votes together when the Democratic Caucus gets its 21 votes together. Madam President, that is never going to happen. This side of the aisle is never putting up 21 votes for new taxes to solve the problem that was created by that side of the aisle. Now, we do admit that it is a Democratic Governor who was left with this problem by the Ridge-Schweiker administration and the Republican-controlled House and Senate. But we also take a look at the numbers in the Chamber and we want to be fair. In this Chamber, the Republicans represent roughly 60 percent, having 29 Members. We represent roughly 40 percent, having 21 Members. When I take those numbers and put them through the computer and come up with 26 votes, I come up with 17 Republican votes and 9 Democratic votes.

I am here tonight prepared to tell you on behalf of our leadership and on behalf of our Caucus that when that time comes, and I hope it comes before June 30, but I do not know how long the other side of the aisle is going to stall, but when that time comes to either put up the votes for \$2 billion to solve the structural deficit or the whole \$4.5 billion to move Pennsylvania forward, we will be here with our 9 votes. And we also, speaking for leadership, will put up every one of our leadership votes. That I would expect from both Caucuses, no matter where we wind up. We are prepared to work with our brethren on the other side of the aisle, but we want to make it clear early on in negotiations that this is not our problem, we did

not create this problem, we are more than willing to help solve this problem, but we are not carrying the burden on our backs because we did not get us here. We will help you out of the desert, but we are not coming in with the Marine Corps to do it. So our offer is we will put up 9 votes and we will expect your 17 for whatever it is in the end. And I might even give you a hint, we might even be a little flexible in that, but not very much.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, it is very, very, very tempting to respond to my good friend Senator Fumo's call for higher taxes and his revisionist version of history and his faulty math, but I am not going to do that, Madam President. I am not going to do that. I am going to restrain myself. I am going to do what I think we all should do, and that is to take Governor Rendell at his word for the time being, wait until Tuesday when he, I assume, will present to the legislature a balanced and responsible budget, and then consider the proposal that the Governor makes. It is the responsibility of the Executive to come to the legislature, and it is right in the statute when you read it, with a clear and concise proposal for the expenditure of money and the raising of revenue, including proposed new revenue, and I am assuming and taking the Governor at his word that on Tuesday he is going to do that in a fair and responsible way, given the limited resources of the Commonwealth. Beyond that, Madam President, I have no further comment until Tuesday afternoon.

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

Senator FUMO. Madam President, I am glad, I am not actually glad, I am a little bit disappointed, I should say, that the gentleman who now represents some real estate that I own has not decided to discuss this issue in-depth, and I know we are going to do this more often as we go forward. And he should remember that I am a quasi-constituent. But I want to reemphasize just one thing, that if we were to pass your budget, the budget of last year exactly as printed and allow for inflation, we pass your budget, not our budget, your priorities, the Republican priorities of the last 8 years, if we were to do that, we would be \$2 billion short. Now, that is nobody else's budget, that is your budget. And as I say, you may want to just pass your budget and not Governor Rendell's budget in the end. I repeat again, we are prepared to help you out of the mess that you created, and we are prepared to put up our share of votes, which is 9, for the \$2 billion in taxes that will be necessary to close the deficit on your budget. Now, if you want to do our budget, we probably want to spend a little bit more, but we are just talking about your budget.

Thank you, Madam President.

#### SENATE RESOLUTION ADOPTED

Senators SCHWARTZ, EARLL, MELLOW, KUKOVICH, THOMPSON, LOGAN, WAGNER, COSTA, O'PAKE, ERICKSON, MUSTO, ROBBINS, CORMAN, ORIE, CONTI, LEMMOND, TARTAGLIONE, GREENLEAF, STACK, STOUT, KITCHEN, KASUNIC, DENT, ARMSTRONG,

and WOZNIAK, by unanimous consent, offered Senate Resolution No. 34, entitled:

A Resolution commending the Pennsylvania State Archives on the occasion of its 100th anniversary.

Which was read, considered, and adopted by voice vote.

### ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

#### SENATE OF PENNSYLVANIA

#### COMMITTEE MEETINGS

#### WEDNESDAY, FEBRUARY 26, 2003

Off the Floor	RULES AND EXECUTIVE NOMINATIONS (to consider Senate Resolution No. 33; and certain executive nominations)	Rules Cmte. Conf. Rm.
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#### MONDAY, MARCH 3, 2003

1:00 P.M.	BANKING AND INSURANCE (to consider the nomination of A. William Schenck, III, as Secretary of Banking)	Room 8E-A East Wing
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### ADJOURNMENT

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, I move that the Senate do now adjourn until Wednesday, February 26, 2003, at 11 a.m., Eastern Standard Time.

The motion was agreed to by voice vote.

The Senate adjourned at 5:25 p.m., Eastern Standard Time.