

No. 58

JOURNAL OF THE SENATE

Senate Chamber, Lansing, Tuesday, July 1, 1997.

2:00 p.m.

The Senate was called to order by the President, Lieutenant Governor Connie B. Binsfeld.

The roll was called by the Secretary of the Senate, who announced that a quorum was not present.

Bennett—present
Berryman—present
Bouchard—present
Bullard—present
Byrum—present
Carl—present
Cherry—present
Cisky—present
Conroy—present
DeBeaussaert—present
DeGrow—present
Dingell—present
Dunaskiss—present

Emmons—excused
Gast—present
Geake—present
Gougeon—present
Hart—present
Hoffman—present
Koivisto—present
McManus—present
Miller—present
North—present
O'Brien—present
Peters—present
Posthumus—present

Rogers—present
Schuette—present
Schwarz—present
Shugars—present
A. Smith—present
V. Smith—present
Stallings—present
Steil—present
Stille—present
Van Regenmorter—present
Vaughn—present
Young—present

Senator George Z. Hart of the 6th District offered the following invocation:

“Just a closer walk with Thee; grant it Jesus is my plea. Daily walking close to Thee; let be dear Lord, let it be.

I am weak, but Thou art strong. Jesus keep me from all wrong. I'd be satisfied as long as I walk, let me walk close to Thee.”

Motions and Communications

Senator North entered the Senate Chamber.

A quorum of the Senate was present.

Senator DeGrow moved that Senator Emmons be excused from today's session.
The motion prevailed.

The following communications were received:

Department of State

Administrative Rules Notices of Filing

June 18, 1997

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6 this is to advise you that the Office of Regulatory Reform, Legal Division filed at 11:40 a.m. this date, administrative rule (97-6-13) for the Michigan Department of Community Public Health Agency, Division of Services to Crippled Children, entitled “*Hospital and Medical Treatment for Crippled Children*,” effective 15 days hereafter.

June 18, 1997

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6 this is to advise you that the Office of Regulatory Reform, Legal Division filed at 11:42 a.m. this date, administrative rule (97-6-14) for the Michigan Department of Community Public Health Agency, Crippled Children Commission, entitled “*Procedure for Conducting Hearings*,” effective 15 days hereafter.

June 18, 1997

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6 this is to advise you that the Office of Regulatory Reform, Legal Division filed at 11:44 a.m. this date, administrative rule (97-6-15) for the Michigan Department of State Police, State Fire Safety Board, entitled “*Radioactive Material Transportation*,” effective 15 days hereafter.

Sincerely,
Candice S. Miller
Secretary of State
Helen Kruger, Supervisor
Office of the Great Seal

The communications were referred to the Secretary for record.

The following communication was received:

Department of State Police

June 25, 1997

Enclosed is a second set of revision pages to the 1996 Annual Report for the Secondary Road Patrol and Traffic Accident Prevention Program.

After the revision pages were distributed, a formula error was found within one table which also affected another table and the summary report. So that your annual report is correct, we are sharing these corrected pages with you.

We regret any inconvenience these errors may have caused and believe that you now have a complete, corrected report. Should you have any questions about these corrected pages, please contact Ms. Sherry Casler at (517) 333-5305.

Sincerely,
Betty J. Mercer
Division Director
Office of Highway Safety Planning

The communication was referred to the Secretary for record.

The following communication was received:
Department of Consumer and Industry Services

June 26, 1997

In accordance with the Michigan Public Health Code, PA 368 of 1978, as amended, being MCL 333.1101, et seq., and on behalf of each of the statutory boards, I am submitting the annual report of licensing and regulation activities for the Office of Health Services for the period ending September 30, 1996.

Sincerely,
Kathleen M. Wilbur
Director

The communication was referred to the Secretary for record.

The following communication was received:
Bureau of State Lottery

June 26, 1997

Public Act 167 of 1996 directed that "the commissioner shall conduct a study of compulsive gambling and the extent to which persons with compulsive gambling disorders participate in gambling activities." A written summary of the findings of the study is to be submitted to the Clerk of the House of Representatives and the Secretary of the Senate.

In September 1996, the State of Michigan, through the Bureau of State Lottery, contracted with Western Michigan University to conduct a compulsive gambling prevalence study. The study was conducted by a partnership of Western Michigan University's The Evaluation Center and Leonard C. Kercher Center for Social Research. It included three key elements: an extensive literature review of the subject, focus groups including individuals with gambling problems and treatment providers, and a statewide telephone survey of 3,942 adults. This approach provided the most complete and expansive state-wide examination ever done on the issue of compulsive gambling in Michigan.

Enclosed is a copy of the report's Executive Summary as directed by Public Act 167. Copies of the entire report are also available from my office.

Sincerely,
Bill Martin
Lottery Commissioner

The communication was referred to the Secretary for record.

The following communication was received:
Office of the Auditor General

June 27, 1997

Enclosed is a copy of the following audit report and/or executive digest:
Financial Audit Including the Provisions of the Single Audit Act, Department of Mental Health.

Sincerely,
Thomas H. McTavish, C.P.A.
Auditor General

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills and joint resolution were received in the Senate and filed on Thursday, June 26:

House Bill Nos. 4458 4501 4518 4661 4827 4850 4872 4926 4927 4931 4941
House Joint Resolution Y

The Secretary announced the enrollment printing and presentation to the Governor on July 1, for his approval the following bills:

Enrolled Senate Bill No. 305 at 10:44 a.m.
Enrolled Senate Bill No. 342 at 10:46 a.m.
Enrolled Senate Bill No. 526 at 10:48 a.m.

The Secretary announced the printing and placement in the members' files on Thursday, June 26 of:

House Bill Nos. 4950 4970 4971

The Secretary announced the printing and placement in the members' files on Friday, June 27 of:

Senate Bill No. 637
House Bill No. 4997

The Secretary announced the printing and placement in the members' files on Monday, June 30 of:

Senate Bill Nos.	612	613	614	615	616	617													
House Bill Nos.	4947	4948	4949	4951	4952	4953	4954	4955	4956	4957	4958	4959	4960	4961					

The Secretary announced the printing and placement in the members' files on Tuesday, July 1 of:

Senate Bill Nos.	618	620	621	622	623	624	628	629	630	631	632	633	634	635
	636	638	639											
House Bill Nos.	4962	4963	4964	4965	4966	4967	4968	4969	4972	4973	4974	4975	4976	4977
	4978	4979	4980	4981	4982	4983	4984	4985	4986	4987	4988	4989	4990	4991
	4992	4993	4994	4995	4996									

Senators Carl, Rogers, Shugars, Schuette, Van Regenmorter, Dunaskiss, Bullard, Cisky, Bennett, Steil, Stille, Posthumus, Gougeon, Hoffman, Gast, Miller and Bouchard entered the Senate Chamber.

Messages from the House

Senator DeGrow moved that consideration of the following bill be postponed for today:

Senate Bill No. 225

The motion prevailed.

Senate Bill No. 114, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 2950 and 2950a (MCL 600.2950 and 600.2950a), section 2950 as amended by 1996 PA 10 and section 2950a as amended by 1994 PA 404.

(For text of amendments, see Senate Journal No. 57, p. 997.)

The question being on concurring in the amendments made to the bill by the House,

The amendments were not concurred in, a majority of the members serving not voting therefor, as follows:

Roll Call No. 405

Yeas—14

Berryman	Dingell	Smith, A.	Steil
Byrum	Hart	Smith, V.	Vaughn
Cherry	Miller	Stallings	Young
DeBeaussaert	Peters		

Nays—23

Bennett	DeGrow	Koivisto	Schuette
Bouchard	Dunaskiss	McManus	Schwarz
Bullard	Gast	North	Shugars
Carl	Geake	O'Brien	Stille
Cisky	Gougeon	Posthumus	Van Regenmorter
Conroy	Hoffman	Rogers	

Excused—1

Emmons

Not Voting—0

In The Chair: President

Senate Bill No. 297, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20920, 20921, and 20965 (MCL 333.20920, 333.20921, and 333.20965), as added by 1990 PA 179.

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title of the bill.

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

The Senate agreed to the full title of the bill.

The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Senate Bill No. 501, entitled

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," (MCL 550.1101 to 550.1704) by adding section 501b.

The House of Representatives has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title of the bill.

Senator DeGrow moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

The Senate agreed to the full title of the bill.

The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

Senate Bill No. 345, entitled

A bill to amend 1967 PA 288, entitled "Land division act," by amending sections 105 and 109 (MCL 560.105 and 560.109), section 105 as amended and section 109 as added by 1996 PA 591, and by adding sections 109a and 109b.

The House of Representatives has substituted (H-5) the bill.

The House of Representatives has passed the bill as substituted (H-5), ordered that it be given immediate effect and amended the title to read as follows:

A bill to amend 1967 PA 288, entitled "An act to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements and that there be adequate drainage of the land; to provide for proper ingress and egress to lots and parcels; to promote proper surveying and monumenting of land subdivided and conveyed by accurate legal descriptions; to provide for the approvals to be obtained prior to the recording and filing of plats and other land divisions; to provide for the establishment of special assessment districts and for the imposition of special assessments to defray the cost of the operation and maintenance of retention basins for land within a final plat; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal acts and parts of acts," by amending sections 105, 109, 264, and 267 (MCL 560.105, 560.109, 560.264, and 560.267), section 105 as amended and section 109 as added by 1996 PA 591, and by adding sections 109a and 109b.

Pursuant to rule 3.202, the bill was laid over one day.

Third Reading of Bills

The following bill was announced:

Senate Bill No. 494, entitled

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending section 302 (MCL 37.2302).

(This bill was read a third time on June 11 and consideration postponed. See Senate Journal No. 53, p. 914.)

The question being on the passage of the bill,

Senator Byrum offered the following amendment:

1. Amend page 2, following line 13, by inserting:

"(3) A RULE OR POLICY ADOPTED UNDER SUBSECTION (2) MUST BE POSTED AT THE ENTRANCE OF THE ENCLOSED MALL OR ENCLOSED SHOPPING CENTER AT LEAST 10 DAYS PRIOR TO ENFORCEMENT, AND REMAIN POSTED THROUGHOUT THE PERIOD OF TIME THE RULE OR POLICY IS IN EFFECT."

The amendment was adopted, a majority of the members serving voting therefor.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 406**Yeas—24**

Bennett	Conroy	Hart	Schuetze
Bouchard	Dingell	Hoffman	Schwarz
Bullard	Dunaskiss	McManus	Shugars
Byrum	Gast	Miller	Steil
Carl	Geake	North	Stille
Cisky	Gougeon	Rogers	Van Regenmorter

Nays—12

Berryman	DeGrow	Peters	Stallings
Cherry	Koivisto	Smith, A.	Vaughn
DeBeaussaert	O'Brien	Smith, V.	Young

Excused—1

Emmons

Not Voting—1

Posthumus

In The Chair: President

The Senate agreed to the title of the bill.

Protests

Senators Stallings, DeBeaussaert, Peters, Young, A. Smith and Berryman, under their constitutional right of protest (Art. IV, Sec. 18), protested against the passage of Senate Bill No. 494 and moved that the statements they made during the discussion of the bill be printed as their reasons for voting “no.”

The motion prevailed.

Senator Stallings' statement is as follows:

I rise in opposition to Senate Bill No. 494. I rise in opposition because obviously my colleagues do not have daughters, 9, 11 and 12 years old who like to shop.

We picked a heck of a day to bring this bill before this body because on this day my two daughters are here and they are absolutely livid over this legislative body suggesting that they cannot go to Sommerset or their favorite malls and shop on a Friday or Saturday, which is the optimum time for them that they like to go shopping. Their first response is “Dad, why are they doing this?” When we start talking about selective enforcement, there has to be a compelling state interest, and I fail to see the compelling state interest in this piece of legislation.

Clearly, this bill arose out of a concern for shopping mall owners who are having security problems, and they need to fix that problem. But to deny that opportunity to young people, like my children—I take them out to Sommerset and I can't run in and out of every store with them, so I park myself on a little bench in the mall—and I let them go shopping. This bill will preclude them from being able to do that. That means that I've got to run inside every blanket, blank store that they want to go in and attend to them and their needs on a Friday or Saturday—and that's just not going to happen.

I would urge my colleague to take a serious look at this bill and to turn it down if for no other reason than those persons who are privy to this bill right here inside this chamber, who are adamantly opposed it, who feel they are being victimized by this piece of legislation—and you need to really reconsider what it is that we're attempting to do here. I appreciate my colleague from the 14th District for even having the guts and tenacity to remove his name from the

authorship of this bill because it, in fact, is unfair because everyone has the imminent right to be left alone. But now we're talking about making it very difficult, if not impossible, for young people to have these kinds of outlets, to have this kind of fun, because for 11- or 12-year-olds who get together with four or five of their friends and go to the mall and shop is something of a recreational activity that they enjoy doing, and now we're trying to make it very difficult because we want to involve the parents to running in and out of all these different toy stores and clothing stores. I would urge my colleagues to reject Senate Bill No. 494.

Senator DeBeaussart's statement, in which Senators Peters and A. Smith concurred, is as follows:

Madam President, I regret to say that I also am rising to urge opposition to the bill. I had hoped to be able to support it. I recognize that there are areas of the state in malls where there are problems that develop. When this issue first came forward and I was asked to allow local units of government this option as a tool for dealing with some of those situations, I thought it was an appropriate measure to allow local units of government to at least consider it with public notice, public discussion and public deliberation. But as this bill moved through the process, the bill has been changed, and in my opinion, changed in a negative fashion. Now the hearing will be made in a very private setting with a decision being made to allow discrimination, an exception to the civil rights laws of this state to be made by a corporation, out-of-state resident or perhaps not even by a citizen of this country. It seems to me that when we allow exceptions to the civil rights laws of this state, we have to be very careful about it. I was comfortable in allowing the local units of government to consider that as an option. I am not comfortable with the process and the way that the bill is now before us. So I'll be voting "no."

Senator Peters' statement is as follows:

I, too, rise to speak against the bill. Although I am listed as a co-sponsor I will shortly be making a motion to remove my name as a co-sponsor. I think the bill has some fundamental flaws upon closer examination. My colleague, Senator Alma Smith, highlighted some of the problems that occur whenever you attempt to amend the Elliott-Larsen Civil Rights Act. I am concerned that here we have private action which will allow a private entity to amend very crucial civil rights legislation that has been a force in this state and is very important to maintaining civil rights in this state. I think what could likely happen when you have this private action, which occurs without any kind of hearing or without any kind of notification, what you are likely to see in these malls is very selective enforcement. The tools are currently available in those malls to deal with the problem. We heard the sponsor of this bill mentioning that there are no tools and they're prohibited from acting. But there is absolutely nothing that prohibits that mall from acting if they have trouble in that mall to take appropriate action against that troublemaker in the mall, remove them or bring any kind of civil action against them. What they are prohibited from doing is selective enforcement of removing children or youngsters that have not done anything wrong. Under this bill, a mall will be able to remove individuals based on their age, but what you probably see happen in reality is that they will be removed based on how they look. They may look like a troublemaker and there certainly could be a number of other overtones involved as to which youths get expelled from malls and which ones will not. We have certainly heard stories of this going on for many years, where people, maybe based on race, are excluded from certain areas because they are perceived as being possible troublemakers and are removed from a store or a particular place, whereas another individual will not be removed.

I think that if you change this act, you are opening the door for selective enforcement which is directly counter to civil rights acts and things in which we have fought for in this body and have fought for in the state for a number of years.

The second area of concern is the fact that we have now changed the age to 19 from 21. I have had, and my offices have had, a number of conversations with people involved in mall law enforcement, particularly in my district, and because there is a 19-year-old age provision in this, you are not likely to deal with the problem of gangs. According to these guards who work in some of the malls in my district, if you are looking at dealing with gangs in the mall, you will often find that there is at least one 19-year-old in those gangs. They are not going to be able to remove those gangs from the mall with the provision at 19. They would have much preferred to see a 21-year-old prohibition, if you are going to do it.

I oppose this bill because one I think it is probably somewhat unworkable with the 19-year-old provision based on comments that I have received from people in my district. Second, I think that we need to be very careful whenever we create exceptions to the Elliott-Larsen Civil Rights Act. I think we have to be sure that we have a compelling reason to do that and I have not been convinced that we have a compelling reason to do it. I strongly fear that you are going to see elective enforcement of these actions made by private mall owners, without due process, without a hearing and without any type of motivation.

Senator Young's statement is as follows:

I, too, had hoped that at the time this legislation was introduced that we would have an opportunity to address what I thought was a concern. Having been one who kind of came through time when malls were not a big place for young people to go, quite frankly, I think local units of government, including our state, supported a lot more recreational

programs and supported a lot of other opportunities. I think that was more involvement with Girl Scouts, Boy Scouts, boys clubs and various other programs where youngsters had more opportunities to participate in things which gave them social skills.

Not being one to do a whole lot of mall traveling or mall shopping, over the course of the years, I did see somewhat of a development of which I thought mall supporters actually supported. And that was that they had a lot of young people there who had discretionary income and they, quite frankly, didn't care and chose that opportunity to not only take that money from them by way of making sure that they believed in all the clothes, and whether it be cigarettes or whether it be candy or whether it be ice cream. But then, all of a sudden, we found that our young people became more sophisticated in their shopping patterns, and quite frankly, still had discretionary income. But then they began to go to the malls and say, "Wait a minute; I'm not going to spend that money on that item. I'm going to save that money and look for a better deal." Then, all of a sudden, the mall people had a problem with what they encouraged and that was a lot of young people around with time on their hands to socialize with other youngsters, realizing, in fact, that throughout our society, whether it be here or elsewhere, we all run the gamut from one to whatever. There is always the good side and there is always the bad side. There is always the fair side and there is always the unjust side. There's also the side of which we have lack of parental guidance, as well as we have those parents who make sure that their children at least act in a way of which they can be proud of.

For that reason, I thought signing onto this piece of legislation would provide the opportunity for us to get at those bad apples, while at the same time, not jeopardize the constitutional rights of those individuals who in fact were law-abiding young people. I saw this legislation take a completely different direction. I think that direction began to say that we will honor a few individuals at the expense of all. That legislation didn't say that we want to look at fairness. It didn't say that we want to look at due process. It didn't say that we wanted to preserve constitutional rights of individuals. As a matter of fact, it went so far as to begin to indicate that we will just run shot over those individuals who are trying to get their lives together. And I'm speaking of those young people who unfortunately get caught up in society and don't have the parental guidance, don't have the leadership provided to them and end up with young children whom they have to provide food, health, clothing and shelter for, which may end them up at a mall with their young child. Now we're saying they can't be there. I think that's wrong. I think the direction this legislation has taken is saying that you, the mall owner, have more rights than I, the possible customer. I think that's wrong.

I think also that we aren't looking at assessing and holding accountable those individuals who are, in fact, profiting from having these young people's discretionary income. I think that's wrong. And it's for those reasons, among others, I not only would like my name removed as a co-sponsor of this legislation, but I intend to vote "no."

Senator A. Smith's statement is as follows:

I rise to oppose the bill. As some of my colleagues have already said, on this bill we do have a situation where we are dealing with the Elliott-Larsen Civil Rights Act. The Elliott-Larsen Civil Rights Act was designed to protect individual Michigan citizens against blanket discrimination based on unavoidable individual criteria—age, race, gender, handicap condition. This bill strikes at the heart of the Elliott-Larsen protection. This bill looks at all youngsters of any age—19 and under or 16 and under depending on whether they're supervising or whether they are targeted for the private police action—and saying that they are excludable under the Elliott-Larsen Civil Rights Act; that their age category is no longer protected in a private venue.

This bill also gives a public police power to a private institution or a private entity. When the Senator from the 13th District talked about local units of government creating curfews, they do it as a local unit of government with public hearings and with accountability to the people who elect them. If the parents of children who are affected by a curfew are sufficiently disturbed by that curfew, their action that's available to them is to attempt to redress their problem with the local unit of government, either by voting them out of office or by working to change the ordinance within their discretion as citizens to change that, to convince members of the local governing body that they made a mistake.

We don't have that power when we're dealing with private institutions and private entities. There are private solutions available to the mall owners. I was at Twelve Oaks Mall the other day and I saw a sign on one of the stores suggesting to teenagers that if they were a certain age and under the store would appreciate it if they would consider themselves unwelcome guests unless they were accompanied by an adult. I didn't see any teenagers that were not accompanied by an adult. The malls have their own private security forces that help to enforce those requests made by the owners of the specific stores. To single out children under the age of 16 and to single them all out and say, "You're bad because a handful are bad," I think is a terrible mistake. Again, I urge the rejection of this bill.

Senator Berryman's first statement is as follows:

I rise to oppose passage of Senate Bill No. 494. I think it's legislation that is overzealous; certainly it is not needed. Any difficulties that the malls are currently having, there are rules in effect that they can use to remove troublesome minors or anyone that is loitering or causing a problem. Malls have regulations, they can enforce those regulations, and there is no way we should be eliminating the Elliott-Larsen Civil Rights Acts, to allow malls to do something that is their responsibility. Madam President, I know how pro family you are, and this piece of legislation is a slap in the face

to every parent that has done a good job of raising kids. Their kids are law-abiding citizens, they've never done anything wrong, and strictly because they are under the age of 16 they are going to be banned if a particular mall would adopt this policy. Even though they have never done anything wrong in their life, they are going to be banned from going to that mall on a Friday or Saturday night, unless accompanied by a parent or someone over the age of 19. In fact, I think when that was amended down to 19, it went against what you're trying to do. At least at age 21, they are more apt to be an adult. Someone at 19, 16 and 15 are more apt to hang out than someone 21. I don't think you have accomplished anything there.

The other fact that Senator DeBeaussaert mentioned is a good point. You have taken it away from local units of government; when you pass an ordinance, you would require a public hearing; that public hearing is now gone. It would be up to a mall to decide if they want to adopt this policy or not. I think the legislation is just misplaced. It is not an issue that we should be dealing with on a state level. This is private property owned by a mall and retailers that belong to an association, and if they are difficult let them deal with it. That is their responsibility and not the states. I don't want to drag this out, but again, it is extremely important to understand that you are going to penalize and send the wrong message to young men and women, young boys and girls that have never done anything wrong. Just because you are under the age of 16, we can do this to you. I am not a constitutional attorney, I have talked to constitutional experts and they have assured me that if this is passed and signed by the Governor, that more than likely it would be found unconstitutional. I wish we would do the right thing and just kill the bill and not have it go any farther. Respect the rights of young boys and girls that obey the law and have never done anything wrong, and give them credit and not punish them for the few that are causing the problem.

Senator Berryman's second statement is as follows:

To respond to the good Senator from the 13th. I want to make sure I thank him for holding the bill until I got back; I appreciate it, and that is the kind of a gentleman he is. I do think that his is important enough to debate and we defeat it here. I see the implementation of this as something very, very unworkable. If a mall would adopt this policy, are we going to actually card kids at the door. As we said earlier, are you going to selectively go after young kids and card them? I think this sets a horrible precedent. I disagree with the sponsor of the bill. I do think laws are in place. Every mall that I talk to around the state told me they have rules. And if someone is creating a nuisance or someone is loitering, they can escort them to the door. If they need to beef up their security, then let them beef up security, not punish law-abiding young kids; because of a few kids that are causing the problem. I will grant that there are some kids who are causing some problems, but that is certainly the minority, not the majority of kids. Once again, you're going to punish the majority that have never done anything wrong because of the few that are causing the problem. What people are sick and tired of, is that the majority of us that cause no problem and break no laws, are having rights taken away because of the few that do cause the problem.

There was a court case that a young man was banned from the mall because he committed a larceny in that mall, and they said he could never go back to that particular mall. That is legitimate, they have that recourse. And if someone is causing problem, they can go to that court and have that put in place. To say that to everyone, is not a curfew, it is a ban. Age discrimination just because you're under the age of 16, we can restrict your freedom of movement, your freedom of association in these particular malls on those particular times. It is a bad idea and the wrong approach. Tell malls that are having problems, there are things in place that can eradicate that problem. That is up to you, it is not up to the state. It certainly isn't up to malls to discriminate against kids who have never done anything wrong.

Senator Bouchard asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Bouchard's statement is as follows:

I'm pleased that we were able to hold this until my good friend from the 17th District could be here. Last week we could have run it but I wanted to make sure he had the opportunity to be heard. I also want to have the opportunity to respond to some of the points.

First of all, part of the reason this was moved to the spot that it was moved was because of some of the concerns that were just raised—if it is, in fact, being enforced or in place in areas where they don't want it or don't need it. By leaving it at a local government level it would had to have been a community-wide ordinance, taking in every mall, even malls that didn't have a problem or didn't want the solution. What this allows is it to be tailored specifically to where there is a problem by the people who know if they have a problem—the people that own the property.

The other point that was raised is that they can enforce these kinds of things now. No, they can't. Unfortunately, because of our laws, because of the Elliott-Larsen and other state laws, we prohibit them from doing these kinds of things. All this is doing is allowing them, to give them the tools and the ability to do what they want with their own property. My good colleague spoke about respecting the rights. Well this does, as the editorial in the Detroit News very articulate states, respects the rights of the private property owners and the tenants and the people who pay huge amounts of rent.

They don't want any kind of restriction on any shopper. Let me say that very clearly. Neither do I, unless there's a very real and severe problem, because they are potentially excluding shoppers. If the shoppers that are coming are causing so many problems it is outweighing the benefits they are bringing by driving a greater number away, I think it's their right to deal with that problem on their own private property where they're paying taxes and they're paying rent.

This is not a slap in the face of anyone. What this is, is permission a "mother may I" if you will, to private property owners to deal with their own private property. It will allow them to have control over it. We took that control away. Let me give a very clear dichotomy. The city of Detroit just recently had its fireworks. It did a great job. The night of the fireworks they put in a curfew. Very much like this, certain kids of certain ages couldn't be out. We can do it—government does it, city of Detroit does it, other cities do it all the time. But we don't allow anyone else to do it.

This is all this does. It allows them to have the same tools in their arsenal that the city of Detroit used on fireworks display night and other cities around the state use regularly. It doesn't suggest they use it. It doesn't demand they use it. It doesn't tell them to use it. It allows them to use it. I agree with my colleague—we shouldn't deal with this on a state level and we're not. By this legislation we're allowing them to deal with it on a local level. We're getting out of their way.

Last, but not least, the point has been raised about constitutionality. The same kind of language has been put in place around the country—Mall of America, Virginia, Georgia. It has been upheld in the courts as constitutional. I would urge adoption of this package in a speedy fashion so we can get on with the other issues of the day.

Senators Peters, A. Smith, DeBeaussaert and Young moved that their names be removed as co-sponsors of the following bill:

Senate Bill No. 494

The motion prevailed.

Senator DeGrow moved that Senator Posthumus be temporarily excused from the balance of today's session. The motion prevailed.

Senator Posthumus entered the Senate Chamber.

The following bill was read a third time:

Senate Bill No. 619, entitled

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 75 (MCL 421.75), as amended by 1995 PA 25.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 407

Yeas—37

Bennett	DeGrow	McManus	Shugars
Berryman	Dingell	Miller	Smith, A.
Bouchard	Dunaskiss	North	Smith, V.
Bullard	Gast	O'Brien	Stallings
Byrum	Geake	Peters	Steil
Carl	Gougeon	Posthumus	Stille
Cherry	Hart	Rogers	Van Regenmorter
Cisky	Hoffman	Schuette	Vaughn
Conroy	Koivisto	Schwarz	Young
DeBeaussaert			

Nays—0

Excused—1

Emmons

Not Voting—0

In The Chair: President

The Senate agreed to the title of the bill.

By unanimous consent the Senate returned to the order of

Motions and Communications

Senator DeGrow moved that the Committee on Transportation and Tourism be discharged from further consideration of the following bills:

House Bill No. 4700, entitled

A bill to amend 1972 PA 222, entitled "An act to provide for an official personal identification card; to provide for its form, issuance and use; to provide for certain duties of the secretary of state; and to prescribe certain penalties for violations," by amending the title and sections 1 and 2 (MCL 28.291 and 28.292), section 2 as amended by 1996 PA 204, and by adding sections 1a, 5a, 6, 7, 8, 9, and 10.

House Bill No. 4701, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 208, 221, 232, and 903 (MCL 257.208, 257.221, 257.232, and 257.903), section 208 as amended by 1996 PA 471 and section 903 as amended by 1992 PA 309, and by adding sections 40b, 208a, 208b, 208c, and 208d.

Senate Bill No. 319, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 208, 221, 232, 307, and 903 (MCL 257.208, 257.221, 257.232, 257.307, and 257.903), section 208 as amended by 1994 PA 449, section 307 as amended by 1996 PA 205, and section 903 as amended by 1992 PA 309, and by adding section 208a.

Senate Bill No. 534, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 80104, 80129, 80130, 80301, 80310, 80315, 81101, 81113, 81114, 81120, 82101, 82113, and 82156 (MCL 324.80104, 324.80129, 324.80130, 324.80301, 324.80310, 324.80315, 324.81101, 324.81113, 324.81114, 324.81120, 324.82101, 324.82113, and 324.82156), as added by 1995 PA 58, and by adding sections 80130a, 80130b, 80130c, 80130d, 80315a, 80315b, 80315c, 80319a, 81114a, 81114b, 81114c, 82156a, 82156b, 82156c, and 82160.

The motion prevailed, a majority of the members serving voting therefor, and the bills were placed on the order of General Orders.

General Orders

Senator DeGrow moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President, Lieutenant Governor Binsfeld, designated Senator Dunaskiss as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Binsfeld, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 637, entitled

A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," (MCL 484.2101 to 484.2604) by adding section 375.

Substitute (S-1).

The Senate agreed to the substitute recommended by the Committee of the Whole and the bill as substituted was placed on the order of Third Reading of Bills.

By unanimous consent the Senate returned to the order of
Motions and Communications

Senator DeGrow moved that the Committee on Local, Urban and State Affairs be discharged from further consideration of the following bill:

House Bill No. 4840, entitled

A bill to authorize the department of natural resources to convey certain state owned property in Roscommon county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

The motion prevailed, a majority of the members serving voting therefor, and the bill was placed on the order of General Orders.

Introduction and Referral of Bills

Senator Schwarz introduced

Senate Bill No. 640, entitled

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending section 402b (MCL 550.1402b), as added by 1996 PA 516.

The bill was read a first and second time by title and referred to the Committee on Health Policy and Senior Citizens.

Senator Byrum introduced

Senate Bill No. 641, entitled

A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," (MCL 484.2101 to 484.2604) by adding section 375.

The bill was read a first and second time by title and referred to the Committee on Technology and Energy.

House Joint Resolution Y, entitled

A joint resolution proposing an amendment to the state constitution of 1963, by repealing section 28 of article V, to eliminate the state transportation commission.

The House of Representatives has adopted the joint resolution by a 2/3 vote.

The joint resolution was read a first and second time by title and referred to the Committee on Appropriations.

House Bill No. 4181, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," (MCL 380.1 to 380.1852) by adding section 1206. The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Education.

House Bill No. 4458, entitled

A bill to amend 1846 RS 171, entitled "Of county jails and the regulation thereof," (MCL 801.1 to 801.27) by adding section 7a.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Judiciary.

House Bill No. 4501, entitled

A bill to amend 1939 PA 176, entitled "An act to create a commission relative to labor disputes, and to prescribe its powers and duties; to provide for the mediation and arbitration of labor disputes, and the holding of elections thereon; to regulate the conduct of parties to labor disputes and to require the parties to follow certain procedures; to regulate and limit the right to strike and picket; to protect the rights and privileges of employees, including the right to organize and engage in lawful concerted activities; to protect the rights and privileges of employers; to make certain acts unlawful; and to prescribe means of enforcement and penalties for violations of this act," by amending section 16 (MCL 423.16).

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Human Resources, Labor and Veterans Affairs.

House Bill No. 4518, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 605, 658, and 907 (MCL 257.605, 257.658, and 257.907), section 658 as amended by 1984 PA 328 and section 907 as amended by 1995 PA 287.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Transportation and Tourism.

House Bill No. 4661, entitled

A bill to amend 1996 PA 386, entitled "An act to regulate the sale and purchase of viatical settlement contracts; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties," by amending section 8 (MCL 550.528), and by adding section 3a.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Financial Services.

House Bill No. 4827, entitled

A bill to amend 1933 PA 99, entitled "An act to authorize incorporated villages, townships, and cities to enter into contracts and agreements for the purchase of lands, property, or equipment for public purposes; to validate such contracts or agreements heretofore entered into; to provide for the payment of the purchase price thereof; and to prescribe the use of such lands, equipment, and property," by amending the title and sections 1 and 3 (MCL 123.721 and 123.723) and by adding section 1a.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title.

Senator DeGrow moved that rule 3.203 be suspended to permit referral of the bill to the Committee of the Whole and placed on the order of General Orders.

The motion prevailed, a majority of the members serving voting therefor.

House Bill No. 4850, entitled

A bill to amend 1933 (Ex Sess) PA 8, entitled "The Michigan liquor control act," by amending section 4 (MCL 436.4). The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

House Bill No. 4872, entitled

A bill to amend 1927 PA 150, entitled "An act to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the sale or use, within the state of Michigan, of motor fuel; to prescribe the manner and the time of paying this tax and the duties of officials and others respecting the payment and collection of this tax; to provide for the licensing of wholesale distributors, certain retail dealers, exporters, and suppliers as defined in this act; to fix a time when this tax and interest and penalties thereon become a lien upon the property of persons, firms, partnerships, associations, or corporations, subject to the payment of this tax; to provide for the enforcement of this lien; to permit the inspection and testing of petroleum products; to provide for certain exemptions and refunds and for the disposition of the proceeds of this tax; and to prescribe penalties for the violation of this act," by amending the title and sections 2 and 22 (MCL 207.102 and 207.122), section 2 as amended by 1992 PA 225 and section 22 as amended by 1995 PA 52, and by adding chapter 7; and to repeal acts and parts of acts.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title.

Senator DeGrow moved that rule 3.203 be suspended and that the bill be placed on the order of Third Reading of Bills for its immediate passage.

The motion prevailed, a majority of the members serving voting therefor.

House Bill No. 4926, entitled

A bill to amend 1941 PA 122, entitled "An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures

for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act," by amending sections 24 and 31 (MCL 205.24 and 205.31), as amended by 1993 PA 14.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Finance.

House Bill No. 4927, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 801 (MCL 257.801), as amended by 1995 PA 226.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Transportation and Tourism.

House Bill No. 4931, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 801 (MCL 257.801), as amended by 1995 PA 226.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Transportation and Tourism.

House Bill No. 4941, entitled

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 725 (MCL 257.725), as amended by 1991 PA 19.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Transportation and Tourism.

By unanimous consent the Senate returned to the order of

Third Reading of Bills

The following bill was read a third time:

House Bill No. 4872, entitled

A bill to amend 1927 PA 150, entitled "An act to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the sale or use, within the state of Michigan, of motor fuel; to prescribe the manner and the time of paying this tax and the duties of officials and others respecting the payment and collection of this tax; to provide for the licensing of wholesale distributors, certain retail dealers, exporters, and suppliers as defined in this act; to fix a time when this tax and interest and penalties thereon become a lien upon the property of persons, firms, partnerships, associations, or corporations, subject to the payment of this tax; to provide for the enforcement of this lien; to permit the inspection and testing of petroleum products; to provide for certain exemptions and refunds and for the disposition of the proceeds of this tax; and to prescribe penalties for the violation of this act," by amending the title and sections 2 and 22 (MCL 207.102 and 207.122), section 2 as amended by 1992 PA 225 and section 22 as amended by 1995 PA 52, and by adding chapter 7; and to repeal acts and parts of acts.

The question being on the passage of the bill,

Senator Van Regenmorter offered the following amendment:

1. Amend page 9, line 6, after "OR" by striking out "12,000" and inserting "11,815".

The amendment was not adopted, a majority of the members serving not voting therefor.

Senator DeGrow requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 408

Yeas—23

Bennett	DeGrow	Koivisto	Schuette
Berryman	Dingell	McManus	Shugars
Bouchard	Dunaskiss	Miller	Steil

Bullard
Carl
Cisky

Geake
Gougeon
Hoffman

North
Posthumus
Rogers

Stille
Van Regenmorter

Nays—12

Byrum
Cherry
Conroy

DeBeaussaert
Hart
O'Brien

Peters
Smith, A.
Smith, V.

Stallings
Vaughn
Young

Excused—1

Emmons

Not Voting—2

Gast

Schwarz

In The Chair: President

Senator Van Regenmorter offered the following amendment:

1. Amend page 9, line 9, after "OR" by striking out "12,000" and inserting "11,815".
The question being on the adoption of the amendment,

Recess

Senator DeGrow moved that the Senate recess subject to the call of the President.
The motion prevailed, the time being 3:20 p.m.

3:41 p.m.

The Senate was called to order by the President pro tempore, Senator Schwarz.

The amendment was adopted, a majority of the members serving voting therefor.

Senator Van Regenmorter offered the following amendment:

1. Amend page 16, line 4, after "DECALS" by inserting "IF THE AMOUNT OF THE FEE IS ESTABLISHED BY RULES PROMULGATED BY THE DEPARTMENT".

The amendment was not adopted, a majority of the members serving not voting therefor.

Senator DeGrow requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was adopted, a majority of the members serving voting therefor, as follows:

Roll Call No. 409

Yeas—21

Bennett
Bouchard
Bullard
Carl
Cisky
DeGrow

Dunaskiss
Gast
Geake
Gougeon
Hoffman

McManus
North
Posthumus
Rogers
Schuette

Schwarz
Shugars
Steil
Stille
Van Regenmorter

Nays—16

Berryman	DeBeaussaert	Miller	Smith, V.
Byrum	Dingell	O'Brien	Stallings
Cherry	Hart	Peters	Vaughn
Conroy	Koivisto	Smith, A.	Young

Excused—1

Emmons

Not Voting—0

In The Chair: Schwarz

Senator Hoffman offered the following amendment:

1. Amend page 12, line 5, after "DEPARTMENT" by striking out "MAY" and inserting "SHALL".

The amendment was adopted, a majority of the members serving voting therefor.

Senator Hoffman offered the following amendment:

1. Amend page 14, line 2, after "THAN" by striking out "\$5,000.00" and inserting "\$6,500.00".

The amendment was adopted, a majority of the members serving voting therefor.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 410**Yeas—21**

Bennett	Dunaskiss	McManus	Schwarz
Bouchard	Gast	North	Shugars
Bullard	Geake	Posthumus	Steil
Carl	Gougeon	Rogers	Stille
Cisky	Hoffman	Schuette	Van Regenmorter
DeGrow			

Nays—16

Berryman	DeBeaussaert	Miller	Smith, V.
Byrum	Dingell	O'Brien	Stallings
Cherry	Hart	Peters	Vaughn
Conroy	Koivisto	Smith, A.	Young

Excused—1

Emmons

Not Voting—0

In The Chair: Schwarz

The Senate agreed to the title of the bill.

Protest

Senator Berryman, under his constitutional right of protest (Art. IV, Sec. 18), protested against the passage of House Bill No. 4872.

Senator Berryman's statement is as follows:

I voted "no" on the previous bill, House Bill No. 4872. I concur with Senator O'Brien. I'm not going to vote for a ghost bill when I have no idea what it's going to look like when it's all done. Mr. President, I have been out in front for the last two years on a proposal for maintaining and fixing roads. I've said all along that I think we ought to have a complete package on the floor, have it all tie-barred together so we know that one's not going to go into effect unless they all go into effect and that we can actually sit down and discuss not just a gas tax increase, but across-the-board road improvements for Michigan's infrastructure. Until that point, I'm going to continue to vote "no" until I have some kind of an idea what this total package is going to look like.

Scheduled Meetings

Conference Committee on Senate Bill No. 164 - Wednesday, July 2, at 9:00 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-1725).

Conference Committee on Senate Bill No. 166 - Wednesday, July 2, at 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-1801).

Conference Committee on Senate Bill No. 168 - Wednesday, July 2, at 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-1725).

Conference Committee on Senate Bill No. 169 - Wednesday, July 2, at 4:00 p.m., Rooms 402 and 403, Capitol Building (3-1707).

Conference Committee on Senate Bill No. 174 - Wednesday, July 2, at 1:00 p.m., Room 405, Capitol Building (3-2426).

Conference Committee on House Bill No. 4305 - Wednesday, July 2, at 9:30 a.m., Senate Appropriations Room, 3rd Floor, Capitol Building (3-6960).

Conference Committee on House Bill No. 4306 - Wednesday, July 2, at 1:00 p.m., Room 351, Capitol Building (3-1707).

Conference Committee on House Bill No. 4307 - Wednesday, July 2, at 9:00 a.m., Room 351, Capitol Building (3-1760).

Conference Committee on House Bill No. 4309 - Wednesday, July 2, at 2:00 p.m., Rooms 402 and 403, Capitol Building (3-3447).

Senator DeGrow moved that the Senate adjourn.
The motion prevailed, the time being 4:00 p.m.

The President pro tempore, Senator Schwarz, declared the Senate adjourned until Wednesday, July 2, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate.

