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**Official Report  
of Debates  
(Hansard)**

**Wednesday 1 April 2009**

**Journal  
des débats  
(Hansard)**

**Mercredi 1<sup>er</sup> avril 2009**

**Standing Committee on  
General Government**

Road Safety Act, 2009

Countering Distracted Driving  
and Promoting Green  
Transportation Act, 2009

**Comité permanent des  
affaires gouvernementales**

Loi de 2009 sur la sécurité routière

Loi de 2009 visant à combattre  
la conduite inattentive  
et à promouvoir  
les transports écologiques

Chair: David Oraziotti  
Clerk: Trevor Day

Président : David Oraziotti  
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Wednesday 1 April 2009

Mercredi 1<sup>er</sup> avril 2009

*The committee met at 1608 in room 151.*

**ROAD SAFETY ACT, 2009**

**LOI DE 2009 SUR LA SÉCURITÉ ROUTIÈRE**

Consideration of Bill 126, An Act to amend the Highway Traffic Act and to make consequential amendments to two amending acts / Projet de loi 126, Loi modifiant le Code de la route et apportant des modifications corrélatives à deux lois modificatives.

**The Chair (Mr. David Oraziotti):** I call the committee meeting to order. We have two bills to be reviewed for clause-by-clause, and by agreement of the committee, we're going to be doing Bill 126 first.

Looking at section 1, the NDP has the first motion, NDP motion 0.1. Mr. Bisson.

**Mr. Gilles Bisson:** I move that the definition of "bicycle" in subsection 1(1) of the Highway Traffic Act, as set out in subsection 1(2) of the bill, be struck out and the following substituted:

"'bicycle' includes a tricycle and a unicycle but does not include a power-assisted bicycle or a motor-assisted bicycle; ('bicyclette')."

I think everybody was here; we heard the argument. I'm not going to go through the long debate. We heard the presentations made as to why that exclusion is necessary, and I'm asking the government for any comments they would have at this point.

**The Chair (Mr. David Oraziotti):** Further debate? Ms. Jeffrey.

**Mrs. Linda Jeffrey:** We heard from a lot of groups about e-bicycles and they spoke passionately about them. Clearly we're supporters of green initiatives; that's why we began the three-year pilot back in 2006. For these reasons, we won't be supporting the motion as written as it would exclude "power-assisted bicycle" from the bicycle definition. Eight other provinces, Transport Canada and the best practices review of e-bikes from the Canadian Council of Motor Transport Administrators all recognize e-bikes as bicycles. Their maximum speed of 32 kilometres is roughly the same speed as what a good cyclist can achieve. For the most part, feedback on our three-year pilot program has been positive. At committee hearings, when we asked our stakeholders for comments, there was agreement that 16 is the right age to allow e-bike use and that operators must wear a helmet.

We recognize that e-bikes must be treated differently than bicycles in some instances. The bill itself addresses

light, lamp and breaking requirements for e-bikes. The breaking requirements for an e-bike would be similar to those of a motor-assisted bicycle or moped. We want to keep the wording as proposed in the original bill: "'bicycle' includes a tricycle, a unicycle and a power-assisted bicycle but does not include a motor-assisted bicycle."

**The Chair (Mr. David Oraziotti):** Further debate?

**Mr. Gilles Bisson:** I'd be interested to see what my friend Mr. O'Toole has to say.

*Interruption.*

**Mr. Gilles Bisson:** Ooh, I thought I turned that off; sorry.

**The Chair (Mr. David Oraziotti):** Mr. O'Toole?

**Mr. John O'Toole:** Thank you, Chair. First of all, I want to explain: Mr. Klees sends his regrets, and more importantly for you in some respects, I send my regrets because I'm here instead of him.

On this thing, the low-speed vehicles, I have to be brought up to speed. Again, I'm just being introduced to this. I did pay attention to it in the House. Low-speed or slow-speed vehicles, are they included in this in any way? In a broader sense; I know we're talking about bicycles here.

**Mrs. Linda Jeffrey:** No.

**Mr. John O'Toole:** They're not? That's a big issue in terms of electric vehicles and alternative, but they're not. There are outside regulations dealing with that?

**Mrs. Linda Jeffrey:** Yes.

**Mr. John O'Toole:** Good, that's fine. So I take it on the advice of the parliamentary assistant there that bicycles, by definition, are included?

**Mrs. Linda Jeffrey:** Yes.

**Mr. John O'Toole:** So I support the government's position on this thing because they are working on these low-speed vehicles. I think that's what it's called.

**Mr. Gilles Bisson:** I want to indicate that I'm clairvoyant and I think I'm going to lose this amendment.

**The Chair (Mr. David Oraziotti):** Any further debate? Seeing none, all in favour of the amendment?

**Mr. Gilles Bisson:** Recorded vote, please.

**Ayes**

Bisson.

**Nays**

Brownell, Jeffrey, Kular, Mauro, Mitchell.

**The Chair (Mr. David Oraziotti):** The amendment is lost.

NDP motion 0.2. Mr. Bisson.

**Mr. Gilles Bisson:** Well, the second one's kind of redundant, right? It's following in the same light as the first one, so I'll withdraw it.

**The Chair (Mr. David Oraziotti):** Okay. Withdrawn. Shall section 1 carry? All in favour—

**Mr. Gilles Bisson:** Recorded vote. On that section, I had an amendment.

### Ayes

Brownell, Jeffrey, Kular, Mauro, Mitchell, O'Toole.

### Nays

Bisson.

**Mr. Gilles Bisson:** Thank you.

**The Chair (Mr. David Oraziotti):** Sections 2 to 6, no amendments. Can we vote on those together? All in favour? Carried. Thank you.

Section 6.1: Amendment 0.3. Mr. O'Toole.

**Mr. John O'Toole:** I move that the bill be amended by adding the following section:

"6.1 Subsection 32(11.1) of the act is amended by striking out 'by the regulations' at the end and substituting 'by this act or the regulations'."

**The Chair (Mr. David Oraziotti):** Further debate?

**Mrs. Linda Jeffrey:** We'll be supporting this motion. The section of the Highway Traffic Act to which this motion is related holds vehicle owners accountable to ensure that novice drivers do not break the conditions or restrictions of their novice driver's licence. The motion expands the wording to include "act or the regulations." The zero-BAC offence proposed in this bill as a condition on a novice or young driver's licence is set out in the legislation with penalties to be included in the regulation. Nevertheless, this amendment may be useful if the government wishes in future to create any other conditions or restrictions in legislation by placing an onus on vehicle owners to ensure that they do not allow their vehicles to be used by novice drivers who aren't complying with the conditions of their licence.

**Mr. John O'Toole:** So you're supporting it?

**The Chair (Mr. David Oraziotti):** Further comment? Mr. Bisson.

**Mr. Gilles Bisson:** I'm just curious: If that's the argument from the government—which I'm supportive of—why didn't you put it in the act in the first place?

**Mrs. Linda Jeffrey:** I wasn't there. I have no idea.

**The Chair (Mr. David Oraziotti):** Seeing no more debate, shall section 6.1 carry? All in favour? Carried. Thank you.

Sections 7, 8 and 9—no amendments, so we'll be voting on sections 7, 8 and 9 as presented. All in favour? Carried.

Section 10, a government motion. Ms. Jeffrey?

**Mrs. Linda Jeffrey:** Mr. Mauro's going to read it.

**Mr. Bill Mauro:** I move that subsection 41.4(23) of the Highway Traffic Act, as set out in section 10 of the bill, be amended by adding the following clauses:

"(c) exempting commercial motor vehicles, or any class or type of commercial motor vehicles, or drivers, owners or operators of commercial motor vehicles or any class of them, from any provision or requirement of this section or of any regulation made under this section, prescribing a different scheme of consequences and requirements from those set out in this section if a police officer is satisfied that a person was driving a commercial motor vehicle, or a specified class or type of commercial motor vehicle, as described in subsection (1), including prescribing different penalties, and prescribing conditions and circumstances for any such exemption or for a different scheme to apply;

"(d) designating provisions of legislation enacted by another province, a territory of Canada or a state of the United States of America that are comparable to the provisions referred to in subsection (1) and providing that this section applies to a person who is driving a motor vehicle in contravention of a condition or requirement imposed under such provisions."

**The Chair (Mr. David Oraziotti):** Further debate?

**Mrs. Linda Jeffrey:** The original bill called for an immediate seven-day vehicle impoundment of both personal and commercial vehicles for all drivers who are caught driving without an ignition interlock, if the use of such a device is a condition of their being allowed to drive. This motion responds to the concerns raised at public hearings that the impoundment of a commercial motor vehicle for a driver-related issue of which the company may not have prior knowledge would negatively and unfairly affect the transportation industry and its clients.

With this amendment, the ministry has the flexibility to establish, through regulation, an alternative to the immediate impoundment of a commercial vehicle. We are considering, for example, a program that would allow another driver to complete the trip and return the vehicle to the owner's facility, where it would then serve out its seven-day impoundment period. This would also still hold commercial motor vehicle owners and operators accountable for their drivers while reducing concerns with the impoundment, logistics, and any interruption in the flow of goods and passengers in Ontario.

The concerns regarding the logistics of impounding a commercial vehicle at roadside were raised by both the police and commercial vehicle owners and operators. Problems arise, for instance, when the vehicle is carrying certain loads, such as livestock or dangerous goods, where delays in the trip and the requirement to remove the cargo from the truck at the roadside poses serious challenges.

Clause (d) allows the ministry to consider similar rules for out-of-province drivers and operators, thereby reducing inequities for Ontario-based operators.

So we're going to continue to work with our key stakeholders on this issue as we develop the regulations.

**The Chair (Mr. David Oraziotti):** Further comment? All in favour of the motion? Carried.

Government motion number 2, Mr. Mauro.

**Mr. Bill Mauro:** I move that section 41.4 of the Highway Traffic Act, as set out in section 10 of the bill, be amended by adding the following subsection:

“Contravention of different scheme

“(23.1) Every person who contravenes or fails to comply with a regulation made under clause (23)(c) that prescribes a different scheme of consequences and requirements from those set out in this section is guilty of an offence and on conviction is liable to a fine of not less than \$400 and not more than \$20,000.”

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey?

**Mrs. Linda Jeffrey:** The original bill did not consider alternative programs or consequences to immediate roadside commercial vehicle impoundment. This motion creates a significant penalty to hold commercial vehicle drivers accountable if they do not comply with the alternatives, as mentioned in the last motion.

**The Chair (Mr. David Oraziotti):** Further debate? Mr. O’Toole.

**Mr. John O’Toole:** In a general sense—and thank you for that explanation—this may not apply. But I, not being familiar with the details and the sequence of the bill, just want to put this on the record on behalf of Mr. Klees. With your indulgence, I’ll read it as a motion and you can deal with it as same. It may not apply, specifically—

**The Chair (Mr. David Oraziotti):** You can provide additional comment, but there’s already a motion on the floor.

**Mr. John O’Toole:** Okay. There’s a motion on the floor, so I’ll comment.

**The Chair (Mr. David Oraziotti):** That’s fine. If you want to add comment on this motion, that’s fine.

**Mr. John O’Toole:** Yes, well, I’m commenting on this motion that I support that.

What would be the appropriate time, through you, Chair, to raise this other issue? I’m not sure in what section mandatory insurance comes up in the bill. That’s the issue. I think Mr. Klees raised it during the—is there a section there, do you know?

1620

**The Chair (Mr. David Oraziotti):** Mr. O’Toole, the clerk’s advised me that perhaps once we’re done dealing with this motion, before we vote on section 10, you could introduce this, and if this is an amendment to this particular section, we could vote on a proposed motion.

**Mr. John O’Toole:** Excellent. Very good. Thank you.

**The Chair (Mr. David Oraziotti):** Further debate on government motion 2? Seeing none, all in favour? Carried.

Mr. O’Toole.

**Mr. John O’Toole:** Mr. Klees, who was the critic on this, raised in the House issues with respect to a family he was working with. The widow’s husband was killed by an uninsured driver. That’s the background, in a general sense. It reads as follows:

“That, in the opinion of this House, the government of Ontario should introduce legislation to implement an automated insurance verification system that shall be designed with the goal of identifying motor vehicles that are being operated on Ontario roads without the required insurance coverage and shall provide accurate and current access to motor vehicle insurance coverage information for persons and agencies charged with the enforcement of motor vehicle insurance requirements, such that police officers can determine the validity of the insurance of a vehicle, and that licence-issuing offices can have the ability to confirm in real time, that insurance coverage is valid; and that the Highway Traffic Act be amended to provide for the impoundment of the vehicle being driven by an uninsured motorist.”

That was filed on November 26, 2008.

**The Chair (Mr. David Oraziotti):** Mr. O’Toole, I have information from the clerk here that this is a proposed amendment from your caucus, 15.2, so it looks like it will be discussed at some point.

**Mr. John O’Toole:** Very good. I just didn’t want to miss the section. It sounded like we were into that.

**The Chair (Mr. David Oraziotti):** Fair enough.

**Mr. John O’Toole:** The motion is 15.2?

**The Chair (Mr. David Oraziotti):** Correct. So are you going to withdraw the motion?

**Mr. John O’Toole:** Yes. That’s appreciated.

**The Chair (Mr. David Oraziotti):** So we’ll vote on section 10, as amended. All in favour? Carried.

Sections 11, 12 and 13, as presented—there are no amendments there. Can we vote on those as a group? All in favour? Carried.

Section 14, government amendment number 3. Mr. Mauro?

**Mr. Bill Mauro:** I move that subsection 48(6.1) of the Highway Traffic Act, as set out in subsection 14(7) of the bill, be struck out and the following substituted:

“Screening device, instrument used for second analysis

“(6.1) The second analysis must be performed with a different approved screening device than was used in the analysis under subsection (2) or, if the police officer thinks it is preferable, with an instrument approved as suitable for the purpose of section 254 of the Criminal Code (Canada).”

**The Chair (Mr. David Oraziotti):** Mrs. Jeffrey?

**Mrs. Linda Jeffrey:** As members may recall, the Legislature passed a previous road safety bill, Bill 203, the Safer Roads for a Safer Ontario Act, in June 2007. In that bill, there was a new program of escalating administrative sanctions of three, seven and 30 days for drivers who register a blood alcohol concentration of between 0.05 and 0.08. These sanctions will come into effect on May 1, 2009.

There are a number of provisions in Bill 126 that apply before the escalating sanctions program takes effect, to be repealed and replaced with other provisions that will come into effect after the program starts. Bill 126, as introduced, permits a second breath test to be per-

formed on another roadside screening device or on a breathalyzer machine. This provides the police with the flexibility they need to enforce the new warn range sanctions in a way that's both practical and fair to drivers. This motion applies to all drivers and clarifies by adding the words, "if the police officer thinks it is preferable." That is, the police officer determines whether the second breath test, if requested by the driver, is to be conducted on another roadside screening device or back at the police station on a breathalyzer machine. It will apply to that section of Bill 126 that will only be in place until the new escalating sanction program comes into effect.

**The Chair (Mr. David Oraziotti):** Further debate?

**Mr. John O'Toole:** That's actually an interesting section. I believe research people provided us with a note which I was given on the 27th. Is this the case for the second test? Does this come into this section here? If it's an administrative suspension—under the previous Bill 203 there's an escalation, which means they have to record the offence. Even though it's not a criminal offence, they have to record it; is that right? So that they know this is the second time or the third time.

**Mrs. Linda Jeffrey:** Can I ask the staff to come up and answer the question? It would probably be easier.

**Mr. John O'Toole:** These are administrative suspensions?

**Ms. Barbara Maher:** Yes.

**The Chair (Mr. David Oraziotti):** If you want to just state your name for the purposes of Hansard, you can answer the member's question.

**Ms. Barbara Maher:** It's Barbara Maher, and I'm the acting director of the safety policy and education branch.

**Mr. John O'Toole:** The question is, is the administrative suspension registered on the driving record?

**Ms. Barbara Maher:** Yes, it will be.

**Mr. John O'Toole:** That's new?

**Ms. Barbara Maher:** As of May 1.

**Mr. John O'Toole:** Okay, and this provision will allow the deemed offender to request a second test?

**Ms. Barbara Maher:** That provision has actually always been there in the act.

**Mr. John O'Toole:** They expect it will be increased now that it's—

**Ms. Barbara Maher:** The escalating sanctions will—

**Mr. John O'Toole:** Prior to that, they weren't recorded on the driving record, were they?

**Ms. Barbara Maher:** They were not. It was a 12-hour suspension administered by the police officer.

**Mr. John O'Toole:** Will the insurance companies have access to this, that you've had an administrative suspension?

**Ms. Barbara Maher:** Yes, they will.

**Mr. John O'Toole:** So that's new and that could change your insurance?

**Mr. Gilles Bisson:** I'm not sure that's new.

**Mr. John O'Toole:** I don't think it's recorded. You could get a suspension but it wasn't on your driving record.

**Ms. Barbara Maher:** That's right. It didn't appear on your driving record, so—

**Mr. John O'Toole:** It's probably the right thing to do because we think zero tolerance is the way to go, basically. So I appreciate that.

**Mr. Gilles Bisson:** Just one second.

**The Chair (Mr. David Oraziotti):** Mr. Bisson?

**Mr. Gilles Bisson:** I thought administrative suspension was accessible as far as information by the insurance companies.

**Ms. Barbara Maher:** Some of the administrative suspensions are. The 12 hours for blowing in the warn range was not on your driver record, so there was no way for them to know. The 90-day administrative driver licence suspension, if you blow over the Criminal Code 0.08 limit, is on your driver record.

**The Chair (Mr. David Oraziotti):** Further debate on government amendment number 3. All in favour? Carried.

Government amendment, same section, 14, number 4.

**Mr. Bill Mauro:** I move that subsection 48(6.1) of the Highway Traffic Act, as set out in subsection 14(8) of the bill, be struck out and the following substituted:

"Screening device, instrument used for second analysis

"(6.1) The second analysis must be performed with a different approved screening device than was used in the analysis under subsection (2) or, if the police officer thinks it is preferable, with an instrument approved as suitable for the purpose of section 254 of the Criminal Code (Canada)."

**Mrs. Linda Jeffrey:** This motion makes the same changes to the bill as the previous motion but will only apply after the new warn range sanctions under Bill 203 come into effect on May 1, 2009.

**The Chair (Mr. David Oraziotti):** Any questions or comments?

**Mr. John O'Toole:** Again, I'm probably delaying—are there any grounds for disputing the technical reliability of some of these tests? Is this what this is about, the second test? It implies to me that there must be some question of the reliability, therefore a second test. Is that—

**Mrs. Linda Jeffrey:** Can I answer the question?

**The Chair (Mr. David Oraziotti):** Go ahead, Mrs. Jeffrey.

**Mrs. Linda Jeffrey:** I believe it would have to do with the escalating fines and consequences.

**Mr. John O'Toole:** It's not questioning the reliability of these tests?

**Mrs. Linda Jeffrey:** No.

**Mr. John O'Toole:** Okay, thanks.

**The Chair (Mr. David Oraziotti):** No further debate on government amendment number 4? All in favour? Carried.

Shall section 14, as amended, carry? All those in favour? Carried.

Section 15, government amendment number 5.

**Mr. Bill Mauro:** I move that section 15 of the bill be amended by adding the following subsection:

“(3.1) Section 48.1 of the act is amended by adding the following subsection:

“Same

“(5.1.1) A suspension under clause (5.1)(b) is deemed to be a suspension under section 48.”

**Mrs. Linda Jeffrey:** This motion eliminates any possible confusion about the length of the immediate suspension assessed against a novice driver who registers a blood alcohol concentration in the warn range of 0.05 to 0.08. It makes it clear that a novice driver who was suspended for registering a blood alcohol concentration in the warn range is suspended under section 48 and is therefore subject to the new escalating sanctions of three, seven and 30 days, the same as any other driver.

1630

**The Chair (Mr. David Oraziotti):** Any further debate? Seeing none, government motion number 5: All in favour? Carried.

Government motion 6, Mr. Mauro.

**Mr. Bill Mauro:** I move that subsection 48.1(6.1) of the Highway Traffic Act, as set out in subsection 15(5) of the bill, be struck out and the following substituted:

“Screening device, instrument used for second analysis

“(6.1) The second analysis must be performed with a different approved screening device than was used in the analysis under subsection (3) or (4), as the case may be, or, if the police officer thinks it is preferable, with an instrument approved as suitable for the purpose of section 254 of the Criminal Code (Canada).”

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey.

**Mrs. Linda Jeffrey:** This motion makes the same change that allows the police to decide whether to use a second roadside screening device or a breathalyzer machine for a driver who registers in the warn range, but applies specifically to novice drivers. It amends a section of Bill 126 that would only be in effect until the new escalating sections for the warn range come into effect on May 1, 2009.

**The Chair (Mr. David Oraziotti):** Question or comment? Mr. O’Toole.

**Mr. John O’Toole:** Can the offender be required or request to go to the nearest station for a land test, or whatever, as opposed to a portable one? Because a lot of times, they want to delay. If there’s a margin of difference here, can they request a land-based as opposed to a portable device test?

**Mrs. Linda Jeffrey:** They can today. This is going to give the discretion to the police officer.

**The Chair (Mr. David Oraziotti):** Further debate? Seeing none, government motion 6, the amendment: All those in favour? Carried.

Government motion 7, Mr. Mauro.

**Mr. Bill Mauro:** I move that subsection 48.1(6.1) of the Highway Traffic Act, as set out in subsection 15(6) of the bill, be struck out and the following substituted:

“Screening device, instrument used for second analysis

“(6.1) The second analysis must be performed with a different approved screening device than was used in the analysis under subsection (3) or (4), as the case may be, or, if the police officer thinks it is preferable, with an instrument approved as suitable for the purpose of section 254 of the Criminal Code (Canada).”

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey?

**Mrs. Linda Jeffrey:** This motion makes the same changes to the provisions of Bill 126 that relate to novice drivers who register in the warn range as the one I just moved. This section of the bill replaces the previous section when the new warn range sanctions under Bill 203 come into effect.

**The Chair (Mr. David Oraziotti):** Mr. O’Toole.

**Mr. John O’Toole:** Yes. With novice drivers, my understanding—I mean, I’m learning as I go here; there’s no sense in just being seated in a chair. Novice drivers have zero—they can’t have point-anything. Isn’t that right? Anyone in the G-series—that’s good. And that covers this. So they don’t have the graduated scale, they have, “You’re out.”

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey, do you want to comment on that so Hansard can—

**Mr. John O’Toole:** You know, that means a novice can have zero alcohol, period.

**Mrs. Linda Jeffrey:** Mr. O’Toole, you’re right.

**Mr. John O’Toole:** Okay, thanks.

**The Chair (Mr. David Oraziotti):** Thank you. Further debate? Seeing none, all those in favour of government motion 7? Carried.

Shall section 15, as amended, carry? All those in favour? Carried.

Section 16, government amendment 8, Mr. Mauro.

**Mr. Bill Mauro:** I move that subsection 48.2(3.1) of the Highway Traffic Act, as set out in subsection 16(1) of the bill, be struck out and the following substituted:

“Screening device, instrument used for second analysis

“(3.1) The second analysis must be performed with a different approved screening device than was used in the analysis under subsection (2) or, if the police officer thinks it is preferable, with an instrument approved as suitable for the purpose of section 254 of the Criminal Code (Canada).”

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey.

**Mrs. Linda Jeffrey:** This motion makes the same change to the second test provisions being at the discretion of the police, but to the section of the bill that applies to fully licensed drivers acting as accompanying drivers for novices. Again, this change is to the section that would be in effect until the new warn range sanctions begin on May 1, 2009.

**The Chair (Mr. David Oraziotti):** Further comment? Seeing none, shall the amendment, government number 8, carry? All those in favour? Carried.

Government amendment 9, Mr. Mauro.

**Mr. Bill Mauro:** I move that subsection 48.2(3.1) of the Highway Traffic Act, as set out in subsection 16(2) of the bill, be struck out and the following substituted:

“Screening device, instrument used for second analysis

“(3.1) The second analysis must be performed with a different approved screening device than was used in the analysis under subsection (2) or, if the police officer thinks it is preferable, with an instrument approved as suitable for the purpose of section 254 of the Criminal Code (Canada).”

**The Chair (Mr. David Oraziotti):** Further debate or comment?

**Mrs. Linda Jeffrey:** This motion makes the same change as the previous one in relation to fully licensed drivers acting as accompanying drivers who blow in the warn range and request a second test. This section of the bill replaces the previous section with the new warn range sanctions until Bill 203 comes into effect.

**The Chair (Mr. David Oraziotti):** Further comment?

Seeing none, government amendment number 9, all those in favour? Carried.

Shall section 16, as amended, carry? All those in favour? Carried.

Section 17, government amendment number 10.

**Mr. Bill Mauro:** I move that subsection 48.2.1(8) of the Highway Traffic Act, as set out in section 17 of the bill, be struck out and the following substituted:

“Screening device, instrument used for second analysis

“(8) The second analysis must be performed with a different approved screening device than was used in the analysis under subsection (3), (4) or (5), as the case may be, or, if the police officer thinks it is preferable, with an instrument approved as suitable for the purpose of section 254 of the Criminal Code (Canada).”

**Mrs. Linda Jeffrey:** This motion makes the same change to the second-test provisions as they apply to drivers under the age of 22, whether fully licensed or novices. It amends a section that will only be in effect until the warn range sanctions begin on May 1.

**The Chair (Mr. David Oraziotti):** Thank you. Comment?

Seeing none, government amendment number 10, all in favour? Carried.

Mr. Mauro, government amendment number 11.

**Mr. Bill Mauro:** I move that section 48.2.1 of the Highway Traffic Act, as set out in section 17 of the bill, be amended by adding the following subsection:

“Same

“(11.1) A suspension under clause (11)(b) is deemed to be a suspension under section 48.”

**Mrs. Linda Jeffrey:** This motion makes the same change as the previous motion, but to the section pertaining to drivers under the age of 22 that will be in effect after the warn range program begins on May 1, 2009.

**The Chair (Mr. David Oraziotti):** Questions or comments?

Government amendment number 11—all those in favour? Carried.

Shall section 17, as amended, carry? All those in favour? Carried.

Section 18, and government amendment number 12.

**Mr. Bill Mauro:** I move that paragraph 2 of subsection 48.3(3) of the Highway Traffic Act, as set out in subsection 18(1) of the bill, be struck out and the following substituted:

“2. The person failed or refused, in response to a demand made under section 254 of the Criminal Code (Canada),

“i. to provide a sample of breath, blood, oral fluid or urine,

“ii. to perform physical coordination tests, or

“iii. to submit to an evaluation.”

**Mrs. Linda Jeffrey:** The federal government has amended the Criminal Code of Canada to treat drug-impaired drivers in a similar way to alcohol-impaired drivers. Through this motion, the province is proposing to do the same.

Currently, a 90-day pretrial administrative driver’s licence suspension under the Highway Traffic Act is issued if a driver fails or refuses to provide a breath or blood sample to be tested for alcohol impairment. With the expansion of section 254 of the Criminal Code, failure or refusal to provide bodily fluid samples, or to perform physical coordination tests, or to submit to any other requested evaluation, also constitutes an offence under the section and should result in the same 90-day, pretrial administrative driver’s licence suspension. This means that the Highway Traffic Act consequences of a failure or refusal will be the same for the driver, regardless of whether the refusal or failure was related to alcohol or drug impairment.

**The Chair (Mr. David Oraziotti):** Questions or comments?

**Mr. John O’Toole:** Yes, this one here, again—the unfortunate part of this is that I wasn’t here for all the debate as you went through the public hearings.

Do you know if there are any charter provisions or considerations in this part, accommodation, the duty to accommodate—and all these kinds of things—persons with special needs? There’s a lot going on here, like all these bodily fluid things and that. I think that would be challenged somewhere by somebody.

**Mrs. Linda Jeffrey:** May I ask the staff?

**The Chair (Mr. David Oraziotti):** Perhaps staff might want to comment on this, Ms. Jeffrey.

**Mr. John O’Toole:** Not by me, certainly.

**The Chair (Mr. David Oraziotti):** Would you like to come forward again, please? State your name, and you can answer the question.

**Ms. Barbara Maher:** It’s Barbara Maher.

These requirements were placed in the Criminal Code. We are merely changing the Highway Traffic Act so that the administrative sanctions that apply if a person is to violate the Criminal Code would also apply in that case.

The police do have discretion on the type of test that they conduct, but there is an evaluation called a drug recognition expert evaluation that has been sponsored by the federal government. I believe they are fully compliant with the code.

**1640**

**Mr. John O'Toole:** I would just like to be on the record here as, first of all, supporting all efforts, in a reasonable and legal manner, to intervene into human behaviour; once the police stop you—Mr. Dziekanski's trial in BC is quite a telling trial. He's now being challenged as being previously alcoholic or something. Do you understand? When they get you, you're getting a ticket.

There's a lot of liberty or presumed authority here that I personally am uncomfortable with. If they pull you over at the side of the road and you give them some sort of negative feedback like, "What the hell's going on," you'll be getting the urine bottle and maybe other bodily fluid—do you understand?

I need to have some framework of who's qualified to take what tests under what conditions. I'm not happy with the right to stop me because they don't like the colour of my hair or whatever. Do you understand? I think there's a lot of discretion left to—and if I want to challenge it as a poor little citizen, I'd better have about \$50,000 in the bank to challenge this thing.

I'm not happy with this section at all, and I need it to be registered. Most police officers, certainly most RCMP, are beyond reproach in all respects. It just takes one, though. And that happened to Dziekanski, the Polish guy. They took him down in the airport, and he's no longer with us. And they're supposed to be trained in all this stuff. Good luck.

Thank you for your advice.

**Ms. Barbara Maher:** There is an appeal provision based on that—

**Mr. John O'Toole:** Yes, get the lawyer. Get your \$50,000 account in order, or line of credit.

**The Chair (Mr. David Oraziotti):** Thank you, Mr. O'Toole.

Further comments?

**Mr. Gilles Bisson:** I was going to say there's no training requirement for MPPs, but that's a whole other story.

**Mr. John O'Toole:** I'd like a recorded vote on this one.

**The Chair (Mr. David Oraziotti):** Government amendment 12.

#### Ayes

Bisson, Brownell, Jeffrey, Kular, Mauro, Mitchell.

#### Nays

O'Toole.

**The Chair (Mr. David Oraziotti):** The amendment is carried.

Shall section 18, as amended, carry? Carried.

Section 19, NDP motion 12.1. Mr. Bisson.

**Mr. Gilles Bisson:** I move that subsection 48.4(1) of the Highway Traffic Act, as set out in section 19 of the bill, be struck out and the following substituted:

"Administrative vehicle impoundment for blood alcohol concentration above .08, failing or refusing to provide breath sample

"(1) Where a police officer is satisfied that a person driving or having the care, charge or control of a motor vehicle meets one of the criteria set out in subsection 48.3(3), the officer shall detain the motor vehicle that was being driven by the person and the vehicle shall, at the cost and risk of its owner, be removed to an impound facility as directed by a police officer and impounded as follows:

"1. For 30 days, if there has not been any previous impoundment under this section, within a prescribed period, with respect to any motor vehicle then owned by the owner of the vehicle currently being impounded.

"2. For 60 days, if there has been one previous impoundment under this section, within a prescribed period, with respect to any motor vehicle then owned by the owner of the vehicle currently being impounded.

"3. For 90 days, if there have been two or more previous impoundments under this section, within a prescribed period, with respect to any motor vehicle then owned by the owner of the vehicle currently being impounded."

**The Chair (Mr. David Oraziotti):** Further comment?

**Mr. Gilles Bisson:** I'd like to see what the parliamentary assistant has to say.

**The Chair (Mr. David Oraziotti):** Mrs. Jeffrey?

**Mrs. Linda Jeffrey:** We cannot support this motion. The original bill called for an immediate seven-day impoundment of both the personal and commercial vehicles for all drivers found with a blood alcohol concentration above 0.08 failing or refusing to provide a breath sample. The seven-day impoundment proposed in this bill has a successful precedent in the street-racing impoundments that are already in place and have resulted in a 30% decrease in speed-related collisions on highways patrolled by the OPP.

Without an appeal process, there is a high risk of a successful charter challenge, given the proposed length of the impoundments under this motion. This motion would heighten the concerns raised by the transportation industry at public hearings that the impoundment of a commercial motor vehicle for the actions of a driver would negatively or unfairly affect the transportation industry and its clients.

This amendment would also place a disproportionate responsibility on the vehicle owner for the actions of the driver. For driving, under the Criminal Code prohibition, we already have tough penalties, including the highest maximum fines in Canada for this offence—\$50,000, 10 times higher than any other province; some of the longest vehicle impoundment periods in Canada—45 days for the first offence and up to 180 days for repeat offenders; and lastly, an additional licence suspension of up to six

months. The proposed escalating sanctions would have significant impacts on government resources and would require an appeal process to be put in place that is contrary to a program of roadside sanctions administered by the police.

**The Chair (Mr. David Oraziotti):** Further debate?

**Mr. John O'Toole:** Yes, on this one here, is this applied to commercial vehicles or to all vehicles involved with the blood alcohol—

**Mr. Gilles Bisson:** It would be all.

**Mr. John O'Toole:** Okay, all. You're referring to commercial vehicles; I understand that part. You need to have a truck driver; he doesn't own the vehicle and it's the trucking company that pays the price. If you're going to implement a 90-day suspension, it takes the company—is that the point you're making?

**Mrs. Linda Jeffrey:** It would have an impact on commercial vehicles.

**Mr. John O'Toole:** Oh, for sure. How about in the event that it's one of my relatives driving my car? It's not their car and they're impounding my car.

**Mrs. Linda Jeffrey:** I can only respond to the motion that's on the floor and that's the response to this motion.

**Mr. John O'Toole:** Yeah, but this one here—his motion does not mention the commercial. This applies to all.

**Mrs. Linda Jeffrey:** So it does.

**Mr. John O'Toole:** Your answer is about commercial vehicles. I understand that part. It's only seven days. This one applies to all. His amendment is actually saying all vehicles, unless there's something specific in section 19. He's saying all vehicles, but you don't agree with it. That's fine.

**The Chair (Mr. David Oraziotti):** Mr. Bisson, do you want to comment?

**Mr. Gilles Bisson:** Just to make the argument that the idea is to try to make the owners of the vehicles responsible for who's driving. That's what the point is, because we've seen, far too often, unfortunately, people taking vehicles and not taking care of who it is that's going to be taking that vehicle. So that's sort of the intent of that, based on some of the testimony that we got at public hearings. Unintentionally, I guess, it does capture the commercial vehicles, and that was not the intent of the amendment. I'm prepared to move an amendment to the amendment if you would support the original amendment.

**Mrs. Linda Jeffrey:** I believe we have a motion later on that captures what you would want, so we'll be on the same page and we'll achieve what we want to do.

**Mr. Gilles Bisson:** Well, to show you how magnanimous I am, I will just allow the vote to happen on this.

**Mr. John O'Toole:** That's actually very good, if I may, through the Chair. It really does apply to whether it's street racing or alcohol. If there's an impoundment function and it's not the driver who's being charged but the car, I wouldn't support your amendment to the 90 days. I would support seven days, because I am responsible, hopefully, if one of my children take my car and

start racing around or get drunk or something. That's the issue here, do you understand?

**Mr. Gilles Bisson:** I don't want to belabour this, but it's the person driving, the person doing the offence as the driver who would get charged. This is to make sure that the owner of the vehicle takes responsibility. It's a continuation of making sure that everybody does their job.

**The Chair (Mr. David Oraziotti):** Thank you. NDP motion 12.1: All those in favour of the amendment? All those opposed? The amendment is lost.

NDP amendment 12.2.

**Mr. Gilles Bisson:** Is that still in order? I didn't think so. I was going to skip right over it.

**The Chair (Mr. David Oraziotti):** Yes, the motion is no longer in order, so it's lost.

Government amendment number 13, Mr. Mauro.

**Mr. Bill Mauro:** I move that subsection 48.4(23) of the Highway Traffic Act, as set out in section 19 of the bill, be amended by adding the following clause:

“(c) exempting commercial motor vehicles, or any class or type of commercial motor vehicles, or drivers, owners or operators of commercial motor vehicles or any class of them, from any provision or requirement of this section or of any regulation made under this section, prescribing a different scheme of consequences and requirements from those set out in this section if a police officer is satisfied that a person driving or having the care, charge or control of a commercial motor vehicle, or a specified class or type of commercial motor vehicle, meets one of the criteria set out in subsection 48.3(3), including prescribing different penalties, and prescribing conditions and circumstances for any such exemption or for a different scheme to apply.”

1650

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey.

**Mrs. Linda Jeffrey:** The original bill called for an immediate seven-day vehicle impoundment, both personal and commercial vehicles, for all drivers found with a blood alcohol concentration of 0.08 and failing or refusing to provide a breath sample. This motion will address the concerns raised by the transportation industry at public hearings that the impoundment of a commercial motor vehicle for the actions of a driver would negatively and unfairly affect the transportation industry and its clients.

With this amendment, the ministry has the flexibility to establish an alternative consequence to the immediate impoundment of a commercial vehicle. One alternative could be to allow another driver to complete the trip and return the vehicle to the owner's facility, where it would then serve out its seven-day impoundment period.

This would also hold commercial motor vehicle owners and operators accountable for their drivers while reducing concerns with impoundment logistics and any interruptions to the flow in goods and passengers of Ontario.

Concerns regarding the logistics of impounding a commercial vehicle at roadside were raised by both the

police services and the commercial vehicle owners and operators in our public hearings.

**The Chair (Mr. David Oraziotti):** Further debate? Seeing none, all those in favour? Carried.

NDP amendment 13.1

**Mr. Gilles Bisson:** That would be now withdrawn.

**The Chair (Mr. David Oraziotti):** Thank you. You're correct in that, as I believe it's out of order.

Government amendment number 14, Mr. Mauro.

**Mr. Bill Mauro:** I move that section 48.4 of the Highway Traffic Act, as set out in section 19 of the bill, be amended by adding the following subsection:

“Contravention of different scheme

“(23.1) Every person who contravenes or fails to comply with a regulation made under clause (23)(c) that prescribes a different scheme of consequences and requirements from those set out in this section is guilty of an offence and on conviction is liable to a fine of not less than \$400 and not more than \$20,000.”

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey.

**Mrs. Linda Jeffrey:** The original bill did not consider alternative programs or consequences to commercial vehicle impoundment. However, as I mentioned earlier, government has heard the concerns of the industry, its clients and the police, and is considering regulations that would create another type of impoundment program for commercial vehicles that would not cause serious, unintended consequences.

This motion contains a significant penalty to hold commercial vehicle owners accountable if they do not comply with the alternative program that is developed.

**The Chair (Mr. David Oraziotti):** Further debate?

**Mr. John O'Toole:** That's actually quite interesting. Who determines if you're entitled to a different scheme, as it's called? Who makes that determination? It wouldn't be the minister; it would be the presiding officer, who could be a weak link in the chain there. I just want that to be recorded; it's the only reason I'm saying it.

**The Chair (Mr. David Oraziotti):** Thank you. Further comment? Government amendment number 14: All in favour? Carried.

Shall section 19, as amended, carry? All those in favour? Carried.

A new section, 19.1: government motion 15, Mr. Mauro.

**Mr. Bill Mauro:** I move that the bill be amended by adding the following section:

“19.1 Subsection 50.1(2) of the act is repealed and the following substituted:

““Grounds for appeal

“(2) The only grounds on which a person may appeal a suspension under section 48.3 and the only grounds on which the tribunal may order that the suspension be set aside are,

“(a) that the person whose licence was suspended is not the same individual to whom a demand was made, or from whom a sample was taken, or who performed physical coordination tests or submitted to an evaluation,

as the case may be, under section 254 or 256 of the Criminal Code (Canada); or

“(b) that the person failed or refused to comply with a demand made under section 254 of the Criminal Code (Canada) because he or she was unable to do so for a medical reason.”

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey.

**Mrs. Linda Jeffrey:** This motions relates to a previous motion that would allow Ontario to deal with drug-impaired drivers in the same way that we deal with alcohol-impaired drivers. The previous motion ensures that the consequences of failing or refusing to submit to a test of impairment will be the same, regardless of whether it's related to alcohol or drug impairment. Both will result in a 90-day administrative driver's licence suspension. The motion ensures that the appeal provision for a 90-day administrative driver's licence suspension is also the same for both categories of drivers by updating the wording of the appeals section to reflect that.

**The Chair (Mr. David Oraziotti):** Further debate?

**Mr. John O'Toole:** I'll just read you the same concern, because it is the same section, on the right to refuse and the duty to accommodate. Persons with special needs are in the Legislature today, many of whom could actually drive. In fact, there are people who drive with different kinds of arrangements in their car or vehicle; they may not be able to just accommodate the roadside test. I'd be taking it to court, that section there, for sure. Good luck. Thanks.

**The Chair (Mr. David Oraziotti):** Further comment? Seeing none, shall section 19.1 carry? All those in favour? Carried.

Sections 20 and 21: There are no proposed amendments. Shall sections 20 and 21 carry? All those in favour? Carried.

Section 22: Amendment 15.1. Mr. O'Toole.

**Mr. John O'Toole:** Thank you very much, Chair. Also, again, in respect and reference to Mr. Klees and the work he's done on this, I move the following motion, which I had outlined before for the record:

I move that subsection 55.1(1) of the Highway Traffic Act, as set out in section 22 of the bill, be amended by adding “without insurance as required by the Compulsory Automobile Insurance Act or” after “a person was driving a motor vehicle on a highway.”

**The Chair (Mr. David Oraziotti):** Further comment?

**Mr. John O'Toole:** The comment on that, as I described earlier, is that driver's licence issuing stations etc. would have to have a verification record that the insurance was indeed valid, not a forgery of some sort. That would be accommodated in this so that a person stopped for a violation in submitting—they would have to be able to prove that their licence was valid, and this would change that in collecting that data by the ministry, I gather.

I think they used to call it SAB, statutory accident benefits. You're entitled to a certain kind of coverage even if the person doesn't have insurance. There is a fund, I believe, in the ministry that actually covers these

kind of no-fault—I'm on a bit of thin ice here. The person is injured, perhaps catastrophically, and the person who caused the injuries has no insurance; the ministry does take care of that, I think, don't they, under statutory accident benefits?

**The Chair (Mr. David Oraziotti):** Would you like a response, Mr. O'Toole, for your comments? Ms. Jeffrey?

**Mrs. Linda Jeffrey:** Speaking to the motion, it would create a program of verification of whether a driver has a valid licence. We agree this is a valid goal, but we won't be supporting this motion. I want to tell Mr. O'Toole that we are working towards a program with our partners in the insurance industry that would give police access to this information where they need it, at the roadside, but it's a costly and complex program to put in place. We're working towards that. We hope to maybe bring something forward next year. However, as it's written, this would adversely limit vehicle impoundments under this section to only drivers who are both suspended and not insured. The Compulsory Automobile Insurance Act already has provisions that may lead to licence suspension and vehicle impoundment for uninsured drivers.

**The Chair (Mr. David Oraziotti):** Mr. O'Toole?

**Mr. John O'Toole:** I appreciate that. I'm not convinced by that ministry-prepared response that you have just read, with all due respect. When you look at a licence now and all of the encoding and encrypting they can do, don't tell me that they can't put a little "B" in there or "I" for "insurance" or whatever, some little code on your licence to take care of this so that the police would know, bingo, that this person is insured. In fact, it's my understanding that my insurance would cover anyone who was driving one of my vehicles. I don't think the insurance goes with the driver; I think it's the registered owner of the vehicle.

**The Chair (Mr. David Oraziotti):** Thank you, Mr. O'Toole. Ms. Jeffrey, do you have a further response?

**Mrs. Linda Jeffrey:** No.

**The Chair (Mr. David Oraziotti):** Thank you. Further debate?

**Mr. John O'Toole:** A recorded vote on that. Gilles, get your hand up.

**Mr. Gilles Bisson:** Oh, I'll help you out just once.

#### Ayes

Bisson, O'Toole.

#### Nays

Brownell, Jeffrey, Kular, Mauro, Mitchell.

**The Chair (Mr. David Oraziotti):** The amendment is lost.

Mr. O'Toole, your amendment 15.2. Go ahead.

1700

**Mr. John O'Toole:** Oh, pardon me. Yes, thank you, for your indulgence. I think it's the same thing, isn't it?

**Mr. Gilles Bisson:** Isn't that redundant?

**Mr. John O'Toole:** It's redundant, so I'd like to withdraw this motion.

**The Chair (Mr. David Oraziotti):** Thank you.

Shall section 22 carry? All those in favour? Carried.

Section 23: NDP motion 15.3.

**Mr. Gilles Bisson:** I will withdraw 15.3 and 15.4 as they're both following what I've done previously.

**The Chair (Mr. David Oraziotti):** Thank you.

Government motion 16.

**Mr. Bill Mauro:** I move that subsection 55.2(23) of the Highway Traffic Act, as set out in section 23 of the bill, be amended by adding the following clauses:

"(c) exempting commercial motor vehicles, or any class or type of commercial motor vehicles, or drivers, owners or operators of commercial motor vehicles or any class of them, from any provision or requirement of this section or of any regulation made under this section, prescribing a different scheme of consequences and requirements from those set out in this section if a police officer is satisfied that a person was driving a commercial motor vehicle, or a specified class or type of commercial motor vehicle, as described in subsection (1), including prescribing different penalties, and prescribing conditions and circumstances for any such exemption or for a different scheme to apply.

"(d) designating provisions of legislation enacted by another province, a territory of Canada or a state of the United States of America that are comparable to the provisions under which a person's driver's licence is suspended under this act and for which his or her motor vehicle may be impounded under this section and providing that this section applies to a person whose driver's licence is suspended under such provisions."

**Mrs. Linda Jeffrey:** This is similar to our previous motion. Essentially, it responds to the concerns raised at public hearings that the impoundment of commercial motor vehicles for a driver-related issue of which they may have no prior knowledge would negatively or unfairly affect the transportation industry and its clients.

Clause (d) allows the ministry to consider similar rules with an out-of-province driver and operator, thereby reducing inequities for Ontario-based drivers and operators.

**The Chair (Mr. David Oraziotti):** Further comment? Seeing none, all in favour of motion 16? Carried.

NDP motion 16.1.

**Mr. Gilles Bisson:** I wonder if the committee could indulge me. I would like to withdraw 16.1, 17.3, 17.4, 17.5, 17.6 and 17.7, as they're all stemming from that previous vote that we voted down. That will take them all out of the package.

**The Chair (Mr. David Oraziotti):** Okay. If you want to just read those one more time so the clerk can—

**Mr. Gilles Bisson:** It's your tabulation numbers on the top right-hand corner; 16.1, 17.3, 17.4, 17.5, 17.6 and 17.7 are withdrawn.

**The Chair (Mr. David Oraziotti):** So noted. Thank you.

**Mr. Gilles Bisson:** Good. Now Mr. Miller can take over. Thank you, Mr. Miller.

**The Chair (Mr. David Oraziotti):** Government motion 17.

**Mr. Bill Mauro:** I move that section 55.2 of the Highway Traffic Act, as set out in section 23 of the bill, be amended by adding the following subsection:

“Contravention of different scheme

“(23.1) Every person who contravenes or fails to comply with a regulation made under clause (23)(c) that prescribes a different scheme of consequences and requirements from those set out in this section is guilty of an offence and on conviction is liable to a fine of not less than \$400 and not more than \$20,000.”

**Mrs. Linda Jeffrey:** This is consequential. As I stated earlier, the original bill did not consider alternative programs or consequences to commercial vehicle impoundment. This motion creates a significant penalty to hold commercial vehicle owners accountable if they do not comply with the alternative program.

**The Chair (Mr. David Oraziotti):** Further debate? Seeing none, government motion 17: all those in favour? Carried.

Shall section 23, as amended, carry? All in favour? Carried.

Section 24 has no amendments. All those in favour of section 24? Carried.

Section 24.1—

**Mr. John O’Toole:** Yes, I’ll read this.

**The Chair (Mr. David Oraziotti):** Okay. PC motion 17.1.

**Mr. John O’Toole:** That’s right, 17.1.

I move that the bill be amended by adding the following section:

“24.1 Part IV of the act is amended by adding the following section:

“Identification of vehicle driven by novice driver

“57.1.2 It is a condition of the driver’s licence of every novice driver, as defined under section 57.1, that he or she not drive a motor vehicle on a highway unless a card that identifies the driver as a novice driver and that is approved by the minister for the purpose of this section is displayed in a conspicuous place, either inside or outside the vehicle, on the rear of the vehicle.” So moved.

**The Chair (Mr. David Oraziotti):** Any further comment on that?

**Mr. John O’Toole:** I think it’s similar to what they have in Great Britain and other places with the learner’s permit type of thing—“l” as in “learner,” not Liberal. I’d probably have a different symbol. But yes, that’s the point.

**Mrs. Linda Jeffrey:** We won’t be supporting this—  
*Interjection.*

**Mrs. Linda Jeffrey:** Listen to the reason, Mr. O’Toole. This motion would require that all novice drivers display a sign on their vehicle identifying themselves to other road users as a novice driver. I was surprised to learn that Ontario already has such a sign. It

was introduced when the graduated licensing program was introduced in 1994. The sign was made voluntary because of concerns expressed by novices and their parents that the sign might spur some aggressive drivers to undertake bullying manoeuvres that intimidate novice drivers. Demand was so low for the sign that the ministry stopped producing them.

There’s currently no evidence that the use of a sign improves the safety of novice drivers. Novice drivers are unlikely to support the use of the signs and may view the mandatory sign as embarrassing or stigmatizing. We do, however, understand the concerns of parents who see the sign as a way of improving enforcement of the novice driver conditions and restrictions, and we’re committed to working with those members of the community to develop approaches that will achieve that goal.

**Mr. John O’Toole:** So well-crafted, that response. I’m very disappointed. I would normally say that it would assist police, and also, the whole idea of this peer pressure thing with young people today. Anyway, I’d like a recorded vote.

**The Chair (Mr. David Oraziotti):** Mr. O’Toole has called for a recorded vote on motion 17.1 on section 24.1.

#### Ayes

O’Toole.

#### Nays

Brownell, Jeffrey, Kular, Mauro, Mitchell.

**The Chair (Mr. David Oraziotti):** The motion is lost.

**Mr. John O’Toole:** I withdraw motion 17.2. It’s redundant.

**The Chair (Mr. David Oraziotti):** Thank you.

Section 25 through and including section 33: There are no amendments. Shall they carry as presented? All those in favour? Carried.

Section 34: The NDP amendments have been withdrawn. For section 34 through and including section 46 there are no amendments. Shall they carry as presented? All in favour? Carried.

Section 47; government amendment 18.

**Mr. Bill Mauro:** I move that subsection 159(3) of the Highway Traffic Act, as set out in section 47 of the bill, be amended by striking out “intermittent flashes of red light” and substituting “intermittent flashes of red light or red and blue light.”

**Mrs. Linda Jeffrey:** Under Bill 203, police were given the option of using either flashing red lights alone or using a combination of flashing red and blue lights. Many police services have moved to the red-blue combination because they believe it makes their vehicles more visible, especially at night or in inclement weather. Various provisions of the Highway Traffic Act were changed under Bill 203 to recognize the new combination of lights and to place the same requirements on other drivers that are attached to an emergency vehicle

displaying only flashing red lights. In this section of the act, however, there is still a reference to flashing red lights alone. This motion would change that. Some court cases involving stopped police cars with flashing red and blue lights were dismissed because of the old wording.

**The Chair (Mr. David Oraziotti):** Further comment?

**Mr. John O'Toole:** I'm just wondering if they did a complete review of these emergency identification issues. Right now, with these repatriation ceremonies for the soldiers returning from Trenton, they use purple lights in the funeral procession. Were they considered at all, or would it be appropriate? Because I think it's a respectful thing. It wouldn't be too harmful. Would you be amenable to a friendly amendment, adding purple lights?

1710

**Mrs. Linda Jeffrey:** I don't think they qualify as emergency vehicles, Mr. O'Toole.

**Mr. John O'Toole:** It's just a courtesy for our fallen troops. I don't like to embarrass you here but—

**Mrs. Linda Jeffrey:** No, it's not an emergency vehicle.

**Mr. John O'Toole:** It is true. They're on the roads weekly, which is tragic in itself. But I think, as a courtesy today, we'll leave it with the ministry to look into it. It would be the appropriate thing to do.

**Mrs. Linda Jeffrey:** We'll consider it.

**Mr. John O'Toole:** You'd have my support. Otherwise, you know—

**Mrs. Linda Jeffrey:** That's worth it—

**Mr. John O'Toole:** It's worth it.

**The Chair (Mr. David Oraziotti):** Further comment on government motion 18? All those in favour of the motion? Okay. Carried. Thank you.

Shall section 47, as amended, carry? All in favour? Carried.

Section 48: There are no amendments. All in favour as presented? Carried.

Section 49, government amendment 19. Mr. Mauro.

**Mr. Bill Mauro:** I move that section 49 of the bill be amended by adding the following subsection:

“(2) Section 172 of the act is amended by adding the following subsection:

“Same

“(22) In this section and in section 172.1,

““motor vehicle” includes a street car, a motorized snow vehicle, a farm tractor, a self-propelled implement of husbandry and a road-building machine.””

**The Chair (Mr. David Oraziotti):** Mrs. Jeffrey?

**Mrs. Linda Jeffrey:** This motion broadens the definition of “motor vehicle” under the street racing provisions of the Highway Traffic Act, sections 172 and 172.1, to include other vehicles that are capable of racing, stunting or participating in contests or of carrying nitrous oxide systems. These vehicles are currently not included in the existing sections.

**The Chair (Mr. David Oraziotti):** Further comment?

Seeing none, all those in favour? Carried. Thank you.

Shall section 49, as amended, carry? All those in favour? Carried.

Section 50 through and including section 56: There are no amendments. Shall they carry as presented? All those in favour? Carried.

Section 57, government amendment 20. Mr. Mauro.

**Mr. Bill Mauro:** I move that subsection 57(2) of the bill be amended by striking out “subsections 14(5) to (14) and 15(2) to (12), sections 16 to 24” and substituting “subsections 14(5) to (7) and (9) to (13) and 15(2) to (5) and (7) to (11), subsection 16(1), sections 17 to 24.”

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey.

**Mr. John O'Toole:** I want the explanation to that.

**Mrs. Linda Jeffrey:** So did I. If you can't understand the motion, I'll say it to you in English. This amendment provides for a second breath test provision to the bill to come into force on royal assent. It will reduce police concerns for the second breath test, particularly having to conduct it on a breathalyzer device. With the new warn range escalating sanctions on May 1, 2009, or as soon as possible thereafter, it will allow for smoother implementation of the new program and will ensure that the rules are clear about how and when the second test is conducted.

**The Chair (Mr. David Oraziotti):** Further debate?

**Mr. John O'Toole:** They want to get this in place for the May 24 weekend. It'll help the revenue side of their books.

**The Chair (Mr. David Oraziotti):** Further debate?

Government motion 20: All those in favour? Okay. Carried. Thank you.

Shall section 57, as amended, carry? All those in favour? Carried.

Section 58: There are no amendments to this section. As presented, all those in favour? Carried. Thank you.

The last remaining items on this bill: Shall the title of the bill carry? All those in favour? Carried.

Shall Bill 126, as amended, carry? All those in favour? Carried.

Shall I report the bill to the House as amended? All those in favour? Carried. Thank you.

Okay. We'll take two minutes, and we're going to be switching over to Bill 118. Mrs. Jeffrey?

**Mrs. Linda Jeffrey:** Would it be possible just to make—I wanted to thank some of the people who contributed to this bill, if I might.

**The Chair (Mr. David Oraziotti):** Absolutely. Go ahead.

**Mrs. Linda Jeffrey:** There are a lot of individuals we'd like to thank for helping us with this: Eleanor McMahon, Jan Perry and Tim Mulcahy, who overcame personal tragedy and unimaginable grief to stand up and fight for the changes that they believe will make our roads safer for young drivers and others; Anne Leonard and the members of the Ontario Community Council on Impaired Driving were a critical partner; Andy Mune and all the volunteers at MADD Canada who seek out new and innovative ways to counter impaired driving; Ontario Students Against Impaired Driving; the Traffic Injury Research Foundation; the Driving School Association of Ontario; the Ontario Association of Chiefs of Police and

the OPP, and the municipal police officers who serve on the front lines; Brian Patterson of the Ontario Safety League; the Insurance Bureau of Canada and the Ontario Traffic Conference; the Student Life Education Company; the Motor Vehicle Crash Prevention Committee of Grey Bruce; Doug Switzer of the Ontario Trucking Association; Karen Renkema from the Ontario Road Builders' Association; the Toronto Cyclists Union; and all the members of the three parties who gave us some invaluable contributions. Thank you.

**The Chair (Mr. David Oraziotti):** Thank you very much, Mrs. Jeffrey. Are we ready to start Bill 118?

COUNTERING DISTRACTED DRIVING  
AND PROMOTING GREEN  
TRANSPORTATION ACT, 2009  
LOI DE 2009 VISANT À COMBATTRE  
LA CONDUITE INATTENTIVE  
ET À PROMOUVOIR  
LES TRANSPORTS ÉCOLOGIQUES

Consideration of Bill 118, An Act to amend the Highway Traffic Act to prohibit the use of devices with display screens and hand-held communication and entertainment devices and to amend the Public Vehicles Act with respect to car pool vehicles / Projet de loi 118, Loi modifiant le Code de la route afin d'interdire l'usage d'appareils à écran et d'appareils portatifs de télécommunications et de divertissement et modifiant la Loi sur les véhicules de transport en commun à l'égard des véhicules de covoiturage.

**The Chair (Mr. David Oraziotti):** First motion, government motion number 1. Mr. Mauro.

**Mr. Bill Mauro:** I move that subsection 78(1) of the Highway Traffic Act, as set out in section 1 of the bill, be struck out and the following substituted:

“Display screen visible to driver prohibited

“(1) No person shall drive a motor vehicle on a highway if the display screen of a television, computer or other device is visible to the driver.”

**The Chair (Mr. David Oraziotti):** Mrs. Jeffrey.

**Mrs. Linda Jeffrey:** I was not clear if we were going to read them into the record or withdraw them in advance. So I would like to withdraw this motion.

**The Chair (Mr. David Oraziotti):** You can just indicate that the motion's been withdrawn and read the motion that is on the list.

**Mrs. Linda Jeffrey:** Okay, so you want us to read it into the record and withdraw it?

**The Chair (Mr. David Oraziotti):** No. You can just withdraw the motion that you're withdrawing and read into the record the motion that you're interested in supporting.

**Mrs. Linda Jeffrey:** Okay, so can I tell you now in this section which ones we're withdrawing?

**The Chair (Mr. David Oraziotti):** That's fine.

**Mrs. Linda Jeffrey:** 1, 2, 3, 4 and 5.

**The Chair (Mr. David Oraziotti):** In section 1.

**Mrs. Linda Jeffrey:** In section 1.

**The Chair (Mr. David Oraziotti):** So 1 to 5.

**Mrs. Linda Jeffrey:** So 1R and 2R would stay.

**The Chair (Mr. David Oraziotti):** Yes, 1R and 2R are still good.

**Mr. John O'Toole:** So 3, 4 and 5.

**The Chair (Mr. David Oraziotti):** Correct; 1 to 5.

Mr. Mauro, do you want to read 1R?

**Mr. Bill Mauro:** I will.

I move that subsection 78(1) of the Highway Traffic Act, as set out in section 1 of the bill, be struck out and the following substituted:

“Display screen visible to driver prohibited

“(1) No person shall drive a motor vehicle on a highway if the display screen of a television, computer or other device in the motor vehicle is visible to the driver.”

**Mrs. Linda Jeffrey:** This motion provides clarification regarding devices with display screens which can be used in a vehicle provided that the display screen isn't visible to the driver. It became clear during the public hearings and consultations with stakeholders, as well as in letters that were received by the ministry, that there was some confusion about the scope of the prohibition. This amendment, together with the list of exemptions, provides a clear and simpler statement of the law that will make it more understandable to the public and easier for us to enforce.

**The Chair (Mr. David Oraziotti):** Mr. O'Toole.

**Mr. John O'Toole:** I'm questioning this. It's a nice objective, a commendable objective. Enforcement is a major issue. Everyone has a GPS or some other kind of device, hopefully to navigate them around. This is going to get worse, not better, as the cars become multi-functional. I just want this to be on the record: I question whether this is the right way to handle it. I think it should be handled in regulation.

I put to the ministry because the technology—right now what's coming is what they call HUD, heads-up display. It's all going to be reflected on the screen on your windshield, just like a jet pilot. I think this should have been handled more efficiently and effectively in regulation, as opposed to being specific. You didn't draft the bill; I know there are lawyers here who probably did. It would be pretty tough to enforce, but if it's in regulation, you wouldn't have to go through all this baloney of coming to the Legislature to change it to come up with HUD.

Other kinds of hologram-type devices are coming. If you know anything about technology, spell “computer.” Well, five years from now the car will be self-driven, it will be a guided vehicle—

*Interjection.*

**Mr. John O'Toole:** It's the way they do it now. Jets fly from guided systems, from ground—anyway.

**Mr. Bill Mauro:** It's a nice attempt.

**Mr. John O'Toole:** I think I've made my point anyway.

**The Chair (Mr. David Oraziotti):** Further comment? Mr. Miller.

**Mr. Paul Miller:** I just have one concern. I know this has been amended to exempt global positioning navigational systems; that's fine. My only concern—and I want it to go on the record—is the fact that when you're driving the car and you're lost and you want to position yourself again, why wouldn't they have made the drivers pull over to the side and find out where they want to go, punching it up?

1720

It is very distracting when you're trying to drive a car and trying to find out where you want to go. The machine talks to you: "Turn right here; turn left there." That's good, and that's fine; it helps you get to where you want to go, and you don't get lost. I don't have a problem with that. But I really think that it will be distracting if you're trying to punch up where you're going. I personally was in a car with somebody and they were doing that, and they almost hit somebody because they were trying to play around with their navigation positional machine. I'm not quite sure that there has been a lot of thought put into that.

I just want it to go on the record that I do have some concerns about why they wouldn't allow the person to pull over if they want to do that and use that unit. You could pull over to the side, be safe, find out where you want to go and continue on. I don't understand why you're allowed to do it when you're driving. It doesn't make sense to me.

**Mr. John O'Toole:** David, put me on your list there.

**The Chair (Mr. David Oraziotti):** Further debate?

**Mr. John O'Toole:** Yes. I guess if I was to be—I've had the privilege of working around this stuff for maybe a few years. I would only say this: Almost all of it will become voice interoperative. It is now, technically, but it will allow them to sell another five generations of the BlackBerry with keypads. But there will be no keypad within two years. It's all going to be voice-activated, interoperative.

In fact, as my colleague from the NDP was saying, the voice distraction, quite honestly—listening and saying, "Gee, turn right in 700 metres" etc., will be the next distraction.

I don't think that they've given this an appropriate amount of attention or enforceability. If you're going to be looking at some screen, it's better to have specified what is required.

On the enforcement part, if they do stop you at night and they notice some screen there in front of you, it could be the passenger who's actually using it to navigate you.

There's a whole litany of court time just waiting to be wasted because of this. It's not being properly implemented. But anyway, we will listen to all of this attentively.

**The Chair (Mr. David Oraziotti):** Thank you. Ms. Jeffrey.

**Mrs. Linda Jeffrey:** I'm not really sure what we're arguing about, to be honest. I think it's pretty—

**Mr. John O'Toole:** I just don't think it's crafted properly.

**The Chair (Mr. David Oraziotti):** Mr. O'Toole, just—

**Mrs. Linda Jeffrey:** I think we've worked really hard to work with the industry—

**Mr. John O'Toole:** We have a lot of work to do.

**Mrs. Linda Jeffrey:** —and essentially we're trying to make sure you're not looking at a TV screen or a computer screen or any other device. There are some other devices people spoke about in the hearings that would cause you to be using that by hand while you were driving. We're trying to make sure that it's a hands-free operation, should it be a GPS system, and that that would be allowed.

But if you want to pull off the road to change the direction—you're getting the wrong directions; occasionally GPS will send you down the wrong road—you would be allowed to do that. There's nothing here that would prevent that from happening.

We listened to people from the commercial trucking industry. We tried to find a reasonable balance of safety, which was our primary motive, and craft legislation that reflected that.

**Mr. John O'Toole:** Okay.

**The Chair (Mr. David Oraziotti):** Mr. Miller?

**Mr. Paul Miller:** With all due respect, you still are touching it. It's a touch-screen; you are driving while you're touching it, and it is a screen in front of you.

No one's arguing; we're trying to get a point across that we still don't think you've gone far enough. We do not think it's safe enough.

Your comment about pulling over is good—I think that is good—if you want to find out where you're going, or, as the other member pointed out, maybe someone on the passenger side could handle it. But if you don't have a passenger—in a lot of cases, truck drivers are on their own at night, driving down those highways without passengers helping them.

I'm not quite sure this is a case of arguing. It's a case of common sense that we're trying to instill into the bill, which obviously does not reign supreme. So, whatever.

**The Chair (Mr. David Oraziotti):** Okay, so noted. Further comment?

**Mr. John O'Toole:** You're doing the best you can, Linda, and we appreciate it.

**Mrs. Linda Jeffrey:** Thank you.

**The Chair (Mr. David Oraziotti):** I think we've had ample debate and comment on this.

**Mr. John O'Toole:** Thank you for your indulgence, Chair, as well.

**The Chair (Mr. David Oraziotti):** Amendment 1R: All those in favour? Opposed? Carried.

Government motion 2R.

**Mr. Bill Mauro:** I move that subsection 78(2) of the Highway Traffic Act, as set out in section 1 of the bill, be struck out and the following substituted:

"Exceptions

"(2) Subsection (1) does not apply in respect of the display screen of,

“(a) a global positioning system navigation device while being used to provide navigation information;

“(b) a hand-held wireless communication device or a device that is prescribed for the purpose of subsection 78.1(1);

“(c) a logistical transportation tracking system device used for commercial purposes to track vehicle location, driver status or the delivery of packages or other goods;

“(d) a collision avoidance system device that has no other function than to deliver a collision avoidance system; or

“(e) an instrument, gauge or system that is used to provide information to the driver regarding the status of various systems of the motor vehicle.”

**Mrs. Linda Jeffrey:** This motion responds to the concerns which were raised during the public hearings. These concerns were also raised in consultations with stakeholders and letters to the ministry: that GPS devices capable of performing other functions should not be excluded on that basis. Additionally, many cellphones have GPS capabilities, but no exemption for the display screen of a cellphone was provided in this legislation.

In response to these comments, this amendment would permit the use of GPS devices that have other functions. Only the first two subsections in this motion are new, and they are an expansion of the first exemption in the first subsection of Bill 118. The remaining three exemptions in this motion already existed in Bill 118.

**The Chair (Mr. David Oraziotti):** Further comment? Mr. Miller?

**Mr. Paul Miller:** Once again, I will be opposed to clause 2(a). I don't agree that that's been thought out well. The rest—(b), (c), (d), and (e)—I can live with. So in that section, I want that recorded: that I'm opposed to clause 2(a).

**Mr. John O'Toole:** I don't have a problem with this. I think it's appropriate that this should be the minister's privilege here, but again, it should probably have been handled in regulation as opposed to specifying in the statute itself, because it's going to change. Every three months, there'll be a new generation of gadget to come out to make life easier and more expensive, too, because now there'll be an 8% PST on it.

**The Chair (Mr. David Oraziotti):** Mr. Miller?

**Mr. Paul Miller:** Yes, one further comment. I agree with the member—

**Mr. John O'Toole:** Yes, it should have been handled in regulation.

**Mr. Paul Miller:** —that if they do come out with the technology and they come out with a device that can be voice-activated, then obviously I wouldn't oppose it. But at this point it's still touch. We still have to touch it to deal with it, so you're distracted from driving. So I can't agree with that.

**The Chair (Mr. David Oraziotti):** Further comment? Seeing none, motion 2R is on the floor, the government motion to amend section 1. All those in favour of the motion?

**Mr. Paul Miller:** Recorded vote.

**The Chair (Mr. David Oraziotti):** A recorded vote has been called for by Mr. Miller. All those in favour?

**Mr. Paul Miller:** And I'm just stating that I'm opposed to 2(a) only.

**Ayes**

Jeffrey, Kular, Mauro, Mitchell.

**Nays**

Paul Miller.

**The Chair (Mr. David Oraziotti):** Shall section 1, as amended, carry? All those in favour? Carried. Section 2.

**Mrs. Linda Jeffrey:** Chair, could I withdraw some motions before we get started?

**The Chair (Mr. David Oraziotti):** Go ahead.

**Mrs. Linda Jeffrey:** Can I withdraw 7, 7R and 8?

**The Chair (Mr. David Oraziotti):** Okay, thank you. Government motion 6?

**Mr. Bill Mauro:** I move that subsection 78.1(3) of the Highway Traffic Act, as set out in section 2 of the bill, be struck out and the following substituted:

“Hands-free mode allowed

“(3) Despite subsections (1) and (2), a person may drive a motor vehicle on a highway while using a device described in those subsections in hands-free mode.”

**Mrs. Linda Jeffrey:** This motion makes a minor change to the wording of the bill to allow the definition of hands-free use to be clarified in a supporting regulation. Subsections (2) and (3) in Bill 118 seem to imply that the offence of holding or using a hand-held device includes just touching a button on such a device to activate hands-free mode. With this motion, the supporting regulation can spell out that drivers will be permitted to press a button to activate or turn off a hands-free device that would otherwise be activated without being held or touched. While many hands-free devices on the market are entirely voice-activated, there are some that require a button to be pressed to either activate or turn off the device.

**The Chair (Mr. David Oraziotti):** Further comment?

**Mr. Paul Miller:** In reference to this, it's kind of counterproductive to the last one you passed because some of these are still—you have to punch the address in, you have to punch where you're going and then you have to punch other items into the machine. To me, that's not hands-free. Now you're saying the opposite here. So once again: If it's voice-activated, no problem, but obviously it's not. So why would you not wait until the voice-activated ones are on the market before you would put this in? You're probably going to amend this again once the proper technology is brought out. So this is basically putting the cart before the horse. I don't understand; it's contradictory to your last motions that you passed. I don't know what's going on. I disagree with that.

1730

**Mr. John O'Toole:** If you look at 78.1, it specifically talks about devices that are transmitting telephone communication, electronic data and other text messaging, so I think the implication is the cellphone. Most of the newer generations—I've often mentioned that all of the manufacturers—Ford has a system. It's a kind of a Microsoft-based system. General Motors has one. It's not Microsoft; it's called OnStar, a commercial product. They're all going to have that kind of device, which is interoperative and hands-free. It can be turned on or off. It's very helpful and it will be helpful to people. I think that's what they're referring to here, technically. To accommodate the technology changes in the future, that's what's going to happen, and I think it's very exciting, so I'll be supporting it.

**The Chair (Mr. David Oraziotti):** Further debate? Seeing none, government amendment number 6: all those in favour? All those opposed? It's carried.

Seven and 7R are withdrawn. Conservative motion 7.1: Mr. O'Toole.

**Mr. John O'Toole:** Seven point one, that's amending section 2. Okay. I move that subsection 78.1(4) of the Highway Traffic Act, as set out in section 2 of the bill, be amended by adding the following clauses:

“(a.1) the driver of a motor vehicle being used for the purpose of a business that relies on a dispatch service, including a driver of a commercial motor vehicle and a driver of a motor vehicle being used for a courier or messenger service;

“(a.2) a municipal law enforcement officer;

“(a.3) the driver of a public transportation vehicle;”

**The Chair (Mr. David Oraziotti):** Further comment?

**Mrs. Linda Jeffrey:** We won't be supporting this motion at this time. The ministry recognizes that there is a wide range of businesses and organizations that rely on the use of hand-held equipment. Not supporting this motion does not mean that the concerns of the drivers listed in this motion won't be considered. They are under review, and if the bill passes, their concerns will be given serious review as the supporting regulation is drafted. Similar motions relating to emergency vehicles driven by enforcement officers in government ministries have been withdrawn. These exemptions will still be considered as we develop the supporting regulation. The ministry proposes to consult with stakeholders and with the public through their regulatory registry and will consider requests through that process.

**Mr. John O'Toole:** I'm hoping that the people who made delegations here—I did meet with some of them—are being accommodated in the exemption section. We talk about some of these things being dispatching, logistical services, all the things like that. They're being accommodated in the exemption section too.

**Mrs. Linda Jeffrey:** Mr. O'Toole, I believe the people who came forward—some of them thought they were not allowed to use their communication device, whereas, if it was fixed on the dash and they had a hand-held mike system, they were allowed. At this point, we're

still considering some of the exemptions as a result of some of the delegations we saw and heard during the three days. They made some pretty compelling arguments, so we're going to be considering them.

**Mr. John O'Toole:** I guess this is where, again, I go back and I had—I have not had a direct hand in this because of other obligations as the municipal critic; there's stuff there that I do too. But all this should have been handled in regulation. It really is not properly addressed. I don't accuse lawyers of not—but it really should have been because they'll be approaching you and trying to make their arguments, and you have to come back—you can't do it; the police won't know how to enforce it; is it an exemption or not? It should have been stated in regulation. The minister can review it and add it or delete it as they see fit, these exemptions and these devices, because there will be more of them. As we speak, they're probably being invented, so again, I'd ask for your support on a recorded vote.

**The Chair (Mr. David Oraziotti):** Mr. Miller.

**Mr. Paul Miller:** The only thing I can say is, you say that you're considering the future. If some of the delegations made presentations that you're considering and made viable conclusions to their argument, then why are you going ahead with the bill without implementing them? Once again, you're putting the cart before the horse. If you're going to do the bill, do it right the first time. I don't understand why you would do that.

**The Chair (Mr. David Oraziotti):** No further comment?

**Mr. John O'Toole:** If I may, Mr. Miller makes a good point. I guess it's like in a hockey game, if you take a score of 2-1 or a goal in overtime. You're just stacking up the bills here. Anyway, very good. You win by 10 to 1.

**The Chair (Mr. David Oraziotti):** Thank you, Mr. O'Toole. You've called for a recorded vote on opposition motion 7.1.

#### Ayes

Paul Miller, O'Toole.

#### Nays

Brownell, Jeffrey, Kular, Mauro, Mitchell.

**The Chair (Mr. David Oraziotti):** The motion is lost. Mr. O'Toole, motion 7.2.

**Mr. John O'Toole:** I move that section 78.1 of the Highway Traffic Act, as set out in section 2 of the bill, be amended by adding the following subsection:

“Demerit points

“(6.1) Every person who contravenes subsection (1) or (2) shall accumulate demerit points in accordance with the regulations made under section 56.”

This section here—I did talk directly to this—is a really important section. You should listen. I hope there may be a chance for some of these members to redeem themselves, and by that I mean, do the right thing here.

On enforcement—the same with seat belts. When that came in, everybody was against it. How you implement this is very important. I think there should be a hierarchy of offences and demerits or whatever. On first offence, you would certainly have to take a course on driver distraction; second offence, you'd get some kind of little bag with some stuff in it—some reading; and third offence, you'd get whacked with a fine. I don't want to implement this thing with a huge whack of a fine right off the bat.

In other jurisdictions, that's how they've done it. In Newfoundland, which is enforced now—it's been challenged in the courts on enforceability, and that's what we're trying to do here: set up a regulatory framework where the minister can use some creative ideas to educate drivers in this technological world.

**The Chair (Mr. David Oraziotti):** Further comment?

**Mr. Paul Miller:** Obviously I wasn't on this committee and I didn't see the presentations, but I'm just trying to get some more information from Mr. O'Toole. So you're saying that there should be demerit points for people that are looking at these screens and get caught by the police? What are you saying?

**Mr. John O'Toole:** Well, when there's a fine prescribed in the legislation to be implemented, that there be some discretion.

**Mr. Paul Miller:** And how do you intend to have it enforced?

**Mr. John O'Toole:** That's a pretty tough question. Why don't you ask the parliamentary assistant?

**The Chair (Mr. David Oraziotti):** Ms. Jeffrey is waiting to comment on that, so perhaps Ms. Jeffrey would like to comment.

**Mrs. Linda Jeffrey:** The ministry understands that the application of demerit points to an offence underscores the importance of a law. The minister has indicated he will consider assigning demerit points to this offence when the regulation is developed. The legislative authority already exists to make such a change through regulation, so there's no need to include a further amendment of this type. So we won't be supporting this motion.

Whether or not to assess demerit points on conviction for certain offences is determined after a consideration of many different factors, including the additional burdens on court and police resources, resulting from more drivers contesting tickets. There are consequences of a conviction for this offence in the form of a fine ranging from \$50 to \$500.

Should the police believe a situation is particularly serious and warrants the addition of demerit points upon conviction, they can lay the charge for careless driving under the highway act, instead of a charge for this offence. A conviction for careless driving would result in a much higher fine, up to six months in jail, up to a two-year driver's licence suspension and, if the court decides not to impose a licence suspension, the accumulation of six demerit points.

**The Chair (Mr. David Oraziotti):** Thank you, Ms. Jeffrey—

**Mr. John O'Toole:** I guess that's the point, too. I think that it should be implemented a little less rigorously. The only tool today, as you've described careless driving—six demerit points, and your insurance goes up and you go bankrupt. But you're the government.

**The Chair (Mr. David Oraziotti):** Mr. Miller.

**Mr. Paul Miller:** Once again, I don't think it was well thought out. If you're going to have regulations and you're going to have a bill passed and you don't know how you're going to implement the demerit points or if there are going to be any demerit points—you haven't decided. So you're going ahead, putting forth legislation without any penalties that are enforceable, other than the one that already exists in the legislation. To me, once again, we're putting the cart before the horse. I don't understand why you're going ahead with these bills. This happens all the time. It's beyond me. It's not well thought out.

1740

**The Chair (Mr. David Oraziotti):** Further comment? Seeing none, all those in favour of the opposition motion? All those opposed? The motion is lost.

Government motion 8 has been withdrawn from section 2. Shall section 2, as amended, carry? All those in favour? Opposed? Carried.

Section 3: Any debate on section 3?

**Mr. John O'Toole:** I want to put this on the record. I'm being denied the right to democracy here, technically. On section 3 of the bill, the Progressive Conservatives recommend voting against the entire section.

**The Chair (Mr. David Oraziotti):** Okay. You're voting against section 3. It's not an amendment and your comments are noted.

Section 3: Any further comments?

**Mr. John O'Toole:** No comment.

**The Chair (Mr. David Oraziotti):** Section 3: Shall it pass as presented? All in favour? Opposed? Carried.

Section 4, government amendment 9. Mr. Mauro.

**Mr. Bill Mauro:** I move that section 4 of the bill be struck out and the following substituted:

“Commencement

“4(1) Subject to subsection (2), this act comes into force on the day it receives royal assent.

“Same

“(2) Sections 1 and 2 come into force on a day to be named by proclamation of the Lieutenant Governor.”

**The Chair (Mr. David Oraziotti):** Mrs. Jeffrey.

**Mrs. Linda Jeffrey:** This amendment brings the Public Vehicles Act amendments with respect to carpool vehicles into effect upon royal assent. It allows carpooling changes to come into effect quickly, if the legislation passes, and addresses the needs of carpooling commuters.

**The Chair (Mr. David Oraziotti):** Comments? Mr. O'Toole.

**Mr. John O'Toole:** Yes, I would ask—I know this isn't the appropriate section, section 5, but in the context of this motion—

**The Chair (Mr. David Oraziotti):** We're going to get to section 5, but if you want to—

**Mr. John O'Toole:** Yes, okay. That's good. That's fine. I support this.

**The Chair (Mr. David Oraziotti):** All in favour of government motion 9? Carried.

Shall section 4, as amended, carry? All those in favour? Carried.

Section 5: There are no amendments, but Mr. O'Toole, go ahead.

**Mr. John O'Toole:** Yes. This being a Wednesday afternoon, I guess, and the short title of the act being the Countering Distracted Driving and Promoting Green Transportation Act, I would like to make a motion here that it be named that, as well as the John O'Toole act. I mean this in a tongue-in-cheek sort of way. Now, it's just a friendly amendment. It can be called "green transportation" and all the rest of this fancy stuff—

**Mr. Paul Miller:** Have you got photographers outside waiting for you?

**Mr. John O'Toole:** No, actually. But can we have some sort of celebration about—the fact is, this is a bill that I support in general, the principle of dealing with technology in the driver's space, and I have a lot of people to thank, as you did, Ms. Jeffrey, in the previous bill, Bill 126. I could thank the police services and the police associations, the Ontario Safety League, the CAA, the OTA—a whole bunch of people who over the years first gave me the idea. Secondly, I drafted legislation that even the government that I was a member of didn't see fit to pass. Yet one of the lobbyists who came to me looking for an exemption, which you've recognized, was the Minister of Transportation lobbying to implement it. When he was in government, he wouldn't deal with the technology issue, and now he's working in the industry and asking for exemptions.

I think you're doing the right thing. In that respect, I also would like all of us to try to make a contribution to civilized society, and that would include most Liberals.

**The Chair (Mr. David Oraziotti):** Thank you for your comments, Mr. O'Toole. If you're seriously moving the amendment, it's out of order, but we appreciate your comments.

**Mr. John O'Toole:** I've been ruled out of order by the Chair one more time. It's tragic.

**The Chair (Mr. David Oraziotti):** Shall section 5 carry, as presented?

**Mr. John O'Toole:** Recorded vote.

#### Ayes

Brownell, Jeffrey, Kular, Mauro, Paul Miller, Mitchell.

#### Nays

O'Toole.

**The Chair (Mr. David Oraziotti):** Section 5 is carried.

Shall the title of the bill carry? All those in favour? Carried.

Shall Bill 118, as amended, carry? All those in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House? All those in favour? Carried. Thank you.

Mrs. Jeffrey?

**Mrs. Linda Jeffrey:** I would like to formally thank Mr. O'Toole for the work that he did in the past on his private member's bills to address the issue of driver distraction. His persistence helped in designing Bill 118. On our side of the House, we'd like to acknowledge the work of Kevin Flynn, who introduced a bill on a wireless device ban for novice drivers. We appreciate their work.

We'd like to thank our stakeholders and all of our presenters for bringing forward suggestions that made this a better bill. Thank you very much.

**The Chair (Mr. David Oraziotti):** Thank you, Mrs. Jeffrey. Mr. Miller?

**Mr. Paul Miller:** I'm just a little disappointed that Mrs. Jeffrey didn't thank the NDP for their input and the great ideas that they constantly come to the committees with which somehow get overlooked on a regular basis. It's unfortunate.

**The Chair (Mr. David Oraziotti):** Thank you, Mr. Miller.

On that note, I want to thank all members of the committee for their participation today in recommending Bill 118 and Bill 126 to the House. The committee stands adjourned. Thank you.

*The committee adjourned at 1747.*







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