

State of Rhode Island and Providence Plantations

JOURNAL

-OF THE-

HOUSE OF REPRESENTATIVES

JANUARY SESSION of the General Assembly begun and held at the State House in the City of Providence on Tuesday, the seventh day of January in the year of Our Lord two thousand and three.

Volume 130, No.60

Thursday, June 12, 2003

Sixtieth Day

The House of Representatives meets at the State House in Providence, Thursday, June 12, 2003, and is called to order at 4:28 o'clock P.M., by the Honorable William J. Murphy, Speaker.

The roll is called and a quorum is declared present with 72 members present and 2 members absent as follows:

PRESENT - 72: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Flaherty, Fox, Gallison, Giannini, Ginaitt, Gorham, Handy, Harwood, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik, McCauley, McHugh, McManus, McNamara, Menard, Montanaro, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Savage, Schadone, Scott, Shanley, Shavers, Sherlock, Slater, Smith, Story, Tejada, Trillo, Voccola, Wasyluk, Watson, Williams, Williamson, Winfield.

ABSENT - 2: Representatives Faria, Moffitt.

INVOCATION

The Honorable Speaker presents Minority Leader Watson, who delivers the Invocation and leads the membership in the Pledge of Allegiance to the Flag.

(For Invocation, see Appendix, this Journal.)

APPROVAL OF RECORD

By unanimous consent, the House Journal of Wednesday, June 11, 2003, is approved as printed.

ANNOUNCEMENT

Representative Moffitt requests that today's Journal reflect that he was absent due to business out of state.

GUESTS

Representative Smith announces that Rhode Island Athletic Director Association voted Classical High School School of the Year.

Representative Smith welcomes to the House Chambers as guests Classical Indoor Track Rhode Island Interscholastic League Class C State Champions as follows: Head Coach Bob Palazzo, Assistant Coaches Mike Green and Bob Albanese, Jitsprey Moth, Jon Okolowicz, Joseph Pucci, James Wise, Jonathan Estey, Rommel Medina, Jeremy Estey, Terrance Gallogly and Christopher Gubata.

Also:

Representative Smith welcomes to the House Chambers as guests Classical Football, Rhode Island Interscholastic League State Division IV Superbowl Champions 2002 as follows: Head Coach Ed Wnuk, Assistant Coaches Bob Albanese, Bob Palazzo and Mike Green, and players Gary Autiello, Derek Badio who also a member of the Championship Indoor Track Team, Matthew Curran, Olaseni Fujah who also a member of the Championship Indoor Track Team, Stephen Gomes, Wanner Gomez, Nick Goulet, Dan Greenberg, Eugene Mammie, Raymond Palazzo who also a member of the Championship Indoor Track Team, Aaron Santos, Abra Seng who also a member of the Championship Indoor Track Team, Manny Taveras who also a member of the Championship Indoor Track Team, Jerrelle Upchurch who also a member of the Championship Indoor Track Team, Michael Varela, Matt Zompa who also a member of the Championship Indoor Track Team, Bomidele Faboyede who also a member of the Championship Indoor Track Team, Akintola Fayanjaola, Harold Felder who also a member of the Championship Indoor Track Team, Tohib Giwa who also a member of the Championship Indoor Track Team, Michael Grigorian, Lesly Jean-phillip who also a member of the Championship Indoor Track Team, Leonard Jesme who also a member of the Championship Indoor Track Team, Jonathan Mateo, David Miller, Charles Morris, John Napolitano who also a member of the Championship Indoor Track Team, Luis Ortega who also a member of the Championship Indoor Track Team, Neil Parrott who also a member of the Championship Indoor Track Team, Andres Valencia who also a member of the Championship Indoor Track Team, John Verardo, Benjamin Zeon who also a member of the Championship Indoor Track Team, Marcus Appiah who also a member of the Championship Indoor Track Team, Michael Appiah, Peter Brown who also a member of the Championship Indoor Track Team, Francisco Gonzalez who also a member of the Championship Indoor Track Team, Cedrick Hardy, Casby Harrison who also a member of the Championship Indoor Track Team, Rahja Laster, Manlee Mansu who also a member of the Championship Indoor Track Team, Brian Morris who also a member of the Championship Indoor Track Team, Adelwale Odetunde who also a member of the Championship Indoor Track Team, Jeremy Ogunba, Adrian Price, Timothy Robillard, Miguel Roman who also a member of the Championship Indoor Track Team, Brendan Simonelli, Vu Su who also a member of the Championship Indoor Track Team, Wellington Urena who also a member of the Championship Indoor Track Team, and Tou Yang who also a member of the Championship Indoor Track Team.

Also:

Representative Smith welcomes to the House Chambers as guests Classical Girls Basketball Rhode Island Interscholastic League Central Division Champions as follows: Head Coach Tom Connor, Assistant Ken Wnuk, Captain Joanna Skiba, Captain Tameka Brown, Captain Dena Washington, Deana Washington, Michelle Dumont, Nina Harrison, Catherine McCray, Nadia Kashouh, Krystle Cook, Tara Toussaint, Ariana Morookian and Bryana Williams.

Also:

Representative Smith welcomes to the House Chambers as guests Classical Field Hockey Division II Rhode Island Interscholastic League State Champions as follows: Rachel Bedick, Jamie Burr, Kellyn Gemma, Lauren Holloman, Lynn Hu, Maryssa LaFond, Jina Landi, Arianna Mouradjian, Alina Neganova, Limor Nevel, Co-Captain Danielle O'Neill, Co-Captain Allison Pirolli, Co-Captain Vicki Sok, Danielle Tellier, Co-Captain Ariel Thompson, Anne Sophie von Heyden, Leah Weissberg, Head Coach Jeff Whitford, Assistant Coach Debbie Bustin, Volunteer Assistants Karen Hickey and Colleen Driscole, Event Supervisor Donald Kanarian, along with Cheryl Gomes, Principal.

ANNOUNCEMENT

Representative Corvese congratulates Jimmy Black, a House page, on graduating from Saint Augustine School. Representative Corvese announces Jim will be attending Bishop Hendricken in the fall.

COMMUNICATION FROM THE SENATE

A message from the Honorable Senate transmits with announcement of passage, of the following measures:

(03-S 599 as amended) An Act relating to businesses and professions - telecommunications.

Read and referred to the Committee on Corporations.

(03-S 831) (Substitute "A" as amended) An Act relating to insurance - nonprofit hospital corporations.

Read and referred to the Committee on Corporations.

(03-S 1086) An Act relating to alcoholic beverages - retail licenses.

Read and referred to the Committee on Corporations.

(03-S 1023 as amended) An Act relating to Family Court.

Read and referred to the Committee on Judiciary.

(03-S 205) (Substitute "A") Joint Resolution creating a special legislative commission to study the feasibility of establishing the office of Inspector General.

Read and referred to the Committee on Finance.

(03-S 827) (Substitute "A" as amended) An Act relating to businesses and professions - nurses.

Read and referred to the Committee on Health, Education and Welfare.

(03-S 567) (Substitute "A" as amended) An Act relating to health and safety - Rhode Island Workers' Safety Act of 2003.

Read and referred to the Committee on Labor.

(03-S 1133) An Act to vacate the forfeiture or revocation of the charter of the Fitness Connection, Inc.

Read and ordered to be placed on the Consent Calendar.

(03-S 1136) An Act to vacate the forfeiture or revocation of the charter of Caribe Tropical Foods, Inc.

Read and ordered to be placed on the Consent Calendar.

(03-S 1137) An Act to vacate the forfeiture or revocation of the charter of J.C. Jewelry, Inc.

Read and ordered to be placed on the Consent Calendar.

(03-S 1138) An Act to vacate the forfeiture or revocation of the charter of Silva Environmental & Associates, Inc.

Read and ordered to be placed on the Consent Calendar.

(03-S 1140 as amended) Joint Resolution to approve and publish and submit to the electors a proposition of amendment to the Constitution of the State (separation of powers).

Read and ordered to be held on the Desk.

(03-H 5081 as amended) Joint Resolution to approve and publish and submit to the electors a proposition of amendment to the Constitution of the State (separation of powers).

Read and ordered to be held on the Desk.

(03-S 1142) An Act to vacate the forfeiture or revocation of the charter of Foster Senior Housing, Inc.

Read and ordered to be placed on the Consent Calendar.

(03-S 1143) An Act to vacate the forfeiture or revocation of the charter of Riteway Properties, Inc.

Read and ordered to be placed on the Consent Calendar.

(03-S 580 as amended) An Act relating to ground water protection.

Read and referred to the Committee on Environmental and Natural Resources.

(03-S 610) An Act relating to towns and cities - relief of firefighters and police officers.

Read and referred to the Committee on Judiciary.

(03-S 691) (Substitute "A") An Act relating to Children, Youth and Families Department - confidentiality of records.

Read and referred to the Committee on Judiciary.

(03-S 724) (Substitute "A" as amended) An Act relating to public officers and employees - code of ethics.

Read and referred to the Committee on Judiciary.

(03-S 1106) An Act relating to domestic relations - divorce and separation.

Read and referred to the Committee on Judiciary.

(03-H 5911 as amended) An Act relating to businesses and professions - telephone sales.

Read and referred to the Committee on Corporations.

REPORTS OF COMMITTEE

COMMITTEE ON CORPORATIONS

Representative Kennedy, for the Committee on Corporations, reports back the following measures, with recommendation of passage:

(03-H 6474) An Act relating to taxation.

Received and ordered to be placed on the Calendar.

(03-H 6475) An Act relating to cities and towns - exempting from taxation the property of the Newport, Rhode Island Young Men's Christian Association.

Received and ordered to be placed on the Calendar.

(03-S 22 as amended) An Act relating to motor vehicle insurance - motor vehicle body replacement parts.

Received and ordered to be placed on the Calendar.

APPOINTMENTS

The Honorable Speaker Murphy appoints the following committee to escort the Honorable Paul Suttell to the House chambers, Representatives Callahan, Coderre, Crowley, Harwood, Long, Lally, Menard, Montanaro, Moura, Sherlock, Lowe, Wasylyk, Smith, Scott, Gorham, Schadone, Jacquard, McCauley, Lewiss and Enos.

NEW BUSINESS

Representatives Reilly, Moran and Menard introduce (03-H 6516) An Act relating to solemnization of marriages.

Representative Reilly requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on motion of Representative Reilly, seconded by Representatives Fox and Corvese, on a roll call vote, 63 members voting in the affirmative and 0 members voting in the negative as follows:

YEAS - 63: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Caprio, Carter, Cerra, Coderre, Corvese, Costantino, Dennigan, DeSimone, Enos, Fox, Gallison, Giannini, Ginaitt, Gorham, Handy, Jacquard, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik, McCauley, McHugh, McManus, McNamara, Menard, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Savage, Schadone, Scott, Shanley, Shavers, Sherlock, Slater, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Winfield.

NAYS - 0.

Representative Lowe introduces (03-H 6517) An Act relating to naming a building, bridge, edifice and other state construction.

Read and referred to the Committee on Corporations.

Representative Corvese introduces (03-H 6518) An Act relating to businesses and professions - telecommunications.

Read and referred to the Committee on Labor.

Representatives McNamara and Reilly introduce (03-H 6519) An Act relating to education - the Rhode Island Student Investment Initiative.

Read and referred to the Committee on Health, Education and Welfare.

Representatives Palumbo, Giannini, Cerra and Moura introduce (03-H 6520) An Act relating to criminal offenses - sexual offender registration and community notification.

Read and referred to the Committee on Judiciary.

Representative Fox introduces (03-H 6521) An Act relating to libraries - state aid to libraries.

Read and referred to the Committee on Finance.

Representative Fox introduces (03-H 6522) An Act relating to divorce and separation - child support.

Read and referred to the Committee on Judiciary.

Representatives Tejada, Fox, Slater, Williams and Caprio introduce (03-H 6523) House Resolution commemorating WRIB 1220 AM on the 30th Anniversary of the first Spanish radio program in Rhode Island.

Representative Tejada requests unanimous consent for immediate consideration.

There is no objection.

Read and passed, on motion of Representative Tejada, seconded by Representatives Williams, Caprio, Brien, Williamson, Voccola, Moran, Picard, Handy and Cerra, and by unanimous consent, on a voice vote.

Representative Kilmartin introduces (03-H 6524) An Act relating to miscellaneous rules.

Read and referred to the Committee on Judiciary.

Representatives Lally and Caprio introduce (03-H 6525) An Act relating to taxation - levy and assessment of local taxes.

Read and ordered to be placed on the Calendar.

Representatives Lally and Caprio introduce (03-H 6526) An Act relating to taxation - property subject to taxation.

Read and ordered to be placed on the Calendar.

Representatives Lally and Caprio introduce (03-H 6527) An Act relating to taxation - elderly real property exemption.

Read and ordered to be placed on the Calendar.

CALENDAR

Majority Leader Fox requests leave of the House with the agreement of the Majority and the Minority to take item #3 (03-H 5069) (Substitute "A") on today's Calendar and place it on the Calendar for Tuesday, June 17, 2003.

There is no objection.

From the Calendar are taken:

1. Nomination of Paul Suttell as Associate Justice of the Rhode Island Supreme Court.

Committee on Judiciary recommends that the House give its Advice and Consent to this nomination.

Representative Flaherty moves confirmation, seconded by Representatives Enos, McHugh, Petrarca, Carter, Sherlock, Fox, Lima, Giannini, Aubin, Gallison, Menard, Voccola, Wasylyk, Williamson, Brien, Moran, Winfield, Picard, Schadone, Crowley, Lewiss, Cerra, Shavers, Palumbo, San Bento, Kennedy, Ginaitt, Coderre, DeSimone, Reilly, Corvese, Malik, McNamara, Dennigan, Anguilla, Caprio, Watson, Scott, Trillo, Mumford, Gorham, Savage, Amaral, Story, Long, McManus, Laroche, Smith, Moura, Landroche, Montanaro and Lally.

Representatives Enos, Watson, Long, Benson and Fox discuss the nomination of Paul Suttell.

Minority Leader Watson welcomes to the House chambers Chief Judge Jeremiah, Judge Mactaz, Judge Capineri, Judge Bedrosian, Judge Forte, Magistrate DiSegna, Magistrate Newman, Magistrate Tassoni, former Representative Ron Pagliarini, and Buddy Croft.

The Advice and Consent of the House is given to the nomination of Paul Suttell as Associate Justice of the Rhode Island Supreme Court, on a roll call vote, 65 members voting in the affirmative and 5 members voting in the negative as follows:

YEAS - 65: The Honorable Speaker Murphy and Representatives Ajello, Amaral, Anguilla, Aubin, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Flaherty, Fox, Gallison, Giannini, Ginaitt, Gorham, Handy, Harwood, Jacquard, Kilmartin, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik, McCauley, McHugh, McManus, McNamara, Menard, Montanaro, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Savage, Schadone, Scott, Shanley, Sherlock, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williamson, Winfield.

NAYS - 5: Representatives Almeida, Benson, Coogan, Shavers, Williams.

At 4:52 o'clock P.M. the Honorable Speaker yields the rostrum to the Honorable Associate Justice nominee for Rhode Island Supreme Court Paul Suttell.

By unanimous consent, Judge Paul Suttell addresses the members of the House.

At 4:55 o'clock P.M. the Honorable Speaker returns to the rostrum.

GUEST

Honorable Speaker welcomes to the House as guest, former Representative, Judge Elaine Bucci.

CALENDAR

2. (03-H6141) (Substitute "A") An Act relating to health and safety - fire safety code.

Committee on Corporations recommends indefinite postponement of the original bill and passage of Substitute "A".

Representative Landroche moves passage of the act, seconded by Representatives Ginaitt, Menard, Gallison, Aubin, Brien, Moran, Lima, Shavers, Cerra, Shanley, Coogan, McNamara, Williamson, Long, Laroche, Ajello, Coderre, Anguilla, San Bento, Kennedy, Lowe, Reilly, Lewiss, Montanaro and Moura.

By unanimous consent, Representative Landroche, seconded by Representatives Menard, Ginaitt, Gallison, Brien, Aubin, Trillo, Moura, Shanley, Ajello, Montanaro, McNamara, Lowe, San Bento, Moran, Kennedy, Laroche and

Savage, offers the following written motion to amend:

FLOOR AMENDMENT

TO

(03-H 6141) (Substitute "A")

Mr. Speaker:

I hereby move to amend 2003 -- H 6141 SUBSTITUTE A, entitled "AN ACT RELATING TO HEALTH AND SAFETY -- FIRE SAFETY CODE", as follows:

By deleting all of the language following the enactment clause and inserting in place thereof the following:

“SECTION 1. Legislative dedication. -- The general assembly and the State of Rhode Island dedicate this act to all of the victims and the families of victims of “The Station” nightclub fire of February 20, 2003, in West Warwick, Rhode Island. This act is also dedicated to all of the public safety officials, fire, police, rescue, medical, emergency management, state, local, non-profit, religious, and private sector personnel and volunteers, who assisted the victims and their families and the survivors of the fire. It is the intent of the general assembly, that with the passage of this act, Rhode Island will never again be the place of such a tragedy.

SECTION 2. Title 23 of the General Laws entitled "Health and Safety" is hereby amended by adding thereto the following chapter:

CHAPTER 23-28.01

COMPREHENSIVE FIRE SAFETY ACT

23-28.01-1. Short title. – This act shall be known and may be cited as "The Comprehensive Fire Safety Act of 2003".

23-28.01-2. Legislative findings. -- The general assembly finds and declares that:

(a) Fires are a significant and preventable cause of the loss of life in the state;

(b) Catastrophic fires, while rare, have happened in the state with tragic loss of life;

(c) Fire safety and building codes can provide standards that substantially reduce the risk of death, injury, and property damage caused by fires;

(d) Compliance with codes is critical to their being an effective means for achieving the reduction of both risks and losses;

(e) Codes are more effective when they are comprehensive in their application, up-to-date, and integrated;

(f) Rhode Island has a long history of developing, adopting, and implementing codes as conditions in the state have changed and the means and practice of fire safety have evolved; and

(g) Rhode Island, in 2003, wishes in response to the tragic fire at “The Station” nightclub, in West Warwick, to improve fire safety throughout the state.

23-28.01-3. Legislative purpose and intent. – The purposes of this act are to make Rhode Island the safest state in the nation in terms of fire safety, to provide for the adoption and implementation of an up-to-date comprehensive system of codes for fire safety and to foster a culture of compliance with standards for fire safety, and to provide for amendments to title 23, chapters 23-28.1, 23-28.2, 23-28.3, 23-28.6, 23-28.11, and 23-28.25, which are made in the subsequent

sections of the public law establishing this chapter.

23-28.01-4. Powers and duties. -- The powers necessary to implement the provisions of this act shall be vested in the fire marshal, as provided for in chapter 23-28.2 as amended, who may delegate authority as provided by law, and in the Fire Safety Code Board of Appeal and Review, as provided for in chapter 23-28.3.

23-28.01-5. Planning and reporting. -- The system of fire safety codes, compliance, enforcement, and education, shall be regularly reviewed in order to maintain the use of best practices throughout Rhode Island and to plan for and implement professional, comprehensive, efficient and effective fire safety measures in the state.

(a) The fire marshal shall, in conjunction with the fire safety code board of appeal and review, the building code commission, the department of health, the economic development corporation, the department of elementary and secondary education, and representatives of local fire departments, prepare and approve by February 20, 2004, a comprehensive plan setting forth goals and implementation measures for improving fire safety in Rhode Island, which plan shall include recommendations regarding public, fire safety education. The plan may be periodically reviewed and amended and shall be updated at least once every five (5) years. The plan, and any amendments and updates, shall be submitted to the governor, the speaker of the house and the president of the senate. A copy of the plan shall be provided to the secretary of state, and the report shall be posted on the website of the fire marshal.

(b) The fire marshal shall submit a report on or before February 1, 2005, and annually not later than February 1 in each year thereafter, to the governor, the speaker of the house and the president of the senate on fire safety in Rhode Island, summarizing the incidence of fires in Rhode Island, describing the status of fire safety efforts in Rhode Island and progress toward meeting goals set forth in the five (5) year plan, and recommending actions for improving fire safety. A copy of the report shall be provided to the secretary of state, and the report shall be posted on the website of the fire marshal.

(c) In order to increase public information about fire risks in places of assembly, the fire marshal shall make public the repeat and/or uncorrected fire safety code violations of all places of assembly that are in special amusements buildings and provide this information on a website, effective February 20, 2004.

23-28.01-6. Coordinated administration of Fire Safety and Building codes. – (a) The fire marshal and the state building commissioner shall jointly advise by July 1, 2004, the joint committee on the rehabilitation building code for existing buildings and structures, established by chapter 23-29.1, with regard to any conflicts between fire safety codes and building codes and the enforcement thereof. The joint committee shall develop comprehensive recommendations by October 1, 2004, for resolving such conflicts, which recommendations shall be submitted to the Fire Safety Code Board of Appeal and Review and the State Building Code Standards Committee, as appropriate, for consideration and

for implementation by rule or agreement by July 1, 2005.

(b) The Fire Safety Code Board of Appeal and Review shall report by February 1, 2004, to the general assembly with regard to all provisions of the general and public laws that will be either superceded or made obsolete by the adoption of changes to the Fire Safety Code.

SECTION 3. Sections 23-28.1-1, 23-28.1-2, 23-28.1-5, 23-28.1-6 and 23-28.1-7 of the General Laws in Chapter 23-28.1 entitled "Fire Safety Code-General Provisions" are hereby amended to read as follows:

23-28.1-1. Short title. -- Chapters 28.1 -- 28.39 of this title, and all codes referenced therein and adopted thereunder, shall be known and may be cited as the "Fire Safety Code".

23-28.1-2. Purposes – Rules of construction – General application. – (a) Effective January 1, 2004, the Uniform Fire Code (NFPA 1) and the Life Safety Code (NFPA 101) of the National Fire Protection Association, Inc., 2003 editions, with appendices, except as updated, amended, altered or deleted and by the addition of certain provisions, as indicated in the rules and regulations adopted by the fire safety code board, is hereby adopted as the "Rhode Island Fire Safety Code". This code shall be liberally construed and applied to promote its underlying purposes and policies.

(b) The underlying purposes and policies of these chapters are:

(1) To simplify, clarify and modernize the law governing fires and fire prevention;

(2) To specify reasonable minimum requirements for fire safety in new and existing buildings and facilities, except in private dwellings occupied by one (1), two (2) or three (3) families, in the various cities or towns in this state; provided, however, this code shall provide reasonable standards for the installation of smoke and carbon monoxide detectors in private dwellings occupied by one (1), two (2), and three (3) families; provided, further, that after July 1, 2008, three (3) family dwellings shall be equipped with hard wired or supervised interconnected UL approved wireless smoke and carbon monoxide detectors, in accordance with standards established by the Fire Safety Code Board of Appeal and Review; and

(3) Except as provided in subdivision (5) of this subsection, to permit the cities and towns to enact ordinances and orders relating to fire safety provided those ordinances and orders impose requirements equal to, additional to, or more stringent than those contained in this code which ordinances and orders shall be effective only upon the approval by rule of the Fire Safety Code Board of Appeal and Review. Any ordinance or order relating to fire safety enacted by any city or town shall be prospective in its application and shall be enacted after public hearing. The city or town shall cause printed notices of the time, place, and subject matter of the hearing to be posted in three (3) public places in the city or town, for three (3) weeks next preceding the time of the hearing, and shall advertise in a newspaper circulated in the city or town, if any there be, at least once a week for the same period of time;

(4) Jurisdiction for the interpretation of any city or town ordinance or order relating to fire safety shall be ~~in the division of fire safety~~ vested in the Fire Safety Code Board of Appeal and Review; provided, however, that the responsibility for the enforcement of the ordinance or order shall be with the local authorities and petitions for variations from the ordinance or order shall be heard by the state fire safety board of appeal and review in the manner prescribed in chapter 28.3 of this title; and

(5) Notwithstanding anything to the contrary contained herein, no city or town may enact any ordinance or order relating to the requirement for the handling of explosives pursuant to chapter ~~28.28~~ 23-28.28 or for the installation of, or specifications for, the fire alarm sections of this code, the fire protection systems as prescribed by chapter ~~28.25~~ 23-28.25, or for the possession and display of commercial fireworks or pyrotechnics pursuant to chapter 23-28.11 of this title, which chapter shall exclusively govern the requirements for the installation of, and specification for, fire protection systems, ~~and the handling of explosives and possession and display of commercial fireworks or pyrotechnics.~~ All such ordinances or orders relating to the requirements for the installation of and specifications for such fire protection

systems, or the handling of explosives, or possession and display of commercial fireworks or pyrotechnics heretofore enacted by any city or town are of no force and effect.

(c) In this code, unless the context otherwise requires:

(1) Words in the singular number include the plural, and in the plural include the singular; and

(2) Words of the masculine gender include the feminine and the neuter and, when the sense so indicates words of the neuter gender may refer to any gender.

23-28.1-5. Definitions. -- Unless otherwise expressly stated, the following terms shall, for the purpose of this code title, have the meanings indicated in this section: provided, however, that the terms used in NFPA 1 (Uniform Fire Code), in NFPA 101 (Life Safety Code) and in such other national codes as are authorized for adoption by the Fire Safety Code Board of Appeal and Review shall be given the definitions established in those codes unless another meaning is provided for in this title and is essential to implementing the purposes of this title, and the Fire Safety Code Board of Appeal and Review shall have authority to resolve any conflicts among definitions in order to achieve the purposes of this title and/or provide for the efficient administration of codes:

(1) Air supported structure. - A structural and mechanical system which is constructed of high strength fabric or film and achieves its shape, stability, and support by pretensioning with internal air pressure; air structures may be used for temporary applications.

(2) Alteration. - As applied to a building or structure means a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

(3) Apartment house. - (i) The term "apartment house" shall mean a building containing four (4) or more family units or apartments arranged such that a common means of egress is shared by two (2) or more family units or apartments.

(ii) A family unit or apartment shall be that part of an apartment house that is arranged for the use of one or more persons living and cooking together or alone as a single housekeeping unit.

(4) Area of refuge. - The term "area of refuge" shall mean a ground area, reasonably accessible from a building, of sufficient size and in safe condition for refuge by all building occupants at a safe distance from the building. When used in relation to areas within buildings, this term shall mean an area beyond a fire wall or smoke barrier of sufficient size to offer refuge to all occupants on the same floor of the building.

(5) Attic. - The space between the ceiling beams of the top habitable story and the roof rafters.

(6) Attic (habitable). - A habitable attic is an attic which has a stairway as a means of access and egress and in which the ceiling area at a height of seven and one-third feet (7 1/3') above the attic floor is not more than one-third (1/3) the area of the floor next below.

(7) Authority having jurisdiction. - Unless specifically defined to the contrary in the various occupancy chapters, the authority having jurisdiction shall be the state fire marshal, the deputy fire marshal, and assistant deputies.

(8) Automatic. - As applied to fire protection devices, is a device or system providing an emergency function without the necessity of a human intervention and activated as a result of a predetermined temperature rise, rate of rise of temperature, or increase in the level of combustion products, such as incorporated in an automatic sprinkler system, automatic fire door, etc.

(9) Automatic detecting device. - A device which automatically detects heat, smoke, or other products of combustion.

(10) Automatic fire alarm system. - A manual fire alarm system containing automatic detecting device(s) which actuates a fire alarm signal.

(11) Automatic fire door. - A fire door or other opening protective constructed and arranged so that, if open, it shall close when subjected to:

- (i) A predetermined temperature,
- (ii) A predetermined rate of temperature rise, or
- (iii) Smoke or other products of combustion.

(12) Automatic sprinkler. - A device, connected to a water supply system, that opens automatically at a predetermined fixed temperature and disperses a spray of water.

(13) Automatic sprinkler system. - A sprinkler system, for fire protection purposes, is an integrated system of underground and/or overhead piping designed in accordance with fire protection engineering standards. The system includes a suitable water supply. The portion of the system above ground is a network of specially or hydraulically designed piping installed in a building, structure, or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern. The system is usually activated by heat from a fire and discharges water over the fire area.

(14) Automatic water supply. - Water supplied through a gravity or pressure tank or automatically operated fire pumps, or from a direct connection to an approved municipal water main.

(15) Basement. - The term "basement" shall mean that portion of a building, the floor of which is at least two feet (2') below the lowest adjacent ground level or sidewalk at any point, and is below ground level for more than fifty percent (50%) of its area to a depth greater than fifty percent (50%) of its clear story height (floor to ceiling). (See "Story," "Cellar.")

(16) Boarding homes. - The term "boarding home" shall mean a building used in whole or in part as a place for the boarding and care of five (5) or more persons, excluding a family group of a dwelling or home, and homes for the aged, but shall not include such places as are defined under the term "hospital," "convalescent home," "nursing home," "foster home," "rest home."

(17) Building. - Any structure used or intended for supporting or sheltering any use or occupancy.

(18) Building (Existing). - Any structure erected prior to the adoption of the appropriate code, or one for which a legal building permit has been issued.

(19) Business building. - The term "business building" shall mean a building used for or planned for use in transacting business that does not involve the storage of stocks or goods, wares, or merchandise in large quantities, except such as are incidental to display purposes; included, among others shall be office buildings, civil administration activities, professional services, testing, and research laboratories, radio stations, telephone exchanges, gasoline stations having a storage capacity under twenty thousand (20,000) gallons, and similar establishments.

(20) Cellar. - That portion of a building the ceiling of which is completely below ground level at all exterior walls. (See "Story," "Basement.")

(21) Child day care center. - The term "child day care center" shall mean a room or group of rooms or spaces within a building used as a place for the care, guidance and/or supervision of a total of five (5) or more children not of common parentage, which term shall include all such places known as day nurseries, nursery schools, kindergarten schools, play schools, and preschools.

(22) Chimney. - A primarily vertical enclosure containing one or more passageways.

(23) Chimney connector. - A pipe which connects a fuel burning appliance to a chimney.

(24) Classroom. - The term "classroom" shall mean a room used by a group of students to receive instructions or pursue studies.

(25) Code. - The term "code" shall mean this Fire Safety Code established under the provisions of section 23-28.1-1.

(26) Combustible. - The term "combustible" shall mean that which is not within the category of "noncombustible," as defined in this section of the code.

(27) Convalescent home. - See intermediate care facility.

(28) Covered mall. - A covered or roofed interior area used as a pedestrian public way and connecting buildings and/or a group of buildings housing individual or multiple tenants.

(29) Dumbwaiters. - A "dumbwaiter" is a lifting and lowering mechanism with a floor area not exceeding nine (9) square feet, with a car top not more than four feet (4') above the car floor, the capacity not to exceed five hundred pounds (500 lbs.), which is used exclusively for carrying freight. No persons are permitted to ride on, in, or to step into the car.

(30) Elevator. - An elevator is a hoisting and lowering mechanism equipped with a car platform which moves in guides in a substantially vertical direction which services two (2) or more floors of a building or structure.

(31) Exit. - The term "exit" shall have the same meaning as "means of egress," as defined in this section.

(32) Factory-built chimneys. - A chimney that is factory made, listed by a nationally recognized testing or inspection agency, for venting gas appliances, gas incinerators, and solid or liquid fuel burning appliances.

(33) Family day care home. - The term "family day care home" means any home other than the child's home in which child day care in lieu of parental care and/or supervision is offered at the same time to at least four (4) but not more than eight (8) children who are not relatives of the care giver, and which is licensed by the state department of children, youth, and families and subject to the department's regulations.

(34) Fire door. - The term "fire door" shall mean a door and its assembly with jamb, so constructed and assembled in place as to have a certified fire-resistant rating of at least the herein prescribed duration.

(35) Fire retardant treated wood. - (i) The term "fire retardant treated wood" shall mean wood so treated by a pressure impregnation process as to reduce its combustibility. When permitted as a structural element, fire retardant treated wood shall be tested in accordance with Standards of N.F.P.A. 255, A.S.T.M.E.-84 and U.L. 723, and shall show a flamespread rating of no greater than twenty-five (25) when exposed for a period of not less than thirty (30) minutes with no evidence of significant progressive combustion. The material shall bear the identification of an accredited authoritative testing agency showing the performance thereof.

(ii) When used as an interior finish, material fire retardant treated wood shall meet the required flame spread ratings when tested in accordance with the test scale described in the definition of flamespread.

(iii) Such material shall not be used on the exterior of buildings where it will be exposed directly to the weather.

(36) Fire wall. - The term "fire wall" shall mean a wall of brick, reinforced concrete, hollow masonry units or other approved noncombustible materials, which subdivides a building or separates a building to restrict the spread of fire; and shall have sufficient structural stability under fire conditions to allow collapse of construction on either side without collapse of the wall; and shall be continuous from foundation to two feet eight inches (2'8") above the roof surface, except the wall is permitted to terminate at the underside of the roof deck where the roof is of noncombustible construction and is properly firestopped at the wall or the roof sheathing or deck is constructed of approved noncombustible materials or approved fire-retardant treated wood and the wall is properly firestopped at the deck for a distance of four feet (4') on both sides of the wall and the roof covering has a minimum of a class C rating.

(37) Flame resistance. - The property of materials or combinations of component materials which restricts the spread of flame as determined by the flame resistance tests specified in this code.

(38) Flamespread. - The propagation of flame over a surface.

(39) Flamespread rating. - The measurement of flamespread on the surface of materials or their assemblies as determined by tests conducted in compliance with recognized standards.

(40) Flamespread rating. - The term "flamespread rating" shall mean the classification of materials in accordance with the method of testing the surface burning characteristics of building materials as described in N.F.P.A. pamphlet 255, A.S.T.M.E.-84, and U.L. 723, in which asbestos cement board rates zero (0) on the scale, and red oak lumber, one hundred (100).

(41) Flammable. - Subject to easy ignition and rapid flaming combustion.

(42) Floor furnace. - A self-contained, connected or vented furnace designed to be suspended from the floor of the space being heated taking air for combustion outside this heated space and with means for observing the flame and lighting the appliance from the space being heated.

(43) Forced warm air furnace. - A furnace equipped with a blower to provide the primary means for circulating air.

(44) Grade. - A reference plane representing the average of finished ground level adjoining the building at all exterior walls.

(45) Grade hallway, grade lobby, grade passageway. - An enclosed hallway or corridor that is an element of an exitway, terminating at a street or an open space or court communicating with a street.

(46) Grandstand. - Any structure, except movable seating and sectional benches, intended primarily to support individuals for the purposes of assembly, but this definition shall not apply to the permanent seating in theatres, churches, auditoriums, and similar buildings.

(47) Group home I. - A "group home I" for children means a specialized facility for child care and treatment in a dwelling or apartment owned, rented or leased by a public child-placing agency, private licensed child-placing agency, a family and independent operator or private or public organization which receives no more than eight (8) children for care both day and night. A "group home I" shall be subject to the same fire and health regulations which apply to "homes for the boarding of children" licensed by the state department of children, youth, and families with a maximum total of eight (8) children as defined in chapter 28.13 of this title, sections 23-28.13-27 to 23-28.13-33, inclusive; provided, however, that the provisions of section 23-28.30-13 shall also be applicable.

(48) Habitable space. - Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

(49) Habitable space, minimum height. - A clear height from finished floor to finished ceiling of not less than seven and one-half feet (7 1/2'), except that in attics and top half stories the height shall be not less than seven and one-third feet (7 1/3') over not less than one-third (1/3) the area of the floor when used for sleeping, study, or similar activity.

(50) Habitable space, minimum size. - A space with a minimum dimension of seven feet (7') and a minimum area of seventy square feet (70 sq. ft.) between enclosing walls or partitions, exclusive of closet and storage spaces.

(51) Halogenated extinguishing system. - A system of pipes, nozzles, and an actuating mechanism and a container of halogenated agent under pressure.

(52) Health care facilities. - A place, however named, which is established, offered, maintained, or operated for the provision of organizing inpatient or ambulatory medical, diagnostic, therapeutic, nursing, rehabilitative, or preventive care of persons with physical, mental, or other disabling conditions or diseases; including, but not limited to, hospitals,

skilled nursing facilities, and intermediate care facilities.

(53) Heating appliance. - Any device designed or constructed for the generation of heat from solid, liquid, or gaseous fuel or electricity.

(54) High rise. - Is a structure more than six (6) stories or which is more than seventy-five feet (75') in height above the basement or ground.

(55) Hollow masonry unit. - A masonry unit whose net cross-sectional area in any plane parallel to the bearing surface is less than seventy-five percent (75%) of its gross cross-sectional area measured in the same plane.

(56) Horizontal exit. - The "horizontal exit" shall mean a doorway through or around a fire wall protected by a fire door, which door shall not be held in an open position by a device which will require more than one movement of normal strength to close. This term shall also include a bridge connecting two (2) buildings whose outside walls are of masonry construction.

(57) Hospital. - A "hospital" is a health facility with an organized medical staff providing for twenty-four (24) hour inpatient services for the diagnosis, care and treatment of two (2) or more individuals unrelated by blood or marriage.

(58) Hotel. - The term "hotel" shall mean a building or portion of a building used as a place where sleeping accommodations are furnished for hire or other consideration, with or without board, for twenty-one (21) or more guests or employees of the management, or in which eleven (11) or more sleeping rooms are maintained for such guests or employees. The term "hotel" shall include all clubs, schools, motels, dormitories, or other buildings which have similar sleeping accommodations, but shall not include apartment houses, hospitals, penal institutions, or buildings housing the insane.

(59) Industrial building. - The term "industrial building" shall mean a building or structure used, or planned to be used for manufacturing primarily, or in which five (5) or more persons, at any one time, are engaged in performing work or labor in fabricating, assembling, or processing of products or materials. Included, among others, shall be factories, assembly plants, industrial laboratories, and all other industrial or manufacturing uses; excluding high hazard uses. This definition shall also apply to those industrial buildings the contents of which are classified as ordinary hazard or high hazard in accordance with section 23-28.17-7 regardless of the number of employees.

(60) Interior finish. - (i) The term "interior finish" shall mean and include the material on walls, on partitions of fixed or movable type, on ceilings and on other exposed interior surfaces of buildings and any surfacing material including paint or wall coverings applied thereto. "Interior finish" includes materials affixed to the building structure as distinguished from decorations or furnishings which are not so affixed. Finish floors and floor coverings shall be considered a part of the interior finish.

(ii) The classification of interior finish materials shall be that of the basic material used, without regard to subsequently applied paint or paper or materials of no greater fire hazard than paper, provided such finish does not exceed one-twenty-eighth of an inch (1/28") in thickness and is applied directly to a noncombustible base. Baseboards, chair rails, moulding, trim around openings, and other interior trim not more than twelve inches (12") in width and not exceeding ten percent (10%) of the exposed wall and ceiling surface of the area involved, may be Class A, B or C. Exposed portions of heavy timber members shall not be subject to interior finish regulations. Interior finish materials that give off smoke or gases more dense or more toxic than that given off by untreated wood under comparable exposure to heat or flame shall not be permitted.

(iii) Interior finish materials shall be grouped in accordance with their flamespread characteristics as follows:

(A) "Class A" includes any material classified at twenty-five (25) or less flamespread rating as established by the test scale described in the definition of flamespread rating. Any element thereof when so tested shall not continue to propagate flame.

(B) "Class B" includes any material classified at more than twenty-five (25) but not more than seventy-five (75) as

established by the test scale as described in the definition of flamespread rating.

(C) "Class C" includes any material classified at more than seventy-five (75) but not more than two hundred (200) as established by the test scale described in the definition of flamespread rating.

(61) Intermediate care -- Class I. - An intermediate care -- Class I is a physical structure properly equipped and employing sufficient appropriate personnel to render proper nursing care to patients with chronic conditions who do not require professional nursing service.

(62) Intermediate care -- Class II. - An intermediate care -- Class II is a physical structure properly equipped and employing sufficient appropriate personnel capable of providing care for ambulatory persons requiring minimal or no specialized nursing service but in need of personal care and supervision.

(63) Intermediate care facility. - An intermediate care facility is a health care facility or an identifiable unit or distinct part of a facility which provides twenty-four (24) hour inpatient preventive and supportive nursing care to two (2) or more persons unrelated by blood or marriage whose condition is stabilized but requires continued nursing care and supervision.

(64) Labeled. - The word "labeled" used in connection with equipment throughout these regulations refers to equipment bearing the inspection label of the nationally recognized testing agency.

(65) Limited area sprinkler system. - An automatic sprinkler system consisting of not more than twenty (20) sprinklers for use in a room or space enclosed by construction assemblies as required by this code.

(66) Liquefied natural gas. - A fluid in the liquid state composed predominantly of methane and which may contain minor quantities of ethane, propane, nitrogen or other components normally found in natural gas.

(67) Liquefied petroleum gas. - The term "liquefied petroleum gas" and its symbol, "LP-Gas," as used in this code, shall mean and include any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them; propane, propylene, butanes (normal butane or iso-butane), and butylenes.

(68) Listed. - The word "listed" used throughout these regulations in connection with equipment refers to devices and materials that have been investigated by and meet the listing requirements of a nationally recognized testing agency. This equipment shall be identifiable by means of a label or other distinguishing marking specified in the current list published by the testing agency.

(69) Lobby. - The enclosed vestibule between the principal entrance to the building and the doors to the main floor of the auditorium or assembly room of a theatre or place of assembly, or to the main floor corridor of a business building.

(70) Masonry chimney. - A field constructed chimney of solid masonry units, bricks, stones, listed hollow masonry units, or reinforced concrete built in accordance with nationally recognized standards.

(71) Means of egress. - A continuous and unobstructed path of travel from any point in a building or structure to a public space and consists of three (3) separate and distinct parts: (i) the exitway access; (ii) the exitway; and (iii) the exitway discharge. A means of egress comprises the vertical and horizontal means of travel and shall include intervening room spaces, doors, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts, and yards.

(72) Mercantile buildings. - The term "mercantile building" shall mean a building or structure used or intended to be used for the display or sale of goods, wares, and merchandise and in which people congregate, but involving only storage of stocks and goods that are incidental to display and merchandising, including among others, retail stores, shops, sales rooms, and markets, excluding high hazard contents.

(73) Metal chimney (Smokestack). - A field constructed chimney made of metal and built in accordance with nationally recognized standards.

(74) Mezzanine. - An intermediate level between the floor and ceiling of any story, and covering not more than thirty-three percent (33%) of the floor area of the room in which it is located.

(75) Motels. - See "hotels."

(76) Noncombustible. - The term "noncombustible" as applied to building construction materials means material which, in the form in which it is used, falls in one of the following groups (i) through (iii). No material shall be classed as noncombustible which is subject to increase in combustibility or flamespread rating beyond the limits established in this code, through the effects of age, moisture, or other atmospheric condition. Flamespread rating as used herein refers to ratings established by the test scale described in the definition of flamespread rating.

(i) Materials no part of which will ignite and burn when subjected to fire.

(ii) Materials having a structural base of noncombustible material as defined in (i) with a surfacing material not over one-eighth inch (1/8") thick which has a flamespread rating not higher than fifty (50).

(iii) Materials, other than as described in (i) and (ii), having a surface flamespread rating not higher than twenty-five (25) without evidence of continued progressive combustion and of such composition that surfaces that would be exposed by cutting through the material in any way would not have a flamespread rating higher than twenty-five (25) without evidence of continued progressive combustion.

(77) Noncombustible material. - (i) The term "noncombustible material" when used in relation to interior finish on walls or on partitions of fixed or movable type or on other exposed interior wall surfaces and any surface material such as paint or other wall coverings shall mean material which in the form it is used falls into clause (A) or (B): (A) Materials no part of which will ignite or burn when subjected to fire; (B) Materials other than described in clause (A) having a maximum surface flamespread rating on both front and back faces not higher than Class A without evidence of continued progressive combustion and of such composition that surfaces exposed by cutting through the material in any way would not have a flamespread rating higher than Class A without evidence of continued progressive combustion.

(ii) The term "noncombustible material" when used in relation to acoustical ceiling tile or other interior finish on ceilings shall mean materials having a maximum surface flamespread rating on both front and back faces not higher than Class A without evidence of continued progressive combustion and of such composition that surfaces exposed by cutting through the material in any way would not have a flamespread rating higher than Class A without evidence of continued progressive combustion and when used as a part of a ceiling assembly the assembly shall be of a design tested and listed by underwriters' laboratories, inc., as having a fire resistance rating of not less than one hour.

(iii) No material shall be classed as noncombustible which is subject to increase in combustibility or flamespread rating beyond the limits established in this code through the effects of age, moisture, or other atmospheric condition. Flamespread rating, as used in this code refers to ratings obtained according to standard tunnel test methods of a nationally recognized laboratory in which asbestos cement board rates zero (0) on the scale and red oak lumber one hundred (100), in accordance with Standards of N.F.P.A. 255, A.S.T.M.E.-84 and U.L. 723.

(iv) The term "noncombustible" when used in relation to buildings in general and components of buildings shall mean that type of structure which is constructed completely of masonry, reinforced concrete, metal, or other materials having fire resistance rating of not less than two (2) hours. A building shall be termed "noncombustible" whether or not wood flooring has been laid over solid or slab masonry, and whether or not door and window assemblies are of wood.

(78) Occupancy. - The term "occupancy" shall mean the use of space or rooms within a building by a person or group of persons.

(79) Place of assembly. - The term "place of assembly" shall mean a room or space within a building in which the possible maximum occupancy is more than seventy-five (75) persons in existing buildings and in which more than fifty (50) persons assemble in new structures for religious, recreational, educational, political, fraternal, social or amusement purposes, or for the consumption of food or drink, except school classrooms, libraries, courtrooms, or any portion of a private dwelling. The room or space shall include adjacent rooms with intervening partitions, open or capable of being

opened so as to allow for occupancy with a common purpose.

(80) Place of outdoor assembly. - Premises used or intended to be used for public gatherings of two hundred (200) or more individuals in other than buildings.

(81) Plastic, combustible. - A plastic material more than one-twentieth inches (1/20") in thickness which burns at a rate of not more than two and one-half inches (2 1/2") per minute when subjected to ASTM D 635, standard method of test of flammability of self-supporting plastics.

(82) Posted sign. - The tablet, card, or plate which defines the use, occupancy, fire grading and floor loads of each story, floor or parts thereof for which the building or part thereof has been approved.

(83) Proprietary system. - A protective signaling system under constant supervision by competent and experienced personnel in a central supervision station at the property protected. The system includes equipment and other facilities required to permit the operators to test and operate the system and, upon receipt of a signal, to take such action as shall be required under the rules established for their guidance by the authority having jurisdiction.

(84) Protected corridor. - A corridor or hallway in a building which extends from exit to exit and which has walls or partitions of materials and construction having a fire resistant rating of one hour or more.

(85) Public space. - A legal open space on the premises, accessible to a public way or street, such as yards, courts, or open spaces permanently devoted to public use which abuts the premises.

(86) Pyroxylin plastic. - Any nitro-cellulose product or compound soluble in a volatile, flammable liquid, including such substances as celluloid, pyroxylin, fiberloid, and other cellulose nitrates (other than nitrocellulose film) which are susceptible to explosion from rapid ignition of the gases emitted therefrom.

(87) Recessed heater. - A completely self-contained heating unit usually recessed in a wall and located entirely above the floor of the space it is intended to heat.

(88) Remote station system. - An electrical alarm system capable of automatically notifying the public or private fire departments, or other approved constantly attended location, when the system is activated.

(89) Riser. - The vertical supply pipes in a sprinkler system or standpipe system.

(90) Rooming houses. - The term "rooming house" shall mean any building which is used in whole or in part as a place where sleeping accommodations are furnished for hire or other consideration, with or without board, for not more than twenty (20) guests or employees of the management, or only ten (10) or less sleeping rooms are maintained for such guests or employees. This term shall include all tourist homes, lodging homes, convents, monasteries, and other nonprofit or charitable institutions which have accommodations as aforesaid, but shall not include private dwellings which accommodate not more than four (4) habitational guests or employees, or apartment houses, hotels, or convalescent homes, nursing home, home for the aged, or boarding home, as defined in this code.

(91) Schools. - A school is a building used for the gathering of six (6) or more persons for the purpose of instruction. Exceptions: Child day care centers and proprietary schools for adults, which must conform to the provisions of the Rhode Island Fire Safety Code relating to the occupancies in which they are located.

(92) Sheltered care facility for adults. - A sheltered care facility for adults is any establishment, facility, place, building, agency, institution, corporation or part thereof, or a partnership whether public or private, whether organized for profit or not, used, operated, or engaged in providing lodging or board or housekeeping in a protective environment, to two (2) or more residents unrelated to the owner, excluding however, any privately operated establishment or facility licensed pursuant to chapter 17 of this title, and those facilities licensed by the department of mental health, retardation, and hospitals or any other state agency. A resident of a sheltered care facility for adults is an individual who is an adult not requiring medical or nursing care as provided in a health care facility and who has impairments as a result of age and/or physical or mental limitations requiring lodging or board or housekeeping in a protective environment but is capable of

self preservation in emergency situations. The term sheltered care facility for adults may include rooming houses or hotels which provide the above mentioned services and whose residents meet the above mentioned criteria. The term shall not include health care facility, boarding homes, group homes, or community residences as defined in this code.

(93) Skilled nursing facility. - A health facility or unit thereof that provides twenty-four (24) hour inpatient skilled nursing, therapeutic or restorative care services for two (2) or more patients unrelated by blood or marriage with a rehabilitative potential or condition requiring skilled care.

(94) Smoke barrier. - The term "smoke barrier" shall mean a partition with a fire-resistance rating of not less than one-half (1/2) hour with any door openings therein equipped with a door so hung as to be reasonably smoke and gas tight when closed. Any such door shall be at least equivalent to a one and three-eighth inch (1 3/8") solid bonded core wood door. The door shall not be fastened in an open position by a device which will require more than one movement of normal strength to swing the door to a closed position. The barrier shall be located to provide ample area of refuge on each side of the partition of all occupants of the story secured by the barrier and shall extend through any dropped ceiling to the floor or roof above. The barrier may have wire-glass panels each not to exceed six square feet.

(95) Special amusement building concentrated occupancy place of assembly. - The term "special amusement building concentrated occupancy place of assembly" shall mean a Class A, B, or C place of assembly with a maximum occupancy calculated on the basis of less than fifteen square feet (15 sq. ft) per person and for which either there is a license issued pursuant to chapter 3-7 or there is entertainment or there are both a liquor license and entertainment.

~~(95)~~ (96) Sprinklered. - The term "sprinklered" shall mean to be completely protected by an approved system of automatic sprinklers installed and maintained in accordance with N.F.P.A. Standards.

~~(96)~~ (97) Stage. - A partially enclosed portion of an assembly building which is designed or used for the presentation of plays, demonstrations, or other entertainment wherein scenery, drops, or other effects may be installed or used, and where the distance between the top of the proscenium opening and the ceiling of the stage is more than five feet (5').

~~(97)~~ (98) Stairway. - One or more flights of stairs, and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one floor to another. A flight of stairs, for the purposes of this article, must have at least three (3) risers.

~~(98)~~ (99) Standpipe. - A wet or dry fire pipe line, extending from the lowest to the topmost story of a building or structure, equipped with a shut-off valve with hose outlets at every story.

~~(99)~~ (100) Storage building. - The term "storage building" shall mean a building or structure used, or planned for use primarily for the storage of goods, wares, and merchandise, and in which less than five (5) persons are employed in the labor of manufacturing or processing. Included, among others, shall be warehouses, storehouses, and freight depots. Buildings in this heading storing high hazard contents shall be protected as described and classified in the section so headed.

~~(100)~~ (101) Story. - The term "story" shall mean that portion of a building between a floor and the floor next above; and shall apply to the basement. The first story shall be that story which is of such height above ground level that it does not come within the definitions of a basement or shall be that story located immediately above a basement. The second story shall mean a story located immediately above the first story and upper stories shall be in numerical sequence accordingly. (See also "Mezzanine.")

~~(101)~~ (102) Story (First). - The lowermost story entirely above the grade plane.

~~(102)~~ (103) Theatre. - The term "theatre" shall mean a building or part of a building ~~in which more than seventy-five (75) persons may assemble in existing buildings and~~ in which fifty (50) or more persons may assemble ~~in new building~~ for presentation of a theatrical stage performance or motion picture presentation. All theatres shall comply with applicable requirements for places of assembly.

~~(103)~~ (104) Unit heater. - A factory assembled device designed to heat and circulate air. Essential components are a

heat transfer element, housing, and fan with driving motor. Normally designed for free delivery of recirculated air.

~~(104)~~ (105) Vertical opening. - An opening through a floor or roof.

~~(105)~~ (106) Warm air furnace. - A solid, liquid, or gas fired appliance for heating air to be distributed with or without duct systems to the space to be heated.

~~(106)~~ (107) Winding stairs. - The term "winding stairs" shall mean a flight of two (2) or more steps which, in changing direction, does so by benefit of variance in the width along each tread. This term shall not include such stairs as have treads of uniform width throughout and change direction by benefit of intermediate landings or platforms.

23-28.1-6. Applicability to new or existing structures. – ~~Unless otherwise expressly provided, all~~ All regulations contained in this code apply to all ~~new~~ structures unless specifically exempted. Prior to a building permit being issued, all plans for buildings regulated under this code shall be submitted to the authority having jurisdiction. The authority having jurisdiction ~~has~~ shall ~~fifteen (15) days after submission to review and approve or disapprove the completed set of plans within forty-five (45) days of the submission of the completed set of plans, unless a longer time period is required due to the complexity of the project.~~ When a change of use or type of occupancy is made in an existing building, the building shall conform to the requirements established by the rehabilitation building and fire code for existing buildings and structures, or if the rehabilitation building and fire code for existing structures is not applicable, to the requirements for new structures as related to the proposed use or type of occupancy.

23-28.1-7. Conformity required. -- (a) No building shall be constructed for, used for, or converted to, any occupancy regulated by the code, and no addition shall be made to a building except in accordance with the applicable provisions of the code or the rehabilitation building and fire code for existing buildings and structures, as applicable. In case two (2) or more classes of occupancy occur in the same building, the most hazardous occupancy or the class of occupancy calling for the most stringent requirements for life safety under the code shall govern the classification of the entire building, unless suitable separation or other acceptable fire safety provisions are afforded by compliance with other pertinent codes.

(b) Any existing structure that is not in conformity with the provisions of this code is governed by the following:

(1) The authority having jurisdiction is authorized to give building owners a reasonable notice of fire safety code violations and establish a timetable for compliance or, in cases of practical difficulty, establish a time by which the owner must petition to the fire safety code board for a variation.

(2) The fire marshal, or his or her designee within the division, or a nonsalaried deputy state fire marshal in

~~accordance with guidelines established by the fire marshal with the approval of the chairperson of the board of appeal and review, has the authority to summarily abate any condition which is in violation of any provision of this code and which presents immediate danger to life, which conditions shall include improper management or use of flammable and combustible materials, liquids and gasses, pyrotechnics, fireworks or explosives, malfunctioning automatic sprinklers, fire alarms and emergency lighting, malfunctioning heating and electrical systems, and blocked or inadequate exits or means of egress, and such other conditions as may be established by the Fire Safety Code Board of Appeal and Review. A failure to abate a condition that presents a clear and immediate danger to life shall be grounds for the person issuing the order to abate, to require that the premises be vacated, which action shall be either authorized by the fire marshal or a designee of the fire marshal who has been given advanced written authority by the fire marshal to approve such actions.~~

~~(3) All existing buildings which are deemed to be in compliance with specific provisions of the code prior to any 1978 amendment are exempt from the amendment unless there is a change of occupancy or more than fifty percent (50%) of the total valuation of the building is to be changed within a one year period or unless the rehabilitation building and fire code for existing buildings and structures is applicable. Those requirements not met prior to 1978 are subject to the latest amendment. All new buildings and structures, for which a building permit is issued on or after February 20, 2004, shall be subject to the provisions of the Rhode Island Fire Safety Code addressing the new occupancy. All existing building and structures, and those building and structures for which a building permit was issued prior to February 20, 2004, shall be subject to the provisions of the Rhode Island Fire Safety Code addressing the existing occupancy. Any existing building or structure, subject to the provisions of the Rehabilitation Building and Fire Code for Existing Buildings and Structures, shall also comply with the existing occupancy provisions of the Rhode Island Fire Safety Code addressing the current or proposed occupancy. All active fire protection systems, such as sprinklers, fire alarms, emergency lighting and exit signs, previously required and installed in existing buildings, shall continue to be required under the Rhode Island Fire Safety Code and shall be properly maintained.~~

SECTION 4. Sections 23-28.2-4, 23-28.2-14, 23-28.2-20 and 23-28.2-21 of the General Laws in Chapter 28.2 entitled "Division of Fire Safety" are hereby amended to read as follows:

23-28.2-4. Duties and responsibilities of state fire marshal. -- The state fire marshal shall have the authority to enforce and perform the duties required by the Fire Safety Code, chapters 28.1 - 28.39 of this title, and all other provisions of the general laws and public laws insofar as such powers and duties relate to fires, fire prevention, fire protection, fire inspection, and fire investigation. It shall also be the duty of the state fire marshal to enforce all laws of

this state in regard to:

(1) The keeping, storage, use, manufacture, sale, handling, transportation, or other disposition of explosives and inflammable materials.

(2) Conducting and supervising fire safety inspections of all buildings regulated by the code within the state.

(3) It shall be the duty of the state fire marshal and his or her deputies to certify to any state or federal agency whether or not any building covered satisfies the requirements of chapters 28.1 - 28.39 of this title.

(4) It shall the duty of the fire marshal to plan for and oversee the comprehensive, professional enforcement of the fire safety code.

23-28.2-14. Enforcement. -- (a) Within the division, there shall be an enforcement unit responsible for the initiation of criminal prosecution of any person(s) in violation of the state Fire Safety Code or failure to comply with an order to abate conditions that constitute a violation of the Fire Safety Code, chapters 28.1 - 28.39 of this title, and/or the general public laws of the state as they relate to fires, fire prevention, fire inspections, and fire investigations. This unit will consist of the state fire marshal, chief deputy state fire marshal, chief of technical services, explosive technician, assistant explosive technicians, and the arson investigative staff, each of whom must satisfactorily complete at the Rhode Island state police training academy an appropriate course of training in law enforcement or must have previously completed a comparable course. To fulfill their responsibilities, this unit shall have and may exercise in any part of the state all powers of sheriffs, deputy sheriffs, town sergeants, chiefs of police, police officers, and constables.

(b) The fire marshal shall have the power to implement a system of civil enforcement to achieve compliance with the Fire Safety Code, which shall include inspections as provided for in section 23-28.2-20, the issuance of citations in a form approved by the fire marshal, and the issuance of formal notices of violation. The Fire Safety Code Board of Appeal and Review, with recommendations from the fire marshal, shall by February 20, 2004, adopt rules establishing, for those categories of violation of the Fire Safety Code that can be identified through inspection, citations requiring correction of the violation within a reasonable time period. The Fire Safety Code Board of Appeal and Review shall recommend a system of penalties for violations subject to citation for adoption by the general assembly, which fines would be used for fire prevention purposes by the jurisdiction that issues the citation.

23-28.2-20. Right of entry. – (a) In the discharge of its duties, the authority having jurisdiction shall have the authority to enter at any reasonable hour, any building, structure, or premises in the state to enforce the provisions of the

Fire Safety Code, chapters 28.1 - 28.39 of this title. If any owner, occupant, or other person refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to every part of the structure, operation, or premise where inspection authorized by this code is sought, the authority having jurisdiction may:

(1) Seek in a court of competent jurisdiction a search warrant so as to apprise the owner, occupant, or other person concerning the nature of the inspection and justification for it, and may seek the assistance of police authorities in presenting the warrant; and/or

(2) Revoke or suspend any license, permit, or other permission regulated under this code where inspection of the structures, operation or premises, is sought to determine compliance with this code.

(3) Enter, examine or survey at any reasonable time such places as the fire marshal or his or her designee deems necessary to carry out his or her responsibilities under any provision of law subject to the provisions set forth below. For places of assembly as defined in section 23-28.1-5, including special amusement building concentrated occupancy places of assembly, inspections shall be reasonable during actual hours of maximum operation, regardless of the time, and such inspections for special amusement building concentrated occupancy places of assembly, shall be conducted at least annually.

(1) For criminal investigations, the fire marshal shall, pursuant to chapter 5 of title 12, seek a search warrant from an official of a court authorized to issue warrants, unless a search without a warrant is otherwise allowed or provided by law;

(2) (a) All administrative inspections shall be conducted pursuant to administrative guidelines promulgated pursuant to chapter 42-35, the "Administrative Procedures Act" with chapter 35 of title 42.

(b) A warrant shall not be required for administrative inspections if conducted under the following circumstances, in accordance with the applicable constitutional standards:

(i) For closely regulated industries;

(ii) In situations involving open fields or conditions that are in plain view;

(iii) In emergency situations;

(iv) In situations presenting an imminent threat to the environment or public health, safety or welfare;

(v) If the owner, operator, or agent in charge of the facility, property, site or location consents; or

(vi) In other situations in which a warrant is not constitutionally required.

(c) Whenever it shall be constitutionally or otherwise required by law, or whenever the fire marshal in his or her discretion deems it advisable, an administrative search warrant, or its functional equivalent, may be obtained by the fire marshal from a judge or magistrate for the purpose of conducting an administrative inspection. The warrant shall be issued in accordance with the applicable constitutional standards for the issuance of administrative search warrants. The administrative standard of probable cause, not the criminal standard of probable cause, shall apply to applications for administrative search warrants.

(i) The need for, or reliance upon, an administrative warrant shall not be construed as requiring the fire marshal to forfeit the element of surprise in his or her inspection efforts.

(ii) An administrative warrant issued pursuant to this subsection must be executed and returned within ten (10) days of its issuance date unless, upon a showing of need for additional time, the court orders otherwise.

(iii) An administrative warrant may authorize the review and copying of documents that are relevant to the purpose of the inspection. If documents must be seized for the purpose of copying, and the warrant authorizes such seizure, the person executing the warrant shall prepare an inventory of the documents taken. The time, place and manner regarding the making of the inventory shall be set forth in the terms of the warrant itself, as dictated by the court. A copy of the inventory shall be delivered to the person from whose possession or facility the documents were taken. The seized documents shall be copied as soon as feasible under circumstances preserving their authenticity, then returned to the person from whose possession or facility the documents were taken.

(iv) An administrative warrant may authorize the taking of samples of materials that are part of, or are generated, stored or treated at the facility, property, site or location. Upon request, the fire marshal shall make split samples available to the person whose facility, property, site or location is being inspected.

(v) Service of an administrative warrant may be required only to the extent provided for in the terms of the warrant itself by the issuing court.

(d) Penalties. Any willful and unjustified refusal of right of entry and inspection pursuant to an administrative warrant shall constitute a contempt of court and shall subject the refusing party to sanctions, which in the court's

discretion may result in up to six (6) months imprisonment and/or a monetary fine of up to ten thousand dollars (\$10,000) per refusal.

23-28.2-21. National Fire Code. -- Except wherever herein specifically defined or covered in this code, the provisions of the N.F.P.A. Standards included in the National Fire Code, ~~1990~~ 2003 edition, shall be used by the authority having jurisdiction as the accepted standard with regard to fire safety regarding any unforeseen condition.

SECTION 5. Chapter 23-28.2 of the General Laws entitled "Division of Fire Safety," is hereby amended by adding thereto the following section:

23-28.2-20.1 Notices of violation. -- The fire marshal and persons designated specifically in writing by the fire marshal shall have the power to issue notices of violation as herein provided for, and the powers herein established shall be in addition to other powers of inspection and enforcement of the Fire Safety Code provided for in this title. The fire marshal or authorized designee of the fire marshal shall have the power to give notice of an alleged violation of law to the person responsible therefor whenever the fire marshal or authorized designee determines that there are reasonable grounds to believe that there is a violation of any provision of law within his or her jurisdiction or of any rule or regulation adopted pursuant to authority granted to him or her, unless other notice and hearing procedure is specifically provided by that law. Nothing in this chapter shall limit the authority of the attorney general to prosecute offenders as required by law.

(A) The notice shall provide for a time within which the alleged violation shall be remedied, and shall inform the person to whom it is directed that a written request for a hearing on the alleged violation may be filed with the fire safety code board of appeal and review within ten (10) days after service of the notice. The notice will be deemed properly served upon a person if a copy thereof is served him or her personally, or sent by registered or certified mail to his or her last known address, or if he or she is served with notice by any other method of service now or hereafter authorized in a civil action under the laws of this state. If no written request for a hearing is made to the Fire Safety Code Board of Appeal and Review within ten (10) days of the service of notice, the notice shall automatically become a compliance order.

(B) (1) Whenever the fire marshal or authorized designee determines that there exists a violation of any law, rule, or regulation within his or her jurisdiction which requires immediate action to protect public safety or property, he or she may, without prior notice of violation or hearing, issue an immediate compliance order stating the existence of the violation and the action he or she deems necessary. The compliance order shall become effective immediately upon

service or within such time as is specified by the fire marshal in such order. No request for a hearing on an immediate compliance order may be made.

(2) Any immediate compliance order issued under this section without notice and prior hearing shall be effective for no longer than forty-five (45) days, provided, however, that for good cause shown the order may be extended one additional period not exceeding forty-five (45) days.

(C) If a person upon whom a notice of violation has been served under the provisions of this section or if a person aggrieved by any such notice of violation requests a hearing before the Fire Safety Code Board of Appeal and Review within ten (10) days of the service of notice of violation, the Board shall set a time and place for the hearing, and shall give the person requesting that hearing at least five (5) days written notice thereof. After the hearing, the Board may make findings of fact and shall sustain, modify, or withdraw the notice of violation. If the Board sustains or modifies the notice, that decision shall be deemed a compliance order and shall be served upon the person responsible in any manner provided for the service of the notice in this section.

(D) The compliance order shall state a time within which the violation shall be remedied, and the original time specified in the notice of violation shall be extended to the time set in the order.

(E) Whenever a compliance order has become effective, whether automatically where no hearing has been requested, where an immediate compliance order has been issued, or upon decision following a hearing, the fire marshal may institute injunction proceedings in the superior court of the state for enforcement of the compliance order and for appropriate temporary relief, and in that proceeding the correctness of a compliance order shall be presumed and the person attacking the order shall bear the burden of proving error in the compliance order, except that the fire marshal shall bear the burden of proving in the proceeding the correctness of an immediate compliance order. The remedy provided for in this section shall be cumulative and not exclusive and shall be in addition to remedies relating to the removal or abatement of nuisances or any other remedies provided by law.

(F) Any party aggrieved by a final judgment of the superior court may, within thirty (30) days from the date of entry of such judgment, petition the supreme court for a writ of certiorari to review any questions of law. The petition shall set forth the errors claimed. Upon the filing of the petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of certiorari.

SECTION 6. Sections 23-28.3-1, 23-28.3-3, 23-28.3-3.1, and 23-28.3-5 in chapter 23-28.3 of the general laws

entitled "Fire Safety Code Board of Appeal and Review" are hereby amended to read as follows:

23-28.3-1. Definitions. -- When used in this chapter:

(1) "Amendment" means any modification or change in the code that shall be formulated, adopted, and issued by the board;

(2) "Board" means the fire safety code board created by this chapter;

(3) "Building" includes new and existing buildings and facilities, except private dwellings occupied by one, two (2), or three (3) families, in the various cities and towns in this state;

(4) "Code" means the minimum standard body of rules for fire safety known as the Fire Safety Code, chapters 28.1 - 28.39 of this title, or the rehabilitation building and fire code for existing buildings and structures, chapter 29.1 of this title;

(5) "Variation or Variance" means a special limited modification or change in the code which is applicable only to a particular type of building, ~~or~~ facility, regulated process or hazardous activity upon the petition of the person owning the building or facility, or maintaining the regulated process or hazardous activity. All variances shall be in keeping with recognized national standards: ; and

(6) "Blanket Variance" is generalized relief from any provision of the fire safety code when, in the opinion of the fire safety code board, these provisions have been rendered obsolete and/or impose an unanticipated, unreasonable hardship upon the general public, and the board finds that the decision to grant a blanket variance will not conflict with the general objectives of the code. All blanket variances shall only be effective until the next code adoption process by the board.

23-28.3-3. Rules and regulations. -- (a) The state fire safety code board has the power to promulgate, amend, and repeal rules and regulations to safeguard life and property from the hazards of fire and explosives consistent with the provisions of the Fire Safety Code, chapters 28.1 through 28.39 of this title, and consistent with the rehabilitation building and fire code for existing buildings and structures, chapter 29.1 of this title. The regulations, amendments, or repeals shall be in accordance with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection. The rules and regulations promulgated by the board, which are known as the state Fire Safety Code, are in effect in all the cities, towns, counties, and political subdivisions in the state. Whenever the provisions of any other statute or local regulation are more stringent or impose higher standards than the state fire safety code, that statute or local regulations will govern, unless it is not

consistent with the state code or contrary to recognized standards or good engineering practices. The board determines the relative priority of the regulations.

(b) ~~Prior to the promulgation, amendment, or repeal of any regulation, the state fire safety code board shall hold a public hearing on the proposed changes, amendments, notice of which hearing shall be published fifteen (15) days before the date of the hearing in a newspaper or newspapers of general circulation throughout the state. A copy of the notice shall be sent at the same time to every city and town clerk and every person, firm, or corporation who shall have registered with the state fire safety code board a request to be so notified. The notice shall contain the time and place of hearing, subjects to be discussed, and shall specify the place and time at which the proposed regulation, amendment, or repeal may be examined. All rules and regulations adopted by the state fire safety code board shall be adopted in accordance with the Administrative Procedures Act (R.I.G.L. 42-35-1 et seq.).~~

(c) For the purpose of any public hearing under this chapter, the state fire safety code board has the power to summon witnesses and administer oaths for the purpose of giving testimony.

(d) The board shall provide for reasonable interpretation of the provisions of this code, and rule on appeals from decisions of the fire marshal.

23-28.3-3.1. Rules and regulations, rehabilitation of existing buildings and structures. – The state fire safety code board has the power to adopt, promulgate, amend, and repeal the fire safety code elements of the rehabilitation building and fire code for existing buildings and structures, which shall be administered as a sub-code of the fire safety code. ~~and shall supersede other codes and regulations pertaining to the rehabilitation and change of use of existing buildings and structures, unless the provisions of those other codes and regulations are not inconsistent with the provisions of the rehabilitation building and fire code for existing buildings and structures.~~ Any existing building or structure, subject to the provisions of the rehabilitation building and fire code for existing buildings and structures, shall also comply with the existing occupancy provisions of the Rhode Island Fire Safety Code addressing the current or proposed occupancy.

23-28.3-5. Assistance to building owners -- Petition for variations. -- (a) Any building owner, and/or the operator of any regulated process or hazardous activity, may consult with the authority having jurisdiction for advice and assistance in complying with the provisions of the fire safety code adopted pursuant to chapters 28.1 -- 28.39 and chapter 29.1 of this title, or any amendments to those codes or any codes adopted under them. In case of practical difficulties, the authority having jurisdiction shall refer all requests for variations from particular provisions of the fire safety code adopted pursuant to chapters 28.1 to 28.39 of this title or any code adopted under them to the fire safety code board. All requests for variations from the particular provisions of the fire safety code adopted pursuant to chapter 29.1 of this title shall be referred to the joint committee pursuant to the provisions of section 23-29.1-4. The petitioner shall set forth in his or her petition to the board the grounds or reasons for requesting the variations.

(b) The board shall fix a day for hearing on the petition and shall give reasonable notice of the hearing to the petitioner

and the property owners within two hundred feet (200') of the petitioner's building or structure when, in the board's discretion, it may have an adverse effect on neighboring properties. A properly indexed record of all variations made shall be kept in the office of the state fire marshal and shall be open to public inspection. Any building owner may file a petition for a variance to the board by registered mail, and a hearing date shall be set by the board within thirty (30) days of filing a completed application including a filing fee, established in accordance with the following fee schedule:

- (1) Petitions related to existing covered occupancies, not involving construction, alteration, and/or renovation \$100 filing fee.
- (2) Petitions related to construction, alteration, renovation, and/or conversion or other buildings and structures:
 - (i) not more than 8,000 square feet . . . \$100 filing fee
 - (ii) more than 8,000 square feet but not more than 25,000 square feet . . . \$300 filing fee
 - (iii) more than 25,000 square feet but not more than 50,000 square feet . . . \$500 filing fee
 - (iv) more than 50,000 square feet . . . \$1,000 filing fee
- (3) Petitions related to maintenance or use of buildings or materials and any petition not otherwise provided for above . . . \$100 filing fee.
- (4) The term "square feet", as used in this chapter, is the total floor space and/or storage capacity of the subject building or structure, as determined and certified by the state fire marshal or his or her designee, subject to review by the board. The board chairperson may delegate a subcommittee of the board to conduct a hearing and take testimony from the petitioner. The subcommittee shall make recommendations to the board as to their findings, and a decision shall be rendered within ten (10) days of the subcommittee's report. If the petitioner is aggrieved by the subcommittee's recommendations, the petitioner has the right of hearing before the entire board within thirty (30) days of the rendered decision.
- (c) The application filing fee income shall be deposited as general revenue.

(d) The fire safety code board may grant a blanket variance when, in the opinion of the fire safety code board, any specific provision of the fire safety code has been rendered obsolete and/or imposes an unanticipated, unreasonable hardship upon the general public, and the board finds that the decision to grant a blanket variance will not conflict with the general objectives of the code. All blanket variances shall only be effective until the next code adoption process by the board.

SECTION 7. Sections 23-28.6-1, 23-28.6-2, 23-28.6-4, 23-28.6-5, and 23-28.6-18, in chapter 23-28.6 of the general laws entitled "Places of Assembly" are hereby amended to read as follows:

23-28.6-1. Applicability. -- (a) The regulations contained in this chapter shall apply to all places of assembly as defined in § 23-28.1-5, ~~except only such places as are expressly exempt in accordance with the provisions of this code.~~

- (1) Class A, capacity one thousand one (1001) persons or more.
- (2) Class B, capacity three hundred one (301) to one thousand (1000) persons.
- (3) Class C, capacity fifty (50) to three hundred (300) persons ~~in new buildings.~~
- ~~(4) Class C, capacity seventy-six (76) to three hundred (300) persons in existing buildings.~~

(b) Fire escapes and other outdoor stairways, heating, and ventilating facilities, and the use of electric wiring and appliances, shall be governed by special articles related thereto.

23-28.6-2. Egress facilities required - Inspection by owner. -- (a) All places of assembly shall be provided with approved egress facilities as determined under the provisions of section 23-28.6-6.

(b) In places of assembly which have scheduled activities for recreational, educational, political, fraternal, social, or amusement purposes, the owner or management must inspect every exit from the building not more than ninety (90) minutes prior to the beginning of any meeting, concert, etc. If the inspection reveals blocked exits, the scheduled presentation must not begin until the exits are cleared and made easily accessible, assuring the safety and welfare of the patrons. Any person or entity violating the provisions of this section shall be fined not exceeding five thousand dollars (\$5,000) for each offense.

23-28.6-4. Standing conditions. -- (a) Standing patrons may be allowed, in approved waiting areas, in places of assembly at the rate of one person for each five square feet (5 sq. ft.) of area available for standing; provided, that aisle area, except rear cross aisles, shall not be considered in determining the number of standing patrons allowed.

(b) The provisions in this section do not apply to churches and places of worship, wherein patrons retain their outer clothing for immediate exit, and where they are confined for a period not exceeding two (2) hours duration. Only that part of the building directly accessible to doors for hasty exit may be used in this manner.

23-28.6-5. Admissions restricted and supervised. -- (a) Admissions to all places of assembly shall be supervised by the responsible management or by the person or persons delegated with the responsibility by the management, and the responsible person shall not allow admissions in excess of the maximum occupancy as provided in section 23-28.6-3, provided, subsections (c), (d), and (e) below do not apply to churches and places of worship, wherein patrons retain their outer clothing for immediate exit, and where they are confined for a period not exceeding two (2) hours duration. Only those portions of a building used exclusively for religious worship are included in this exception.

(b) The maximum occupancy of all areas shall be conspicuously posted by means of a sign furnished by the state fire marshal's office.

(c) All Class A places of assembly shall have one uniformed fire fighter, and any additional uniformed fire fighters on duty when deemed necessary by the chief of the local fire department.

(d) All Class B places of assembly of less concentrated use shall have a uniformed fire fighter and any additional uniformed fire fighters on duty when deemed necessary by the chief of the local fire department.

(e) All Class B and C places of assembly of concentrated use shall have one uniformed fire fighter on duty when deemed necessary by the chief of the local fire department except as provided under subsection (f) of this section.

(f) All Class B and C places of assembly of concentrated or less concentrated use being utilized for activities of ~~unusual hazard~~; that would cause the place of assembly to be unsafe, dangerous or hazardous shall have one uniformed fire fighter on duty during such activity, and any additional uniformed fire fighters on duty when deemed necessary by the chief of the local fire department unless this requirement is specifically waived in writing for each such event.

(g) The cost of all fire fighters on duty under subsections (c) through (f) of this section shall be borne by the management of the facility.

(h) The above assigned fire fighter(s) shall be equipped with portable communication devices which shall be provided for by the local fire department to allow direct communication to the dispatcher of the local fire department.

(i) Any person violating the provisions of this section shall be fined not exceeding five thousand dollars (\$5,000) for each offense.

(j) The provisions of section 23-28.2-17 shall apply to any fire fighter assigned to a place of assembly pursuant to this section.

23-28.6-18. Alarm systems. -- (a) A fire alarm system as prescribed in section 23-28.25-4(a), and in accordance with requirements adopted by the fire safety code board of appeal and review, shall be installed in all Class 'C' places of assembly.

(b) A fire alarm system as prescribed in section 23-28.25-4(b) and in accordance with requirements adopted by the Fire Safety Code Board of Appeal and Review shall be installed in all Class 'A' and 'B' places of assembly.

(c) In addition to the locations prescribed in chapter 28.25 of this title, and in accordance with requirements adopted by the Fire Safety Code Board of Appeal and Review, a manual alarm station shall be installed on every stage and near any fixed lighting control panel and any projection booth.

(d) A ~~one hundred thirty-five degrees (135°) to one hundred forty degrees (140°)~~ F. rate of rise or fixed

temperature detector or detectors approved by the authority having jurisdiction shall be installed above all stage areas and below all accessible stage areas and projection booths.

SECTION 8. Chapter 23-28.6 of the General Laws entitled "Places of Assembly" is hereby amended by thereto the following sections:

23-28.6-21. Sprinklers required. -- (a) All new and existing places of assembly shall be completely protected by an approved system of automatic sprinklers installed and maintained in accordance with N.F.P.A. Standard 13, 2002 Edition and its related standards pursuant to the schedule outlined in subsection (d).

(b) The requirements of subsection (a) shall not apply to:

(i) Any Class "C" place of assembly of less concentrated use, exclusively calculated at fifteen (15) square feet per person;

(ii) Any Class "C" place of assembly of concentrated use not classified as a "special amusement building concentrated occupancy place of assembly";

(iii) Any Class "C" place of assembly of concentrated use, classified as a "special amusement building concentrated occupancy place of assembly" with a posted maximum occupancy of less than one hundred fifty (150) people;

(iv) Any existing fully alarmed building used exclusively as a place of worship.

(c) Alternatively engineered sprinkler systems, approved by the Fire Safety Code Board of Appeal and Review, shall be allowed in the retrofitting of an existing place of assembly with sprinklers.

(d) All Class A and B places of assembly shall be fully sprinkled in accordance with the above standards on or before July 1, 2005. All Class "C" special amusement buildings concentrated occupancy places of assembly" with a posted maximum occupancy of one hundred fifty (150) or more people, shall be fully sprinkled in accordance with the above standards on or before July 1, 2006.

(e) The occupancy of any place of assembly without a fire alarm system and/or sprinkler system after July 1, 2004, shall have its maximum occupancy adjusted by minus ten percent (10%) for the absence of a fire alarm system and minus twenty percent (20%) for the absence for the sprinklers, when sprinklers are required by law or regulation. Such downward adjustment in occupancy shall be cumulative and shall cease to apply when the premises are in

compliance with requirements for fire alarms systems and sprinklers, and shall not affect any other requirements of the Fire Safety Code Board of Appeal and Review applicable to the premises.

(f) A Class "C" place of assembly with an occupancy of one hundred fifty (150) or greater may avoid the above occupancy adjustment by requiring a fire fighter to be on duty during all hours of occupancy. In no event shall the occupancy adjustment to the firefighter requirement alter the July 1, 2006 deadline for the installation of sprinklers.

(g) All places of assembly with an occupancy of less than one hundred fifty (150) shall use fire retardant paints or other coverings, to a standard acceptable to the Fire Safety Code Board of Appeal and Review, unless the building has sprinklers by July 1, 2006.

23-28.6-22. Special amusement building concentrated occupancy places of assembly. – Every special amusement building concentrated occupancy place of assembly as defined in section 23-28.1-5 shall comply with following requirements, consistent with requirements related thereto established by the Fire Safety Code Board of Appeal and Review and the state fire marshal. All such buildings shall:

(a) Have fire alarms that are municipally connected for occupancies of one hundred fifty (150) or greater and for all Class A and B places of assembly by July 1, 2004. Such fire alarm systems shall be tested no less than quarterly.

(b) Have sprinklers in Class C places of assembly of one hundred fifty (150) or greater by July 1, 2006 and in Class A and B places of assembly by July 1, 2005; provided, however, that this requirement shall not apply to fully alarmed buildings used exclusively as places of worship.

(c) Have alarm systems sound and upon the actuation of any smoke detector or fire alarm, have emergency lighting or other appropriate lighting activate, and require that any conflicting sounds or visuals cease, by February 20, 2004.

(d) Have two fire extinguishers, which shall be at least twenty (20) pounds or such other size as may be established as appropriate by the Fire Safety Code Board of Appeal and Review, in each stage area, by February 20, 2004.

(e) Have floor proximity exit signs for all occupancies greater than one hundred fifty (150) by February 20, 2005.

(f) Shall provide an audible announcement of the location of emergency exits prior to each act or set.

(g) Have an emergency plan for the premises, approved by a fire marshal and consistent with rules established by the Fire Safety Code Board of Appeal a person on duty or a crowd manager on duty, who has been trained by the fire marshal with regard to the emergency plan and basic crowd management techniques by October 1, 2004. This requirement shall be in addition to the requirement for a detail fire fighter.

23-28.6-23. Prohibited activities in places of assembly. -- (a) Pyrotechnics. The storage, handling, use or display of pyrotechnics is prohibited in all Class B places of assembly, except as may be authorized below, and in all Class C places of assembly. Pyrotechnics may be permitted only in class A places of assembly that are fully fire alarmed and sprinklered and in Class B places of assembly that are theatres and are fully fire alarmed and sprinklered and have specific advanced approval from the fire marshal, or his designee, for the use of such pyrotechnics in accordance with requirements established by the Fire Safety Code Board of Appeal and Review.

(b) The use of decorative or acoustical materials that are not certified, consistent with NFPA requirements or such other requirements as may be established by the Fire Safety Code Board of Appeal and Review is prohibited. Any person or entity violating the provisions of this section shall be fined in an amount not exceeding five thousand dollars (\$5,000) for each offense.

SECTION 9. Sections 23-28.11-3, 23.28.6-4, 23-28.6-7, and 23-28.6-9 in chapter 23-28.6 of the General Laws entitled "Fireworks and Pyrotechnics are hereby amended to read as follows:

~~23-28.11-3. Permits.~~ 23-28.11-3. Permits for storage, handling, transportation and display of fireworks and pyrotechnics. -- (a) All storage, handling, transportation and display of fireworks shall be in accordance with the National Fire Protection Association (NFPA) Standard 1123 entitled "Code for Fireworks Display", and NFPA Standard 1124 entitled "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles" 2003 Edition, and the requirements of this chapter.

(b) All storage, handling, transportation and display of pyrotechnics shall be in accordance with the National Fire Protection Association (NFPA) Standard 1126 entitled "Standard for the Use of Pyrotechnics before a Proximate Audience", and NFPA Standard 1124 entitled "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles" 2003 Edition, and the requirements of this chapter.

~~(a)~~ (c) Permits to possess and display commercial fireworks or pyrotechnics shall be issued by the local fire authority on forms provided by the state fire marshal.

(b) (d) No permit to possess and display fireworks or pyrotechnics shall be issued by the local fire authority until the applicant has first obtained a valid certificate of competency from the state fire marshal. For the purposes of this chapter, 'pyrotechnics' means a chemical mixture, including pyrotech-compositions, intended to produce a visible and/or audible effect by combustion, deflagration or detonation before a proximate audience closer than allowed for outdoor fireworks displays as permitted under this chapter. All pyrotechnics shall be in accordance with the requirements of the National Fire Protection Association Standard 1126, entitled 'Use of Pyrotechnics Before A Proximate Audience', 1992 Edition, and the requirements of this chapter.

23-28.11-4. Certificate of competency. -- (a) Every person desiring to obtain a certificate of competency to possess and display commercial fireworks and/or pyrotechnics shall make application to the state fire marshal. A fee of ten dollars (\$10.00) shall accompany each application and shall be for processing the application and for examination to be given within ninety (90) days of receipt of application to determine applicant's experience and ability to conduct commercial fireworks and/or pyrotechnics demonstrations. Separate applications, examinations and certificates shall be issued by the state fire marshal for fireworks and pyrotechnics and shall be in such form as the state fire marshal may require. The examinations herein provided for shall require the applicant to demonstrate adequate understanding of applicable NFPA requirements.

(b) Each applicant found to be qualified by examination shall forthwith be issued a certificate of competency upon payment of fifty dollars (\$50.00) and submission of certification indicating satisfactory completion of psychiatric examination administered by a qualified physician within the previous year. All fees collected pursuant to this section shall be deposited as general revenue.

23-28.11-5. Duration -- Expiration -- Renewal -- Duplication. -- Every certificate issued shall be valid for one year, and shall be renewable without examination, except as herein provided, on March first after the original date of issue upon payment of fifty dollars (\$50.00). Any holder of a certificate whose certificate was lost, misplaced, or stolen may obtain a duplicate certificate from the state fire marshal upon payment of ten dollars (\$10.00). No renewal shall be issued after July 1, 2003, unless the applicant for the renewal shall demonstrate adequate familiarity to the satisfaction of the Fire Marshal with applicable NFPA requirements, which demonstration may be made by passing an appropriate examination.

23-28.11-7. Financial responsibility. -- No permit shall be issued to any applicant desiring to possess and display fireworks and/or pyrotechnics until the applicant furnishes to the local fire authority satisfactory proof of financial

responsibility in an amount not less than ~~fifty thousand dollars (\$50,000)~~ one million dollars(\$1,000,000) to satisfy claims for damage to property or persons resulting from the possession or use of fireworks and/or pyrotechnics. The local fire authority may require additional financial responsibility as he or she may deem necessary due to existing conditions.

23-28.11-9. Violations. -- (a) Any person found to be in violation of the provisions of this chapter relating to possession of commercial fireworks or pyrotechnics shall be fined not less than one hundred (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than one year. Any person found to be in violation of the provisions of this chapter relating to use or display of commercial fireworks or pyrotechnics shall be guilty of a felony, and shall be fined not less than one thousand dollars (\$1,000), or imprisoned for not more than five (5) years, or both.

(b) The state fire marshal or the fire marshal's deputies or any officer qualified to serve criminal process may arrest without a warrant any person found in violation of this chapter and shall seize immediately any and all of the fireworks and/or pyrotechnics in illegal use, possession, or under that person's control, and the fireworks seized shall upon conviction of the person be forfeited to the state.

(c) Notice of the seizure of the fireworks and/or pyrotechnics shall immediately be sent to the marshal by the officer making the seizure and the fireworks and/or pyrotechnics seized shall be held and securely stored by that department until the marshal or the marshal's authorized explosives technician takes them into his or her possession for disposal.

SECTION 10. Section 23-28.5-1 in chapter 23-28.25 of the General Laws entitled "Fire Alarm Systems" is hereby amended to read as follows:

23-28.25-1. Applicability. -- ~~(a) This chapter and the fire alarm sections of the several occupancy chapters which refer to this chapter shall apply to pertinent new buildings, to buildings where there is a change of occupancy to one which will require a fire alarm system, and to existing buildings which are altered or renovated to an extent equal to or in excess of fifty percent (50%) of market value in a one-year period as determined by a qualified appraiser. Existing buildings which have a fire alarm system which was in compliance with the requirements of the earlier edition of the Fire Safety Code, chapters 28.1 - 28.39 of this title, shall not be required to comply with this chapter or the fire alarm sections of the several occupancy chapters which refer to this chapter.~~

~~(b) Existing buildings which are not in compliance with the fire alarm system requirements of the earlier edition of the Fire Safety Code shall be required to install fire alarm systems in accordance with this chapter and the fire alarm~~

sections of the several occupancy chapters. All buildings and facilities covered under the Fire Safety Code, and all codes adopted pursuant thereto, shall be equipped with an approved fire alarm system installed and maintained in accordance with this chapter and any updated fire alarm regulations adopted by the Fire Safety Code Board of Appeal & Review. Any building that is not a place of assembly, that is required to be equipped with a fire alarm system pursuant to the Rhode Island Fire Safety Code, shall be so equipped on or before July 1, 2005.

SECTION 11. This act shall take effect upon passage.

Respectfully submitted,

NORMAN L. LANDROCHE, JR.
Representative, District 27

Representatives Landroche, Trillo and Fox discuss the amendment.

The motion to amend is read and prevails on a roll call vote, 67 members voting in the affirmative and 0 members voting in the negative as follows:

YEAS - 67: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Flaherty, Fox, Gallison, Giannini, Ginaitt, Gorham, Handy, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik, McCauley, McHugh, McManus, McNamara, Menard, Montanaro, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Reilly, San Bento, Savage, Schadone, Scott, Shanley, Sherlock, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Williamson, Winfield.

NAYS - 0.

By unanimous consent, Representative Trillo, seconded by Representatives Scott, Ginaitt and Watson, offers the following written motion to amend:

FLOOR AMENDMENT

TO

(03-H 6141) (Substitute "A")

Mr. Speaker:

I hereby move to amend (03-H 6141) (Substitute "A") entitled "AN ACT RELATING TO HEALTH AND SAFETY - FIRE SAFETY CODE" as follows:

On page 20, lines 4-6, by deleting the following language: "within forty-five (45) days after the submission of the completed set of plans, unless a longer time period is required due to the complexity of the project," and substituting in place thereof the following: "within a reasonable time not to exceed ninety (90) days"

Respectfully submitted,

JOSEPH A. TRILLO
Representative, District 24

Representative Crowley discusses the amendment.

The motion to amend is read and prevails on a roll call vote, 67 members voting in the affirmative and 0 members voting in the negative as follows:

YEAS - 67: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Dennigan, DeSimone, Enos, Flaherty, Gallison, Giannini, Ginaitt, Gorham, Handy, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik, McCauley, McHugh, McManus, McNamara, Menard, Montanaro, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Savage, Schadone, Scott, Shanley, Shavers, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Williamson, Winfield.

NAYS - 0.

By unanimous consent, Representative Trillo, seconded by Representatives Watson, Scott, Menard, Mumford, Ginaitt, Laroche and Landroche, offers the following written motion to amend:

FLOOR AMENDMENT

TO

(03-H 6141) (Substitute "A")

Mr. Speaker:

I hereby move to amend (03-H 6141) (Substitute "A") entitled "AN ACT RELATING TO HEALTH AND SAFETY - FIRE SAFETY CODE" as follows:

On page 26, line 5, by deleting the word and numeral "five (5)" and inserting in place thereof the word and numeral "ten (10)."

On page 26, line 5, after the word "thereof" by inserting the words "unless waived by the requesting person."

Respectfully submitted,

JOSEPH A. TRILLO
Representative, District 24

The motion to amend is read and prevails on a roll call vote, 68 members voting in the affirmative and 0 members voting in the negative as follows:

YEAS - 68: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Flaherty, Fox, Gallison, Giannini, Ginaitt, Gorham, Handy, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik, McCauley, McHugh, McManus, McNamara, Menard, Montanaro, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Savage, Schadone, Scott, Shanley, Shavers, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Williamson, Winfield.

NAYS - 0.

By unanimous consent, Representative Trillo, seconded by Representatives Ginaitt, Lowe, Menard, Laroche, Landroche, Scott and Mumford, offers the following written motion to amend:

FLOOR AMENDMENT

TO

(03-H 6141) (Substitute "A")

Mr. Speaker:

I hereby move to amend (03-H 6141) (Substitute "A") entitled "AN ACT RELATING TO HEALTH AND SAFETY - FIRE SAFETY CODE" as follows:

(1) On page 30, line 25, after the word "fined" by inserting the following: "an amount in accordance with a schedule of fines approved by the general assembly."

Respectfully submitted,

JOSEPH A. TRILLO
Representative, District 24

The motion to amend is read and prevails on a roll call vote, 67 members voting in the affirmative and 0 members voting in the negative as follows:

YEAS - 67: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Flaherty, Gallison, Giannini, Ginaitt, Gorham, Handy, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik, McCauley, McHugh, McManus, McNamara, Menard, Montanaro, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Savage, Schadone, Scott, Shanley, Shavers, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williamson, Winfield.

NAYS - 0.

NOW PRESIDING

At 5:15 o'clock P.M., the Honorable Speaker Murphy yields the rostrum to the Honorable Deputy Speaker Winfield.

CALENDAR

Representatives Watson, McNamara and Trillo discuss the act as amended.

NOW PRESIDING

At 5:22 o'clock P.M., the Honorable Deputy Speaker Winfield yields the rostrum to the Honorable Speaker Murphy.

CALENDAR

Representatives Ginaitt and Moura continue discussion on the act as amended.

The bill marked Substitute "A" is read and passed, as amended, and the original bill indefinitely postponed, on a roll call vote, 71 members voting in the affirmative and 0 members voting in the negative as follows:

YEAS - 71: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Flaherty, Fox, Gallison, Giannini, Ginaitt, Gorham, Handy, Jacquard, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik, McCauley, McHugh, McManus, McNamara, Menard, Montanaro, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Reilly, Rose, San Bento, Savage, Schadone, Scott, Shanley, Shavers, Sherlock, Slater, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Watson, Williams, Williamson, Winfield.

NAYS - 0.

4. (03-H6090) An Act relating to motor and other vehicles - traffic stops statistics.

Committee on Judiciary recommends passage.

Representative Almeida moves passage of the act, seconded by Representatives Anguilla, Dennigan, Rose, Ajello, Shavers, Cerra, Fox and Tejada.

By unanimous consent, Representative Almeida, seconded by Representatives Ajello, Rose, Anguilla, Benson, Shavers, San Bento, Fox, Tejada and Smith, offers the following written motion to amend:

FLOOR AMENDMENT

TO

(03-H 6090)

Mr. Speaker:

I hereby move to amend 2003 -- H 6090, entitled "AN ACT RELATING TO MOTOR AND OTHER VEHICLES - TRAFFIC STOPS STATISTICS", as follows:

By deleting all of the language following the enactment clause and inserting in place thereof the following:

"SECTION 1. Preamble. Whereas, the General Assembly adopted legislation in 2000 establishing a study of, and barring the use of, racial profiling in the stopping or searching of motorists; and

WHEREAS, "Racial profiling" was defined in that legislation as the disparate treatment of an individual "solely" on the basis of the person's race or ethnic status; and

WHEREAS, The Police Executive Research Forum and many other national analysts of the issue have since recognized that such a definition, if interpreted literally, is so narrow as to fail to accurately and adequately describe, or to allow for a meaningful analysis of, the conduct at issue; and

WHEREAS, The traffic stop study advisory committee established pursuant to section 31-21.1-3 of the general laws, the attorney general, and the entity procured pursuant to section 31-21.1-4(f) of the general laws to conduct a statistical analysis of the study, have also recognized the need to clarify this definition; and

WHEREAS, Additional time is needed in order to prepare the final report of the study analyzing traffic stops statistics data.

SECTION 2. Sections 31-21.1-2, 31-21.1-4 and 31-21.1-5 of the General Laws in Chapter 31-21.1 entitled "Traffic Stops Statistics" are hereby amended to read as follows:

31-21.1-2. Declaration and policy. -- The general assembly declares that ~~the use of racial profiling as the sole reason~~ for stopping or searching motorists on our public highways is against public policy and violates the civil rights of the motorist. For purposes of this chapter, "racial profiling" means the detention, interdiction or other disparate treatment of an individual ~~solely~~ on the basis, in whole or in part, of the racial or ethnic status of such individual, except when such status is used in combination with other identifying factors in seeking to apprehend a specific suspect whose racial or ethnic status is part of the description of the suspect. The purpose of this chapter is to conduct a study of the traffic stops by the police to determine whether racial profiling is occurring and to require that police prohibit the practice of racial profiling.

31-21.1-4. Traffic stop study. -- (a) The attorney general is authorized to and shall conduct a study of routine traffic stops by the Rhode Island state police and each municipal police department. The study shall include the collection and analysis of the data received from the police department pursuant to this section, which shall include the following information for each traffic stop conducted by the police:

- (1) The date, time and general location of the traffic stop;
- (2) The race or ethnicity, gender, and approximate age of the driver stopped; provided that the identification of these characteristics shall be based on the observation and perception of the police officer making the stop and the information shall not be requested of the person stopped;
- (3) The reason for the stop;
- (4) Whether a search was instituted as a result of the stop;
- (5) The scope of any search conducted;
- (6) Whether the search was conducted pursuant to consent, probable cause, or reasonable suspicion to suspect a crime;
- (7) Whether any contraband, including money, was seized in the course of the search, and if so, the nature of the contraband;
- (8) Whether any warning or citation was issued as a result of the stop;
- (9) Whether an arrest was made as a result of either the stop or the search;
- (10) The approximate duration of the stop; and
- (11) Whether the vehicle is registered in Rhode Island or out of the state.

(b) Not later than ninety (90) days after July 13, 2000, the attorney general, with the advice of the committee, shall develop a form, in both printed and electronic format, to be used by each police officer when making a traffic stop to record the data required under this chapter.

(c) Beginning January 15, 2001, and monthly thereafter, each municipal police department and the Rhode Island state police shall transmit to the attorney general a report containing:

- (1) All of the forms collected to date of motorists who were stopped;
- (2) Any complaints filed by motorists who believed they were the subject of racial profiling, provided that no information revealing the identity of the complainant, witnesses or the law enforcement officer involved in the traffic stop shall be used, transmitted or disclosed in violation of the provisions of Chapter 28.6 of Title 42, the Law Enforcement Officers' Bill of Rights; and

(3) Any other information the police department or Rhode Island state police deem appropriate.

(d) The study authorized under this chapter shall include a multi-variate analysis of the collected data in accordance with general statistical standards. The attorney general shall collect data for a period of not less than twenty-four (24) months and report its findings and conclusions to the governor and the general assembly not later than ~~twenty-eight (28)~~ thirty (30) months after the commencement of the collection of data under this chapter. The report, findings and conclusions submitted pursuant to this subsection shall be deemed a public record.

(e) In addition, the attorney general, with the advice of the committee, shall prepare on a quarterly basis a summary report of the monthly data provided by each police department and the state police for that quarterly period. The report shall be a public record. The summary report shall include a monthly breakdown by race for each police department of the number of traffic stops made and of searches conducted, and any other information deemed appropriate by the attorney general with the advice of the committee. The report shall be released not more than ninety (90) days after the end of each quarterly period. No information revealing the identity of any individual shall be contained in the report.

(f) Upon July 13, 2000, the attorney general with the advice of the committee shall procure the services of an organization, company, person or other entity with sufficient expertise in the field of statistics to assist with the implementation of this chapter. The organization, company, person or other entity so retained shall assist the attorney general and the committee with the design of the methodology for gathering statistics pursuant to this chapter, monitor compliance with the act throughout the study, and conduct a statistical analysis at the conclusion of the study to determine the extent to which racial profiling exists within the state.

(g) Appropriate funding shall be made available to implement the provisions of this chapter.

(h) The department of attorney general shall be exempt from the provisions of chapter 2 of title 37 in connection with its procurement of equipment and services necessary to the implementation of this chapter.

31-21.1-5. Adoption of written policies. -- (a) Not later than ninety (90) days after ~~July 13, 2000~~ January 1, 2004, each police department and the state police shall adopt written policies which shall:

~~(1) Provide a system for the collection of the data required under section 31-21.1-3 and the transmission of the data to the attorney general as required; and~~

~~(2) Prohibit prohibit~~ the use of racial profiling as the sole reason for stopping or searching motorists for routine traffic stops.

~~(b)~~ Copies of the policies adopted pursuant to this section shall be submitted to the attorney general and the committee, and shall be public records.

SECTION 3. This act shall take effect upon passage."

Respectfully submitted,

JOSEPH S. ALMEIDA
Representative, District 12

The motion to amend is read and prevails on a roll call vote, 63 members voting in the affirmative and 1 member voting in the negative as follows:

YEAS - 63: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Flaherty, Fox, Gallison, Giannini, Jacquard, Kennedy, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik,

McCauley, McHugh, McManus, McNamara, Menard, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Rose, San Bento, Savage, Schadone, Scott, Shanley, Shavers, Sherlock, Slater, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Williams, Winfield.

NAYS - 1: Representative Reilly.

Read and passed, as amended, on a roll call vote, 63 members voting in the affirmative and 1 member voting in the negative as follows:

YEAS - 63: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Anguilla, Aubin, Benson, Brien, Callahan, Caprio, Carter, Cerra, Coderre, Coogan, Corvese, Costantino, Crowley, Dennigan, DeSimone, Enos, Flaherty, Fox, Gallison, Giannini, Handy, Jacquard, Kennedy, Lally, Landroche, Laroche, Lewiss, Lima, Long, Lowe, Malik, McCauley, McHugh, McManus, McNamara, Menard, Moran, Moura, Mumford, Naughton, Palumbo, Petrarca, Picard, Rose, Savage, Schadone, Scott, Shanley, Shavers, Sherlock, Slater, Smith, Story, Tejada, Trillo, Voccola, Wasylyk, Williams, Winfield.

NAYS - 1: Representative Reilly.

On suggestion of Majority Leader Fox, and by unanimous consent, the Calendar for today is continued to Tuesday, June 17, 2003.

GUEST

Representatives Winfield and Menard welcome back to the House former Representative Maria Lopes.

ANNOUNCEMENT

Representative Caprio announces Charles Knowles' daughter Jennifer Knowles graduated from Narragansett High School with awards and scholarships.

CONSENT CALENDAR

Majority Whip Menard requests to take up only items 2 and 3 on today's Consent Calendar.

There is no objection.

From the Consent Calendar are taken:

2. (03-S1035) An Act to vacate the forfeiture or revocation of the charter of Marrich Incorporated.

Committee on Corporations recommends passage in concurrence.

3. (03-S1061) An Act to vacate the forfeiture or revocation of the charter of Eastern Vision Group, Inc.

Committee on Corporations recommends passage in concurrence.

Read and passed, in concurrence, on motion of Majority Leader Fox, seconded by Minority Leader Watson, and by unanimous consent, on a voice vote.

1. (03-S821) An Act relating to taxation - property subject to taxation.

Committee on Corporations recommends passage in concurrence.

Read, and by unanimous consent, ordered to be placed on the Consent Calendar for Tuesday, June 17, 2003.

TRANSMITTAL

By unanimous consent, all matters on the Clerk's desk are ordered to be transmitted to His Excellency, the Governor, to the Secretary of State, and to the Honorable Senate forthwith.

ADJOURNMENT

At 5:37 o'clock P.M. on motion of Representative Carter, and as a further mark of respect to the memory of Anthony "Pinky" Moretti; on motion of Representative Palumbo, and as a further mark of respect to the memory of Judge Anthony Giannini; seconded by Representatives Fox and Watson, the House adjourns, on a unanimous rising vote.

LINDA McELROY
Recording Clerk

Appendix

INVOCATION

MINORITY LEADER ROBERT A. WATSON

Thank you God for Your presence here with us and Your blessings on this Assembly today and every day. Amen.

Appendix

TRANSMITTED TO THE GOVERNOR

(03-S 1035) An Act to vacate the forfeiture or revocation of the charter of Marrich Incorporated.

(03-S 1061) An Act to vacate the forfeiture or revocation of the charter of Eastern Vision Group, Inc.

Appendix

CONSENT CALENDAR

In order for Tuesday, June 17, 2003:

1. (03-S821) An Act relating to taxation - property subject to taxation.

Committee on Corporations recommends passage in concurrence.

2. (03-H6502) An Act relating to solemnization of marriages.

Ordered on the Consent Calendar.

3. (03-S32) An Act relating to motor vehicles - special registration plate - Coventry - police chief emeritus.

Committee on Corporations recommends passage in concurrence.

4. (03-S34) An Act relating to the General Assembly permanent Joint Committee on naming all new buildings, bridges, edifices and other state constructions.

Committee on Corporations recommends passage in concurrence.

5. (03-S591) Joint Resolution declaring June as "Rivers Month" in the state of Rhode Island.

Committee on Corporations recommends passage in concurrence.

6. (03-S929) An Act relating to incorporation of the Dunns Corners Fire District.

Committee on Corporations recommends passage in concurrence.

7. (03-S944) An Act relating to establishing the Westerly Municipal Land Trust.

Committee on Corporations recommends passage in concurrence.

8. (03-S1004) An Act relating to taxation - levy and assessment of the local taxes.

Committee on Corporations recommends passage in concurrence.

Appendix

CONSENT CALENDAR

In order for Wednesday, June 18, 2003:

1. (03-H6512) An Act relating to solemnization of marriages.

Ordered on the Consent Calendar.

Appendix

CONSENT CALENDAR

In order for Thursday, June 19, 2003:

1. (03-S1133) An Act to vacate the forfeiture or revocation of the charter of the Fitness Connection, Inc.

Ordered on the Consent Calendar.

2. (03-S1136) An Act to vacate the forfeiture or revocation of the charter of Caribe Tropical Foods, Inc.

Ordered on the Consent Calendar.

3. (03-S1137) An Act to vacate the forfeiture or revocation of the charter of J.C. Jewelry, Inc.

Ordered on the Consent Calendar.

4. (03-S1138) An Act to vacate the forfeiture or revocation of the charter of Silva Environmental & Associates, Inc.

Ordered on the Consent Calendar.

5. (03-S1142) An Act to vacate the forfeiture or revocation of the charter of Foster Senior Housing, Inc.

Ordered on the Consent Calendar.

6. (03-S1143) An Act to vacate the forfeiture or revocation of the charter of Riteway Properties, Inc.

Ordered on the Consent Calendar.

LOUIS D'ANTUONO

Clerk of the House

Thursday, June 12, 2003

Appendix

CALENDAR

In order for Tuesday, June 17, 2003:

1. (03-H5069) (Substitute "A") An Act making revised appropriations for the support of the state for fiscal year ending June 30, 2003.

Committee on Finance recommends indefinite postponement of the original bill and passage of Substitute "A".

2. (03-H5282) An Act relating to alcoholic beverages - wholesale licenses.

Committee on Corporations recommends passage.

3. (03-H5890) An Act relating to children, youth and families - Children's Bill of Rights.

Committee on Finance recommends passage.

4. (03-S249) (Substitute "A" as amended) An Act relating to motor vehicle offenses.

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute "A" as amended in concurrence.

5. (03-S172) An Act relating to solemnization of marriages.

Committee on Judiciary recommends passage in concurrence.

6. (03-S175) An Act relating to solemnization of marriages.

Committee on Judiciary recommends passage in concurrence.

7. (03-S247) An Act relating to solemnization of marriages.

Committee on Judiciary recommends passage in concurrence.

8. (03-S544) An Act relating to taxation - levy and assessment of local taxes - Bristol.

Committee on Corporations recommends passage in concurrence.

9. (03-S547) An Act relating to taxation - levy and assessment of local taxes.

Committee on Corporations recommends passage in concurrence.

10. (03-S406) Joint Resolution proclaiming 2003 to be the "Year of the Woonasquatucket" in Rhode Island.

Committee on Corporations recommends passage in concurrence.

11. (03-S926) An Act relating to taxation.

Committee on Corporations recommends passage in concurrence.

12. (03-S1001) An Act relating to animals and animal husbandry - dog licenses.

Committee on Corporations recommends passage in concurrence.

13. (03-H5949) (Substitute "A") An Act relating to food and drugs.

Ordered on the Calendar.

14. (03-H6391) An Act relating to education - civic education commission.

Committee on Health, Education and Welfare recommends passage.

15. (03-S143) (Substitute "A" as amended) An Act relating to indebtedness of towns and cities - municipal deficits.

Committee on Corporations recommends indefinite postponement of the original bill and passage of Substitute "A" as amended in concurrence.

16. (03-S226 as amended) An Act relating to taxation - property subject to taxation.

Committee on Corporations recommends passage as amended in concurrence.

Appendix

CALENDAR

In order for Wednesday, June 18, 2003:

1. (03-H5611) (Substitute "A") An Act relating to taxation.

Committee on Finance recommends indefinite postponement of the original bill and passage of Substitute "A".

2. (03-H6033) An Act relating to towns and cities - relief of injured and deceased firefighters and police officers.

Committee on Finance recommends passage.

3. (03-H6525) An Act relating to taxation - levy and assessment of local taxes.

Ordered on the Calendar.

4. (03-H6526) An Act relating to taxation - property subject to taxation.

Ordered on the Calendar.

5. (03-H6527) An Act relating to taxation - elderly real property exemption.

Ordered on the Calendar.

6. (03-S149) Joint Resolution making an appropriation to pay certain veterans bonuses.

Committee on Finance recommends passage in concurrence.

7. (03-S150) Joint Resolution making an appropriation to pay certain veterans bonuses.

Committee on Finance recommends passage in concurrence.

8. (03-S370) An Act relating to towns and cities - relief of injured and deceased firefighters and police officers.

Committee on Finance recommends passage in concurrence.

9. (03-S390) An Act relating to health and safety.

Committee on Finance recommends passage in concurrence.

10. (03-S526) An Act relating to public officers and employees - federal old-age and survivors' insurance.

Committee on Finance recommends passage in concurrence.

Appendix

CALENDAR

In order for Thursday, June 19, 2003:

1. (03-H6474) An Act relating to taxation.

Committee on Corporations recommends passage.

2. (03-H6475) An Act relating to cities and towns - exempting from taxation the property of the Newport, Rhode Island Young Men's Christian Association.

Committee on Corporations recommends passage.

3. (03-S22 as amended) An Act relating to motor vehicle insurance - motor vehicle body replacement parts.

Committee on Corporations recommends passage as amended in concurrence.

LOUIS D'ANTUONO

Clerk of the House

Thursday, June 12, 2003

As always, your [comments](#) concerning this page are welcomed and appreciated.

Thank you for stopping by!

