

JOURNAL OF THE HOUSE.

Wednesday, June 9, 2010.

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer. Eternal God, the Ultimate Source of Truth and Goodness, we open our hearts and minds to You and to Your ways as we pray for Your guidance and assistance in our deliberations and decision-making actions each day. Inspire us to recognize the needs of the people, our communities and of these changing times as we take up the matters and the calendar items which come before us. In addressing sensitive and controversial issues, teach us to reason and dialogue together and to be open to the insights of others in resolving these matters. Help us to remain faithful to our basic fundamental principles and traditional moral values as we deal with current issues and plan for the future of our children and of the Commonwealth. In proposing and evaluating legislation, may we learn from the achievements as well as from the mistakes of those who have gone before us. Let our communities be peaceful, civil and respectful of the dignity of all individuals.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance. At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Statement of Representative Fennell of Lynn.

A statement of Mr. Fennell of Lynn was spread upon the records of the House, as follows:

Statement of Mr. Fennell of Lynn. MR. SPEAKER: I would like to call to the attention of the House the fact that I will be unable to be present in the House Chamber for the remainder of today's sitting due to previously scheduled personal business outside of the State House. If I were able to be present for the vote on passing to be engrossed the Senate Bill regulating the use of off-highway and recreation vehicles (Senate, No. 2257, amended), I would vote in the affirmative. My missing of roll calls today is due entirely to the reason stated.

Statement Concerning Representative Peterson of Grafton.

A statement of Mr. Jones of North Reading concerning Mr. Peterson of Grafton was spread upon the records of the House, as follows:

Statement concerning Mr. Peterson of Grafton. MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Peterson of Grafton, is unable to be present in the House Chamber for today's sitting due to travel outside of the Commonwealth to attend the wedding of his son, Erik. His missing of roll calls today is due entirely to the reason stated.

Guests of the House and Special Recognition.

During the session, Mr. Naughton of Clinton took the Chair and introduced Richard Pockwinse and Bernard Czajkowski of the Lt. General James M. Gavin Chapter of the 82nd Airborne Division Association, who presented Representative Kujawski of Webster with a citation for the organizing and assisting with their event at the State House last summer. The citation thanked him for his support of Massachusetts veterans.

Richard Pockwinse and Bernard Czajkowski.

Communication.

A communication from the Department of Energy Resources of the Office of Energy and Environmental Affairs (under the provisions of section 12 of Chapter 25A of the General Laws) submitting proposed regulations (225 CMR 14.00) to provide significant assistance to the Commonwealth in meeting its renewable energy goals (House, No. 4745), was referred to the committee on Telecommunications, Utilities and Energy. Sent to the Senate for concurrence.

Renewable energy goals.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. deMacedo of Plymouth) congratulating Shawn Robert Potter on receiving the Eagle Award of the Boy Scouts of America;

Shawn Potter.

Resolutions (filed by Miss Gregoire of Marlborough) congratulating Richard F. Riley, Jr., on the occasion of his retirement;

Richard F. Riley, Jr.

Resolutions (filed by Messrs. Rogers of Norwood, Rush of Boston and Barrows of Mansfield) congratulating Joseph J. Perfetti on the occasion of his retirement; and

Joseph J. Perfetti.

Resolutions (filed by Mr. Turner of Dennis) congratulating John Allen Ellerbee on the occasion of his one hundredth birthday.

John Allen Ellerbee.

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Torrisi of North Andover, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

By Ms. Polito of Shrewsbury, a petition (accompanied by bill House, No. 4736) of Karyn E. Polito and others (by vote of the town) that the town of Westborough be authorized to issue an additional license for the sale of alcoholic beverages not to be drunk on the premises;

Westborough,—liquor license.

By Mr. Speliotis of Danvers, a petition (accompanied by bill House, No. 4737) of Theodore C. Speliotis and Frederick E. Berry (by vote of the town) that the town of Danvers be authorized to issue a license for the sale of wine and malt beverages to McKinnon's Butcher Shop; and

Danvers,—liquor license.

By Mr. Speliotis of Danvers, a petition (accompanied by bill House, No. 4738) of Theodore C. Speliotis and Frederick E. Berry (by vote of

Id.

the town) for legislation to authorize the town of Danvers to issue a license for the sale of wine and malt beverages to Diluigi's Butcher Shop.

Severally to the committee on Consumer Protection and Professional Licensure.

By Mr. Smith of Everett, a petition (accompanied by bill House, No. 4739) of Steven Stat Smith (with the approval of the mayor, board of aldermen and common council) for legislation validating the election of a charter commission in the city of Everett. To the committee on Election Laws.

By Representative Peake of Provincetown and Senator O'Leary, a joint petition (accompanied by bill House, No. 4740) of Sarah K. Peake and Robert A. O'Leary (by vote of the town) for legislation to authorize the town of Truro to lease certain land to the town of Provincetown for the purpose of developing water wells. To the committee on Municipalities and Regional Government.

By Representative Arciero of Westford and Senator Eldridge, a joint petition (accompanied by bill House, No. 4741) of James Arciero and James B. Eldridge (by vote of the town) for legislation to authorize the Littleton Electric Light Department to perform certain electrical work. To the committee on Telecommunications, Utilities and Energy.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Atsalis of Barnstable, a petition (subject to Joint Rule 12) of Demetrius J. Atsalis relative to attorneys' fees in certain matters relating to record keeping for condominium owners organizations.

By Mr. Koutoujian of Waltham, a petition (subject to Joint Rule 12) of Peter J. Koutoujian and Cynthia Stone Creem relative to the distribution of certain probate records by electronic mail.

By Representative Webster of Pembroke and Senator Hedlund, a joint petition (subject to Joint Rule 12) of Daniel K. Webster, Robert L. Hedlund and others relative to employment requirements for aliens.

Severally referred, under Rule 24 to the committee on Rules.

Papers from the Senate.

Bills

Authorizing a certain question relative to a charter revision in the town of Palmer to be placed on the state election ballot (Senate, No. 2352) (on Senate, No. 2284) [Local Approval Received];

Validating the election of a charter commission in the city of Holyoke (Senate, No. 2408, amended in section 1, in line 7, by adding the following sentence "The charter commission shall be subject to all other provisions of sections 9 and 11 of chapter 43B of the General Laws.") (on a petition) [Local Approval Received]; and

Designating a playground at the Marine Park in South Boston as the Michael Joyce Memorial Playground (Senate, No. 2435) (on a petition);

Severally, passed to be engrossed by the Senate were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Reports of Committees.

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on House, No. 4227, a Bill authorizing the town of Clinton to issue additional liquor licenses (House, No. 4734) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Clinton,—
liquor
license.

By Mr. Kafka of Stoughton, for said committee, then reported recommending that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Naughton of Clinton, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, its title having been changed by said committee to read: "An Act authorizing the town of Clinton to issue an additional license for the sale of all alcoholic beverages to be drunk on premises.". Sent to the Senate for concurrence.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill establishing a sick leave bank for Meridyth L. Reith, an employee of the Department of Environmental Protection (House, No. 4575), be scheduled for consideration by the House.

Meridyth L.
Reith,—
sick leave.

Under suspension of Rule 7A, on motion of Mr. Frost of Auburn, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, its title having been changed by said committee to read: "An Act establishing a sick leave bank for Meridyth L. Reith, an employee of the Department of Environmental Protection.". Sent to the Senate for concurrence.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill establishing a sick leave bank for Rick Leclair, an employee of the Department of Children and Families (House, No. 4698), be scheduled for consideration by the House.

Rick
Leclair,—
sick leave.

Under suspension of Rule 7A, on motion of Mr. Rosa of Leominster, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Pedone of Worcester moved to amend it by adding the following sentence "Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave

Everett,—
charter
commission.

Truro,—
water
wells.

Littleton,—
Light
Department.

Condominium
owners,—
attorney fees.

Probate
records,—
electronic mail.

Aliens,—
employment.

Palmer,—
ballot
question.

Holyoke,—
charter
commission.

South Boston,—
Michael
Joyce.

Rick Leclair,—
sick leave.

bank as determined by the department.”; and by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the department of children and families, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”

The amendments were adopted; and the bill (House, No. 4698, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Elise Lachance,—
sick leave.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill establishing a sick leave bank for Elise Lachance, an employee of the Department of Correction (House, No. 4710), be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Sullivan of Fall River, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn), was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Carol Roberts,—
sick leave.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill establishing a sick leave bank for Carol Roberts, an employee of the Department of Transitional Assistance (House, No. 4711), be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Sullivan of Fall River, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn), was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Northborough,—
liquor license.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill authorizing the town of Northborough to grant an additional license for the sale of all alcoholic beverages (House, No. 4719), be scheduled for consideration by the House [Local Approval Received].

Under suspension of Rule 7A, on motion of Mr. Naughton of Clinton, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on further motion of the same member, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, its title having been changed by said committee to read: “An Act authorizing the town of Northborough to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises.”. Sent to the Senate for concurrence.

By Mr. Koutoujian of Waltham, for the committee on Financial Services, on Senate, Nos. 450, 475, 476, 504 and 514 and House, Nos. 905, 907, 1027, 1046, 1047, 3561 and 3678, an Order relative to authorizing the committee on Financial Services to make an investigation and study of certain Senate and House documents concerning financing and financial services (House, No. 4732).

Financial Services,—
study order.

By the same member, for the same committee, on House, Nos. 855, 887 and 3894, an Order relative to authorizing the committee on Financial Services to make an investigation and study of certain House documents concerning financing and financial services (House, No. 4742).

Id.

By Ms. Coakley-Rivera of Springfield, for the committee on Labor and Workforce Development, on House, Nos. 607, 1802, 1807, 1816, 1817, 1819, 1823, 1824, 1829, 1830, 1831, 1837, 1840, 1849, 1858, 1861, 1862, 1875, 1876, 3578, 3582 and 3583, an Order relative to authorizing the committee on Workforce Development to make an investigation and study of certain House documents concerning labor and workforce development issues (House, No. 4746).

Labor and Workforce Development,—
study order.

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Binienda of Worcester, for said committees, reported, asking to be discharged from further consideration of said orders; and recommending that the same be referred to the House committee on Rules. Under Rule 42, the reports were considered forthwith; and they were accepted.

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on a petition, a Bill relative to the certification of interior designers (House, No. 262).

Interior designers,—
certification.

By the same member, for the same committee, on Senate, No. 134 and House, No. 318, a Bill relative to updating reciprocity for licensing optometrists (House, No. 318).

Optometrists,—
reciprocity.

By the same member, for the same committee, on Senate, No. 127 and House, No. 306, a Bill relative to cosmetologists (House, No. 4733).

Cosmetologists.

By Mr. Spellane of Worcester, for the committee on Public Service, on a petition, a Bill authorizing the state retirement board to grant creditable service to Thomas Famulari (House, No. 2636).

Thomas Famulari.

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on House, No. 4494, a Bill authorizing the town of Westborough to remove a condition of a full liquor license (House, No. 4735) [Local Approval Received].

Westborough,—
liquor license.

By the same member, for the same committee, on Senate, No. 170 and House, Nos. 225 and 3424, a Bill further regulating unfair trade practices in the sale of alcoholic beverages to wholesalers (House, No. 4743).

Alcohol sales,—
wholesalers.

By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on a petition, a Bill establishing the Caleb Chase Revenue Account for the town of Harwich (House, No. 4587) [Local Approval Received].

Harwich,—
Caleb Chase account.

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Engrossed Bills.

Engrossed bills

Bills enacted.

Exempting the position of Deputy Chief of Police in the town of Wakefield from provisions of the civil service law (see Senate, No. 2230) (which originated in the Senate);

Designating a portion of state highway route 140 located in the town of Upton as the George L. Wood Veterans of Foreign Wars Post #5594 and the Marshall-Leland American Legion Post #173 Roadway (see House, No. 4334); and

Providing for the appointment of a treasurer-collector in the town of Freetown (see House, No. 4415);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Senate bills

Third reading bills.

Designating the East Brookfield District Courthouse as the Francis H. George Courthouse (Senate, No. 1575);

Relative to the Punchard Free School in the town of Andover (Senate, No. 2321);

Establishing a sick leave bank for Melissa Gordon, an employee of the Trial Court (Senate, No. 2433); and

Establishing a sick leave bank for Howard Ray, an employee of the Department of Early Education and Care (Senate, No. 2452);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

House bills

Second reading bills.

Relative to manslaughter (House, No. 1614);

Relative to the removal of spending limits in the town of North Andover (House, No. 1897);

Relative to certain easements in the town of Andover (House, No. 4318) (its title having been changed by the committee on Bills in the Third Reading); and

Designating a certain bridge in the town of Westminster as the Ryan Patrick Jones Bridge (House, No. 4437) (its title having been changed by the committee on Bills in the Third Reading).

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Stone walls.

The House Bill relative to stone walls (House, No. 1694) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Pedone of Worcester moved to amend it by striking out all after the enacting clause and inserting in place thereof the following:

“Chapter 266 of the General Laws is hereby amended by striking out section 105, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:—

Section 105. Whoever willfully and without right pulls down or removes any portion of a stone wall or fence which is erected or maintained for the purpose of enclosing land shall be punished by a fine of not more than \$500.”

The amendment was adopted; and the bill was passed to be engrossed. Sent to the Senate for concurrence.

The Senate Bill relative to the Essex North Shore Agricultural and Technical School (Senate, No. 2392); and

Second reading bills.

House bills

Relative to interest on retainage (House, No. 4507); and

Relative to price adjustment (House, No. 4508);

Severally were read a second time; and they were ordered to a third reading.

The Senate Bill further regulating public charities (Senate, No. 2117, amended) was read a second time.

Second reading bill amended.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4726,— was adopted.

The bill (Senate, No. 2117, amended) then was ordered to a third reading.

The Senate Bill requiring adequate education relative to the proper safety and operation of a motorcycle for minors (Senate, No. 2344) was read a second time.

Id.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4727,— was adopted.

The bill (Senate, No. 2344, amended) then was ordered to a third reading.

The House Bill relative to speed limits (House, No. 3643) was read a second time.

Id.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4728),— was adopted.

The substituted bill then was ordered to a third reading.

The House Bill amending Chapter 62C of the General Laws (House, No. 4367) was read a second time.

Id.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a Bill capping the bond amount paid by gasoline distributors, unclassified importers and unclassified exporters (House, No. 4729),— was adopted.

The substituted bill then was ordered to a third reading.

Emergency Measures.

East Brookfield,—George Courthouse.

The engrossed Bill designating the East Brookfield district courthouse as the Francis H. George Courthouse (see Senate, No. 1575), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 29 to 0. Sent to the Senate for concurrence.

Melissa Gordon,—sick leave.

The engrossed Bill establishing a sick leave bank for Melissa Gordon, an employee of the Trial Court (Senate, No. 2433), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 29 to 0. Sent to the Senate for concurrence.

Howard Ray,—sick leave.

The engrossed Bill establishing a sick leave bank for Howard Ray, an employee on the Department of Early Education and Care (Senate, No. 2452), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 30 to 0. Sent to the Senate for concurrence.

Recess.

Recess.

At twenty-seven minutes before the hour of twelve o'clock noon, on motion of Mrs. Poirier of North Attleborough (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at thirteen minutes after one o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Engrossed Bills — Land Takings.

Westport,—land lease.

The engrossed Bill authorizing the town of Westport to lease a portion of the Westport Town Farm to the trustees of the reservations (see House bill No. 4368, amended) (which originated in the House) having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 411 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill enacted (land taking),—yea and nay No. 411.

The engrossed Bill relative to the proper conservation of Muskeget Island (see House bill printed in House, No. 4613) (which originated in the House) (which had been submitted by the Governor, under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Muskeget Island,—conservation.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 154 members voted in the affirmative and 0 in the negative.

Bill enacted (land taking),—yea and nay No. 412.

[See Ye and Nay No. 412 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Reports of Committees.

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Senate Bill to regulate the use of off-highway and recreation vehicles (Senate No. 2257) ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4744. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Off-highway and recreational vehicles.

Mr. Kafka of Stoughton, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Costello of Newburyport, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the bill, as amended, was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn), was read a third time, its title having been changed by said committee to read: "An Act regulating the use of off-highway and recreation vehicles."

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, Mr. Smizik of Brookline moved to amend it in section 13, after line 227, by inserting the following sentence "No person shall operate a snow vehicle or recreation vehicle on publicly-owned property except on trails marked and designated for use by such vehicles, or without the express permission of the owner."; and the amendment was adopted.

Mr. Scibak of South Hadley then moved to amend the bill in section 8, in line 139, by inserting after the word "vehicle." the following three sentences "The registration number shall be painted or by means of a decal or sticker which is firmly attached to both sides of the cowl of the vehicle and located so that both are clearly visible and not obstructed. The registration number displayed shall be not less than three inches in height and not less than one-half inch in width and shall be in a color that is in marked and distinct contrast to the background to which the number is applied. The registration

Off-highway
and recreational
vehicles.

number shall be maintained in a legible condition at all times.”. The amendment was adopted.

Mr. Rodrigues of Westport then moved to amend the bill in section 1, in line 38, by inserting after the word “year.” the following paragraph:

“(d) Not less than twenty-five percent of the monies deposited in the fund shall be expended on a fiscal year basis for the activities identified in subsection (b)(ii) or for grants made pursuant to subsection (b)(iii) to fund the activities identified in subsection (b)(ii). Monies that are deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.”.

The amendment was adopted.

Mr. Pignatelli of Lenox and other members of the House then moved to amend the bill in section 13, in line 200, by inserting after the word “year.” the following sentence “A person operating an appropriately aged and speed regulated recreational vehicle or snow vehicle under the accompanied direct supervision of a parent, guardian or other authorized adult, all of whom have complied with any certification in safety education programs shall be exempt from the provisions of this section.”. The amendment was rejected.

Mr. Frost of Auburn then moved to amend the bill in section 13, in line 227, by inserting after the word “director.” the following paragraph:

“Any municipality or owner of land who permits the public to use snow vehicles or recreational vehicles on such land without imposing a charge or fee therefor, or who leases such land for said purposes to the commonwealth or any political subdivision thereof or to any nonprofit corporation, trust or association, shall not be liable for personal injuries or property damage sustained by such members of the public, including without limitation a minor, while on said land in the absence of willful, wanton, or reckless conduct by such person. Such permission shall not confer upon any member of the public using said land, including without limitation a minor, the status of an invitee or licensee to whom any duty would be owed by said person.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 44 members voted in the affirmative and 106 in the negative.

[See Ye and Nay No. 413 in Supplement.]

Therefore the amendment was rejected.

Mr. Quinn of Dartmouth and other members of the House then moved to amend the bill by adding the following section:

“SECTION 27. Chapter 242 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 7A thereof the following new section:—

Section 7B. Field crop product and agricultural property destruction.

(a) Any person operating an off-highway or recreational vehicle who damages or destroys a field crop product and agricultural property situated on the land of another shall be liable to the owner of such product in tort.

(b) A party recovering judgment under this section shall be entitled to an award of damages in an amount up to, but not greater than, three times the amount assessed for the removal, damage or destruction of the farm crop product and agricultural property, plus attorney fees and litigation costs. In assessing damages under this subsection, the courts shall consider the market value of the field crop product and agricultural property prior to its removal, damage or destruction, and all costs directly related to the production, research, testing, replacement and development of the field crop product and agricultural property.

(c) Damages awarded under this section shall not limit remedies available under chapter 266 or under any other applicable local, state or federal laws.

(d) Liability under this section shall not apply to any federal, state or local government agency, including the department of agricultural resources, or to any employee of any such agency acting in the course of their employment.

(e) For purposes of this section, a ‘field crop product’ shall mean any product of the soil that is grown in the context of a research or product development program in conjunction or coordination with a private research facility or a university or any federal, state or local governmental agency or any crop produced for commercial purposes on an agricultural operation as defined by M.G.L. chapter 128 Section 1A.

(f) For purposes of this section, an ‘agricultural property’ shall mean any implement of husbandry, structure used for the conveyance of water, or structure used in the production, growing, processing of field crop products or keeping and raising of livestock.”.

The amendment was adopted.

Representatives Sandlin of Agawam and Pignatelli of Lenox then moved to amend the bill in section 4, in lines 76 and 77, by striking out the words “off highway vehicle manufacturers and dealers” and inserting in place thereof the words “the Specialty Vehicle Industry Association and the Massachusetts Powersport Dealers Association”; and the amendment was adopted.

Mr. Rodrigues of Westport then moved to amend the bill by inserting after section 18 the following section:

“SECTION 18A. Section 1 of Chapter 90C of the General Laws, as appearing in the most recent edition, is hereby amended by inserting at the end of the definition of ‘police chief’ the following:— or the director of law enforcement in the office of law enforcement in the executive office of energy and environmental affairs.”.

The amendment was rejected.

Ms. Peake of Provincetown then moved to amend the bill in section 24, in line 475, by inserting after the word “Laws.” the following paragraph:

“Any duly authorized law enforcement officer, including a municipal police officer shall not be liable for personal injuries sustained by the operator or passenger of a snow vehicle or recreation vehicle that are sustained while attempting to flee from said duly authorized law enforcement officer.”.

The amendment was rejected.

Amendment
rejected,—
yea and nay
No. 413.

Off-highway
and recreational
vehicles.

Ms. Gobi of Spencer then moved to amend the bill in section 13, in line 200, by inserting after the word "vehicle." the following two sentences "This section shall not apply to a person operating a recreation vehicle or snow vehicle in preparation for, or while a participant in, a sanctioned race, rally or organized event which is supervised by a person aged 18 or older and which has been authorized or approved by a municipal permitting authority. It shall be an affirmative defense in a delinquency proceeding for a violation of this section that a juvenile was supervised by a person aged 18 or older while operating such a vehicle within 21 days before such sanctioned race, rally or organized event or while a participant in such a sanctioned race, rally or organized event." The amendment was adopted.

Bill passed to
be engrossed,—
yea and nay
No. 414.

After debate on the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays at the request of Mr. Costello of Newburyport; and on the roll call 142 members voted in the affirmative and 12 in the negative.

[See Yea and Nay No. 414 in Supplement.]

Therefore the bill, as amended, was passed to be engrossed, in concurrence (for House text, as amended, see House document numbered 4747, published as amended). The bill (Senate, No. 2257, amended) then was sent to the Senate for concurrence in the House amendment.

Subsequently a statement of Mr. Cabral of New Bedford was spread upon the records of the House, as follows:

Statement of
Mr. Cabral
of New Bedford.

MR. SPEAKER: On the taking of the above yeas and nays, on the question on passing the bill to be engrossed, I voted in the affirmative, but for some inexplicable reason, I was recorded in the negative.

Order.

Mr. Donato of Medford being in the Chair, on motion of Mr. DeLeo of Winthrop,—

Next
sitting.

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-eight minutes before four o'clock P.M., on motion of Mrs. Poirier of North Attleborough (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M., in an Informal Session.