

JOURNAL OF THE HOUSE.

Wednesday, September 28, 2005.

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.

God of Goodness and Truth, we pause for a moment to pray, to reflect and to think about You, Our Creator, human and spiritual values and our own personal blessings. Inspire us to use these blessings and gifts wisely and as You intended. By following Your ways, we achieve personal happiness, peace and fulfillment. In this competitive and even dangerous world, help us to recognize and utilize our wonderful human talents and rich human resources. As legislators, may the present and future well-being of our children and young people remain a high priority in planning for the future of our communities, the Commonwealth and the nation. Teach us to be open to the thoughtful suggestions, insights and proposals of all, but remain committed to our own principles, beliefs and goals.

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.

Messages from the Governor.

Bonds, terms.

A message from His Excellency the Governor recommending legislation relative to the terms of certain bonds to be issued by the Commonwealth (House, No. 4385) was filed in the office of the Clerk on Tuesday, September 27.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Bonding, Capital Expenditures and State Assets. Sent to the Senate for concurrence.

Norwell, elected officials.

A message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to certain insurance benefits for part time elected officials of the town of Norwell (House, No. 4386) was filed in the office of the Clerk on Tuesday, September 27.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Public Service. Sent to the Senate for concurrence.

Statement of Representative Candaras of Wilbraham.

A statement of Ms. Candaras of Wilbraham was spread upon the records of the House, as follows:

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 commitment. Any roll calls that I may miss today will be due entirely to the reason stated.

Statement of Representative Candaras of Wilbraham.

Statement Concerning Representative Kennedy of Brockton.

A statement of Mr. Rogers of Norwood concerning Mr. Kennedy of Brockton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kennedy of Brockton, will not be present in the House Chamber for today's sitting due to his hospitalization. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement concerning Representative Kennedy of Brockton.

Statement Concerning Representative Rivera of Springfield.

A statement of Mr. Rogers of Norwood concerning Ms. Rivera of Springfield was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Rivera of Springfield, will not be present in the House Chamber for today's sitting due to illness. Any roll calls that she may miss today will be due entirely to the reason stated.

Statement concerning Representative Rivera of Springfield.

Statement Concerning Representative Rodrigues of Westport.

A statement of Mr. Rogers of Norwood concerning Mr. Rodrigues of Westport was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Rodrigues of Westport, will not be present in the House Chamber for today's sitting due to his attendance at the Council of State Government, 2005 Henry Toll Fellowship Program from September 24 to September 29 in Lexington. Any roll calls that he may miss during this period will be due entirely to the reason stated.

Statement concerning Representative Rodrigues of Westport.

Statement of Representative Spiliotis of Peabody.

A statement of Ms. Spiliotis of Peabody was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was present in the House Chamber at last Thursday's sitting and voted in the affirmative on roll call number 196, relative to passing to be engrossed the House Bill relative to welfare reform (House, No. 4378, printed as amended). However, I now find that, for some inexplicable reason, I was not recorded.

Statement of Representative Spiliotis of Peabody.

Statement of Representative Wolf of Cambridge.

A statement of Ms. Wolf of Cambridge was spread upon the records of the House, as follows:

Statement of Representative Wolf of Cambridge.

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 long term previously scheduled commitment in my district. Any roll calls that I may miss today will be due entirely to the reason stated.

Resolutions.

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

Thomas J. Ronayne, Jr.

Resolutions (filed by Mr. Galvin of Canton) on the dedication of the Thomas J. Ronayne, Jr. fire station in the town of Canton;

Southern Berkshire Regional School District.

Resolutions (filed by Mr. Pignatelli of Lenox) congratulating the Southern Berkshire Regional School District on the occasion of its sixtieth anniversary; and

World War II Veterans of South Hadley.

Resolutions (filed by Mr. Scibak of South Hadley) congratulating the World War II Veterans of South Hadley on the sixtieth anniversary of the end of the war;

Mr. Petrolati of Ludlow, 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. deMacedo of Plymouth, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

Canton, recall elections.

By Mr. Galvin of Canton, petition (accompanied by bill, House, No. 4387) of William C. Galvin and Brian A. Joyce (by vote of the town) for legislation to further regulate the method of recalling elected officials in the town of Canton; and

Brockton, veterans on ballots.

By Mr. Kennedy of Brockton, petition (accompanied by bill, House, No. 4388) of Thomas P. Kennedy and others (with the approval of the mayor and city council) that candidates for public office in the city of Brockton be authorized to include the word "veteran" on ballots in said city;

Severally to the committee on Election Laws.

Sudbury, revolving fund.

By Mrs. Pope of Wayland, petition (accompanied by bill, House, No. 4389) of Susan W. Pope (by vote of the town) that the town of Sudbury be authorized to establish a revolving fund from proceeds from rentals of certain town-owned property; and

Sudbury, historic commission.

By the same member, petition (accompanied by bill, House, No. 4390) of Susan W. Pope (by vote of the town) relative to the membership of the historic district commission of the town of Sudbury;

Severally to the committee on Municipalities and Regional Government.

By the same member, petition (accompanied by bill, House, No. 4391) of Susan W. Pope (by vote of the town) that the town of Sudbury be authorized to establish a post employment health insurance liability fund. To the committee on Public Service.

Sudbury, health insurance.

By Ms. Polito of Shrewsbury, petition (accompanied by bill, House, No. 4392) of Karyn E. Polito and others (by vote of the town) relative to the manager of the public works department of the town of Westborough. To the committee on Municipalities and Regional Government.

Westborough, town manager.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Bosley of North Adams, petition (subject to Joint Rule 12) of Iftekhar H. Kazmi and Karen E. Spilka for legislation to direct the State Retirement Board to grant certain creditable service to Iftekhar H. Kazmi, an employee of the Commonwealth.

Iftekhar H. Kazmi, creditable service.

By Mr. Costello of Newburyport, petition (subject to Joint Rule 12) of Michael A. Costello relative to the membership of the Board of Trustees of the Massachusetts Water Pollution Abatement Trust.

Water Pollution Abatement Trust.

By Mr. Fagan of Taunton, petition (subject to Joint Rule 12) of Eric J. Ruby that the Registrar of Motor Vehicles be authorized to transfer into the Spinal Cord Injury Trust Fund the total amount of certain surcharges imposed on operators of motor vehicles.

Spinal Cord Trust Fund.

By Mr. Hall of Westford, petition (subject to Joint Rule 12) of Geoffrey D. Hall that the Department of Telecommunications and Energy be directed to determine charges by wholesalers of petroleum products to resellers doing business in the Commonwealth.

Petroleum, regulate prices.

By Mr. Hill of Ipswich, petition (subject to Joint Rule 12) of Bradford Hill and others for legislation to make certain changes in the establishment of the Essex North Shore Agricultural and Technical School District.

Essex School District.

By Mr. Miceli of Wilmington, petition (subject to Joint Rule 12) of James R. Miceli for an appropriation of a certain sum of money for construction projects under the school building assistance program.

School building assistance.

By Mr. Patrick of Falmouth, petition (subject to Joint Rule 12) of Matthew C. Patrick and others for legislation to further regulate the use of break down lanes on certain roadways in the Commonwealth.

Highways, breakdown lanes.

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

Papers from the Senate.

The House Bill authorizing the city of Lowell to grant a permanent easement in certain park land to abutters (House, No. 3227) (its title having been changed by the Senate committee on Bills in the Third Reading) came from the Senate passed to be engrossed, in concurrence, with an amendment adding at the end thereof the following section:

Lowell, land easement.

"SECTION 2. No deed conveying the easement described in section 1 shall be valid unless the deed provides that the easement property shall be used solely for the purposes described in said section 1 and that, if the easement property ceases to be so used, the easement shall revert to the city of Lowell for park or playground purposes."

Under suspension of Rule 35, on motion of Mr. Golden of Lowell, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Medical waste law, reform.

A report of the committee on Environment, Natural Resources and Agriculture, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 517) of Richard T. Moore, Bruce E. Tarr and Edward G. Connolly for legislation to protect the public health by reforming the Commonwealth's medical waste law, and recommending that the same be referred to the committee on Health Care Financing,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence.

Berkshire County Jail, inspection.

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to an inspection of the Berkshire County House of Correction and Jail, in the city of Pittsfield, was spread upon the records of the House; and returned to the Senate.

Palmer, liquor licenses.

A petition (accompanied by bill, Senate, No. 2208) of Stephen M. Brewer and Todd M. Smola (by vote of the town) for legislation to authorize the town of Palmer to grant 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises, was referred, in concurrence, to the committee on Consumer Protection and Professional Licensure.

The following notice was received from the Clerk of the Senate, to wit:

September 28, 2005.

Honorable Salvatore F. DiMasi
Speaker of the House of Representatives
Room 356, State House
Boston, MA 02133

Dear Mr. Speaker:

Legislature, television coverage.

I have the honor to inform you that the Senate Minority Leader, Brian P. Lees, has appointed himself as the Senate minority member to the Joint Special Commission established (pursuant to Section 37 of Chapter 45 of the Acts of 2005) relative to the production of cable television coverage of legislative sessions, committee hearings and other legislative and administrative procedures.

Respectfully submitted,

WILLIAM F. WELCH,
Clerk of the Senate.

Reports of Committees.

By Mr. Bosley of North Adams, for the committee on Economic Development and Emerging Technologies, asking to be discharged from further consideration

Of the petition (accompanied by bill, House, No. 3680) of Paul Kujawski relative to the retail sale of motor fuels;

Motor fuel.

Of the petition (accompanied by bill, House, No. 3681) of Paul Kujawski for legislation to require the posting of signs warning of the danger of exposure to amplified sound in health clubs;

Health clubs.

Of the petition (accompanied by bill, House, No. 3682) of Paul Kujawski for legislation to further regulate health club service contracts;

Health clubs.

Of the petition (accompanied by bill, House, No. 3684) of Peter J. Larkin for legislation to prohibit "slotting" allowances in trade practices involving the sale of food or grocery products;

Food and grocery products.

Of the petition (accompanied by bill, House, No. 3687) of William Lantigua relative to the packaging of certain goods;

Goods, packaging.

Of the petition (accompanied by bill, House, No. 3701) of Steven M. Walsh and John W. Scibak for legislation to further insure fair telemarketing practices;

Fair telemarketing practices.

Of the petition (accompanied by bill, House, No. 3702) of Bruce J. Ayers for legislation to protect consumers from telemarketing fraud;

Telemarketing fraud.

Of the petition (accompanied by bill, House, No. 3703) of Kathleen M. Teahan and others relative to prohibiting credit services organizations from using "pin numbers" to verify credit histories of applicants; and

Credit service organizations.

Of the petition (accompanied by bill, House, No. 3705) of James B. Eldridge for legislation to require that unsolicited mail to residents of the Commonwealth include information for such residents to be omitted from future mailings;

Junk mail.

And recommending that the same severally be referred to the committee on Consumer Protection and Professional Licensure;

Of the petition (accompanied by bill, Senate, No. 272) of Mark C. Montigny, Steven A. Tolman, Richard R. Tisei, Robert M. Koczera and other members of the General Court for legislation to authorize the funding of capital expenditures for workforce development and adult basic education;

Adult basic education.

Of the petition (accompanied by bill, House, No. 3751) of Thomas P. Kennedy that places of public accommodation be in compliance with the Americans With Disabilities Act;

Disabled, discrimination.

Of the petition (accompanied by bill, House, No. 3752) of Byron Rushing and others for legislation to make it unlawful to discriminate on the basis of height and weight;

Height and weight discrimination.

Of the petition (accompanied by bill, House, No. 3800) of Bradley H. Jones, Jr., and others that employees injured due to willful misconduct not receive any portion of compensation benefits;

Workers compensation.

Of the petition (accompanied by bill, House, No. 3807) of William Lantigua and others relative to opposing unnecessary language restrictions in the workplace;

Workplaces, language restrictions.

Of the petition (accompanied by bill, House, No. 3808) of Stephen P. LeDuc for legislation to establish a high skill training program for spot labor shortage problems in the Commonwealth;

Labor shortage.

Of the petition (accompanied by bill, House, No. 3809) of Ellen Story relative to bullying in the workplace;

Workplace harassment.

Ostrowski v. Cawls. Of the petition (accompanied by bill, House, No. 3810) of Stephen Kulik that the Division of Industrial Accidents be directed to conduct a hearing concerning a claim by Chester Ostrowski;

Regional employment. Of the petition (accompanied by bill, House, No. 3811) of Edward G. Connolly for legislation to regulate the use of federally funded block grants for veterans within the jurisdiction of regional employment boards; and

Employment postings. Of the petition (accompanied by bill, House, No. 3812) of John W. Scibak and Thomas M. McGee relative to posting employment opportunities;

And recommending that the same severally be referred to the committee on Labor and Workforce Development;

Energy, off-peak use. Of the petition (accompanied by bill, Senate, No. 274) of Richard T. Moore, Bruce E. Tarr and Edward G. Connolly for legislation relative to the use of off-peak energy;

Generation facilities. Of the petition (accompanied by bill, House, No. 1477) of John J. Binienda relative to technology performance standards for electric power generation facilities; and

Telemarketing solicitations. Of the petition (accompanied by bill, House, No. 3704) of Jennifer M. Callahan relative to telemarketing solicitation;

And recommending that the same severally be referred to the committee on Telecommunications, Utilities and Energy; and

Public employees, safe workplace. By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 1773) of Marc R. Pacheco, David Holway, President, SEIU, and Mary Richards, President, MOSES for legislation to provide a safe workplace for employees of the Commonwealth and its political sub-divisions,— and recommending that the same be referred to the committee on Labor and Workforce Development.

Under Rule 42, the reports severally were considered forthwith; and they were accepted. Severally sent to the Senate for concurrence.

Middle education, commission. By Mrs. Haddad of Somerset, for the committee on Education, on House, No. 4301, a Resolve reviving and continuing the special commission on middle education in the Commonwealth (House, No. 4393). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Procurement, study. By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, on House, Nos. 1647 and 1648, an Order relative to authorizing the committee on State Administration and Regulatory Oversight to make an investigation and study of certain House documents concerning procurement issue (House, No. 4394).

Tourism, study. By Mr. Turkington of Falmouth, for the committee on Tourism, Arts and Cultural Development, on Senate, No. 1844 and House, Nos. 1681, 3529, 3530, 3533 and 3535, an Order relative to authorizing the committee on Tourism, Arts and Cultural Development to make an investigation and study of certain Senate and House documents concerning tourism, arts and cultural issues (House, No. 4395).

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

Subsequently Mr. Scaccia of Boston, for said committees, reported, in each instance, asking to be discharged from further consideration of said orders; and recommending that the same severally be referred to the House committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Mr. Honan of Boston, for the committee on Housing, on a petition, a Bill relative to the Department of Housing and Community Development (House, No. 3186). Housing.

By the same member, for the same committee, on House, No. 3191, a Bill relative to employer assisted housing (House, No. 4396). Housing.

By Mr. Binienda of Worcester, for the committee on Revenue, on Senate, No. 1679 and House, No. 2417, a Bill relative to the Massachusetts Historic Rehabilitation tax credit (House, No. 2417, changed by striking out all after the enacting clause and inserting in place thereof the following: Historic rehabilitation, tax credit.

“SECTION 1. Section 6J of chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 39, the figure ‘\$15,000,000’ and inserting in place thereof the following figure:— \$50,000,000.

SECTION 2. Section 38R of chapter 63 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 37, the figure ‘\$15,000,000’ and inserting in place thereof the following figure:— \$50,000,000.”.)

By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill to protect tropical rain forests by restricting state purchases of certain wood products (House, No. 3521). Rain forests, protection.

By the same member, for the same committee, on a petition, a Bill relative to interest on retainage (House, No. 3493, changed by inserting after the word “contractor”, in lines 4, 10, 12 and also in line 14 the words “or subcontractor”). Retainage, interest.

By Mr. Turkington of Falmouth, for the committee on Tourism, Arts and Cultural Development, on a petition, a Bill to establish a master of library science assistance program (House, No. 1683). Library science assistance.

By the same member, for the same committee, on a petition, a Bill to authorize a grant program for historic records (House, No. 1684). Historic records.

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

By Mrs. Haddad of Somerset, for the committee on Education, on a petition, a Bill relative to school improvement plans (House, No. 1112). School improvement.

By Mr. Honan of Boston, for the committee on Housing, on a petition, a Bill relative to open space residential development (House, No. 3444). Open space.

By the same member, for the same committee, on a petition, a Bill establishing the Concord Housing Development Corporation (House, No. 4320) [Local Approval Received]. Concord, housing.

Mansfield, housing.

By the same member, for the same committee, on a petition, a Bill authorizing the town of Mansfield to establish a housing corporation (House, No. 4334).

Salem and Beverly Water Board.

By Ms. Kaprielian of Watertown, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to the membership of the Salem and Beverly Water Supply Board (House, No. 3595).

West Newbury, public works.

By the same member, for the same committee, on a petition, a Bill establishing a department of public works in the town of West Newbury (House, No. 4271) [Local Approval Received].

Wellesley, financial services.

By the same member, for the same committee, on a petition, a Bill authorizing certain bylaws relating to the town of Wellesley (House, No. 4295) [Local Approval Received].

Lakeville, street superintendent.

By the same member, for the same committee, on a petition, a Bill to create an appointed superintendent of streets in the town of Lakeville (House, No. 4296) [Local Approval Received].

Educational services.

By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill to promote public bidding for educational services (House, No. 3492).

Community preservation.

By Mr. Turkington of Falmouth, for the committee on Tourism, Arts and Cultural Development, on a petition, a Bill relative to community preservation funds (House, No. 1680).

Falmouth, scenic roads.

By the same member, for the same committee, on a petition, a Bill relative to the scenic roads in the town of Falmouth (House, No. 4135) [Local Approval Received].

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

Reconsideration.

Tax reform.

Mr. Golden of Lowell moved that the vote be reconsidered by which the House, on Thursday last, passed to be engrossed, in concurrence, the Senate Bill relative to tax laws (Senate, No. 2156, amended); and the motion prevailed. Pending the recurring question on passing the bill to be engrossed, in concurrence, it was recommended, on further motion of the same member, to the committee on Bills in the Third Reading.

Orders of the Day.

House bills

Third reading bills.

Authorizing the refund of automobile sales tax to Helen Bergman of the town of Wilmington (House, No. 2313) (its title having been changed by the committee on Bills in the Third Reading); and

Relative to the Charter of the town of Harwich (House, No. 4198);

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. Severally sent to the Senate for concurrence.

House reports

House reports.

Of the committee on State Administration and Regulatory Oversight, ought NOT to pass, on the petition (accompanied by bill, House, No. 3511) of Bradley H. Jones, Jr., and others relative to regulating the privatization of certain public services; and

Of the committee on Tourism, Arts and Cultural Development, ought NOT to pass, on the petition (accompanied by bill, House, No. 3537) of Edward G. Connolly and others for the issuance of an annual proclamation by the Governor establishing the month of March as International History Month;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3538) of Steven M. Walsh and others for legislation to designate a plaque in the State House for Edward Cohen; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3539) of Frank M. Hynes for an appropriation of a certain sum of money for repairs and improvements to Lawson Tower, a historic landmark in the town of Scituate; Severally were accepted.

Recesses.

At twenty-seven minutes after eleven o'clock A.M., on motion of Mr. Smizik of Brookline (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at that time the House was called to order with Mrs. Harkins of Needham in the Chair.

Recesses.

The Chair (Mrs. Harkins) thereupon declared a further recess until twenty minutes after one o'clock; and at twenty-five minutes after one o'clock the House was called to order with Mrs. Harkins in the Chair.

Quorum.

Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 145 members were recorded as being in attendance.

Quorum, ye and nay No. 202.

[See Ye and Nay No. 202 in Supplement.]

Therefore a quorum was present.

Order.

An Order (filed by Mr. Scaccia of Boston) relative to the procedures for consideration of the House Bill relative to economic investments to promote job creation, economic stability, and competitiveness in the Massachusetts economy (House, No. 4384), having been reported from the committee on Rules, under the provisions of House Rules 7B and 7C, was considered.

Economic investments, procedures.

After remarks on the question on adoption of the order, Mr. Jones of North Reading and other members of the House moved that it be amended at the end of the first paragraph, after the word "official", striking out the remainder of the order and inserting in place thereof the word "amendment."

Amendment rejected, yea and nay No. 203.

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 Mr. Jones; and on the roll call 36 members voted in the affirmative and 115 in the negative.

[See Yea and Nay No. 203 in Supplement.]

Therefore the amendment was rejected.

Subsequently a statement of Mr. O'Flaherty of Chelsea was spread upon the records of the House, as follows:

Statement of Representative O'Flaherty of Chelsea.

MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous roll call I had voted in the negative. However, I now find that, for some inexplicable reason, I was recorded in the affirmative.

Mr. Jones of North Reading and other members of the House then moved that the order be amended in the last paragraph by inserting after the words "considered withdrawn" the following: "; provided, however, that the committee on Ways and Means shall notify the sponsor of each withdrawn amendment that said amendment is considered withdrawn twenty-four hours prior to consideration of House Bill No. 4381, 'An Act relative to economic investments to promote job creation, economic stability, and competitiveness in the Massachusetts economy'."

After remarks the amendment was rejected.

Mrs. Paulsen of Belmont and other members of the House then moved that the order be amended by striking out the fifth paragraph contained therein (inserting a temporary House Rule 73C).

After remarks the amendment was adopted.

Order adopted, yea and nay No. 204.

On the question on adoption of the order, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 124 members voted in the affirmative and 27 in the negative.

[See Yea and Nay No. 204 in Supplement.]

Therefore the order (House, No. 4384, amended) was adopted.

Resolutions.

Pledge of Allegiance.

Resolutions (filed by Mr. Jones of North Reading and other members of the House) reaffirming the reference to "one nation under God" in the pledge of allegiance (House, No. 4402) were referred, under Rule 85, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Donato of Medford, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith.

Resolutions adopted, yea and nay No. 205.

On the question on adoption of the resolutions, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 115 members voted in the affirmative and 31 in the negative.

[See Yea and Nay No. 205 in Supplement.]

[Representatives Eldridge of Acton, Kaprielian of Watertown, Moran of Boston and Petersen of Marblehead answered "Present" in response to their names.]

Therefore the resolutions (House, No. 4402) were adopted.

Reports of Committees.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to the installation of carbon monoxide alarms and smoke detectors in residential buildings (Senate, No. 2152) ought to pass with an amendment. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Carbon monoxide.

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

Mrs. Haddad of Somerset moved that Rule 7A be suspended in order that the bill might be read a second time forthwith.

Pending the question on suspension of Rule 7A, further consideration thereof was postponed, on motion of Mr. deMacedo of Plymouth until the hour of one o'clock P.M.

Subsequently, the noon recess having terminated, the pending motion to suspend Rule 7A prevailed; and the bill was read a second time.

Pending the question on adoption of the amendment recommended by the committee on Ways and Means,— that the bill be amended at the end of section 6 by striking out the following: "180 days after the effective date of this act" and inserting in place thereof the following: "on January 1, 2007",— and the main question on ordering the bill to a third reading, Mr. DeLeo of Winthrop moved that the amendment recommended by the committee on Ways and Means be amended by striking out the text of said amendment and inserting in place thereof the following: "by striking out the following: 'shall take effect 180 days after the effective date of this act' and inserting in place thereof the following:— , inserted by section 3 of this act, shall take effect on March 31, 2006, except that any dwelling, building or structure owned or operated by the commonwealth or any local housing authority which is occupied in whole or part for residential purposes shall have until January 1, 2007 to be in compliance with the provisions of said subsection (a)."

The further amendment was adopted.

The amendment recommended by the committee on Ways and Means, as amended, then also was adopted.

After debate on the question on ordering the bill, as amended, to a third reading, the sense of the House was taken by yeas and nays, at the request of Mr. deMacedo of Plymouth; and on the roll call 150 members voted in the affirmative and 0 in the negative.

Bill ordered to a third reading, yea and nay No. 206.

[See Yea and Nay No. 206 in Supplement.]

Therefore the bill (Senate, No. 2152, amended) was ordered to a third reading.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill increasing penalties for drunk drivers in the Commonwealth (House, No. 4383) ought to pass with certain amendments. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Mr. Rush of Boston moved that Rule 7A be suspended in order that the bill might be read a second time forthwith.

Pending the question on the suspension of said rule, further consideration thereof was postponed, on motion of Mr. deMacedo of Plymouth until the hour of one o'clock P.M.

Quorum.

Subsequently, the noon recess having terminated (Mr. Rogers of Norwood being in the Chair), Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Rogers), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum, yea and nay No. 207.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance.

[See Yea and Nay No. 207 in Supplement.]

Therefore a quorum was present.

The pending motion to suspend Rule 7A then prevailed; and the bill was read a second time.

Pending the question on adoption of the amendments recommended by the committee on Ways and Means,— that the bill be amended in section 6, in line 1, by striking out the figures: "990" and inserting in place thereof the figures: "90"; in section 9, in line 1, by striking out the figures: "990" and inserting in place thereof the figures: "90"; in section 15, in line 2, by striking out the figures: "350" and inserting in place thereof the figures: "351"; and by striking out the figures: "409" and inserting in place thereof the figures: "410",— and the main question on ordering the bill to a third reading, Mr. Jones of North Reading and other members moved that the amendments recommended by the committee on Ways and Means be amended by striking out the text of said amendment and inserting in place thereof the following: "by striking out all after the enacting clause and the title and inserting in place thereof a new text and title".

Point of order.

Pending the question on adoption of the further amendment, Mr. O'Flaherty of Chelsea raised a point of order that the further amendment was improperly before the House for the reason that it went beyond the scope of the pending amendment.

In answer to the point of order, the Chair (Mr. Rogers of Norwood) ruled that the point of order was well taken; and the further amendment was laid aside accordingly.

Appeal from decision of Chair.

Mr. Jones of North Reading thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Peterson of Grafton.

Decision of Chair sustained, yea and nay No. 208.

After remarks the question was put "Shall the decision of the Chair stand as the judgment of the House?"; and after remarks on this question, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson; and on the roll call 126 members voted in the affirmative and 26 in the negative.

[See Yea and Nay No. 208 in Supplement.]

Therefore the decision of the Chair was sustained.

The amendments recommended by the committee on Ways and Means then were adopted.

Mr. Linsky of Natick then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 17. Chapter 90 of the General Laws is hereby amended by adding after section 61 the following section:—

Section 62. Upon the conviction of a person of Section 13 of Chapter 265 of the General Laws in which a motor vehicle was used in the commission of said offense, the court shall immediately notify the registrar, who shall suspend the license, permit, or right to operate of such person for fifteen years. Such suspension shall take effect upon the first release from custody of said person."

Amendment adopted, yea and nay No. 209.

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 Mr. Linsky; and on the roll call 151 members voted in the affirmative and 1 in the negative.

[See Yea and Nay No. 209 in Supplement.]

Therefore the amendment was adopted.

Mr. Fagan of Taunton then moved that the bill be amended in section 10 by adding at the end thereof the following: "; and in said section 24D of said chapter 90, by adding at the end thereof the following sentence:— All references to blood alcohol percentage of eight one-hundredths or greater is hereby stricken and amended to include: 'blood alcohol percentage of two-hundredths or greater.'".

Pending the question on adoption of the amendment, Mr. O'Flaherty moved that the amendment be amended by striking out the text contained therein and inserting in place thereof the following: "by adding at the end thereof the following section:

'SECTION 18. There is hereby established a commission to study and analyze the adequacy and effectiveness of existing penalties and treatment programs of persons charged with operating a motor vehicle while under the influence of intoxicating liquors or controlled substances in the commonwealth. The commission shall consist of the following members: the governor, or his designee; the attorney general, or his designee, the commissioner of probation, or his designee; the commissioner of the department of public health, or his designee; the registrar of motor vehicles, or his designee; the president of the Massachusetts Association of District Attorneys, or his designee; the president of the Massachusetts Academy of Trial Attorneys, or his designee; the president of the Massachusetts Bar Association, or his designee; the president of the Boston Bar Association, or his designee. The appointments shall be made no later than October 15, 2005, and the members shall serve without compensation. The commission shall not hire or employ any personnel or consultants. The commission shall study all aspects of the existing statutory framework for punishing and treating person convicted of operating a motor vehicle while under the influence of intoxicating liquors or controlled substances, including, but not limited to, the adequacy of penalties for second and subsequent offenders, the use of and compliance with field sobriety tests, the adequacy of existing treatment programs, and the feasibility of and consequences associated with significantly lowering the blood alcohol level needed to convict a person of operating under the influence of intoxicating liquors or controlled substances in the commonwealth.

The commission shall report the results of its investigation and study, along with a list of such findings and recommendations for

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legislation and regulations necessary to effectuate such findings. The report shall be filed with the house and senate committees on ways and means, the joint committee on the judiciary, the clerk of the house of representatives and the clerk of the senate on or before December 31, 2005.”

Further
amendment
adopted,
yea and nay
No. 210.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Fagan of Taunton; and on the roll call 108 members voted in the affirmative and 43 in the negative.

[See Yea and Nay No. 210 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by striking out all after the enacting clause, the preamble and the title and inserting in place thereof a new text, a new preamble and a new title.

Point of
order.

Pending the question on adoption of the amendments, Mr. O’Flaherty of Chelsea raised a point of order that the amendments were improperly before the House for the reason that they went beyond the scope of the pending bill.

In answer to the point of order, the Chair (Mr. Rogers of Norwood) ruled that the point of order was well taken; and the amendments were laid aside accordingly.

Motion to
recess.

At five minutes before five o’clock P.M. (Mr. Rogers of Norwood being in the Chair), Mr. Peterson of Grafton moved that the House recess until the hour of seven o’clock.

Motion to
recess
negated,
yea and nay
No. 211.

On the motion to recess, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson; and on the roll call 20 members voted in the affirmative and 130 in the negative.

[See Yea and Nay No. 211 in Supplement.]

Therefore the motion to recess was negated.

Messrs. Hynes of Marshfield and Jones of North Reading then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 19. Said section 24 of chapter 90, as so appearing, is hereby further amended by striking out lines 515 through 699, inclusive, and inserting in place thereof the following:—

(f)(1) Whoever operates a motor vehicle upon any way or in any place to which the public has right to access, or upon any way or in any place to which the public has access as invitees or licensees, shall be deemed to have consented to submit to a chemical test or analysis of his breath or blood in the event that he is arrested for operating a motor vehicle while under the influence of intoxicating liquor; provided, however, that no such person shall be deemed to have consented to a blood test unless such person has been brought for treatment to a medical facility licensed under the provisions of section 50 of chapter 111; and provided, further, that no person who is afflicted with hemophilia, diabetes or any other condition requiring the use of anticoagulants shall be deemed to have consented to a withdrawal of blood. Such person shall also be deemed to have consented to submit to field sobriety tests at the direction of a police officer, regardless of whether or not the person has yet been

charged. The officer may require that a series of field sobriety tests be taken, which may include, but is not limited to, the Horizontal Gaze Nystagmus, the heel-to-toe, the one legged stand, and a preliminary breath test. It shall be in the discretion of the investigating officer or officers which tests may be used, and refusal to participate in any of the requested tests shall be deemed a refusal. Any such test shall be administered at the direction of a police officer, as defined in section 1 of chapter 90C, having reasonable grounds to believe that the person arrested has been operating a motor vehicle upon such way or place while under the influence of an intoxicating substance. If the person arrested refuses to submit to such test or analysis, after having been informed that his license or permit to operate motor vehicles or right to operate motor vehicles in the commonwealth shall be suspended for at least a period of one year and up to a lifetime loss of license, no such test or analysis shall be made and he shall immediately have his license or right to operate suspended in accordance with the provisions of this paragraph for a period of 1 year; provided, however, that any person who is under the age of 21 or who has previously been convicted of a violation under this section or a like violation by a court of any other jurisdiction or has previously refused a chemical test or analysis of his breath or blood or field sobriety tests shall have his license suspended for a period of three years for such refusal; provided further, that any person previously convicted two or more times of a violation under this section or a like violation by a court of any other jurisdiction or has previously refused a chemical test or analysis of his breath or blood or field sobriety tests two times shall have his license suspended forthwith for a period of 5 years for such refusal; and provided further, that any person previously convicted three or more times of a violation under this section or a like violation by a court of any other jurisdiction or has previously refused a chemical test or analysis of his breath or blood or field sobriety tests three times shall have his license suspended forthwith for life based upon such refusal. If any person refuses to submit to any such test or analysis after committing an offense that results in the bodily injury to another as defined in section 24L of this chapter, then the person shall have their license or right to operate suspended for a period of 10 years. If any person refuses to submit to any such test or analysis after committing an offense that results in the death of another, then the registrar shall revoke the person’s license or right to operate for life. If a person refuses to take a test under this paragraph, the police officer shall do the following:

- (i) immediately and on behalf of the registrar take custody of such person’s driver license or permit issued by the commonwealth;
- (ii) provide each such person who refuses such test, on behalf of the registrar, with a written notice of suspension in a format approved by the registrar; and
- (iii) impound the vehicle being driven by the operator and arrange for the vehicle to be impounded for a period of 24 hours following the operator’s arrest, with the costs for the towing, storage and maintenance of the vehicle pursuant to the arrest to be borne by the operator.

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(2) The police officer before whom such refusal was made shall within 24 hours prepare a report of such refusal. Each such report shall be made in a format approved by the registrar and shall be made under the penalties of perjury by the police officer before whom such refusal was made. Each such report shall set forth the grounds for the officer's belief that the person arrested had been operating a motor vehicle on any public way or place while under the influence of intoxicating liquor, and shall state that such person refused to submit to a chemical test or analysis when requested by such police officer to do so, such refusal having been witnessed by another person other than the defendant. Each such report shall identify which police officer requested said chemical test or analysis, and the other person witnessing said refusal. Each such report shall be sent forthwith to the registrar along with a copy of the notice of intent to suspend in any form, including electronic or otherwise, that the registrar deems appropriate. Any driver's license or permit confiscated pursuant to this subparagraph (1) shall be forwarded to the registrar. Said report shall constitute prima facie evidence of the facts set forth therein at any administrative hearing regarding any suspension specified in this section.

(3) The license suspension shall become effective immediately after the offender has received from the police officer the suspension. A suspension for either a chemical test or analysis of breath or blood refusal and a field sobriety test refusal shall run consecutively and not concurrently, both as to any additional suspension period(s) arising from the same incident, and as to each other. No license shall be restored under any circumstances, including a dismissal or acquittal on the criminal charges, and no restricted or hardship permits shall be issued during the suspension period imposed by this paragraph."

Pending question on adoption of the amendment, Mr. Hynes moved that the amendment be amended by striking out the proposed section 19 and inserting in place thereof the following section:

"SECTION 19. Said section 24 of chapter 90, as so appearing, is hereby further amended by striking out lines 515 through 699, inclusive, and inserting in place thereof the following:-

(f)(1) Whoever operates a motor vehicle upon any way or in any place to which the public has right to access, or upon any way or in any place to which the public has access as invitees or licensees, shall be deemed to have consented to submit to a chemical test or analysis of his breath or blood in the event that he is arrested for operating a motor vehicle while under the influence of intoxicating liquor; provided, however, that no such person shall be deemed to have consented to a blood test unless such person has been brought for treatment to a medical facility licensed under the provisions of section 50 of chapter 111; and provided, further, that no person who is afflicted with hemophilia, diabetes or any other condition requiring the use of anticoagulants shall be deemed to have consented to a withdrawal of blood. Any such test shall be administered at the direction of a police officer, as defined in section 1 of chapter 90C, having reasonable grounds to believe that the person arrested has been operating a motor vehicle upon such way or place while

under the influence of an intoxicating substance. If the person arrested refuses to submit to such test or analysis, after having been informed that his license or permit to operate motor vehicles or right to operate motor vehicles in the commonwealth shall be suspended for at least a period of one year and up to a lifetime loss of license, no such test or analysis shall be made and he shall immediately have his license or right to operate suspended in accordance with the provisions of this paragraph for a period of 1 year; provided, however, that any person who is under the age of 21 or who has previously been convicted of a violation under this section or a like violation by a court of any other jurisdiction or has previously refused a chemical test or analysis of his breath or blood or field sobriety tests shall have his license suspended for a period of three years for such refusal; provided further, that any person previously convicted two or more times of a violation under this section or a like violation by a court of any other jurisdiction or has previously refused a chemical test or analysis of his breath or blood two times shall have his license suspended forthwith for a period of 5 years for such refusal; and provided further, that any person previously convicted three or more times of a violation under this section or a like violation by a court of any other jurisdiction or has previously refused a chemical test or analysis of his breath or blood three times shall have his license suspended forthwith for life based upon such refusal. If any person refuses to submit to any such test or analysis after committing an offense that results in the bodily injury to another as defined in section 24L of this chapter, then the person shall have their license or right to operate suspended for a period of 10 years. If any person refuses to submit to any such test or analysis after committing an offense that results in the death of another, then the registrar shall revoke the person's license or right to operate for life. If a person refuses to take a test under this paragraph, the police officer shall do the following:

(i) immediately and on behalf of the registrar take custody of such person's driver license or permit issued by the commonwealth;

(ii) provide each such person who refuses such test, on behalf of the registrar, with a written notice of suspension in a format approved by the registrar; and

(iii) impound the vehicle being driven by the operator and arrange for the vehicle to be impounded for a period of 24 hours following the operator's arrest, with the costs for the towing, storage and maintenance of the vehicle pursuant to the arrest to be borne by the operator.

(2) The police officer before whom such refusal was made shall within 24 hours prepare a report of such refusal. Each such report shall be made in a format approved by the registrar and shall be made under the penalties of perjury by the police officer before whom such refusal was made. Each such report shall set forth the grounds for the officer's belief that the person arrested had been operating a motor vehicle on any public way or place while under the influence of intoxicating liquor, and shall state that such person refused to submit to a chemical test or analysis when requested by such police officer to do so, such refusal having been witnessed by

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another person other than the defendant. Each such report shall identify which police officer requested said chemical test or analysis, and the other person witnessing said refusal. Each such report shall be sent forthwith to the registrar along with a copy of the notice of intent to suspend in any form, including electronic or otherwise, that the registrar deems appropriate. Any driver's license or permit confiscated pursuant to this subparagraph (1) shall be forwarded to the registrar. Said report shall constitute prima facie evidence of the facts set forth therein at any administrative hearing regarding any suspension specified in this section.

(3) The license suspension shall become effective immediately after the offender has received from the police officer the suspension. A suspension for either a chemical test or analysis of breath or blood refusal shall run consecutively and not concurrently, as to any additional suspension period(s) arising from the same incident. No license shall be restored under any circumstances, including a dismissal or acquittal on the criminal charges, and no restricted or hardship permits shall be issued during the suspension period imposed by this paragraph."

Further
amendment
rejected,
yea and nay
No. 212.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 46 members voted in the affirmative and 102 in the negative.

[See Yea and Nay No. 212 in Supplement.]

Therefore the further amendment was rejected.

The amendment then also was rejected.

Messrs. Hynes of Marshfield and Jones of North Reading then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 19. Said section 24 of chapter 90, as so appearing, is hereby further amended by striking lines 898 through 907, inclusive, and inserting the following:—

(4) In any prosecution commenced pursuant to this section, introduction into evidence of a prior conviction or a prior finding of sufficient facts by either original court papers, certified attested copies of original court papers, a certified attested copy of the biographical and informational data from official probation office records, or records of the registrar that are certified and attested by the registrar or his authorized agent, shall be prima facie evidence that a defendant has been convicted previously or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and admissible as evidence in any court of the commonwealth to prove the existence of any prior convictions described therein. The commonwealth shall not be required to introduce any additional corroborating evidence, nor live witness testimony to establish the validity of such prior convictions."

Amendment
adopted,
yea and nay
No. 213.

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 Mr. Jones; and on the roll call 140 members voted in the affirmative and 7 in the negative.

[See Yea and Nay No. 213 in Supplement.]

Therefore the amendment was adopted.

Messrs. Hynes of Marshfield and Jones of North Reading then moved that the bill be amended by striking out section 15 and inserting in place thereof the following section:

"SECTION 15. Said section 24 of chapter 90, as so appearing, is hereby further amended by inserting after the word "necessary." in lines 370, 399 and 425 in each instance, the following:—

A mandatory condition of any hardship license granted by the registrar pursuant to this paragraph shall be that the person have an ignition interlock device installed on every vehicle owned, leased or operated by the person. Every person whose license has been suspended pursuant to this paragraph shall be required to provide proof to the registrar of installation of an ignition interlocking device on every vehicle operated by the person, in order for said person's license or right to operate to be reinstated upon the completion of the suspension period. No person driving pursuant to a hardship license under this paragraph shall drive any vehicle without an ignition interlocking device under any circumstance. Any violation of the ignition interlock requirement as a condition of a hardship license or as a condition of license reinstatement shall result in the lifetime loss of the person's license or right to operate. The registrar may promulgate such rules and regulations as are necessary or proper to carry out the provisions of this paragraph."

The amendment was rejected.

Ms. Polito of Shrewsbury then moved that the bill be amended by striking out section 15 and inserting in place thereof the following section:

"SECTION 15. Said section 24 of said chapter 90, as so appearing, is hereby further amended by inserting after the word 'necessary.' in lines 370, 399 and 425 in each instance, the following:— A mandatory condition of a hardship license granted by the registrar pursuant to this paragraph shall be that the person have an ignition interlock device installed on every vehicle operated by the person, under such terms or conditions as the registrar may prescribe. Every person whose license has been suspended pursuant to this paragraph shall be required to provide proof to the registrar of installation of an ignition interlocking device on every vehicle operated by the person, under such terms as the registrar may prescribe, as a further condition for reinstatement of said person's license or right to operate upon the completion of the suspension period. The fees incurred by installing, maintaining, and operating this device shall be paid by the individual who is issued the hardship license and required to have the ignition interlock device installed. In such cases where serious financial burden is proven to the Court, a judge may use discretion in order to decide whether or not to waive such fees. The penalty for violating this mandate shall be equivalent to the penalty established in Paragraph 2 of Section 23 of Chapter 90."

The amendment was rejected.

Mr. Festa of Melrose moved that the bill be amended by adding at the end thereof the following section:

"SECTION 20. Chapter 90 of the General Laws, as so amended, is hereby further amended by adding the following new sections:

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Section 24L½. (a) Any person who is convicted of, placed on probation for, granted a continuance without a finding for or has otherwise pled guilty to or admits to a finding of sufficient facts or has been assigned to an alcohol or controlled substance education, treatment, or rehabilitation program on a charge of operating a motor vehicle under the influence of intoxicating liquor or a controlled substance, as defined in section 1 of chapter 94C, or the vapors of glue, and who has committed such offense with a child or children 12 years of age or younger in the motor vehicle shall also be guilty of child endangerment while operating a motor vehicle under the influence. A person who violates this section shall be punished by a fine of not less than one thousand nor more than five thousand and by imprisonment in a jail or house of correction for not less than 90 days nor more than two and a half years. If a defendant has previously been convicted by a court of the commonwealth or any other jurisdiction because of a like violation preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than five thousand nor more than ten thousand dollars and by imprisonment for not less than six months nor more than 5 years in the state prison. Any sentence imposed under this chapter and section shall be served consecutively to and not concurrently with any other sentence or penalty. Prosecutions commenced under this paragraph shall not be placed on file or continued without a finding.

(b) Upon receiving notice of a conviction pursuant to this section, the registrar shall suspend the license or right to operate of the defendant for a period of 1 year for a first offense, and for a period of 3 years for a second or subsequent conviction.”

The amendment was adopted.

Mr. O’Flaherty of Chelsea then moved that the bill be amended by striking out section 10; and in section 16 by striking out the following: “, or section 13½, of chapter 265 where the consumption of intoxicating liquor or a controlled substance, as defined in section 1 of chapter 94C, or the vapors of glue, was a contributing factor to the conduct for which the defendant was convicted.”

The amendments were adopted.

Mr. O’Flaherty then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 21. Section 24 of chapter 90 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting in line 254 after the word ‘program’ the following:—, including a mandatory 30 days of community service under the supervision of the probation department.

Section 24 of chapter 90 of the General Laws, as appearing in the 2004 Official Edition, is further amended by inserting in line 256 after the word ‘program’ the following:- and said 30 days of community service.”

The amendment was adopted.

Messrs. O’Flaherty of Chelsea and Casey of Winchester then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 22. Chapter 90 of the General Laws is hereby amended by inserting after section 24P the following section:-

Section 24Q. Any vehicle operated by a a person arrested for a violation of subparagraph (1) of paragraph (a) of section 24 or section 24L shall be removed and impounded as provided by the provisions of this section, section 69L of chapter 111 and section 2C of chapter 85 and any rule or regulation adopted thereunder, for a period of not less than 12 hours from the time of such arrest. Notwithstanding, any individual who is completely dependent on the motor vehicle for the necessities of life, including any family member of the individual and any co-owner of the motor vehicle may petition for the release of his vehicle to avoid undue hardship.

Any person claiming said undue hardship or any person summoned by or on behalf of a person who has been arrested for a violation of subparagraph (1) of paragraph (a) of section 24 or section 24L, in order to transport or accompany the arrested person from the premises of a law enforcement agency, the law enforcement agency shall provide that person with a written statement advising him of his potential criminal and civil liability for permitting or facilitating the arrested person’s operation of motor vehicle while the arrested person remains intoxicated. The person to whom the statement is issued shall acknowledge, in writing, receipt of the statement, or the law enforcement agency shall record the fact that the written statement was provided, but that the person refused to sign an acknowledgement.

The Attorney General shall establish the content and the form of the written statement and acknowledgement to be used by law enforcement agencies throughout the Commonwealth and may issue directives to ensure the uniform implementation of this act.”

The amendment was adopted.

Ms. Balser of Newton and other members of the House then moved that the bill be amended by inserting after the second sentence in Sections 11, 12, 13, and 14: “Such assessment shall be reported to the court and to the offender’s probation or parole officer. Such recommendation shall become a condition of said offender’s probation or parole.”

The amendments were adopted.

On the question on ordering the bill, as amended, to a third reading, the sense of the House was taken by yeas and nays, at the request of Mr. O’Flaherty of Chelsea; and on the roll call 146 members voted in the affirmative and 1 in the negative.

[See Yeas and Nays No. 214 in Supplement.]

Therefore the bill, as amended, was ordered to a third reading.

The Chair (Mr. Rogers) then placed before the House the question on suspension of Rule 1A in order that the House might continue to meet beyond the hour of nine o’clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provision of said rule; and on the roll call 117 members voted in the affirmative and 30 in the negative.

[See Yeas and Nays No. 215 in Supplement.]

Therefore Rule 1A was suspended.

Bill ordered to a third reading, yeas and nays No. 214.

Suspension of Rule 1A.

Rule 1A suspended, yeas and nays No. 215.

Recess.

At eight minutes before nine o'clock P.M., on motion of Mr. O'Flaherty of Chelsea (Mr. Rogers of Norwood being in the Chair), the House recessed until half past nine o'clock; and at fourteen minutes before ten o'clock the House was called to order with Mr. Rogers in the Chair.

Mr. O'Flaherty of Chelsea then moved suspension of the rules in order that the bill might be read a third time forthwith; and the motion prevailed.

The bill then was read a third time.

The committee on Bills in the Third Reading reported asking to be discharged from further consideration of the bill; and, after remarks, the report was accepted.

Bill passed
to be
engrossed,
yea and nay
No. 216.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. O'Flaherty of Chelsea; and on the roll call 144 members voted in the affirmative and 1 in the negative.

[See Yea and Nay No. 216 in Supplement.]

Therefore the bill (House, No. 4403, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. Rushing of Boston,—

Next
sitting.

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

Mr. Golden of Lowell then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at the hour of ten o'clock P.M. (Mr. Rogers of Norwood being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.