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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Tuesday, June 28, 2016.

Met at two minutes past one o'clock P.M. (Mr. Donnelly in the Chair).

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Ms. Creem for the purpose of an introduction. Ms. Creem then introduced, in the rear of the Chamber, Rob and Anna Hnasko from Newton. Rob is a designer of Audio and Video systems for corporate and education markets, and Anna is a physical therapist. They were accompanied by their 3 children; Bjorn, Torsten and Freya. The family was visiting the State House to learn more about history and government and to observe our government in action. The Senate welcomed them with applause and they withdrew from the Chamber.

Communication.

Communication from the Office of the Comptroller (pursuant to Section 2E of Chapter 46 of the Acts of 2015) submitting a revised Fiscal Year 2016 transfer schedule for 1595-1068 Medical Assistance Trust Fund (received June 28, 2016),-- was placed on file.

PAPERS FROM THE HOUSE.

Messages from His Excellency the Governor were severally referred, in concurrence, as follows:

Message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating the actions taken at a special town meeting held in the town of Templeton (House, No. 4439);

To the committee on Election Laws.

Message from His Excellency the Governor recommending legislation relative to assault and battery on a police officer (House, No. 4440);

To the committee on the Judiciary.

A petition (accompanied by bill, House, No. 4433) of Michael J. Finn (with the approval of the mayor and city council) that the city known as the town of West Springfield be authorized to establish four year terms for the office of the mayor,-- **was referred, in concurrence, to the committee on Municipalities and Regional Government.**

A Bill authorizing the town of North Andover to grant an additional liquor license for the sale of alcoholic beverages not to be drunk on the premises (House, No. 3714,-- on House, No 3597) [Local approval received on House, No. 3597],-- **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

There being no objection, at three minutes past one o'clock P.M., the Chair (Mr. Donnelly) declared a recess subject to the call of the Chair; and, at twenty-two minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

The Senator from Essex and Middlesex, Mr. Tarr, led the President, members, guests and staff in the recitation in the pledge of allegiance to the flag.

Reports of Committees.

The following report was laid before the Senate, the time within which the said committee was required to report having expired:---

Of the committee on Public Service, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, Senate, No. 2189) of Donald F. Humason, Jr. and Nicholas A. Boldyga (by vote of the town) for legislation to authorize the town of Southwick to continue the employment of police chief David Ricardi.

On motion of Mr. Humason, the petition was recommitted to the Joint Committee on Public Service.

By Mr. Montigny, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Richard J. Ross and Kevin J. Kuros for legislation relative to handicapped placards.

The rules were suspended, on motion of Mr. Tarr, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Transportation. Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Authorizing the Town of Windsor to continue the employment of Police Chief Thomas Barnaby (Senate, No. 2281);
Relative to the creation of a renewable energy fund in the town of Dedham (House, No. 3881);
Relative to the use of a parcel of land in the city of Woburn for recreational purposes (House, No. 3957, amended); and
Authorizing the town of Rehoboth to transfer a conservation easement on a certain parcel of land (House, No. 4158);

Were severally read a second time and ordered to a third reading.

There being no objection the following matter was considered out of order.

The Senate Bill relative to recycling (Senate, No. 454),-- **was considered, the main question being on ordering the bill to a third reading.**

At seventeen minutes before two o'clock P.M., Mr. Tarr doubted the presence of a quorum; and, a count of the Senate determined that a quorum was present.

After remarks, and pending the question on adoption of the amendment previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2308), and pending the main question on ordering the bill to a third reading, Ms. Donoghue moved that the proposed new draft be amended by adding the following section:-

“SECTION 5. A city or town that has a high risk of failing to reach the per capita municipal solid waste reduction standard under section 2 may file hardship documentation with the department of environmental protection detailing the reasons for not reaching the municipal solid waste reduction standard. The department shall prioritize sustainable materials recovery program municipal grant applications from cities and towns that submit hardship documentation under this section.”

After remarks, the amendment was **adopted**.

Messrs. Keenan and Ross moved that the proposed new draft be amended by inserting at the end thereof the following section:-

“SECTION XX. A city or town that demonstrates a deficiency in the state appropriation required to implement Section 4 of this act, in accordance with section 27C of chapter 29, shall be exempt from said requirements.”

The amendment was *rejected*.

Messrs. OConnor and Ross moved that the proposed new draft be amended by striking section 4 in its entirety.

The amendment was *rejected*.

Messrs. Tarr and Ross moved that the proposed new draft be amended by inserting at the end thereof the following sections:-

"SECTION __. This act shall not go into effect until at least 60 days after the submission of a municipal impact statement by the executive office of energy and environmental affairs in consultation with the department of environmental protection. Said municipal impact statement shall be submitted to the local government advisory committee, the division of local mandates, the department of housing and community development, and the clerks of the house and senate. Said municipal impact statement shall describe the proposed action, which emphasizes the department's best judgment of the elements which might affect local

governments including but not be limited too, preliminary cost estimates.”
The amendment was *rejected*.

Mr. Eldridge moved that the proposed new draft be amended by adding the following section:-
“SECTION 5. Notwithstanding any general or special law to the contrary, in a city or town that does not provide solid waste removal, a privately contracted waste disposal and trash hauling contract entered into on or after the effective date of this act shall include a recycling option for their customers.”
After remarks, the amendment was **adopted**.

Mr. Lewis moved that the proposed new draft be amended by striking in line 9, the following words:- “The standards shall reduce solid waste to not more than 600 pounds per capita by July 1, 2018 and not more than 450 pounds per capita by July 1, 2022.”; and inserting in place thereof the following words:- “The department shall develop standards, designed to decrease over time, on a per capita or per household basis, that serve the goal of reducing the quantity of solid waste produced in the commonwealth.”
The amendment was *rejected*.

Mr. Lewis moved that the proposed new draft be amended by striking out section 1 and inserting in place thereof the following 2 sections:-

"SECTION 1. Chapter 29 of the General Laws is hereby amended by inserting after section 2TTTT the following section:-
Section 2UUUU. There shall be a solid waste reduction assistance fund. The commissioner of environmental protection shall be the trustee of the fund. The fund shall be credited with revenues transferred to it through: (i) penalties assessed to solid waste haulers for waste ban violations on waste disposed of at a solid waste disposal facility; (ii) appropriations, bond proceeds or other funds authorized by the general court and specifically designated to be credited to the fund; (iii) other amounts credited or transferred to the fund from another fund or source; and (iv) interest earned on the money in the fund. The amount credited to the fund shall be expended without further appropriation.

Money in the fund shall be allocated by the department to fund municipal and other recycling programs, composting programs, composting and recycling public education programs and programs promoting zero waste principles. Money in the fund may also be allocated to provide grants to solid waste haulers and generators for equipment to assist in meeting the commonwealth’s waste ban requirements.

The unexpended balance in the fund at the end of a fiscal year shall not revert to the General Fund but shall remain available for expenditure in subsequent fiscal years. The commissioner of environmental protection shall annually, not later than December 31, file a report with the clerks of the senate and house of representatives, who shall forward the same to the senate and house chairs of the joint committee on environment, natural resources and agriculture, detailing the amount and source of money credited to the fund and the expenditures and grants provided from the solid waste reduction assistance fund.

SECTION 1A. The commissioner of environmental protection shall establish performance standards for the reduction of municipal solid waste, as described in section 2, to achieve the purposes of the solid waste master plan and greenhouse gas reduction plan and to protect the natural environment, preserve resources, achieve progress toward the goals to reduce greenhouse gases and create green jobs. The performance standards shall be promulgated by July 1, 2017.”.

After remarks, the amendment was **adopted**.

Mr. Lewis moved that the proposed new draft be amended in section 4, by inserting after the word “program”, in line 24, the following words:- “; provided, however, that if a city or town enters into a contract with a solid waste hauler for the transportation of material for disposal and recycling, the contract may provide for the solid waste hauler to make the report to the department”.

After remarks, the amendment was **adopted**.

Ms. Gobi moved that the proposed new draft be amended in section 2, by adding the following sentence:- “A municipality that does not administer trash and recycling collection shall be exempt from meeting performance standards for municipal solid waste reduction established in this section; provided, however, that the municipality shall confer with its residents and private waste disposal companies to establish solid waste performance standards for the municipality.”.

After remarks, the amendment was **adopted**.

Messrs. Tarr and Ross moved that the proposed new draft be amended by inserting at the end thereof the following new section:-
“SECTION __. This act shall be subject to appropriation.”

After debate, the amendment was **adopted**.

Ms. Spilka moved that the proposed new draft be amended by inserting after the words “solid waste”, in line 9, the following words:- “in each municipality”.

The amendment was **adopted**.

The Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2308, amended) was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays at twenty-two minutes past two o’clock P.M., on motion of Mr. Pacheco, as follows, to wit (*yeas 39 – nays 0*) [**Yeas and Nays No. 371**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Boncore, Joseph A.	Lesser, Eric P.
Brady, Michael D.	Lewis, Jason M.
Brownsberger, William N.	L'Italien, Barbara A.
Chandler, Harriette L.	Lovely, Joan B.
Chang-Diaz, Sonia	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.
deMacedo, Viriato M.	Moore, Michael O.
DiDomenico, Sal N.	OConnor, Patrick M.
Donnelly, Kenneth J.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Pacheco, Marc R.
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fattman, Ryan C.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Forry, Linda Dorcena	Tarr, Bruce E.
Gobi, Anne M.	Timilty, James E.
Humason, Donald F., Jr.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 39.
Joyce Brian A.	

NAYS – 0.

The yeas and nays having been completed at twenty-six minutes past two o'clock P.M., the bill was passed to be engrossed. [For bill, printed as amended, see Senate, No. 2389] Sent to the House for concurrence.

The House Bill further regulating the sale of alcoholic beverages in the city of Somerville (House, No. 4184, amended),-- **was read a second time.**

Pending the question on ordering the bill to a third reading, Ms. Jehlen moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2379.

The amendment was **adopted.**

The bill, as amended, was then ordered to a third reading.

The rules were suspended, on motion of Ms. Jehlen, and the bill was read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

There being no objection the following matter was considered out of order.

The Senate Bill relative to protecting puppies and kittens (Senate, No. 1103),-- **was read a second time.**

After remarks and pending the question on adoption of the amendment previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2370), and pending the main question on ordering the bill to a third reading, Messrs. McGee and OConnor moved that the proposed new draft be amended in section 2, by striking out, in line 119, the word "or"; in said section 2, by inserting after the word "animal", in line 123, the following words:- "; or (iv) return the animal to the seller for treatment by a veterinarian of the seller's choice at no cost to the buyer; provided, however, that the animal shall be returned to the buyer when the animal's health is cleared by the veterinarian"; and in said section 2, by striking out, in line 142, the figure "10" and inserting in place thereof the following figure:- "30".

After remarks, the amendment was **adopted.**

Mr. Keenan moved that the proposed new draft be amended by inserting after the word "dog" in line 28 the words:- "or cat".

After remarks, the amendment was **adopted.**

Mr. Keenan moved that the proposed new draft be amended in section 1, by inserting after the word "commissioner", in line 9, the following words:- "or an authorized inspector".

The amendment was **adopted.**

Mr. Keenan moved that the proposed new draft be amended by striking the words "address, telephone number and signature", in line 97, and inserting in place thereof the words:- "and signature, and the address and telephone number of their primary place of veterinary practice".

The amendment was **adopted.**

Mr. Keenan moved that the proposed new draft be amended by inserting after the words "sales tax" in lines 114, 119, 122, 127 and 128, in each instance, the words:- "and any additional point of sale fees".

After remarks, the amendment was **adopted.**

Mr. Keenan moved to amend the bill by inserting after the word "Agriculture" in line 54, the words:- "; or any successor document published by said department for the same purpose".

The amendment was **adopted.**

Messrs. Montigny, Tarr and OConnor moved that the proposed new draft be amended by inserting after section 1 the following section:-

"SECTION 1A. Chapter 140 of the General Laws is hereby amended by striking out section 141 and inserting in place thereof the following section:-

Section 141. Whoever violates section 137, 137B or 138 shall be assessed a fine of not less than \$50, which shall be paid to the city or town wherein the violation occurred.

Whoever violates section 137A shall be assessed a fine of not less than \$250 for a first offense, a fine of not less than \$500 for a second offense and a fine of not more than \$1500 for a third or subsequent offense. The fine shall be paid to the city or town wherein the violation occurred; provided, however, that if a person is unable to pay the fine under this paragraph, the individual may agree, in lieu of payment, to relinquish ownership and control of all dogs on the premises to animal control or another appropriate law enforcement agency."

After remarks, the amendment was **adopted.**

Ms. Spilka moved that the proposed new draft be amended in section 1, by striking out, in line 1, the word "Chapter" and inserting in place thereof the following words:- "SECTION 1. Chapter"; and

In section 2, by inserting after the word "of", in line 172, the first time it appears, the following words:- "the department,".

The amendment was **adopted.**

The Ways and Means amendment, as amended, was then adopted.

The bill (Senate, No. 2370, amended) was then ordered to a third reading, read a third time and passed to be engrossed. [For bill, printed as amended, see Senate, No. 2390] Sent to the House for concurrence.

The Senate Bill to protect health and safety of animals in vehicles (Senate, No. 878),-- **was read a second time.** After remarks, and pending the question on adoption of the amendment previously recommended by the committee on Rules, substituting a new draft entitled “An Act to prevent animal suffering and death (Senate, No. 2369), and pending the main question on ordering the bill to a third reading, Mr. Brownsberger moved that the proposed new draft be amended by striking in section 8 in line 69 the word "punished" and inserting in place thereof the following words:- "a civil infraction punishable". After remarks, the amendment was **adopted.**

Mr. Keenan moved that the proposed new draft be amended by striking the words “this subsection (b)” in line 55 and inserting in place thereof the words:- “subsection (b), and the agency or municipality that employs said officer or fire fighter,”. After remarks, the amendment was **adopted.**

Mr. Montigny moved that the proposed new draft be amended by striking in line 5 the word "or" and inserting the word "and"; and

In section 8 by striking subsection (e) and in place thereof the following:-

“(e) After making reasonable efforts to locate the motor vehicle’s owner, a person other than a law enforcement officer, animal control officer, or fire fighter, may not enter a motor vehicle to remove the animal to protect the health and safety of that animal in immediate danger unless the following conditions are met. The person must: (i) notify law enforcement or call 911 before entering the vehicle; (ii) determine that the motor vehicle is locked or there is no other reasonable means for exit and use no more force than reasonably necessary to enter the motor vehicle and remove the animal; (iii) Have a good faith and reasonable belief, based upon known circumstances, that entry into the vehicle is reasonably necessary to prevent imminent danger or harm to the animal; (iv) remain with the animal in a safe location in reasonable proximity to the vehicle until law enforcement or other first responder arrives.”

After remarks, the amendment was **adopted.**

The Rules amendment, as amended, was then adopted.

The bill (Senate, No. 2369, amended) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays at five minutes past three o’clock P.M., on motion of Mr. Montigny, as follows, to wit (*yeas 39 – nays 0*) [**Yeas and Nays No. 372**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Boncore, Joseph A.	Lesser, Eric P.
Brady, Michael D.	Lewis, Jason M.
Brownsberger, William N.	L'Italien, Barbara A.
Chandler, Harriette L.	Lovely, Joan B.
Chang-Diaz, Sonia	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.
deMacedo, Viriato M.	Moore, Michael O.
DiDomenico, Sal N.	OConnor, Patrick M.
Donnelly, Kenneth J.	O’Connor Ives, Kathleen

Donoghue, Eileen M.	Pacheco, Marc R.
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fattman, Ryan C.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Forry, Linda Dorcena	Tarr, Bruce E.
Gobi, Anne M.	Timilty, James E.
Humason, Donald F., Jr.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 39.
Joyce, Brian A.	

NAYS – 0.

The yeas and nays having been completed at eight minutes past three o'clock P.M., the bill was passed to be engrossed. Sent to the House for concurrence.

The Senate Bill protecting abandoned animals in vacant properties (Senate, No. 2174),-- was read a second time. Pending the question on adoption of the amendment, previously recommended by the committee on Rules, substituting a new draft with the same title (Senate, No. 2375), and pending the main question on ordering the bill to a third reading, Mr. Keenan moved that the proposed new draft be amended by inserting after the word "animal" in lines 8, 12, 25, 36, 40, 55 and 59, in each instance, the words:- "or animal remains".

The amendment as **adopted**.

The Rules amendment, as amended, was then adopted.

The bill (Senate, No. 2375, amended) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

Moment of Silence.

At the request of the President, the members, guests and staff stood in a moment of silence and reflection to the memory of former Senator Thomas P. Kennedy.

PAPER FROM THE HOUSE

Order Adopted.

The following House Order (approved by the committees on Rules of the two branches, acting concurrently) was considered forthwith as follows:

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on State Administration and Regulatory Oversight be granted until Wednesday, July 6, 2016, within which time to make its final report on current House documents numbered 4130, 4294, and 4295.

The rules were suspended, on motion of Ms. Lovely, and, after remarks, the order (House, No. 4426) was considered forthwith; and, was adopted, in concurrence.

Order Adopted.

On motion of Mr. Tarr,--

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at one o'clock P.M., in a full formal session with a calendar.

Adjourn In Memory of Thomas P. Kennedy

The Senator from Plymouth and Bristol, Mr. Brady, moved that when the Senate adjourns today, it adjourn in memory of former state Senator Thomas P. Kennedy.

State Senator Thomas Patrick Kennedy died one year ago today at the age of 63. The cherished husband of Clare Holmgren, Tom was a life-long resident of Brockton, a city he loved deeply and served for the entirety of his adult life.

During the four decades he served in the legislature, he was instrumental in the passage of several significant pieces of legislation, but his true passion was the service to the people of the Commonwealth generally, and his constituents in particular. He was singularly focused on serving the diverse needs of his district and was a tireless advocate for children, the sick, the elderly, and for all those who lacked a voice of their own. He was widely recognized for his good works and accomplishments, but he always felt that his true reward was to see the results of the help he was able to provide.

Tom was kind and witty – he loved a good story and laughed easily and often. He was a faith-filled man and was perpetually guided and nourished by his Catholic beliefs. One of his proudest moments was having the rare distinction of Honorary Oblate bestowed upon him by the Missionary Congregation of Oblates of Mary Immaculate in 1978.

Notwithstanding the daily suffering occasioned by the complications of his accident, Tom considered himself to be one of the most fortunate people in the world – due to the love, kindness and care shown to him by those around him. His legacy will live on forever through the countless memories he created with all those fortunate to have called him their friend.

Accordingly, as a mark of respect in memory of Thomas P. Kennedy, at sixteen minutes past three o'clock P.M., on motion of Mr. Tarr, the Senate adjourned to meet again tomorrow at one o'clock P.M.