

# SENATE

## CALENDAR FOR THURSDAY, JUNE 6, 2019

[The Senate will meet at eleven o'clock A.M.]

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[Joint Session will be held on  
Wednesday, June 12, 2019, at one o'clock P.M.]

## ORDERS OF THE DAY

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**18.** [S. 2198] Bill relative to hands free cell phone devices (Senate, No. 2198). [**Question on ordering to a third reading.**] [Boncore.]

[Representative DeCoste of Norwell dissents.]

[On Senate, Nos. 2057 and 2120.]

[From the committee on Transportation.]

[The committee on Ways and Means (Rodrigues) recommends that the bill be amended by substituting a new draft entitled "An Act preventing distracted driving" (Senate, No. 2216).]

[Order relative to subject matter adopted.]

[Mr. Montigny moves to amend the pending new draft by inserting in line 78 after the word "device" the following sentence:- "An operator of a motor vehicle who holds a mobile electronic device to or in the immediate proximity of the operator's head or in the operator's hand on the operator's lap while operating a motor vehicle shall be presumed to be in violation of this section."]

[Mr. Montigny moves to amend the pending new draft in section 8, line 39, by striking out the words "said chapter 175" and inserting in place the following:- "chapter 90"; and in section 9, line 45, by striking out the words "said chapter 175" and inserting in place the following:- "chapter 90"; and in section 16, line 87, by striking out the words "said chapter 175" and inserting in place the following:- "chapter 90".]

[Mr. Tran moves to amend the pending new draft by striking section 4 in its entirety and inserting in place thereof the following section:-

"SECTION 4. Said section 7B of said chapter 90, as so appearing, is

hereby further amended by striking out the last paragraph and replacing it with the following paragraph:-

No person shall operate a moving school bus while using a mobile telephone in the case of an emergency. For the purpose of this paragraph, an emergency shall mean an event that requires the operator of the school bus to communicate with an emergency dispatcher, fire department personnel, law enforcement personnel, or emergency medical personnel to ensure the safety of the operator or passengers of the school bus or others in or near the roadway.”]

[*Mr. Tran moves* to amend the pending new draft by striking section 7 in its entirety and inserting in place thereof the following section:-

“SECTION 7. Said section 8M of said chapter 90, as so appearing, is hereby further amended by striking out the third paragraph and replacing it with the following paragraph:-

It shall be an affirmative defense for a junior operator to produce evidence that the use of a mobile telephone, hands-free mobile telephone or mobile electronic device that is the basis of the alleged violation was for emergency purposes. For the purpose of this paragraph, an emergency shall mean an event that requires the junior operator to communicate with an emergency dispatcher, fire department personnel, law enforcement personnel, or emergency medical personnel to ensure the safety of the junior operator or passengers in their vehicle or others in or near the roadway.”]

[*Mr. Tran moves* to amend the pending new draft in section 16 by striking lines 67-74 and inserting in place thereof the following:-

“Section 13B. (a) For the purposes of this section, “emergency purposes” shall mean that the operator used the mobile electronic device for voice communication with another person to report an event that, with a reasonable belief, required fire department personnel, law enforcement personnel, or emergency medical personnel to ensure the safety of said operator or passengers in their vehicle or others in or near the roadway.”]

[*Ms. Jehlen moves* to amend the pending new draft by inserting the following new section:-

“SECTION XX. Chapter 6 of the General Laws is hereby amended by inserting the following new sections:-

Section 15 CCCCC. The governor shall annually issue a proclamation setting apart the second week of March as Massachusetts Sleep Awareness Week, and the Sunday at the beginning of Daylight Savings Time, so called as Massachusetts Sleep Awareness Day and recommending that such week be properly observed as a period of special attention to the problems of sleep deprivation and fatigue such as: impaired reaction time, judgment and vision; problems with information processing and short-term memory; decreased performance, vigilance and motivation; increased moodiness and aggressive behaviors; and, especially, the dangers of

driving under the influence of sleep deprivation or fatigue. To this end, the agencies of the Commonwealth as well as private organizations, especially those interested in education, transportation, public health, and public safety, shall adopt policies and programs consistent with the goals of: (1) increasing public awareness about sleep, sleep disorders, and consequences of sleep deprivation; (2) promoting science-based public policies that improve the sleep health of the nation; (3) advancing basic, clinical, applied, and population-based research; and promoting recognition of and access to care for all individuals with sleep disorders.

Section 15 DDDDDD. The governor shall annually issue a proclamation setting apart the second week of November as Massachusetts Drowsy Driving Prevention Week and recommending that such week be properly observed as a period of special attention to the need for public awareness and action relative to the problems of drowsy driving and driver fatigue. For purposes of this section ‘drowsy driving’ or ‘driver fatigue’ shall mean driving while being ‘sleepy,’ ‘tired,’ ‘drowsy,’ or ‘exhausted’.”]

[*Mr. Tarr moves* to amend the pending new draft by inserting in line 78 after the word “device” the following:- “An operator of a motor vehicle who holds a mobile electronic device to the operator’s ear while operating such vehicle may be considered evidence of a violation of this section.”]

[*Mr. Tarr moves* to amend the pending new draft by inserting in line 83 after the words, “first offense” the following:- “provided further, that the fine shall be suspended for a first time violator who provides proof of acquisition of a hands-free accessory subsequent to the violation but prior to the imposition of a fine subject to regulations promulgated by the executive office of public safety.”]

[*Mr. Tarr moves* to amend the pending new draft by inserting in line 97 after the word “personnel” the following:- “or to an employee or contractor of a public utility who uses a mobile electronic device while responding to a dispatch by the public utility to respond to an emergency including, but not limited to, a response to a power outage or an interruption in utility service.”.]

[*Messrs. Tarr and Finegold move* to amend the pending new draft by inserting in line 82 after the word, “bicycle” the following:- “For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.”]

[*Mr. Tarr moves* to amend the pending new draft by inserting in line 84 after the words “subsequent offense” the following:- “within 6 years”; and by inserting after Section 18 the following new section:-

“SECTION\_. Notwithstanding any general or special law to the contrary, the division of insurance shall conduct a study on the feasibility

of reducing the amount of time unsafe driver points remain on a driver's record. The report and any recommendations shall be submitted to the clerks of the senate and the house of representatives, the joint committee on transportation and the senate and house committees on ways and means by not later than December 31, 2019.”]

[*Mr. Tarr moves* to amend the pending new draft by inserting in Section 7 in line 33 after “vi” the following:- “reporting witnessed illegal activity.”, and in Section 16 by inserting in line 74 after the word “pedestrians” the following:-“or (vi) reporting witnessed illegal activity”.]

[*Mr. Tarr moves* to amend the pending new draft by inserting in line 87 after the number “175” the following:- “said surchargeable incident shall not increase a premium by anymore than twenty five dollars”.]

[*Mr. deMacedo moves* to amend the pending new draft by inserting the following sections:-

“SECTION XX. Section 13D of chapter 71 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting the following paragraph:-

A driver education course shall include a module on the dangers of distracted driving and mobile electronic device use while operating a motor vehicle.

SECTION XX. Subsection (c) of section 8 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following:- The driver education and training course shall include a module on the dangers of distracted driving and mobile electronic device use while operating a motor vehicle.

SECTION XX. The nineteenth paragraph of section 32G of said chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the word ‘vehicle’; the following sentence:- ‘Said curriculum shall include a module on the dangers of distracted driving and mobile electronic device use while operating a motor vehicle’.”]

[*Mr. Tarr moves* to amend the pending new draft by inserting in line 87 after “chapter 175” the following:- “for a violation of this section or section 8M length of time said incident shall remain as a point for two and half years”.]

[*Mr. Tarr moves* to amend the pending new draft by inserting in line 48 after the word “department” the following:- “,fire department or other emergency services including but not limited to emergency medical services”.]

[*Messrs. Moore and Brady move* to amend the pending new draft by striking out Section 17 and inserting in place thereof the following new section:-

“SECTION 17. There shall be a commission established to investigate the methods of collecting and analyzing data related to law enforcement stops. The commission shall consist of: the secretary of public safety and

security or a designee; the secretary of Transportation or a designee; the Registrar of motor vehicles or a designee; the secretary of the Technology Services and Security or a designee; the Senate President or a designee; the Senate Minority leader or a designee; the Speaker of the house or a designee; House Minority leader or a designee; a representative of the Massachusetts Chiefs of Police Association; a representative of the Massachusetts State Police; a representative of the Fraternal Order of Police; A representative of the Boston Patrolman's Association; a Representative of the Massachusetts Coalition of Police; a representative of the Committee on Public Counsel Services; and the American Civil Liberties Union.

The Commission shall consider 1) methods for collecting data related to race, ethnicity and gender related to traffic stops; 2) ways to establish a standardized form for recording collected information; 3) methods for publishing and analyzing data; and 4) methods for implementing responses to the data.

The Commission shall file its report not later than July 31, 2019 with the clerks of the Senate and House of Representatives, the joint committee on transportation; the joint committee on judiciary; and the senate and house committees on ways and means.”]

[*Mr. Rush moves* to amend the pending new draft by striking section 17 and inserting in place thereof the following new section:-

“SECTION 17. Said chapter 90 is hereby further amended by adding the following section:-

Section 63. Every municipal and state police department shall, for each stop made by a law enforcement officer of the agency pursuant to this chapter where a citation or written warning is issued or where an arrest is made, collect and submit to the executive office of public safety and security: (i) the reason for the stop; (ii) the date, time and street address or approximate location of the stop; (iii) the race and ethnicity of the driver subject to the stop based on the voluntary previously self-disclosed designation for race and ethnicity classification that is listed on the Massachusetts Driver's License; (iv) the gender and age of the driver subject to the stop; (v) whether a search was initiated, including a search of a vehicle or the vehicle operator or passengers and, if a search was initiated, whether the search was conducted with the consent of the operator or passengers as indicated on the Registry of Motor Vehicles citation form in the appropriate box by consent Yes/No; (vi) the results of any search as indicated on the Registry of Motor Vehicles citation form in the appropriate box delineating contraband, evidence or an illegal weapon; (vii) whether the stop or subsequent search resulted in a warning, citation, arrest or other action; and (viii) the badge number of the officer initiating the stop.

The secretary of public safety and security shall ensure a standardized process to facilitate data collection for law enforcement agencies and procedures for law enforcement officials to collect such data under this section. The failure of a law enforcement officer to collect such data shall not affect the validity of the underlying stop.

Annually, not later than March 1, the secretary shall collect, analyze and submit a report of the statewide data collected pursuant to this section, excluding officer badge numbers, to the joint committee on the judiciary, the joint committee on public safety and homeland security and the senate and house committees on ways and means. The result of any reports that are generated or compiled from such data collection shall be made available upon request to any law enforcement entity that contributed to the collection and submission of the data. The secretary shall make the data available to the public online in machine-readable format.”]

[*Mr. Tarr moves* to amend the pending new draft by inserting in line 19 after the word “service” the following:- “including but not limited to emergency medical services”.]

[*Mr. Moore moves* to amend the pending new draft by adding at the end thereof the following new section:-

“SECTION XX. Section 24 of Chapter 90 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word ‘licensees’, in lines 3 to 4, the following words:- ‘as motorists or pedestrians’.”

[*Mr. Chang-Diaz moves* to amend the pending new draft by inserting in line 116 after the word “numbers” the following text:- “and any information revealing the identity of any individual.”]

[*Mr. Chang-Diaz moves* to amend the pending new draft by striking out lines 115 to 121 and inserting in place thereof the following text:-

“Annually, not later than March 1, the secretary shall collect, analyze and submit a report of the statewide data collected pursuant to this section, excluding officer badge numbers and any personally identifying information of any individual, to the joint committee on the judiciary, the joint committee on public safety and homeland security and the senate and house committees on ways and means. The secretary shall make the data available to the public online in machine-readable format. The secretary of public safety and security shall promulgate regulations to implement this section. If there is a significant delay in receiving complete data as described in paragraphs one and two of this section from any law enforcement agency within the Commonwealth, the executive office of public safety and security shall notify the law enforcement agency of the delay in the receipt of data. Any law enforcement agency that has not transmitted their complete traffic stop data to the executive office of public safety and security by the reporting deadline of the annual report will only be eligible to receive 50 percent of the Traffic Enforcement and

Equipment grant until the secretary is in receipt of complete data from that agency.”]

[*Mr. Fattman moves* to amend the pending new draft in section 16 by striking out subsection (a) of section 13B and inserting in place thereof the following:-

“(a) For the purposes of this section, “emergency purposes” shall mean that the operator used the mobile electronic device for voice communication with another person because: (i) the motor vehicle was disabled; (ii) medical attention or assistance was required; (iii) the police or fire department intervention or some other emergency service was necessary for the safety of the operator, a passenger or a pedestrian in or near the roadway; (iv) a disabled vehicle or an accident was present in the roadway; (v) police intervention was necessary due to a motor vehicle being operated in a manner that poses a threat to the safety of travelers on the roadway or to pedestrians; or (vi) the operator or a passenger in the vehicle received an emergency call from a hospital, physician’s office or an immediate family member.”]

[*Mr. Fattman moves* to amend the pending new draft by striking out, in lines 118 and 119, the following sentence:- “The secretary shall make the data available to the public online in a machine readable format.”]

[*Mr. Fattman moves* to amend the pending new draft by striking out in its entirety section 17.]

[*Mr. Tarr moves* to amend the pending new draft by inserting in line 31 after the word “service” the following:-“including but not limited to emergency medical services”.]

[*Mr. Rodrigues moves* to amend the pending new draft by inserting after the word “data”, in line 118, the following words: “collected under the first paragraph”; and by inserting after the word “format”, in line 119, the following words:- “, excluding any personally identifiable information”.]

**[Laid over under the provisions of Senate Rule 31 – request of Senators Tarr and O’Connor.]**

## **NOTICE SECTION.**

### **SECOND READING MATTERS.**

**19.** [S. 1179] Bill authorizing the town of Salisbury to assume control of the Ring’s Island Water District (Senate, No. 1179). **2d.** [Rausch.]

[Local approval received.]

[From the committee on Municipalities and Regional Government.]

**20.** [S. 1192] Bill relative to the town charter of Groton (Senate, No. 1192). **2d.** [Rausch.]

[Local approval received.]

[From the committee on Municipalities and Regional Government.]

**21.** [S. 1193] Bill relative to the Board of Park Commissioners of the town of Dunstable (Senate, No. 1193). **2d.** [Rausch.]

[Local approval received.]

[From the committee on Municipalities and Regional Government.]

**22.** [S. 1196] Bill relative to marijuana-related revenue in the town of Millbury (Senate, No. 1196). **2d.** [Rausch.]

[Local approval received.]

[From the committee on Municipalities and Regional Government.]

**23.** [S. 1201] Bill establishing a selectmen-administrator form of government for the town of Newbury (Senate, No. 1201). **2d.** [Rausch.]

[Local approval received.]

[From the committee on Municipalities and Regional Government.]

**24.** [S. 1483] Bill concerning health insurance benefits for surviving spouses of firefighters in the city of Boston (Senate, No. 1483). **2d.**

[Brady.]

[Local approval received.]

[From the committee on Public Service.]

**25.** [S. 1508] Bill to provide certain retirement benefits and medical benefits to the widow and children of Everett Firefighter Thaddeus M Baxter, Jr. (Senate, No. 1508). **2d.** [Brady.]

[Local approval received.]

[From the committee on Public Service.]

**26.** [S. 1517] Bill authorizing the town of Blackstone to continue the employment of fire chief Michael Sweeney (Senate, No. 1517). **2d.**

[Brady.]

[Local approval received.]

[From the committee on Public Service.]

**27.** [S. 1585] Bill authorizing the town of Groveland to continue the employment of Joseph Santapaola as Fire Lieutenant/EMT (Senate, No. 1585). **2d.** [Brady.]

[Local approval received.]

[From the committee on Public Service.]

**28.** [S. 2195] Bill crediting the stabilization fund for the sale of Fuller School in the city of Gloucester (Senate, No. 2195). **2d.** [Rausch.]  
 [Local approval received.]  
 [From the committee on Municipalities and Regional Government.]

**29.** [H. 3643] Bill (H.) authorizing the town of Medfield to enter into a long-term lease for an arts and cultural center (House, No. 3643). **2d.**  
 [Local approval received.]  
 [From the committee on Municipalities and Regional Government.]

### **THIRD READING MATTERS.**

**7.** [S. 1541] Bill establishing a sick leave bank for David P. Christian, an employee of the Department of Correction (Senate, No. 1541). **3d.**  
 [Brady.]  
 [From the committee on Public Service.]  
 [From the committee on Rules – *Lovely.*]

**8.** [H. 2376] Bill (H.) establishing a sick leave bank for Brian S. Bibeau, an employee of the Department of Correction (House, No. 2376, amended). **3d.**  
 [From the committee on Public Service.]  
 [Amended by the House by inserting before the enacting clause the following emergency preamble:-  
 “Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the department of correction, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.]

**10.** [H. 3509] Bill (H.) establishing a sick leave bank for Joseph Klimkofski, Jr., an employee of Department of Public Health (House, No. 3509). **3d.**  
 [From the committee on Public Service.]

**13.** [S. 2194] Bill establishing a sick leave bank for Chung Tam, an employee of the Massachusetts Department of Transportation (Senate, No. 2194). **3d.** [Brady.]  
 [From the committee on Public Service.]

**14.** [S. 2199] Bill establishing a sick leave bank for Anthony Barton, an employee of the Department of Developmental Services (Senate, No. 2199). **3d.** [Brady.]

[From the committee on Public Service.]

**15.** [H. 1760] Bill (H.) relative to the fire district in the town of Williamstown (House, No. 1760, amended). **3d.**

[From the committee on Public Service.]

[*Amended by the House* in section 3, in lines 35 to 39, inclusive, by striking out the sentence contained in those lines and inserting in place thereof the following two sentences:

“Upon such expiration of term of office or sooner vacating of office of the elected office of district clerk, the elected office of district clerk shall be abolished and a district clerk shall be appointed as provided in section 3 of chapter 69 of the acts of 1912; provided, however, that if this act takes effect less than 35 days before the annual district election, the elected office of district clerk shall not be abolished and a district clerk shall not be appointed as provided in said section 3 of said chapter 69 until the next following annual district election or until the person elected to the office of district clerk at the annual district election held within 35 days after the effective date of this act sooner vacates the office. Upon such expiration of term of office or sooner vacating of office of the elected office of district treasurer, the elected office of district treasurer shall be abolished and a district treasurer shall be appointed as provided in said section 3 of said chapter 69; provided, however, that if this act takes effect less than 35 days before the annual district election, the elected office of district treasurer shall not be abolished and a district treasurer shall not be appointed as provided in said section 3 of said chapter 69 until the next following annual district election or until the person elected to the office of district treasurer at the annual district election held within 35 days after the effective date of this act sooner vacates the office.”.]

**16.** [H. 3683] Bill (H.) establishing a sick leave bank for Autumn Fugere, an employee of the Department of Developmental Services (House, No. 3683). **3d.**

[From the committee on Public Service.]

**30.** [S. 1198] Bill relative to a perpetual conservation restriction in the town of Middleborough (Senate, No. 1198). **3d.** [Rausch.]

[Local approval received.]

[From the committee on Municipalities and Regional Government.]

**31.** [S. 2218] Bill establishing a sick leave bank for Ryan Russell, an employee of the Department of Correction (Senate, No. 2218). **3d.**  
[Brady.]

[From the committee on Public Service.]

**32.** [H. 3684] Bill (H.) establishing a sick leave bank for Patricia Harrison, an employee of the Department of Developmental Services (House, No. 3684, amended). **3d.**

[From the committee on Public Service.]

[*Amended by the House* by inserting before the enacting clause the following emergency preamble:-

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

**33.** [H. 3693] Bill (H.) establishing a sick leave bank for Scott A. Smith, an employee of the Trial Court (House, No. 3693). **3d.**

[From the committee on Public Service.]

**34.** [H. 3740] Bill (H.) establishing a sick leave bank for Carrie Peters, an employee of the Department of Transitional Assistance (House, No. 3740). **3d.**

[From the committee on Public Service.]

**35.** [H. 3744] Bill (H.) establishing a sick leave bank for Antoinette Rodney, an employee of the Trial Court (House, No. 3744). **3d.**

[From the committee on Public Service.]