

JOURNAL OF THE HOUSE.

Tuesday, May 29, 2001

Met according to adjournment, at eleven o'clock A.M., with Mr. DiMasi of Boston 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:

Eternal God, the Ultimate Source of Wisdom and Justice, inspire us to cultivate and then to implement these virtues in dealing with others and in responding to the current needs of the people whom we represent. Inspire us to be guided each day by principles, virtues and values (both human and spiritual) which reflect Your ways and enable us to build a stable, responsible and peaceful society. In this rapidly changing society and culture, teach us to respect the dignity and rights of each person. For we all have one Creator and an eternal destiny.

Today, we pause to remember, in our prayers and thoughts, John Joseph Moakley, former member of this House and a member of the United States Congress, our Congressman. We express our gratitude to him for his many years of productive public service to his constituents and to the country.

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

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

Silent Prayer.

At the request of the Chair (Mr. DiMasi of Boston), the members, guests and employees stood in a moment of silent prayer to the memory of the late Congressman John Joseph Moakley.

Statement Concerning Representative Asselin of Springfield.

A statement of Representative Harkins of Needham concerning Representative Asselin 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 Asselin of Springfield will not be present in the House Chamber for today's sitting due to his attendance at the funeral of a family member. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement of Representative Ayers of Quincy.

A statement of Representative Ayers of Quincy 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 not present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. Any roll calls that I may have missed today is due entirely to the reason stated.

Statement of Representative Candaras of Wilbraham.

A statement of Representative 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 was not present in the House Chamber for a portion of today's sitting due to being unavoidably delayed in traveling to the State House. Any roll calls that I may have missed today is due entirely to the reason stated.

Statement of Representative Cleven of Chelmsford.

A statement of Representative Cleven of Chelmsford 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 not present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. Any roll calls that I may have missed today is due entirely to the reason stated.

Statement Concerning Representative Rogers of Norwood.

A statement of Representative Harkins of Needham concerning Representative Rogers of Norwood 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 Rogers of Norwood, will not be present in the House Chamber for today's sitting due to family obligations. Any roll calls that he may miss today is due entirely to the reason stated. If he were able to be present for the taking of the roll call on ordering to a third reading the Senate Bill relative to the enforcement of the safety belt law, he would vote in the negative.

Resolutions.

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

Resolutions (filed by Representatives Barrios of Cambridge, Toomey of Cambridge, Wolf of

Cambridge and Demakis of Boston) honoring John G. O'Brien;

Resolutions (filed by Mr. Frost of Auburn) congratulating Alphonse Esposito on the occasion of his retirement;

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Doctor Robert Perry on the occasion of his retirement;

Resolutions (filed by Mr. Mariano of Quincy) congratulating Saint Francis Xavier Council No. 5027 Knights of Columbus of Weymouth on the occasion of its fortieth anniversary;

Resolutions (filed by Representatives Paulsen of Belmont and Marzilli of Arlington) congratulating Pauline Golec on the occasion of her retirement; and

Resolutions (filed by Mrs. Paulsen of Belmont) congratulating William George McManus on the occasion of his retirement;

Mrs. Harkins of Needham, 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. Cabral of New Bedford, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Paper from the Senate.

A Bill releasing certain land in Colrain from the operation of an agricultural preservation restriction (Senate, No. 1871) (on Senate bill, No. 1603), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Reports of Committees.

By Mrs. Parente of Milford, for the committee on Local Affairs, on House, No. 2940, an Order relative to authorizing the committee on Local Affairs to make an investigation and study of a certain House document concerning the effect of zoning ordinances on existing lots (House, No. 4179). 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 asking to be discharged from further consideration of said order; and recommending that the same be referred to the House committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. Hall of Westford, for the committee on State Administration, on a petition, a Resolve establishing a commission of snow and ice operations (House, No. 2617).

By the same member, for the same committee, on a petition, a Bill providing for an investigation and study by a special commission relative to the U.S.S. Massachusetts (House, No. 2992).

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

By Mr. Mariano of Quincy, for the committee on Insurance, on a petition, a Bill to encourage the purchase of long term care insurance (House, No. 2365).

By Mr. Hall of Westford, for the committee on State Administration, on a petition, a Bill to create a citizens advisory board on uses of the Rumney Marsh area of critical environmental concern (House, No. 1877).

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

By Mr. Hall of Westford, for the committee on State Administration, on House, Nos. 8 and 46, a Bill regarding licensing by the Division of Professional Licensure (House, No. 46).

By the same member, for the same committee, on a petition, a Bill to improve energy efficiency in state buildings (House, No. 3982).

Severally read; and referred, under Rule 33B, to the committee on Science and Technology.

Emergency Measure.

The engrossed Bill relative to the Springfield Civic and Convention Center (see House, No. 4124), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 14 to 0. Sent to the Senate for concurrence.

Orders of the Day.

House bills

Relative to compensated absences in cities and towns (House, No. 1623); and

Authorizing the city of New Bedford to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4053);

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

The House report of the committee on Insurance, ought NOT to pass, on so much of the recommendations of the Office of Consumer Affairs and Business Regulation (House, No. 8) as relates to the practice of dentistry and dental hygiene (accompanied by bill, House, No. 40) was accepted. Sent to the Senate for concurrence.

House reports

Of the committee on Banks and Banking, ought NOT to pass, on the petition (accompanied

by bill, House, No. 396) of Philip Travis for legislation to further regulate the transmission of money;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1149) of James E. Vallee and Angelo M. Scaccia relative to the total of borrower liability on obligations to stock corporations or thrift institutions;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2646) of Christopher J. Hodgkins, Thomas P. Kennedy, Mary Jane Simmons and Martin J. Walsh that credit cards issued in the Commonwealth be required to contain the maximum rate of interest on such cards; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3240) of Peter J. Larkin and Brian Paul Golden relative to the maximum rate of interest to be charged on credit cards;

Of the committee on Insurance, ought NOT to pass, on the petition (accompanied by bill, House, No. 628) of Bruce J. Ayers for legislation to regulate personal injury protection to operators of uninsured motor vehicles; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3942) of Brian M. Cresta and Richard R. Tisei relative to prescription drug coverage under certain insurance policies; and

Of the committee on Public Safety, ought NOT to pass, on the petition (accompanied by bill, House, No. 860) of John A. Hart, Jr., and Stephen F. Lynch for legislation to prohibit the issuance of drivers' licenses to persons with poor school attendance and school dropouts; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2593) of John A. Locke relative to increasing the age requirement for persons to be licensed to operate a motor vehicle;

Severally were accepted.

The Senate Bill further regulating the licensing of certain home inspectors (Senate, No. 1856), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Bosley of North Adams moved that it be amended in section 2 by adding at the end thereof the following sentence: "The board shall issue a home inspector license to a holder of a temporary license who furnishes such proof of having passed a licensing examination."

The amendment was adopted; and the bill (Senate, No. 1856, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment adopted by the House.

Recess.

At nineteen minutes after eleven o'clock A.M., on motion of Mr. Cabral of New Bedford (Mr. DiMasi of Boston 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 Mr. DiMasi in the Chair.

Quorum.

Ms. Balser of Newton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. DiMasi), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 135 members were recorded as being in attendance.

[See Yea and Nay No. 69 in Supplement.]

Therefore a quorum was present.

Orders of the Day.

The motion of Mr. Cabral of New Bedford, that the vote be reconsidered by which the House, on Wednesday last, accepted the House report of the committee on Public Safety, ought NOT to pass, on the petition (accompanied by bill, House, No. 2770) of Antonio F. D. Cabral, Christine E. Canavan and Benjamin Swan for legislation to further regulate the licensing of private detectives, was considered; and the motion prevailed.

Pending the recurring question on acceptance of the report, the petition was recommitted to the committee on Public Safety, on motion of Mr. Toomey of Cambridge.

The motion of Ms. Balser of Newton, that the vote be reconsidered by which the House, on Wednesday last, passed to be engrossed, in concurrence, the Senate Bill allowing victims of violent crimes to testify at Parole Board hearings (Senate, No. 1844) was considered.

Pending the question on the motion to reconsider, further consideration thereof was postponed, on further motion of the same member, until after disposition of the remaining matters in the Orders of the Day.

The House report of the committee on Health Care, ought NOT to pass, on the petition (accompanied by bill, House, No. 1592) of Francis L. Marini and other members of the House for legislation to regulate the control of certain contagious diseases, was considered.

Pending the question on acceptance of the report, further consideration thereof was postponed, on motion of Mr. Marini of Hanson, until the next sitting.

The Senate Bill relative to the enforcement of the safety belt law (Senate, No. 1211) was read a second time.

After debate on the question on ordering the bill to a third reading, Mr. Toomey of Cambridge moved that it be amended in section 2, in lines 1 and 2, by striking out the following: “a period of 180 days following the effective date of this act” and inserting in place thereof the following: “the period from July 1, 2001 to December 31, 2001”; by adding at the end thereof the following sentence: “Any person who violates the provisions of this section shall not be subject to arrest.”; and by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to enforce forthwith the safety belt law in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

After remarks the amendments were adopted.

Ms. Lewis of Dedham being in the Chair,—

After debate on the question on ordering the bill, as amended, to a third reading Mr. Marini of Hanson and other members of the House then moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:

“Notwithstanding any general or special law to the contrary, for the purpose of ascertaining the will of the voters relative to primary enforcement of the seat belt law, the state secretary shall cause to be placed on the official ballot to be used at the biennial state election to be held in the year 2002, the following non-binding question:— Do you prefer primary enforcement of the seat belt law instead of secondary enforcement?”.

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. Marini; and on the roll call 49 members voted in the affirmative and 103 in the negative.

[See Yea and Nay No. 70 in Supplement.]

Therefore the amendment was rejected.

Mr. Marini of Hanson and other members of the House then moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. Section 13A of chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended in lines 6 through 32 by striking out the text therein and inserting in place thereof the following:—

- (a) any person under 18 years of age who is subject to the provisions of section 7AA;
- (b) any person riding in a motor vehicle manufactured before July 1, 1966;
- (c) any person who is physically unable to use safety belts; provided, however, that such condition is duly certified by a physician who shall state the nature of the handicap, as well as the reasons such restraint is inappropriate; provided, further, that no such physician shall

be subject to liability in any civil action for the issuance or for the failure to issue such certificate;

(d) any rural carrier of the United States Postal Service operating a motor vehicle while in the performance of his duties; provided, however, that such rural mail carrier shall be subject to department regulations regarding the use of safety belts or occupant crash protection devices;

(e) anyone involved in the operation of taxis, liveries, tractors, trucks with gross weight of 18,000 pounds or over, buses, and passengers of authorized emergency vehicles.

Any person who operates a motor vehicle without a safety belt, and any persons 18 years of age or over who rides as a passenger in a motor vehicle without wearing a safety belt in violation of this section, shall be subject to a fine of \$25. Any operator of a motor vehicle shall be subject to an additional fine of \$25 for each person under the age of 18 who is a passenger in said motor vehicle and not wearing a safety belt. The provisions of this section shall be enforced by law enforcement agencies only when an operator of a motor vehicle has been stopped for a violation of the motor vehicle laws or some other offense.

SECTION 2. Section 7AA of Chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out in line 6 the word ‘twelve’ and inserting in place the following:— 18.”.

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. Peterson of Grafton; and on the roll call (Mrs. Harkins of Needham being in the Chair), 54 members voted in the affirmative and 98 in the negative.

[See Yea and Nay No. 71 in Supplement.]

Therefore the amendment was rejected.

Mr. Marini of Hanson and other members of the House then moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. Section 13A of chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:—

A violation of this section may be used as evidence of contributory negligence in any civil action.

SECTION 2. Section 7AA of Chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the word ‘action’, in line 26, the following words:—unless the person is 13 years of age or older.”.

Mr. Toomey of Cambridge thereupon raised a point of order that the amendment offered by the gentleman from Hanson, et als, was improperly before the House for the reason that it

went beyond the scope of the pending bill.

The Chair (Mrs. Harkins of Needham) ruled that the point of order was well taken; and the amendment was laid aside accordingly.

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

The question was then put “Shall the decision of the Chair stand as the judgment of the House?”.

After debate the decision of the Chair was sustained.

Mr. Marini of Hanson and other members of the House then moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:

“Notwithstanding any general or special law to the contrary, the comptroller is hereby authorized and directed to pay out from the Health Care Security Trust, created pursuant to chapter 127 of the Acts of 1999, \$2,000,000 to the Increases Seat Belt Use grant, for the purpose of advertising the benefits of wearing a seat belt.”.

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. Marini; and on the roll call 25 members voted in the affirmative and 125 in the negative.

[See Yea and Nay No. 72 in Supplement.]

Therefore the amendment was rejected.

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

“SECTION 3. The provisions of this section shall only be enforced by law enforcement personnel that have been certified by the Executive Office of Public Safety to have extra-sensory perception, x-ray vision, or otherwise have the ability to see through sheet metal and steel.”.

The amendment was rejected.

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

“SECTION 3. The second paragraph of section 85 of chapter 231 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting in line 14 thereof after the words, ‘criminal statute’ the following words:— G. L. c. 90 section 13A.”.

Mr. Toomey of Cambridge thereupon raised a point of order that the amendment offered by the gentleman from Taunton was improperly before the House for the reason that it went

beyond the scope of the pending bill.

The Chair (Mrs. Harkins of Needham) ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Speliotis of Danvers then moved that the bill be amended by substitution of a Bill to promote safety in the transportation of students (House, No. 1084), which was read.

After debate the amendment was rejected.

After remarks on the question on ordering the bill, as amended, to a third reading, Mr. Festa of Melrose asked for a count of the House to ascertain if a quorum was in attendance. A count showed that 97 members were in attendance.

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. Marini of Hanson; and on the roll call 76 members voted in the affirmative and 76 in the negative.

[See Yea and Nay No. 73 in Supplement.]

Therefore the House refused to order the bill to a third reading.

Mr. Toomey of Cambridge moved that this vote be reconsidered; and, under Rule 54, the motion to reconsider was placed in the Orders of the Day for the next sitting.

Mr. Hart of Boston then moved that as a mark of respect to the memory of the Honorable John Joseph Moakley, who served his City, his Commonwealth and his Country with distinction, as a member of the Massachusetts House from Boston from 1953 to 1960, inclusive; a member of the State Senate from 1965 to 1970, inclusive; a member of the Boston City Council in 1971 and 1972; and as a Representative in the United States Congress from 1973 to 2001, inclusive, the House adjourn until Thursday next at eleven o'clock A.M.; and the motion prevailed.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at nine minutes before six o'clock P.M. (Mrs. Harkins of Needham being in the Chair), the House adjourned, to meet on Thursday next at eleven o'clock A.M., in an Informal Session.