

## **JOURNAL OF THE HOUSE.**

Wednesday, July 24, 2002.

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

God of Compassion and Goodness, during the next few moments of prayer and reflection, we direct our attention and our thoughts to You, Our Creator. We recognize the value of basic human and spiritual values as we address, on a daily basis, our legislative and personal responsibilities. Strengthened by Your gifts of patience and wisdom, we strive in a conscientious way to serve You and the people whom we represent. Teach us to be open to new factual information and to the experiences and thoughtful insights of others. In this changing cultural and economic climate inspire us to use wisely today and to plan carefully for the future the use of our human and material resources with which we have been blessed. May our personal and legislative decisions be guided by sound principles and values which enhance human and enrich our culture.

Bestow Your blessings on the Speaker, the members and employees of this House and their families. Amen.

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

### *Statement Concerning Representative Brown of Wrentham.*

A statement of Mr. Marini of Hanson concerning Mr. Brown of Wrentham 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 Brown of Wrentham, will not be present in the House Chamber for today's sitting due to a prior family commitment. Any roll calls that he may miss today is due entirely to the reason stated.

### *Statement Concerning Representative Kane of Holyoke.*

A statement of Mr. DiMasi of Boston concerning Mr. Kane of Holyoke 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 Kane of Holyoke, will not be present in the House Chamber for today's sitting due to the birth of his daughter, Katherine Allison Kane. Any roll calls that he may miss today is due entirely to the reason stated.

*Petition.*

Mr. Timilty of Milton presented a petition (accompanied by bill, House, No. 5273) of Walter F. Timilty, Joseph C. Sullivan, Bruce J. Ayers and Brian A. Joyce (by vote of the town) for legislation to exempt the position of chief of police in the town of Randolph from the provisions of civil service law; and the same was referred to the committee on Public Service. Sent to the Senate for concurrence.

*Papers from the Senate.*

The House Bill establishing a sick leave bank for Rachel A. Joyce, an employee of the Trial Court (House, No. 4553) came from the Senate passed to be engrossed, in concurrence, with an amendment adding at the end thereof the following sentence: "Whenever Rachel A. Joyce terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of the sick leave bank shall be transferred to the trial court paid leave bank."

Under suspension of Rule 35, on motion of Mr. O'Flaherty of Chelsea, 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.

The House Bill further regulating business practices between motor vehicle manufacturers, distributors and dealers (House, No. 4997, amended) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2412.

Under suspension of Rule 35, on motion of Mr. Rodrigues of Westport, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith.

The same member then moved that the House concur with the Senate in its amendment with a further amendment by striking out section 6 and inserting in place thereof the following two sections:

"SECTION 6. Sections 1 and 2 shall take effect on September 1, 2003.

SECTION 7. Sections 3, 4 and 5 shall take effect on September 1, 2002."

The further amendment was adopted. The House then concurred with the Senate in its amendment, as amended. Sent to the Senate for concurrence in the further amendment.

A petition of Guy W. Glodis and Paul K. Frost for legislation to authorize the Department of Environmental Management to take or acquire conservation restrictions in and to lands of the Auburn Water District, came from the Senate referred, under suspension of Joint Rule 12, to the committee on State Administration.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2435) was referred, in concurrence, to the committee on

State Administration.

*Reports of Committees.*

By Mr. Verga of Gloucester, for the committee on Local Affairs, on a petition, a Bill relative to the transfer of certain land in the town of Sharon (House, No. 5131) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

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

By Mr. Koczera of New Bedford, for the committee on Natural Resources and Agriculture, on a petition, a Bill authorizing the Division of Fisheries and Wildlife and the Department of Environmental Management to take or acquire conservation restrictions in and to lands of the town of Plymouth (House, No. 5276). Read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Wagner of Chicopee, for the committee on Election Laws, on a petition, a Bill amending the charter of the city of Newton to clarify residency requirements for candidates for local office in the city of Newton (House, No. 5210) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill authorizing the town of Concord to send certain information to registered voters in the town of Concord (House, No. 5227) [Local Approval Received].

By Mr. Verga of Gloucester, for the committee on Local Affairs, on a message from Her Honor the Lieutenant-Governor, Acting Governor, a Bill making a technical correction in a special law relative to certain land in the town of Sherborn (printed in House, No. 5141).

By the same member, for the same committee, on a message from Her Honor the Lieutenant-Governor, Acting Governor, a Bill validating the actions taken at the special town meeting held by the town of Rockland on May 13, 2002 (printed in House, No. 5153).

By the same member, for the same committee, on a petition, a Bill regarding compensation of assessors in the town of Tewksbury (House, No. 5163) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill relative to representative town government in Framingham (House, No. 5164, changed by striking out, in line 2, the following: "chapter 32" and inserting in place thereof the following: "chapter 34") [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill amending certain provisions of the city charter of the City of Lawrence (House, No. 5179) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill validating action taken at the special town meeting held by the town of Lancaster (House, No. 5184) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill establishing a department of finance and budget in the town of Lancaster (House, No. 5185) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill for the relief of Nancy Lever and Lorraine Shapiro (House, No. 5211) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill authorizing the town of Holden to purchase water from the city of Worcester (House, No. 5222) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill establishing the position of treasurer collector in the town of North Attleborough (House, No. 5231) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill relative to the charter of the town of Plymouth (House, No. 5253) [Local Approval Received].

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

#### *Emergency Measures.*

The engrossed Bill relative to handicapped stickers for motorcycle license plates (see House, No. 4099, amended), 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 35 to 0. Sent to the Senate for concurrence.

The engrossed Bill establishing a sick leave bank for Rachel A. Joyce, an employee of the Trial Court (see House, No. 4553, amended), 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 27 to 0. Sent to the Senate for concurrence.

The engrossed Bill authorizing the Commissioner of the Division of Capital Asset Management to convey certain land in the town of Westborough (see House, No. 4844, amended), 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 43 to 4. Sent to the Senate for concurrence.

*Engrossed Bills.*

The engrossed Bill providing for the payment of certain retirement benefits (see House, No. 5072, changed) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed bills

Relative to the enhanced emergency telephone system in the city known as the town of Weymouth (see House, No. 4012, amended); and

Relative to the charter of the city of Chelsea (see House, No. 4820);

(Which severally originated in the House);

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

*Recess.*

At twelve minutes after eleven o'clock A.M., on motion of Mr. Correia of Fall River (Mr. Walsh of Boston being in the Chair), the House recessed until one o'clock P.M.; and at that time the House was called to order with Mrs. Walrath of Stow in the Chair.

*Engrossed Bills — Land Takings.*

The engrossed Bill authorizing the Commonwealth to convey certain land in the city of Boston (see House, No. 5083) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 139 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 416 in Supplement.\]](#)

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

The engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land located in the towns of Becket and Otis in exchange for certain other land located in the town of Otis (see Senate, No. 1590, amended) (which originated in the

Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 139 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 417 in Supplement.]**

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

*Orders of the Day.*

Senate bills

Relative to complaints of sexual harassment and other forms of discrimination (Senate, No. 915); and

Facilitating the use of land transfer of development rights (Senate, No. 1011);

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

House bills

Providing for placement of certain children without loss of custody (House, No. 207) (its title having been changed by the committee on Bills in the Third Reading);

Requiring the posting of security for the seizure and impoundment of animals (House, No. 2202);

Relative to police mutual aid agreements (House, No. 4768); and

Authorizing the town of Canton to appoint police officers (House, No. 5096);

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.

The Senate Bill relative to aggravated assault and assault and battery on a child (Senate, No. 2365); and

House bills

Relative to the utilization of retired police officers by the city of Leominster (House, No. 5015, changed); and

Relative to authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey easements for the transmission of natural gas over lands under the control of the Department of Environmental Management for conservation/recreation purposes in the town of North Andover to Maritimes & Northeast Pipelines, L. L. C. (House, No. 5200);

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

The House Bill relative to the “school-to-work” program (House, No. 2852) was read a second time.

Pending the question on ordering the bill to a third reading, Messrs. Koczera of New Bedford and Peterson of Grafton moved that it be amended by striking out all after the enacting clause and inserting in place thereof the following:

“Subsection 4 of section 1 of chapter 152 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:—

Students participating in a work-based experience as part of a school-to-work program who receive personal injuries arising out of and in the course of such participation at or with particular employers, shall, for purposes of this chapter, be deemed employees of such employers. For the purposes of this paragraph, ‘school to work program’ shall mean workplace based education and training programs designed to improve the knowledge and skills of high school students by integrating academic and occupational learning to help students earn portable credentials, prepare students for gainful employment and increase their opportunities for post secondary education.”.

The amendment was adopted; and the bill (House, No. 2852, amended) was ordered to a third reading.

The House Bill relative to apprenticeship training programs (Senate, No. 2421), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

On the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Greene of Billerica; and on the roll call 144 members voted in the affirmative and 0 in the negative.

**[\[See Yea and Nay No. 418 in Supplement.\]](#)**

Therefore the bill (Senate, No. 2421) was passed to be engrossed, in concurrence.

*Engrossed Bill — Land Taking.*

The engrossed Bill authorizing the town of Wayland to convey certain park land (see House, No. 5059) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and

nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 141 members voted in the affirmative and 0 in the negative.

**[See Yeas and Nays No. 419 in Supplement.]**

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

*Orders of the Day.*

The Senate Bill creating the crime of reckless endangerment to children (Senate, No. 2340) was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Marini of Hanson and other members of the House moved that it be amended in section 2, in line 24, by striking out the following: "1 year" and inserting in place thereof the following: "2 1/2 years".

After remarks the amendment was 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. Hynes of Marshfield; and on the roll call 146 members voted in the affirmative and 0 in the negative.

**[See Yeas and Nays No. 420 in Supplement.]**

Therefore the bill (Senate, No. 2340, amended) was ordered to a third reading.

The Senate Bill establishing the crime of communicating a terroristic threat (Senate, No. 2122, amended), 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, as amended, to be engrossed, in concurrence, Messrs. Hargraves of Groton, Tobin of Quincy and Marini of Hanson moved that it be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 5272.

Pending the question on adoption of the amendment, Mr. Hillman of Sturbridge moved that the proposed substitute text be amended by adding at the end thereof the following 11 sections:

"SECTION 9. Section 8 of chapter 90 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting in line 2 after the word 'who' the following words:— is not a United States citizen or has not been granted permission by the federal government to be present in the United States or who.

SECTION 10. Section 8 of chapter 90 of the General Laws, as so appearing, is further amended by inserting in line 19 after the word 'require' the following sentences:— The registrar shall require applicants to provide, as a condition for obtaining a license, satisfactory proof that



federal law authorizes the applicant to be present in the United States. If the registrar has reasonable cause to suspect that any document presented by an applicant as proof of identity, age or legal residency is altered, false or otherwise invalid, the registrar shall refuse to grant the license until the registrar verifies the authenticity of the supporting document.

SECTION 11. Section 8 of chapter 90 of the General Laws, as so appearing, is further amended by inserting in line 50 after subsection (e) the following subsection:— (f) establishes before the registrar satisfactory proof that federal law authorizes the applicant to be present in the United States.

SECTION 12. Section 8 of chapter 90 of the General Laws, as so appearing, is further amended by inserting in line 149 after the word ‘first’ the following sentences:— If the registrar issues a license to a person who has demonstrated authorization to be present in the United States for a period of time shorter than the standard validity period of the license, the registrar shall fix the expiration date of the license at a date based on the period in which federal law authorizes the applicant to be present in the United States. The registrar may renew a license only if federal law authorizes the applicant to be present in the United States. The registrar shall require a person applying to renew a license to present satisfactory proof that federal law authorizes the applicant to be present in the United States.

SECTION 13. Section 8B of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting in line 2 after the word ‘who’ the following words:— are not United States citizens or have not been granted permission by the federal government to be present in the United States, and who.

SECTION 14. Section 8B of chapter 90 of the General Laws, as so appearing, is further amended by inserting in line 7 after the word ‘require’ the following sentences:— The registrar shall require applicants to provide, as a condition for obtaining a permit, satisfactory proof that federal law authorizes the applicant to be present in the United States. If the registrar has reasonable cause to suspect that any document presented by an applicant as proof of identity, age or legal residency is altered, false or otherwise invalid, the registrar shall refuse to grant the permit until the registrar verifies the authenticity of the supporting document.

SECTION 15. Section 8B of chapter 90 of the General Laws, as so appearing, is further amended by inserting in line 35 after the word ‘occurs’ the following clause:— ; provided further, if the registrar issues a permit to a person who has demonstrated authorization to be present in the United States for a period of time shorter than two years, the registrar shall fix the expiration date of the license at a date not to exceed the period in which federal law authorizes the applicant to be present in the United States.

SECTION 16. Section 8E of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting in line 1 after the word ‘older’ the following words:— and is a United States citizen or has been granted permission by the federal government to be present in the United States.

SECTION 17. Section 8E of chapter 90 of the General Laws, as so appearing, is further amended by inserting at the end thereof the following sentences:— An identification card or

any renewal shall expire on an anniversary of the person's date of birth occurring more than 12 months but not more than 60 months after the effective date of the identification card. An identification card issued to a person born on the twenty-ninth day of February, for the purposes of this section, expire on the first day of March. The registrar shall require applicants to provide, as a condition for obtaining and renewing an identification card, satisfactory proof that federal law authorizes the applicant to be present in the United States. If the registrar has reasonable cause to suspect that any document presented by an applicant as proof of identity, age or legal residency is altered, false or otherwise invalid, the registrar shall refuse to grant the permit until the registrar verifies the authenticity of the supporting document. If the registrar issues an identification card to a person who has demonstrated authorization to be present in the United States for a period of time shorter than the standard validity period of the identification card, the registrar shall fix the expiration date of the identification card at a date based on the period in which federal law authorizes the applicant to be present in the United States. The registrar may renew an identification card only if federal law authorizes the applicant to be present in the United States.

SECTION 18. Notwithstanding any general or special law to the contrary, the validity of an identification card issued under section 8E of chapter 90 without an expiration date shall cease, and the registrar of motor vehicles shall cancel the identification card, after September 2, 2002, but no later than November 1, 2002.

SECTION 19. Chapter 90 of the General Laws, as so appearing, is further amended by inserting the following section:—

Section 8M. Any person who presents to the registrar false or misleading information as to the person's name, residency, citizenship or immigration status, shall be punished by imprisonment in the state prison for not more than five years, or in the house of correction for not more than two and one-half years, or by a fine of not more than \$5,000, or both.”.

After remarks the further amendment was adopted.

Mr. Hillman of Sturbridge then moved that the proposed substitute text be amended by adding at the end thereof the following section:

“SECTION 20. General Laws, Chapter 129, as appearing in the 1998 Official Edition, is hereby amended by adding after Section 39D the following new section:—

Section 39E. License Required of Persons Auctioning Livestock; Rules and Regulations. As used in this section, the term ‘livestock’ shall include all bovine, ovine, caprine, porcine, equine animals, and poultry. The term poultry shall include all domesticated birds including, but not limited to, chickens, turkeys, guineas, exotic and game birds. Every person engaged in the business of auctioning livestock shall obtain a license therefor from the director, the fee for which shall be determined by the secretary of administration and finance, and such license shall expire on November thirtieth following the date of issuance, unless sooner revoked. The department of food and agriculture may make rules and regulations governing the issuance and revocation of such licenses, and relative to matters related to this section including, but not limited to, record-keeping, facility maintenance, animal identification, animal health and

methods and times for inspecting and checking animals.”.

The further amendment was adopted.

The same member then moved that the proposed substitute text be amended by adding at the end thereof the following section:

“SECTION 21. Section 37 of the General Laws, Chapter 129, as appearing in the 1998 Official Edition, is hereby stricken in its entirety and replaced with the following:—

Section 37. Enforcement orders; administrative fines; injunctions; jurisdiction of courts. As used in this section, the word ‘commissioner’ shall mean the commissioner of agriculture or his or her designee, and the words ‘this chapter’ shall mean General Laws, Chapter 129, and any rules, regulations, orders, licenses or permits issued thereunder. The commissioner may issue orders necessary to enforce this chapter and to restrain violations thereof. Such orders shall be effective pending resolution of any appeal, unless otherwise ordered by a court of competent jurisdiction.

The commissioner may assess administrative fines, not to exceed \$500 per offense, for violations of this chapter. Each animal involved in a violation may constitute a separate offense, and each day that a violation continues after receipt of written notice of such violation from the department may constitute a separate offense. Total fines assessed in any given action under this section shall not exceed \$10,000.

The commissioner may deny any application for, suspend or revoke any license or permit issued under this chapter upon a finding of consistent or continual failure to keep or produce records required by this chapter. Denial, suspension, or revocation shall be effective pending resolution of any appeal, unless otherwise ordered by a court of competent jurisdiction.

Without alleging or proving the lack of other adequate remedies at law, the commissioner may apply for an injunction to restrain any violation of this chapter in order to protect human or animal health.

The remedies provided in this section are available in addition to, and without limiting, any other penalties provided by law or equity, in this chapter or elsewhere.

The district and superior courts shall have concurrent jurisdiction to enforce this chapter and to restrain violations thereof.

Enforcement actions brought under this section and appeals thereof shall conform to the applicable provisions of General Laws, Chapter 30A, and hearing regulations promulgated thereunder.

The commissioner may promulgate regulations to implement this section.”.

The further amendment was adopted.

After debate the amendment offered by Messrs. Hargraves of Groton, et als, as amended (for

text of House amendment, see House, No. 5272, printed as amended) also was adopted.

On the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Koutoujian of Newton; and on the roll call 145 members voted in the affirmative and 2 in the negative.

**[See Yea and Nay No. 421 in Supplement.]**

Therefore the bill, as amended, was passed to be engrossed, in concurrence. Mr. Tobin of Quincy moved that this vote be reconsidered; and the motion to reconsider was negatived. The bill (Senate, No. 2122, amended) then was sent to the Senate for concurrence in the House amendment.

*Order.*

On motion of Mr. Finneran of Boston,—

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

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-five minutes before four o'clock P.M., on motion of Mr. Hargraves of Groton (Mrs. Walrath of Stow being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.