

JOURNAL OF THE HOUSE.

Wednesday, June 1, 2016.

Met according to adjournment at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Pledge of allegiance.

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

Guest of the House.

Natalia Phillips.

During the session, the Speaker declared a brief recess and introduced and congratulated Natalia Phillips of Boston on being named valedictorian from New Mission High School. She was the guest of Representative Fox of Boston.

Statement Concerning Representative Madaro of Boston.

Statement concerning Mr. Madaro of Boston.

A statement of Mr. Michlewitz of Boston concerning Mr. Madaro of Boston 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 Madaro of Boston, is unable to be present in the House Chamber for today's sitting due to personal business outside of the Commonwealth. If he could have been present for the question on passing to be engrossed the Bill relative to equal access to public places regardless of gender identity, he would have voted in the affirmative. His missing of roll calls today is due entirely to the reason stated.

Petitions.

Petitions severally were presented and referred as follows:

Westwood,—liquor license.

By Representative McMurtry of Dedham and Senator Rush, a joint petition (accompanied by bill, House, No. 4358) of Paul McMurtry and Michael F. Rush (by vote of the town) that the town of Westwood be authorized to grant a special license for the sale of all alcoholic beverages at an agricultural event. To the committee on Consumer Protection and Professional Licensure.

Bourne,—Jared MacDonald.

By Mr. Vieira of Falmouth, a petition (accompanied by bill, House, No. 4359) of David T. Vieira, Randy Hunt and Viriato M. deMacedo (by vote of the town) relative to the disability retirement of Jared MacDonald, a police officer in the town of Bourne. To the committee on Public Service.

Concord,—property tax.

By Ms. Atkins of Concord, a petition (accompanied by bill, House, No. 4360) of Cory Atkins and Michael J. Barrett (by vote of the town) that the town of Concord be authorized to establish a senior means-tested property tax exemption. To the committee on Revenue.

Severally sent to the Senate for concurrence.

Recess.

At two minutes after eleven o'clock A.M., on motion of Mr. Cusack of Braintree (Mr. Donato of Medford being in the Chair), the House recessed subject to the call of the Chair; and at twenty-two minutes after eleven o'clock, the House was called to order with the Speaker in the Chair.

Recess.

Report of a Committee.

By Mr. Nangle of Lowell, for the committee on Steering, Policy and Scheduling, that the House Bill establishing a sick leave bank for Rick Freni, an employee of the Massachusetts Department of Transportation (House, No. 4267), be scheduled for consideration by the House.

Rick Freni,—sick leave.

Under suspension of Rule 7A, on motion of Mr. Speliotis of Danvers, the bill was read a second time forthwith; and it was ordered to a third reading.

Engrossed Bill.

The engrossed Bill authorizing the city of Easthampton to grant 8 additional licenses for the sale of all alcoholic beverages to be drunk on the premises (see Senate, No. 2284) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Bill enacted.

Matters Discharged from the Orders of the Day.

The House Bill to designate Billerica Massachusetts as the Yankee Doodle town (House, No. 4251), was discharged from its position in the Orders of the Day and read a second time forthwith, under suspension of Rule 47, on motion of Mr. Lombardo of Billerica, and it was ordered to a third reading.

Billerica,—Yankee Doodle town.

The Senate Bill relative to transgender anti-discrimination (Senate, No. 735, amended), was discharged from its position in the Orders of the Day and read a second time forthwith, under suspension of Rule 47, on motion of Mr. Fernandes of Milford.

Transgender discrimination.

The amendments previously recommended by the committee on Ways and Means,—that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4343; and by striking out the emergency preamble,—were adopted; and the bill, as amended, was ordered to a third reading.

Subsequently under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After debate on the question on passing the bill, as amended, to be engrossed, in concurrence (Mrs. Haddad of Somerset being in the Chair), Mr. Hunt of Sandwich moved to amend it, in section 2, in line 10, by inserting after the word "identity", the words "provided further, the provisions of this section shall not apply to public rest room, locker room, and bath house facilities intended primarily for the use of minors."

Amendment
rejected,—
yea and nay
No. 259.

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 the same member; and on the roll call 44 members voted in the affirmative and 111 in the negative.

[See Yea and Nay No. 259 in Supplement.]

Therefore the amendment was rejected.

Mrs. Poirier of North Attleborough and other members of the House then moved to amend the bill by adding the following section:

“SECTION 6. Notwithstanding any general or special law to the contrary the provisions of this act shall not apply to multiple capacity gender based locker rooms and showering facilities where there is an expectation of privacy that do not provide for separation between occupants.”

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 the same member; and on the roll call 45 members voted in the affirmative and 110 in the negative.

[See Yea and Nay No. 260 in Supplement.]

Therefore the amendment was rejected.

Mr. Markey of Dartmouth then moved to amend the bill in section 2, in line 10, by inserting after the word “identity” the following: “; provided further, that with regard to the prohibition on gender-identity discrimination, this section shall not apply to the locker rooms of any entity in which its primary purpose is promoting and maintaining physical and mental health through physical exercise and instruction of minor children, provided such entity has a written policy and guidelines which balances the availability of facilities of the entity, the privacy and dignity of the person defined in clause 59 of section 7 of chapter 4, and the privacy and dignity of any other person attending the entity.”

After remarks the amendment was rejected.

Mr. Lyons of Andover then moved to amend the bill by striking out section 3.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 11 members voted in the affirmative and 144 in the negative.

[See Yea and Nay No. 261 in Supplement.]

Therefore the amendment was rejected.

Mr. Lyons then moved to amend the bill by striking out section 2 and inserting in place thereof the following section:

“SECTION 2. The second paragraph of said section 92A of said chapter 272, as so appearing, is hereby further amended by adding the following sentence:— Any public accommodation, including, without limitation, any entity that offers the provision of goods, services, or access to the public shall grant all persons admission to and the full enjoyment of such public accommodation or other entity consistent with the person’s gender identity.”

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of

Amendment
rejected,—
yea and nay
No. 261.

Mr. Lyons of Andover; and on the roll call 31 members voted in the affirmative and 124 in the negative.

yea and nay
No. 262.

[See Yea and Nay No. 262 in Supplement.]

Therefore the amendment was rejected.

The same member then moved to amend the bill by striking out section 2 and inserting in place thereof the following section:

“SECTION 2. The second paragraph of said section 92A of said chapter 272, as so appearing, is hereby further amended by adding the following sentence:—

Any public accommodation, including, without limitation, any entity that offers the provision of goods, services, or access to the public, that lawfully segregates or separates access to such public accommodation or other entity based on a person’s sex shall grant all persons admission to and the full enjoyment of such public accommodation or other entity consistent with the person’s gender identity; provided further that any special accommodations that are offered to a person as a result of their gender identity are offered to all such persons in the Commonwealth.”

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Lyons; and on the roll call 34 members voted in the affirmative and 121 in the negative.

Amendment
rejected,—
yea and nay
No. 263.

[See Yea and Nay No. 263 in Supplement.]

Therefore the amendment was rejected.

Mr. Lyons of Andover then moved to amend the bill by striking out section 4 and inserting in place thereof the following section:

“SECTION 4. The Massachusetts Commission Against Discrimination shall adopt, promulgate, amend, and rescind rules and regulations or formulate policies and make recommendations to effectuate the purposes of this act, including when and how gender identity, as defined in clause 59 of section 7 of chapter 4 of the General Laws, may be evidenced. The office of the attorney general shall issue regulations or guidance for referring to the appropriate law enforcement agency or other authority for legal action any person who asserts gender identity for an improper purpose, as defined in clause 59 of section 7 of chapter 4. All rules and regulations put forth by Massachusetts Commission Against Discrimination and the Attorney General on this matter shall come before the legislature for approval before being adopted, promulgated, rescinded, or amended.”

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 the same member; and on the roll call 28 members voted in the affirmative and 128 in the negative.

Amendment
rejected,—
yea and nay
No. 264.

[See Yea and Nay No. 264 in Supplement.]

Therefore the amendment was rejected.

Mr. Lyons then moved to amend the bill by striking out section 2 and inserting in place thereof the following section:

“SECTION 2. The second paragraph of said section 92A of said chapter 272, as so appearing, is hereby further amended by adding the following sentence:— Any public accommodation, including, without limitation, any entity that offers the provision of goods, services, or access to the public shall grant all persons admission to and the full

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Amendment
rejected,—
yea and nay
No. 265.

enjoyment of such public accommodation or other entity consistent with the person's gender identity; provided further that this will not apply lawfully sex segregated facilities in schools."

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Lyons of Andover; and on the roll call 36 members voted in the affirmative and 120 in the negative.

[See Yea and Nay No. 265 in Supplement.]

Therefore the amendment was rejected.

The same member then moved to amend the bill by adding the following section:

"SECTION 6. Section 7 of Chapter 4, as so appearing, is hereby amended by striking out the fifty-ninth clause and inserting in place thereof the following paragraph:— 'Fifty-ninth, 'Gender identity' shall mean a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, medical history, care or treatment of the gender-related identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.'"

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Lyons; and on the roll call 11 members voted in the affirmative and 145 in the negative.

[See Yea and Nay No. 266 in Supplement.]

Therefore the amendment was rejected.

Mr. D'Emilia of Bridgewater then moved to amend the bill, in section 2, in line 10, by inserting after the word "identity" the words "; provided that such public accommodation may require an individual to use the lawfully sex segregated bathroom or locker room that is consistent with the individual's physiology or assigned sex at birth."

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 32 members voted in the affirmative and 124 in the negative.

[See Yea and Nay No. 267 in Supplement.]

Therefore the amendment was rejected.

Messrs. Dooley of Norfolk and McKenna of Webster then moved to amend the bill in section 2, in line 10, by inserting after the word "identity" the words "; provided further that parents or legal guardians may accompany their minor children of no more than twelve years of age into a public restroom designated to the gender of that child regardless of the parent or legal guardian's own gender."

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Dooley; and on the roll call 42 members voted in the affirmative and 113 in the negative.

[See Yea and Nay No. 268 in Supplement.]

Therefore the amendment was rejected.

Amendment
rejected,—
yea and nay
No. 266.

Amendment
rejected,—
yea and nay
No. 267.

Amendment
rejected,—
yea and nay
No. 268.

Mr. Dooley of Norfolk then moved to amend the bill by adding the following section:

"SECTION 6. Chapter 71 of the General Laws is hereby amended by adding the following section:—

Section 97. (a) Each public school district shall have a written policy that provides for the designation of use by gender identity for any public school facility, including without limitation: restrooms, locker rooms, showers, or any other facility where a pupil may be in a state of undress. The local school committee shall determine an option or multiple options that are best designed to ensure the safety and well-being of the children. These accommodations may be implemented district-wide or on a facility by facility basis provided that such accommodations are in accordance with Federal Law and satisfies the requirements of Title IX. In a case where multiple options are available, the parents or guardians of the child whose gender identity does not match their biological identity shall meet with the school superintendent or appointee to determine which option is best for the child in question.

(b) This section shall take effect in a school district upon acceptance by a vote of the board of the school district in which the public school is located."

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 28 members voted in the affirmative and 128 in the negative.

[See Yea and Nay No. 269 in Supplement.]

Therefore the amendment was rejected.

Messrs. Dooley of Norfolk and McKenna of Webster then moved to amend the bill by adding the following section:

"SECTION 6. Chapter 272 of the General Laws shall be amended by inserting after Section 16 the following section:

Section 16B. Any person who enters a public restroom, changing room, locker room or other similar enclosed area or facility with the intent of improper behavior by falsely claiming to be of a gender identity not consistent with their physical gender shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$5,000, or both such fine and imprisonment."

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. Dooley; and on the roll call 37 members voted in the affirmative and 119 in the negative.

[See Yea and Nay No. 270 in Supplement.]

Therefore the amendment was rejected.

Messrs. Dooley of Norfolk and McKenna of Webster then moved to amend the bill by adding the following section:

"SECTION 6. Section 92A of chapter 272 of the General Laws is hereby amended by inserting after the second paragraph the following paragraph:—

Any business or place where members of the public have access to as invitees or licensees may designate a particular restroom facility as 'transgendered', 'gender neutral', or 'family use' provided that it does not provide any unreasonable hardship on the transgendered individual. In the instance that this restroom is designated as such, it satisfies

Amendment
rejected,—
yea and nay
No. 269.

Amendment
rejected,—
yea and nay
No. 270.

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the requirement of this section and the other restrooms shall be determined to be safe for the sole exclusive use of the anatomical gender of the patron.”.

After remarks the amendment was rejected.

The same members then moved to amend the bill by adding the following section:

“SECTION 6. Notwithstanding any general or special law to the contrary, private organizations not open to the general public such as, but not limited to, clubs, private schools, parochial schools, gyms and other entities which are not primarily open to the general public shall be excluded from the restroom or changing room provisions in this act.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Dooley of Norfolk; and on the roll call 35 members voted in the affirmative and 119 in the negative.

[See Yea and Nay No. 271 in Supplement.]

Therefore the amendment was rejected.

Mr. Frost of Auburn then moved to amend the bill by adding the following section:

“SECTION 6. Section 7 of chapter 4 of the General Laws, as appearing in the 2014 Official Edition is hereby amended by inserting, in line 489, after the word ‘identity’ the following:— written documentation of gender identity provided by a licensed medical professional to include a psychiatrist, therapist, or doctor.,

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 2 by adding the following paragraph:

“Any public accommodation that lawfully segregates or separates access to such public accommodation or other entity based on a person’s sex may prohibit a finally classified level 2 or level 3 sex offender from using any lawfully sex segregated facility, bathroom, or locker room that is not consistent with the individual’s assigned sex at birth.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Jones; and on the roll call 58 members voted in the affirmative and 94 in the negative.

[See Yea and Nay No. 272 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 5, in line 20, by inserting after the year “2017”, the following: “or after such time that the Massachusetts Commission Against Discrimination has promulgated rules and regulations required by section 4 of this act, whichever is later”; and the amendment was rejected.

Mr. Rogers of Norwood then moved to amend the bill by adding the following section:

“SECTION 6. Section 92A of chapter 272 of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following:

Amendment
rejected,—
yea and nay
No. 271.

Amendment
rejected,—
yea and nay
No. 272.

(a) Whoever asserts a gender-related identity for any improper purpose, as defined in clause 59, section 7 of chapter 4, shall be punished by a fine of not more than one thousand dollars.

(b) Whoever asserts a gender-related identity for any improper purpose, as defined in clause 59, section 7 of chapter 4, with the intent to commit an act prohibited under Chapter 265 and punishable under same for up to 2 1/2 years in a house of correction, shall be punished by imprisonment for not more than 2 1/2 years in a house of correction.

(c) Whoever asserts a gender-related identity for any improper purpose, as defined in clause 59, section 7 of chapter 4, with the intent to commit an act prohibited under Chapter 265 and punishable under same for any term in a state prison, shall be punished by imprisonment for the same term in a state prison.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 63 members voted in the affirmative and 88 in the negative.

[See Yea and Nay No. 273 in Supplement.]

Therefore the amendment was rejected.

Mr. Lombardo of Billerica then moved to amend the bill by adding the following section:

“SECTION 6. Nothing in this section will impose criminal or civil liability on law enforcement officers when responding to a report of criminal activity where such officer or officers have a good faith basis to believe that a gender identity, as appearing in Section 7 of chapter 4 of the General Laws, is being asserted for an improper purpose.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 38 members voted in the affirmative and 114 in the negative.

[See Yea and Nay No. 274 in Supplement.]

Therefore the amendment was rejected.

Mr. Hunt of Sandwich then moved to amend the bill by adding the following section:

“SECTION 6. All public single-user rest room, locker room, bath house, and seashore facilities shall not be segregated on the basis of sex.”.

After remarks the amendment was rejected.

Mrs. Orrall of Lakeville then moved to amend the bill by adding the following section:

“SECTION 6. Section 7 of chapter 4 of the General Laws, as appearing in the 2014 Official Edition is hereby amended in line 486 by striking the word ‘may’ and inserting in place thereof the following:— ‘shall’ and further by inserting, in line 489, after the word ‘identity,’ the following:— an amended birth certificate consistent with the person’s gender-related identity; a government issued license or identification card consistent with the person’s gender-related identity;”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 35 members voted in the affirmative and 117 in the negative.

[See Yea and Nay No. 275 in Supplement.]

Therefore the amendment was rejected.

Amendment
rejected,—
yea and nay
No. 273.

Amendment
rejected,—
yea and nay
No. 274.

Amendment
rejected,—
yea and nay
No. 275.

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discrimination.

The Speaker being in the Chair,—

Mr. Fernandes of Milford then moved to amend the bill by striking out section 2 and inserting in place thereof the following section:

“SECTION 2. The second paragraph of said section 92A of said chapter 272, as so appearing, is hereby further amended by adding the following sentence:—

An owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement that lawfully segregates or separates access to such place of public accommodation, or a portion of such place of public accommodation, based on a person’s sex shall grant all persons admission to, and the full enjoyment of, such place of public accommodation or portion thereof consistent with the person’s gender identity.”.

The amendment was adopted.

Bill passed to
be engrossed,—
yea and nay
No. 276.

After debate 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. Fernandes of Milford; and on the roll call 116 members voted in the affirmative and 36 in the negative.

[See Yea and Nay No. 276 in Supplement.]

Therefore the bill (Senate, No. 735, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment [for text of House amendment, see House document numbered 4343, amended].

Order.

Mr. Donato of Medford being in the Chair,—

On motion of Mr. DeLeo of Winthrop,—

Next
sitting.

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

Accordingly, without proceeding to the matters in the Orders of the Day, at four minutes after six o’clock P.M., on motion of Mr. Vieira of Falmouth (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at eleven o’clock A.M., in an Informal Session.