The Commonwealth of Massachusetts

JOURNAL OF THE HOUSE.



WEDNESDAY, FEBRUARY 14, 2018.

[19]

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Wednesday, February 14, 2018.

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).

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.

Pledge of allegiance.

Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to financing improvements to municipal roads and bridges (House, No. 4237), was filed in the office of the Clerk on Tuesday, February 13.

Municipal roads and bridges.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Transportation. Sent to the Senate for concurrence.

Statement Concerning Representative Kafka of Stoughton.

A statement of Mr. Rushing of Boston concerning Mr. Kafka of Stoughton 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 Kafka of Stoughton, is unable to be present in the House Chamber for today's sitting due to family business outside of the country. His missing of roll calls today is due entirely to the reason stated.

Statement concerning Mr. Kafka of Stoughton.

Statement Concerning Representative Walsh of Framingham.

A statement of Mr. Moran of Boston concerning Mr. Walsh of Framingham 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 Walsh of Framingham, is unable to be present in the House Chamber for today's sitting because the current schedule of treatment that he is receiving at Dana Farber does not permit him to be present at this particular formal session. His missing of roll calls today is due entirely to the reason stated.

Statement concerning Mr. Walsh of Framingham.

Guests of the House.

At the beginning of the session, the Chair (Mr. Donato of Medford), declared a brief recess and introduced, seated in the House Chamber, students from Brandeis University. At the invitation of the Chair, the students participated in the pledge of allegiance to the flag. They were the guests of Mr. Kaufman of Lexington and other

Brandeis University, students.

members of the House.

Communication.

A communication from the Ride for Hire Task Force established (see Section 7 of Chapter 187 of the Acts of 2016) to review current laws, regulations and local ordinances governing licensed hackneys, taxis, livery and transportation network companies [copies of said report forwarded, under said section, to the committees on Financial Services, Transportation, and Public Safety and Homeland Security], was placed on file.

Ride for hire.

Petitions.

Ms. Malia of Boston presented a petition (accompanied by bill, House, No. 4238) of Elizabeth A. Malia (with the approval of the mayor and city council) relative to the redevelopment of the Amory Street public housing project in the Jamaica Plain section of the city of Boston; and the same was referred to the committee on Housing. Sent to the Senate for concurrence.

Boston,—affordable housing.

Petitions severally were presented and referred as follows:

By Mr. Collins of Boston, a petition (subject to Joint Rule 12) of Nick Collins for legislation to establish a sick leave bank for Essie Page, an employee of the Parole Board.

Essie Page,—sick leave.

By Ms. Malia of Boston, a petition (subject to Joint Rule 12) of Elizabeth A. Malia for legislation to establish a sick leave bank for Delia Swaray, an employee of the Department of Children and Families.

Delia Swaray, sick leave.

By Representative McKenna of Webster and Senator Fattman, a joint petition (subject to Joint Rule 12) of Joseph D. McKenna and Ryan C. Fattman for legislation to establish a sick leave bank for Elliot Brown, an employee of the Department of Public Health.

Elliot Brown, sick leave.

By Mr. Walsh of Peabody (by request), a petition (subject to Joint Rule 12) of Giovanni Alabiso relative to smoking near public monuments and memorials.

Smoking, monuments.

By Mr. Whelan of Brewster, a petition (subject to Joint Rule 12) of Timothy R. Whelan and William L. Crocker, Jr., relative to licensing of liquor retailers.

Liquor retailers,—licensing.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

A Bill designating February 14 as Frederick Douglass Day (Senate, No. 1740, amended by striking out all after the enacting clause and inserting in place the following:

Frederick Douglass day.

"SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 15FFFFFF the following section:—

Section 15GGGGG. The governor shall annually issue a proclamation setting apart February 14 as Frederick Douglass Day, in recognition of the outstanding contributions of Frederick Douglass to the abolitionist movement and his lifelong fight for equality in the city of New Bedford, the commonwealth and throughout the United States, and recommend that the day be observed in an appropriate manner by the people."; 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 forthwith to recognize the outstanding contributions of Frederick Douglass, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."; and by striking out the title and inserting in place thereof the new title) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Reports of Committees.

By Mr. Galvin of Canton, for the committees on Rules of the two branches, acting concurrently, asking to be discharged from further consideration

Of the Bill improving real property tax abatements, application deadlines, and deferrals (Senate, No. 2135);

Of the Bill establishing a permanent commission on the social status of Black [sic] men and boys (House, No. 120);

Of the Resolve providing for an investigation and study by a special commission relative to consumer protections with regard to cemeteries and crematories (House, No. 170);

Of the Resolve providing for an investigation and study by a special commission relative to the need for accessible homes for the elderly, returning veterans with disabilities, and families that include persons with disabilities (House, No. 667);

Of the Bill creating a task force to study the use of the internet by sex offenders (House, No. 1273);

Of the Bill relative to the position of poet laureate for the Commonwealth of Massachusetts (House, No. 1784);

Of the Bill establishing a special commission to identify, preserve and commemorate historic roadways in Massachusetts (House, No. 1890);

Of the Bill to require producer responsibility for collection, reuse and recycling of discarded electronic products (House, No. 2148);

Of the Bill relative to conserving archaeological, geological and fossil resources on public lands (House, No. 2929);

Of the Bill relative to the economic mobility and stability program (House, No. 3020); and

Of the Resolve establishing a special commission to study the effects of coastal and ocean acidification and its existing and potential effects on species that are commercially harvested and grown along the Massachusetts coast (House, No. 4133);

And recommending that the same severally be referred to the House committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Mr. Galvin of Canton, for the committees on Rules of the two branches, acting concurrently, asking to be discharged from further consideration:

Of the petition (accompanied by bill, House, No. 1646) of James M. Cantwell and others for legislation to require that certain legislation enacted by the General Court and approved by the Governor contain fiscal notes or local mandate statements:

Property taxes.

Black men and boys.

Cemeteries and crematories.

Accessible homes,— study.

Sex offenders,—internet.

Poet laureate.

Historic roadways.

Electronics,—disposal.

Public lands,—resources.

Housing, commission.

Coastal acidification.

Enacted legislation.

Of the petition (accompanied by bill, House, No. 1647) of Jay R. Kaufman and others relative to establishing a joint legislative budget office within the General Court:

Legislative budget office.

Of the petition (accompanied by bill, House, No. 1648) of Shaunna L. O'Connell and others for legislation to require the committees on Ways and Means of both branches of the General Court to conduct certain hearings on measures that would increase or expand any new or existing taxes or fees; and

Taxes and fees.

Of the petition (accompanied by bill, House, No. 2656) of Diana DiZoglio and others for an investigation by a special commission (including members of the General Court) relative to the legislative process;

Legislative process,— investigation.

And recommending that the same severally be referred to the House committee on Rules.

Under Rule 42, the reports were considered forthwith; and they were accepted. Sent to the Senate for concurrence, insomuch as relates to the discharge of the committee.

Alyssa Nelson, sick leave.

By Mr. Parisella of Beverly, for the committee on Public Service, on a petition, a Bill establishing a sick leave bank for Alyssa Nelson, an employee of the Office for Victim Assistance (House, No. 4228). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Murphy of Weymouth, for said committee, then reported that the matter be scheduled for consideration by the House.

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

Subsequently, the noon recess having terminated, under further suspension of the rules, on motion of Mr. Speliotis of Danvers, the bill (having been reported by the committee on Bills in the Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill to be engrossed, the same member moved to amend it by substitution of a bill with the same title (House, No. 4239), which was read.

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for concurrence.

By Ms. Hogan of Stow, for the committee on Public Health, on a petition, a Bill relative to concussion prevention (House, No. 1124).

By the same member, for the same committee, on a petition, a Bill to ensure patient medication adherence (House, No. 1140).

By the same member, for the same committee, on a petition, a Bill relative to safe patient handling in certain health facilities (House, No. 1144).

By the same member, for the same committee, on a petition, a Bill relative to death certificates (House, No. 1173).

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. Straus of Mattapoisett, for the committee on Transportation, on a petition, a Bill to enhance agricultural operations (House, No. 2738).

By the same member, for the same committee, on a petition, a Bill concerning tunnel safety (House, No. 2741).

By the same member, for the same committee, on a petition, a Bill allowing a service branch designation on license plates for disabled veterans (House, No. 2757).

Concussion prevention.

Medication adherence.

Health facility,—patients.

Death certificates.

Agricultural operations.

Tunnel safety.

Veterans, license plates.

By the same member, for the same committee, on a petition, a Bill relative to truck inspections (House, No. 3443).

Truck inspections.

By the same member, for the same committee, on a petition, a Bill relative to the creation of a motor carrier safety council (House, No. 3445).

Motor safety council.

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

Falls Prevention Commission.

By Ms. Hogan of Stow, for the committee on Public Health, on a petition, a Bill further regulating the Commission on Falls Prevention (House, No. 1164).

State fire practices.

By Mr. Naughton of Clinton, for the committee on Public Safety and Homeland Security, on a joint petition, a Resolve reviving and continuing the special commission studying cutting, welding and hot work processes regulated by the state fire code (House, No. 4098).

Road violations.

By Mr. Straus of Mattapoisett, for the committee on Transportation, on a petition, a Bill regarding right of way violations (House, No. 2752).

Expired licenses.

By the same member, for the same committee, on a petition, a Bill relative to expired licenses (House, No. 3432).

licenses

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

Emergency Measure.

The engrossed Bill designating a certain bridge in the city of Fall River as the Ronald Costa bridge (see House, No. 4031), 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.

Fall River,— Ronald Costa bridge.

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 7 to 0. Sent to the Senate for concurrence.

Bill enacted.

Bills

enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bills.

Engrossed bills

Further amending the charter of the town of Middleton (see House, No. 3725);

Relative to the sewer construction and private way maintenance and improvement fund in the town of Barnstable (see House, No. 3953);

of

Establishing a residency requirement for the second and subsequent terms of the town manager of the town of Ipswich (see House, No. 4087); and

Exempting Nicholas L. Martone from the maximum age requirement for firefighters in the town of North Andover (see House, No. 4126);

(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 thirteen minutes after eleven o'clock A.M., on motion of Mr. Smola of Warren (Mr. Donato of Medford being in the Chair), the House recessed until two o'clock P.M.; and at half past two o'clock the House was called to order with the Speaker in the Chair.

Recess.

Quorum.

Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 139 members were recorded as being in attendance.

Quorum, yea and nay No. 311.

[See Yea and Nay No. 311 in Supplement.]

Therefore a quorum was present.

Subsequently, identical statements of Representatives Cantwell of Marshfield, González of Springfield, Kaufman of Lexington, Madaro of Boston, Moran of Lawrence, Rushing of Boston, and Vargas of Haverhill were 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 during the quorum roll call I was absent from the House Chamber on official business in another part of the State House, and was not notified that a quorum roll call was being held, due to a malfunction of the notification system. My missing of the quorum roll call was due entirely to the reason stated.

Statement of representatives not notified of quorum roll call.

Reports of Committees.

Prior to the noon recess (Mr. Donato of Medford being in the Chair), Mr. Sánchez of Boston, for the committee on Ways and Means, reported that the Bill removing fees for security freezes and disclosures of consumer credit reports (House, No. 4229), ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4232). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Consumers,—credit reports.

Mr. Murphy of Weymouth, for said committee, then reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Chan of Quincy, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill was ordered to a third reading.

Subsequently, the noon recess having terminated (the Speaker being in the Chair), under suspension of the rules, on motion of Mr. Chan of Quincy, 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 to be engrossed (Mr. Donato of Medford having taken the Chair), Mr. Jones of North Reading and other members of the House moved to amend it in section 13, in lines 302 to 309, inclusive, by striking out the sentences contained in those lines; and the amendment was rejected.

Mr. Chan of Quincy then moved to amend the bill in section 3, in lines 17 and 18, by striking out the text contained in those lines; and in section 12, in line 180, by

striking out the word "seventeen" (as published) and inserting in place thereof the figures: "16".

The amendments were adopted.

Mr. Sánchez of Boston then moved to amend the bill by striking out sections 12, 13 and 14 and inserting in place thereof the following two sections:

"SECTION 12. Said chapter 93 is hereby further amended by inserting after section 62A the following section:—

Section 62B. (a) For the purposes of this section, the following words shall have the following meanings:—

'Protected consumer', an individual who is under 16 years of age at the time a request for the placement of a security freeze is made, or an incapacitated person or a protected person as such are defined in section 5-101 of article V of chapter 190B.

'Record', a compilation of information that identifies a protected consumer created by a consumer reporting agency solely for the purpose of complying with this section. This record may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.

'Representative', a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

'Security freeze', (1) if a consumer reporting agency does not have a file that pertains to a protected consumer, a restriction that; (i) is placed on the protected consumer's record in accordance with this section, and (ii) except as otherwise provided in this section, prohibits the consumer reporting agency from releasing the protected consumer's record; or (2) if a consumer reporting agency has a file that pertains to the protected consumer, a restriction that prevents the consumer reporting agency from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report.

'Sufficient proof of authority', documentation that shows a representative has authority to act on behalf of a protected consumer, including but not limited to, an order issued by a court of law, a lawfully executed and valid power of attorney or a written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

'Sufficient proof of identification', information or documentation that identifies a protected consumer or a representative of a protected consumer, including but not limited to, a social security number or a copy of a social security card issued by the social security administration, a certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate, or a copy of a driver's license, an identification card issued by the motor vehicle administration, or any other government issued identification.

- (b) This section shall not apply to the use of a protected consumer's consumer report or record by any of the following:—
- (1) a person or agent thereof, or an assignee of a financial obligation owing by the consumer to such person or agent thereof, or a prospective assignee of a financial obligation owing by the consumer to that person or agent thereof in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had, prior to assignment, an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract or negotiable instrument. For purposes of this paragraph, 'reviewing the account' shall include activities related to account maintenance, monitoring, credit line increases and account upgrades and

enhancements; or access to said account by a subsidiary, affiliate, agent, assignee or prospective assignee of a person, or agent thereof, to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;

- (2) any federal, state or local agency, law enforcement agency, or trial court acting pursuant to a court order, warrant or subpoena;
- (3) the Massachusetts child support agency under Title IV-D of the Social Security Act, 42 U.S.C. et seq.;
- (4) the executive office of health and human services or its agents or assigns acting to investigate Medicaid fraud;
- (5) the department of revenue or its agents or assignees acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;
- (6) a person using credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act;
- (7) any person administering a credit file monitoring subscription service to which the protected consumer has subscribed or the protected consumer's representative has subscribed on the protected consumer's behalf;
- (8) a person who, upon request from the protected consumer or the protected consumer's representative, provides the protected consumer or the protected consumer's representative with a copy of the protected consumer's consumer report;
- (9) to the extent otherwise allowed by statute, any property and casualty insurer licensed by the commonwealth for use in rating or underwriting insurance policies;
- (10) a check services or fraud prevention services company that issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar payment methods;
- (11) a deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse or similar information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing an individual's request for a deposit account at the inquiring bank or financial institution;
- (12) an insurance company for the purpose of conducting the insurance company's ordinary business;
- (13) a consumer reporting agency that only resells credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies and that does not maintain a permanent database of credit information from which new consumer reports are produced, except that such financial institution or consumer reporting agency shall be subject to any security freeze placed on a consumer report by another consumer reporting agency from which it obtains information; or
- (14) a consumer reporting agency's database or file that consists of information that; (a) concerns and is used for criminal record information, fraud prevention or detection, personal loss history information, or employment, tenant or individual background screening, and (b) is not used for credit granting purposes.
- (c) A consumer reporting agency shall place a security freeze on a consumer report for a protected consumer if: (1) the consumer reporting agency receives a written, electronic or verbal request from the protected consumer, or, if required by law, their representative, for the placement of the security freeze; and (2) the protected consumer's representative submits to the consumer reporting agency (i) sufficient proof of identification of the protected consumer, (ii) sufficient proof of identification of the protected consumer's representative, and (iii) sufficient proof of authority to act on behalf of the protected consumer.

If a consumer reporting agency does not have a file that pertains to a protected consumer when the consumer reporting agency receives a request described in this section, the consumer reporting agency shall create a record for the protected consumer.

A consumer reporting agency shall place a security freeze on a consumer report for a protected consumer within 30 days of receiving a request for a security freeze on a consumer report by a protected consumer or the protected consumer's representative.

(d) To remove a security freeze that is placed pursuant to this section, the protected consumer's representative or the protected consumer shall submit a request for the removal of the security freeze to the consumer reporting agency in writing, electronically or by telephone. In the case of a request by a protected consumer's representative, sufficient proof of identification of the protected consumer and the representative, and sufficient proof of authority to act on behalf of the protected consumer shall be presented before the security freeze is lifted. In the case of a request by a protected consumer who is subject to a security freeze, sufficient proof of identification of the protected consumer and proof that the protected consumer is no longer a protected consumer, including but not limited to, an order issued by a court, shall be presented before the security freeze is lifted.

A consumer reporting agency shall remove the security freeze on a consumer report not later than 30 business days after receiving a request to remove the security freeze from the protected consumer or the protected consumer's representative.

A consumer reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer's representative. A consumer reporting agency shall notify the protected consumer's representative in writing or electronically 30 business days prior to removing a security freeze on the protected consumer's consumer report or deleting a record of the protected consumer.

SECTION 13. Subsection (b) of section 3 of chapter 93H of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out lines 45 through 52, inclusive and inserting in place thereof the following two paragraphs:—

The notice to be provided to the resident shall include, but shall not be limited to; (i) the consumer's right to obtain a police report, (ii) how a consumer requests a security freeze and the necessary information to be provided when requesting the security freeze, (iii) and mitigation services to be provided pursuant to this chapter; provided, however, that said notice shall not include the nature of the breach or unauthorized acquisition or use, or the number of residents of the commonwealth affected by said breach or unauthorized access or use. The person or agency breached shall provide a sample copy of the notice it intends to distribute to consumers to the attorney general and the office of consumer affairs and business regulation. The office of consumer affairs and business regulation shall make available electronic copies of the breach notices on its website and post the breach notice within 24 hours of receipt from the person or agency. As practicable and as such not to impede active investigation by the attorney general, the office of consumer affairs and business regulation shall update the breach notice on its website over time as new information is discovered through the investigation process. The attorney general shall provide information to consumers through its website on how consumers can access the data breach notices posted by the office of consumer affairs and business regulation.

The notice to be provided under this section shall not be delayed on grounds that the total number of residents affected is not yet ascertained. In such case, and where otherwise necessary to update or correct the information required, a person or agency shall provide additional notice as soon as practicable and without unreasonable delay upon learning such additional information."; and

By striking out section 16 and inserting in place thereof the following section:

"SECTION 16. Said section 3 of said chapter 93H, as so appearing, is hereby further amended by adding the following subsection:—

(e) If the breach of security includes a social security number, the person or agency shall offer to each resident whose personal information, including social security number, was breached or is reasonably believed to have been breached, credit monitoring services at no cost to such resident for a period of 1 year. Such person or agency shall provide all information necessary for such resident to enroll in such services and shall include information on how such resident can place a security freeze on such resident's consumer report."

The amendments were adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Chan of Quincy; and on the roll call 152 members voted in the affirmative and 0 in the negative.

Bill passed to be engrossed, yea and nay No. 312.

[See Yea and Nay No. 312 in Supplement.]

Therefore the bill (House, No. 4241, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DeLeo of Winthrop,—

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

Next sitting.

Mr. Smola of Warren then moved that the House adjourn; and the motion prevailed. Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at twenty-six minutes before four o'clock P.M. (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.