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**The Commonwealth of Massachusetts**

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**JOURNAL OF THE HOUSE.**



**THURSDAY, AUGUST 2, 2018.**

[86]

# JOURNAL OF THE HOUSE.

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Thursday, August 2, 2018.

Met according to adjournment at eleven o'clock A.M., in an Informal Session, 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).

Prayer was offered by Father Rick Walsh of the Paulist Fathers, Chaplain of the House, as follows:

God of Warmth and Light, we pray today for the women and men who serve our Commonwealth in this chamber. We give thanks for the long hours they and their staff have labored in recent days and nights. We pray for all to keep cool heads amidst rising temperatures today. We pray also for our many residents who are struggling to escape the hot and humid conditions today.

Prayer.

We remember that it was on this day in 1975 the hottest temperature ever recorded in Massachusetts occurred in the northwest corner of Hampden County in the town of Chester; 107 degrees Fahrenheit.

If any need to think cooler thoughts today, know that Chester also holds the distinction of recording the lowest temperature in the Commonwealth (-35 F). It is one of three towns in the United States that has recorded both highest and lowest extreme temperatures in its state.

We pray for First Franklin District Representative Stephen Kulik and his staff. May God continue to bless our Commonwealth.

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 — Bill Returned with Recommendation of Amendments.*

A message from His Excellency the Governor returning with recommendation of amendments the engrossed Bill regulating and insuring short-term rentals [see House, No. 4841] (for message, see House, No. 4869), was filed in the office of the Clerk on Wednesday, August 1.

Short term rentals.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was thereupon "before the General Court and subject to amendment and re-enactment".

Pending the question on adoption of the amendments recommended by His Excellency, the bill was referred, on motion of Mr. Speliotis of Danvers, to the committee on Bills in the Third Reading.

## *Statement of Representative Mariano of Quincy.*

A written statement received from Mr. Mariano of Quincy, regarding the session of Wednesday, July 27, 2018, was spread upon the records of the House, as

follows:

Dear Mr. Clerk,

Please allow me the opportunity to declare for the record how I would have voted during my absence from the formal session on Wednesday, June 27, 2018.

I was unable to attend session due to a family obligation, but wish to publicly and unequivocally express my support for H.4664, “An Act relative to abusive practices to change sexual orientation and gender identity in minors;” H. 4665, “An Act ensuring high quality early education;” and H.4667, “An Act automatically registering eligible voters and enhancing safeguards against fraud.”

No. 383 – N

No. 384 – Y

No. 385 – Y

No. 386 – N

No. 387 – Y

Thank you for your attention to this request.

Statement of  
Representative  
Mariano  
of Quincy.

*Papers from the Senate.*

The engrossed Bill relative to the examination of tax expenditures by the Department of Revenue (see House, No. 4820), came from the Senate with the endorsement that it had been amended by said branch by striking out all after the enacting clause and inserting in place thereof the following:

Tax  
expenditure  
commission.

“SECTION 1. Chapter 14 of the General Laws is hereby amended by adding the following section:—

Section 14. (a) The department of revenue, hereinafter referred to as the department, shall examine, evaluate and report on the administration, effectiveness and fiscal impact of tax expenditures as defined in section 1 of chapter 29 and as presented with the governor’s proposed budget under paragraph 3 of section 5B of said chapter 29. The report shall consider the public policy objectives behind the grant of any tax expenditure and the metrics of measuring success in meeting those objectives.

(b) The department shall use best practices and standardized criteria to evaluate: (i) the purpose, intent and goal of each tax expenditure and whether the expenditure is an effective means of accomplishing those ends; (ii) the fiscal impact of each tax expenditure on state and local taxing authorities, including past fiscal impacts and expected future fiscal impacts; (iii) the economic impact of each tax expenditure including, but not limited to, revenue loss compared to economic gain and jobs created, retained or lost as a result of the tax expenditure; (iv) the return on the investment made by the tax expenditure and the extent to which the tax expenditure is a cost effective use of resources; and (v) similar tax expenditures, if any, offered by other states and the impact of the tax expenditure on regional and national economic competitiveness.

(c) The department shall establish a schedule to review tax expenditures so that each tax expenditure shall be reviewed at least once every 5 years. The review schedule may group tax expenditures by those benefitting from the tax expenditures, the objectives of the tax expenditures or the policy rationale for the tax expenditures. The department’s review of each tax expenditure shall include the date the tax expenditure was enacted and the statutory or legal citation.

(d) Annually, not later than March 1, the department shall file a report of its findings and its recommendations to the clerks of the house of representatives and

senate, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on revenue. The report shall include all information required to be reviewed by this section and recommendations. The report shall be made available electronically and prominently displayed on the official website of the department.

SECTION 2. This act shall take effect as of July 1, 2018.”; and inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith the examination of tax expenditures by the department of revenue, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”. The amendments were referred, under Rule 35, to the committee on Bills in the Third Reading.

Subsequently the amendments (having been reported by the committee on Bills in the Third Reading to be correctly drawn) were considered; and they were adopted, in concurrence.

The engrossed Bill relative to grants from the Massachusetts Tourism Trust Fund (see House, No. 4827), came from the Senate with the endorsement that it had concurred with the House in adoption of the amendment recommended by the Governor (in the form approved by the House committee on Bills in the Third Reading), with a further amendment inserting after section 1 the following section:

“SECTION 1A. Section 2 of chapter 154 of the acts of 2018 is hereby amended by striking out item 0640-0010 and inserting in place thereof the following item:—

0640-0010 For the promotional activities associated with the state lottery program; provided, that the lottery commission shall issue a report not later than June 30, 2019 to the house and senate committees on ways and means detailing additional revenues generated as related to promotional activities funded from this item; and provided further, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery and Gaming Fund, established in section 35 of chapter 10 of the General Laws, to the General Fund.....\$4,500,000”.

The further amendment was referred, under Rule 35, to the committee on Bills in the Third Reading.

Subsequently the amendment further (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was considered; and it was adopted, in concurrence.

The House Bill relative to abusive practices to change sexual orientation and gender identity in minors (House, No. 4664), came from the Senate with the endorsement that it had been passed to be engrossed, in concurrence, by said branch with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2647. The amendment was referred, under Rule 35, to the committee on Bills in the Third Reading.

The House Bill requiring sexual misconduct climate surveys at institutions of higher education (House, No. 4810, amended), came from the Senate with the endorsement that it had been passed to be engrossed, in concurrence, by said branch with an amendment striking out all after the enacting clause and inserting in place

Tourism fund.

Minors,— sexual orientation.

Higher education,— sexual misconduct.

thereof the text contained in Senate document numbered 2645. The amendment was referred, under Rule 35, to the committee on Bills in the Third Reading.

#### Bills

Protecting consumers in the issuance of sports and entertainment tickets (Senate, No. 115, amended by adding the following four sections:

Tickets,—  
resale.

“SECTION 2. Section 185A of chapter 140 of the General Laws, as appearing in 2016 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:—

‘Ticket reseller shall mean any person, entity, corporation or association engaged in the business of reselling, offering for resale, or negotiating the resale of tickets of admission or other evidence of right of entry to any sporting event, theatrical exhibition, public show, or public amusement or exhibition, including the officers, agents and employees of such person, entity, corporation or association. A person, entity, corporation, or association shall be deemed to be “engaged in the business of resale” if such person, entity, corporation, or association has sold more than 80 tickets, sets of tickets, or right of entry by means of telephone, mail, delivery service, facsimile, internet, email or other electronic means in the preceding twelve months. A resale shall not include the initial sale of any event ticket by the original ticket seller or an online marketplace.’ [sic]

SECTION 3. Said section 185A of chapter 140 of the General Laws, as so appearing, is hereby amended by deleting the second paragraph of this section.

SECTION 4. Chapter 140 of the General Laws, as so appearing, is hereby amended by striking out section 185D, as so appearing, and inserting in place thereof the following section:—

Section 185D. Consumer protection standards relative to the reselling of tickets:

(a) Any person engaged in the business of the resale of a ticket, and any online marketplace shall:

(1) maintain at all times a toll-free telephone number and an e-mail address or other means of contact approved by regulation for complaints and inquiries regarding its activities in the resale of event tickets;

(2) implement and reasonably publicize a standard refund policy that meets the minimum standards stated in subsection (b); and

(3) take reasonable measures to safeguard against the resale of counterfeit tickets purchased from the reseller.

(b) The standard refund policy by such person or online marketplace:

(1) shall provide a consumer who purchases an event ticket a full refund if: (i) the event is cancelled before the scheduled occurrence of the event, and is not re-scheduled; (ii) the event ticket does not provide access to the event or venue of the event, provided the date and time of the event are correct on the event ticket; (iii) the event ticket has been cancelled by the ticket issuer for non-payment by the original purchaser, or for any reason other than an act or omission of the consumer; (iv) the event ticket materially and to the detriment of the consumer fails to conform to the description provided by the seller or person engaged in the business of resale; or (v) the event ticket was not delivered to the consumer prior to the occurrence of the event, unless such failure of delivery was due to any act or omission of the consumer;

(2) shall include in a full refund the full price paid by the consumer for the event ticket, together with any fees charged in connection with that purchase, including but not limited to convenience fees, processing fees, at-home printing

charges, but excluding shipping or delivery fees, and

(3) may condition entitlement to a refund upon timely return of the ticket purchased, and may include reasonable safeguards against abuse of the policy.

(c) Provision of a replacement ticket that is of equal value and in a comparable location, at no additional charge to the consumer, shall be considered providing a full refund for the purposes of subsection (b).

(d) Nothing in this section shall be construed to prohibit any person, entity or association, or an agent of any such person, entity or association subject to this section from implementing consumer protection policies that exceed the minimum standard set forth in this section, and that are otherwise compliant with this act.

(e) A ticket reseller or online marketplace shall be prohibited from using any automated system, software or other technology designed or produced for the purpose of purchasing tickets from a ticket issuer for the purpose of resale on the secondary market.

(f) The department of public safety shall keep a record of all licensed ticket resellers operating in the commonwealth and shall make the list accessible to the public. This record shall include, but not be limited to: (1) the licensee's name, mailing address, telephone number and email address; (2) the length of time the licensee has been licensed in commonwealth; and (3) the number of complaints and the type of complaint that has been filed against the licensee.

SECTION 5. Section 185E of chapter 140 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by deleting the last sentence of this section.”) (on a petition);

Modernizing childhood lead poisoning prevention (Senate, No. 2642) (on Senate bill No. 1184);

Requiring protection for the continuous skilled care of fragile children in the Commonwealth (Senate, No. 2643) (on Senate bill No. 1273); and

Relative to collective bargaining dues (Senate, No. 2644) (on Senate bill No. 1047);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

Lead poisoning.  
Children,— skilled care.  
Collective bargaining.

### *Reports of Committees.*

Report of the committee on Health Care Financing, that the Bill relative to out-of-hospital birth access and safety (House, No. 4655), ought NOT to pass (under Joint Rule 10).

Births,— out-of-hospital.

Under suspension of the rules, on motion of Mr. Michlewitz of Boston, the report was considered forthwith, the question being: “Shall this bill be rejected?”

The House then refused to reject the bill; and it was read a second time.

Pending the question on ordering the bill to a third reading, it was recommitted to the committee on Health Care Financing, on motion of the same member.

By Mr. Pignatelli of Lenox, for the committee on Environment, Natural Resources and Agriculture, on a petition, a Bill authorizing the Massachusetts Water Resources Authority to supply water to the town of Burlington (House, No. 4801, changed in the emergency preamble, by striking out the words “North Reading” and inserting in place thereof the word “Burlington”) [Local Approval Received].

Burlington,— water supply.

By Mr. Parisella of Beverly, for the committee on Public Service, on a joint petition, a Bill establishing a sick leave bank for Diane Misiano, an employee of the

Diane Misiano,— sick leave.

Department of Revenue (House, No. 4845).

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

*Emergency Measure.*

The engrossed Bill relative to the examination of tax expenditures by the Department of Revenue (see House, No. 4820, 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.

Tax expenditure  
commission.

Pending the question on adoption of the emergency preamble, Mr. Speliotis of Danvers moved that Rule 40 be suspended; and the motion prevailed.

Rule 40  
suspended.

The same member then moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. Chapter 14 of the General Laws is hereby amended by adding the following section:—

Section 14. (a) There shall be a tax expenditure commission that shall examine, evaluate and report on the administration, effectiveness and fiscal impact of tax expenditures, as defined in section 1 of chapter 29, and as presented with the governor's proposed budget under paragraph 3 of section 5B of said chapter 29.

(b) The commission shall be comprised of: the commissioner of revenue or the commissioner's designee, who shall serve as chair; the state auditor or the auditor's designee; the state treasurer or the state treasurer's designee; the chair of the house committee on ways and means or the chair's designee; the chair of the senate committee on ways and means or the chair's designee; the house and senate chairs of the joint committee on revenue or their respective designees; the minority leader of the house of representatives or the house minority leader's designee; the minority leader of the senate or the senate minority leader's designee; and 3 members to be appointed by the governor, who shall have expertise in economics or tax policy. The 3 members appointed by the governor shall each serve 4-year terms.

(c) The commission shall use best practices and standardized criteria to evaluate: (i) the purpose, intent and goal of each tax expenditure and whether the expenditure is an effective means of accomplishing those ends; (ii) the fiscal impact of each tax expenditure on state and local taxing authorities, including past fiscal impacts and expected future fiscal impacts; (iii) the economic impact of each tax expenditure including, but not limited to, revenue loss compared to economic gain and jobs created, retained or lost as a result of the tax expenditure; (iv) the return on the investment made by the tax expenditure and the extent to which the tax expenditure is a cost effective use of resources; and (v) similar tax expenditures, if any, offered by other states and the impact of the tax expenditure on regional and national economic competitiveness.

(d) The commission shall establish a schedule to review tax expenditures so that each tax expenditure shall be reviewed at least once every 5 years. The review schedule may group tax expenditures by those benefitting from the tax expenditures, the objectives of the tax expenditures or the policy rationale for the tax expenditures. The commission's review of each tax expenditure shall include the date the tax expenditure was enacted and the statutory or legal citation.

(e) Biennially, not later than March 1, the commission shall file a report of its findings and its recommendations to the clerks of the house of representatives and senate, the chairs of the house and senate committees on ways and means and the

chairs of the joint committee on revenue. The report shall include all information required to be reviewed by this section and recommendations. The report shall be made available electronically and prominently displayed on the official website of the department of revenue.

f) The commission shall have access to information, including aggregate tax return information and related documents maintained by the department of revenue, necessary for the performance of the commission's duties under this section but excluding information provided to the commonwealth by other federal and state tax agencies where such access is prohibited by law; provided, however, that tax returns and related documents shall not include a taxpayer's personal identifying information and such returns and documents shall be confidential and exempt from disclosure as a public record under section 7 of chapter 4 and under chapter 66. The commission, in collaboration with the department of revenue, shall adopt policies and procedures to ensure taxpayer confidentiality.

SECTION 2. This act shall take effect as of July 1, 2018.”.

The amendment was adopted; and the bill (see House, No. 4820, amended) was sent to the Senate for concurrence.

Subsequently, the Senate having concurred in the amendment, the engrossed bill, 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 3 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

Bill  
re-enacted.

#### *Engrossed Bills.*

The engrossed Bill relative to simulcasting and racing (see House, No. 4809) (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.

Bill  
enacted.

The engrossed Bill to protect animal welfare and safety in cities and towns (see Senate, No. 2646) (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 acting Speaker and sent to the Senate.

Id.

#### *Orders of the Day.*

The House Bill establishing a sick leave bank for Elizabeth Kendall, an employee of the Department of Developmental Services (House, No. 4734), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Third  
reading  
bill.



*Recess.*

At three minutes before one o'clock P.M., on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House recessed subject to the call of the Chair; and at twenty-five minutes before two o'clock, the House was called to order with Mr. Donato in the Chair.

Recess.

*Emergency Measure.*

The engrossed Bill relative to grants from the Massachusetts Tourism Trust Fund (see House, No. 4827, 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.

Tourism fund.

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 2 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

Bill re-enacted.

*Order.*

On motion of Mr. DeLeo of Winthrop,—

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

Next sitting.

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At eight minutes before two o'clock P.M., on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.