

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



Thursday, August 20, 1998.

Met at five minutes past eleven o'clock A.M.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:
The House Bill relative to entering by false pretenses in the daytime (House, No. 4977),— **was read a second time and ordered to a third reading. The bill was read a third time and passed to be engrossed, in concurrence.**

Papers from the House.

A petition (accompanied by bill, House, No. 5796) of John A. Businger that the Massachusetts Bay Transportation Authority be authorized to develop the property of said authority for non-transportation purposes,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Transportation.**

Engrossed Bills.

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Acting Governor for his approbation, to wit:

Relative to the qualifications of commissioner of code enforcement in the city of Springfield (see House, No. 5388);

Establishing the Wellesley Housing Development Corporation (see House, No. 5398); and

Designating an overpass in the town of Somerset as the John Marshall overpass (see House, No. 5430).

Bill Previously Recalled from the Acting Governor Laid Before the Senate.

The engrossed Bill establishing a board of registration of hearing instrument specialists (see House, No. 4760) which, at a previous session, had been returned by His Honor the Lieutenant-Governor, Acting Governor, at the request of the Senate,— was laid before the Senate.

There being no objection, on motion of Mr. Tarr, the Senate reconsidered the vote by which, at a previous session, it had passed the bill to be enacted.

On motion of the same Senator, Senate Rule 49 was suspended and the bill was amended, on motion of Mr. Shannon, in section 1, by striking out, in line 6, the words "ex-officio, volunteer consultant" and inserting in place thereof the following words:—

"nonvoting advisory member"; by striking out, in lines 25 and 37, each time it appears, the word "ex-officio" and inserting in place thereof, in each instance, the following words:— "nonvoting advisory member"; and in the proposed section 95 of chapter

13 of the General Laws, by striking out the word "department" and inserting in place thereof the following word:— "division";

In section 2, in the proposed section 196 of chapter 112 of the General Laws, by striking out the definition of "department"; in

said section 196 of said chapter 112, by striking out the definition of "hearing aid" and inserting in place thereof the following

definition:—

"Hearing aid", a wearable aid or device, not including surgical implants, which is inserted directly into the ear or worn with an ear mold and air conduction receiver or bone oscillator attachment and any part, attachment or accessory but excluding batteries, cords and accessories thereto, designed for or offered for the purpose of aiding or compensating for hearing loss."; in said section 196 of said chapter 112, by inserting after the definition of "hearing instrument specialist" the following definition:— "Register", "registered", "registrant" and "registration" shall be used interchangeably with the words "license", "licensed", "licensee" and "licensure".; in the proposed section 197 of said chapter 112, in subsection (a), by striking out the words "July 1, 1998" and inserting in place thereof the following words:— "July 1, 2000."; in said section 197 of said chapter 112, by striking out subsection (f) and inserting in place thereof the following subsection:—

(f) To be eligible for registration by the board as a hearing instrument specialist, an applicant shall:

- (1) be at least 18 years of age;
 - (2) have a high school diploma or its equivalent;
 - (3) be of good moral character;
 - (4) have successfully completed a board-approved 12-month apprenticeship, including completion of the apprentice training program and supervised work experience, and meet one of the following criteria:; and
 - (i) hold current certification as a hearing instrument specialist from a board-approved, nationally recognized body certifying hearing instrument specialists; or
 - (ii) pass a written or electronic examination approved by the board and designed to test competencies and knowledge needed in hearing aid fitting and dispensing; and
- (5) pay the appropriate fee set by the secretary of administration and finance."; in said section 197 of said chapter 112, in subsection (g), by striking out the words "January 1, 1998" and inserting in place thereof the following words:— "July 1, 1999"; by inserting after the proposed section 197 of said chapter 112, the following section:—

"Section 197A. An individual who holds a license as a hearing instrument specialist or the equivalent thereof as determined by the board from a state which is deemed by the board to have substantially equivalent or higher licensure requirements than those of the commonwealth may be licensed as a hearing instrument specialist without satisfying the requirements of clause (4) of subsection (f) of section 197. The word "state", as used in this section, shall include a state or territory of the United States, the District of Columbia, the commonwealth of Puerto Rico or a foreign country, state or province."; in the proposed section 198 of said chapter 112, in subsection (b), by striking out the words "first available,"; in the proposed section 199 of said chapter 112, in subsection (b), by striking out clause (4) and inserting in place thereof the following clause:—

"(4) has been convicted of a crime which directly relates to the practice of dispensing hearing aids, including violations of any federal laws or regulations regarding hearing aids;"; in said section 199 of said chapter 112, in said subsection (b), in clause (6), by striking out subclause (viii) and inserting in place thereof the following subclause:—

"(viii) engaging in conduct which constitutes a conflict of interest, including accepting or paying a client referral fee or other consideration or directing or limiting a client's choice of product other than as necessary based on the results of audiological or hearing tests or hearing aid evaluation;"; and in the proposed section 200 of said chapter 112, by striking out subsection (a) and inserting in place thereof the following subsection:—

"(a) The board may, by a majority vote of the entire board and upon determination made after a hearing pursuant to chapter 30A, find that a hearing instrument specialist or apprentice is liable for a violation of the provisions of section 197 to 200, inclusive, and may impose the following fines and penalties: (1) require such holder to participate in an alcohol or drug rehabilitation program or undergo drug testing as a condition of reinstatement of such license or both; (2) suspend, revoke, cancel or place on probation such registration; (3) reprimand or censure the registrant; (4) require such holder to complete additional education or training or both as a condition of retention or future consideration or reinstatement of such registration; (5) require such holder to practice under appropriate supervision for a period of time to be determined by the board as a condition of retention of future consideration or reinstatement of such registration; (6) require financial restitution, where appropriate; and (7) assess an administrative penalty of not more than \$5,000 for each violation."

Sent to the House for concurrence in the amendment.

Report of a Committee.

By Mr. Birmingham, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Brian A. Joyce for legislation relative to State Police patrols for the Neponset River Bicycle Path.

Senate Rule 36 was suspended, on motion of Mr. Panagiotakos, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Safety.

Sent to the House for concurrence.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The House Bill relative to real estate tax exemptions for certain veterans who reside in the city of Newton (House, No. 4544),—
was read a third time and passed to be engrossed, in concurrence.

Resolutions.

Resolutions (filed by Mr. Clancy) "honoring police officer Gerard E. Titus of the Nahant Police Department on the occasion of his retirement", were referred, under the rule, to the committee on Rules.

Subsequently, Mr. Birmingham, for the said committee, reported, recommending that the resolutions ought to be adopted; and they were considered forthwith, under a suspension of the rules, moved by Mr. Travaglini, and adopted.

Ordered Adopted.

On motion of Mr. Bernstein,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

Papers from the House.

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill providing for the construction of certain facilities of the Massachusetts Port Authority (see Senate, No. 2325), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 4 to 2.

The bill was signed by the President and sent to the House for enactment.

Subsequently, the bill, which originated in the Senate, came from the House with the endorsement that it had been enacted in that branch.

The Senate then passed the bill to be enacted; and it was signed by the President and laid before the Acting Governor for his approbation.

On motion of Mr. Tarr, at twenty-five minutes past eleven o'clock A.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.