

**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.



Tuesday, September 8, 1998.

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

### Papers from the House

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5803) of John F. Merrigan (with the approval of the town council) that the town of Greenfield be authorized to issue an additional license for the sale of alcoholic beverages to be drunk on the premises to T & B Paulsen, Inc., d/b/a The Mist; and

Petition (accompanied by bill, House, No. 5804) of William M. Straus and Mark C. Montigny (by vote of the town) that the town of Fairhaven be authorized to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises to Fort Phoenix Post 2892, Veterans of Foreign Wars of U.S.A., Inc.;

**Severally to the committee on Government Regulations.**

Bills

Relative to the retirement allowance of John B. LaClair (House, No. 5587,— on petition) [Local approval received];  
Authorizing the town of Billerica to make a certain reimbursement (House, No. 5643,— on petition) [Local approval received];  
Authorizing the town of Billerica to refund certain taxes (House, No. 5644,— on petition) [Local approval received]; and  
Relative to town meeting members in the town of Framingham (House, No. 5702,— on petition) [Local approval received];  
**Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

A Bill further regulating the use of snowmobiles (House, No. 5457, amended,— on House, No. 2755),— **was read and, under Senate Rule 26, referred to the committee on Steering and Policy.**

### *Engrossed Bill — Amended.*

An engrossed Bill authorizing the imposition of fees for the employment of consultants by the conservation commission of the town of North Andover (see House, No. 5610) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Pending the question on passing the bill to be enacted, on motion of Ms. Fargo, Senate Rule 49 was suspended and the bill was amended on an amendment presented by Mr. Jajuga, striking out the first sentence and inserting in place thereof the following sentence:— "Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the conservation commission of the town of North Andover may, upon promulgation in accordance with this act of rules and regulations, provide for the imposition of reasonable fees for the employment of consultants."

**Sent to the House for concurrence in the amendment.**

### *Resolutions.*

Resolutions (filed by Mr. Creedon) "congratulating Sister Marie Madigan on the occasion of her Golden Jubilee", were referred, under the rule, to the committee on Rules.

**Subsequently, Mr. Tisei, 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. Moore, and adopted.**

Resolutions (filed by Mr. Travaglini) "congratulating the Honorable Francis G. Poitras on the occasion of his retirement as Chief Justice of the Juvenile Court Department of the Massachusetts Trial Court", were referred, under the rule, to the committee on Rules.

**Subsequently, Mr. Tisei, 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. Moore, and adopted.**

Resolutions (filed by Ms. Wilkerson) "on the occasion of the annual New England Minority Enterprise Development celebration", were referred, under the rule, to the committee on Rules.

**Subsequently, Mr. Tisei, 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. Moore, and adopted.**

### **Papers from the House.**

The Senate Bill relative to reports of abuse of patients receiving home health care (Senate, No. 1818, amended),— came from the House with the endorsement that the House had concurred in the further amendments:

In section 1 striking out after the word "facility.", in line 170, the following sentence: "A facility shall only hire or employ on a paid, unpaid, temporary or permanent basis, a nurse aide who is listed in such registry as having demonstrated competency as defined by department regulations." (inserted by amendment by the House, and as changed by the Senate committee on Bills in the Third Reading) and inserting in place thereof the following sentence: "A facility, other than a rest home, shall only hire or employ on a paid, unpaid, temporary or permanent basis, a nurse aide who is listed in said registry as having demonstrated competency as defined by department regulations."; striking out, before line 184, the following sentence: "Registry information shall be subject to chapter 66A." (previously inserted by amendment by the Senate); and adding at the end thereof the following three sections:

"SECTION 4. Said chapter 6 is hereby further amended by inserting after section 172D the following section:—

Section 172E. (a) Notwithstanding the provisions of section 172, criminal offender record information shall be available to a long term care facility, as defined in section 72W of chapter 111, for the purpose of obtaining criminal offender record information on an applicant under final consideration for, or an individual currently employed in, a position that involves the provision of direct personal care or treatment to residents of such facility. Any such long term care facility shall obtain all available criminal offender record information from the criminal history systems board on an applicant under final consideration for a position that involves the provision of direct personal care or treatment to residents. A long term care facility which obtains information under this section shall prohibit the dissemination of such information for any purpose other than to further the protection of the elderly or disabled including, but not limited to, the dissemination to another long term care facility or other entity.

(b) A long term care facility may employ an individual for a position that involves the provision of direct personal care or treatment to residents on a conditional basis prior to receiving the results of such individual's criminal offender records check from the criminal history systems board. No long term care facility shall be liable for civil damages to an individual so conditionally employed and subsequently discharged by reason of information received as a result of a criminal offender record information check completed pursuant to subsection (a).

(c) The criminal history systems board may waive or reduce the fee assessable pursuant to section 172A for criminal offender record information made available pursuant to subsection (a).

SECTION 5. No long term care facility, as described in section 172E of chapter 6 of the General Laws, shall be required to obtain criminal offender record information as a condition of continued employment of a person who is currently employed or serving as a volunteer in a position or capacity set forth in said section 172E on the effective date of this act.

SECTION 6. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance shall reimburse long term care facilities for the portion of the costs associated with obtaining criminal offender record information pursuant to section 172E of chapter 6 of the General Laws.",— *with a still further amendment* striking out sections 4, 5 and 6 (inserted by amendment by the Senate) and inserting in place thereof the following two sections:

"SECTION 4. Said chapter 6 is hereby further amended by inserting after section 172D, inserted by section 1 of chapter 64 of the acts of 1998, the following section:—

Section 172E. Notwithstanding any provision of section 172, criminal offender record information shall be available to any long term care facility, as defined in section 72W of chapter 111, for the purpose of obtaining criminal offender record information on an applicant under final consideration for, or an individual currently employed in, a position that involves the provision of direct personal care or treatment to residents of such facility. Any such long term care facility shall obtain all available criminal offender record information from the criminal history systems board on an applicant under final consideration for a position that involves the provision of direct personal care or treatment to residents. A long term care facility which obtains information under this section shall prohibit the dissemination of such information for any purpose other than to further the protection of the elderly or the disabled, including, but not limited to, dissemination among and between long term care facilities.

A long term care facility may employ an individual for a position that involves the provision of direct personal care or treatment

to residents of such facility on a conditional basis prior to receiving the results of such individual's criminal offender record check from the criminal history systems board. No long term care facility shall be liable for civil damages to any individual so conditionally employed and subsequently discharged by reason of information received as a result of a criminal offender record information check completed pursuant to this section.

The criminal history systems board may waive or reduce the fee assessable pursuant to section 172A for criminal offender record information made available pursuant to this section.

Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance shall, subject to appropriation, reimburse long term care facilities for the portion of the costs associated with obtaining criminal offender record information on employees pursuant to this section.

SECTION 5. No long term care facility, as described in section 172E of chapter 6 of the General Laws, shall be required to obtain criminal offender record information as a condition of continued employment of a person who is currently employed in a position set forth in section 172E as of the effective date of this act.".

**The rules were suspended, on motion of Mr. Tisei, and the still further House amendment was considered forthwith and adopted, in concurrence (as corrected by the committee on Bills in the Third Reading).**

*Engrossed Bills.*

The following engrossed bills (all of which originated in the Senate), 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 excavation (see Senate, No. 1856, amended);

Limiting the liability of adult foster caregivers (see Senate, No. 2031, amended); and

Relative to the Holyoke Armory (see Senate, No. 2177).

*Order Adopted.*

On motion of Ms. Melconian,—

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

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On motion of Mr. Knapik, at eleven minutes past eleven o'clock A.M., the Senate adjourned to meet on the following Thursday at eleven o'clock A.M.