

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.



JOURNAL OF THE SENATE.

Thursday, November 17, 2005.

Met at two minutes past eleven o'clock A.M. (Mr. Rosenberg in the Chair).

The Senator from Bristol and Norfolk, Mr. Timilty, led the Chair (Mr. Rosenberg), members, guests and employees in the recitation of the pledge of allegiance to the flag.

Reports.

The following reports were severally read and placed on file:

A report of the Department of Education (under the provisions of Section 432 of Chapter 159 of the Acts of 2000) relative to special education (copies having been forwarded as required to the Senate Committee on Ways and Means and the Committee on Education) (received Thursday, November 10, 2005); and

A report of the Human Resources Division (under the provisions of Section 25 of Chapter 31 of the General Laws) submitting a listing of Civil Service public safety promotional lists that have been revoked by the Personnel Administrator as of November 1, 2005 (received Thursday, November 10, 2005).

Reports of a Committee.

By Mr. Nuciforo, for the committee on Financial Services, on Senate, Nos. 568, 604 and 629 and House, Nos. 1525 and 3055, a Bill to establish standards for long term care insurance (Senate, No. 2285);

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

By Mr. Nuciforo, for the committee on Financial Services, on petition (accompanied by bill, House, No. 3021), a Bill relative to corporate credit unions (Senate, No. 2286); and

By the same Senator, for the same committee, on petition, a Bill relative to the conversion by a Massachusetts-chartered credit union to a federal charter (printed as House, No. 2982);

Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

By Mr. Nuciforo, for the committee on Financial Services, on petition (accompanied by bill, Senate, No. 661), a Bill prohibiting certain charges or fees by banks (Senate, No. 2287); and

By the same Senator, for the same committee, on petition (accompanied by bill, House, No. 2964), a Bill relative to the operations and governance of credit unions (Senate, No. 2288);

Severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—

Resolutions (filed by Ms. Creem) “commemorating the celebration of Hanukkah”; and

Resolutions (filed by Ms. Resor and Ms. Spilka) “congratulating Ronald D. Young.”

Recess.

There being no objection, at six minutes past eleven o’clock A.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at fourteen minutes past twelve o’clock noon, the Senate reassembled, Mr. Morrissey in the Chair.

PAPER FROM THE HOUSE.

The House Bill relative to heating energy assistance and tax relief (House, No. 4473, amended),— came from the House with the endorsement that the House had concurred in the Senate amendments *with a further amendment* striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4509.

The rules were suspended, on motion of Mr. Tarr, and the further House amendment was considered forthwith and adopted, in concurrence.

Recess.

There being no objection, at twenty-two minutes past twelve o’clock noon, the Chair (Mr. Morrissey) declared a recess subject to the call of the Chair; and, at six minutes before four o’clock P.M., the Senate reassembled, Ms. Murray in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

PAPERS FROM THE HOUSE.

The House Bill relative to direct wine shipments (House, No. 4498, amended),— came from the House with the endorsement that the House had NON-concurred in the Senate amendments, in section 6, in subsection (b) of proposed section 19F, by inserting after the words “under section 30” the following words:— “; provided, however, that nothing in this subsection shall abrogate the rights of section 18 licensees under section 25E”; and

In section 5, in subsection (h) of proposed section 19F, in the second sentence, by striking out the word “; transports”; and had concurred with the Senate in its amendments;

In said section 5, in said subsection (h), by inserting after the words “chapter 93A” the following words:— “; provided, however, that a common carrier acting in the ordinary course of business shall be exempt from this subsection”;

In section 9, by adding the following sentence:— Notwithstanding the foregoing, a delivery company may use an electronic device to receive the signature of a person accepting delivery of a parcel under this section and to certify that the person has displayed a valid identification as so required.”;

In section 6, in proposed section 19F, in subsection (g), by striking out clause (i) and inserting in place thereof the following clause:—

“(i) for a first violation, by a fine of \$100;” and that the House had concurred with the Senate in its amendment;

In section 6, in subclause (ii) of clause (2) of subsection (b) of proposed section 19F, by adding the following words:— “; provided, that all direct deliveries from a winery to a section 15 licensee shall not exceed 10 cases of wine monthly”; *with a further amendment* striking out said amendment and inserting in place thereof the following:

In section 6, in subsection (iii)(2)(b) of section 19F by striking out after the words “under section 15,” the words:— “provided, that all direct deliveries of wine from a winery to a section 15 licensee shall not exceed 10 cases of wine monthly”, and inserting in place thereof the words:— “provided, that all direct deliveries of wine from a winery to a section 15 licensee shall not exceed 250 cases of wine annually”; and that the House had concurred with the Senate in its amendments, in section 6, in subsection (a) of proposed section 19F by striking out the figure “50,000” and inserting in place thereof the following figure:— “25,000”; and in said section 6, in subsection (b) of proposed section 19F by striking out the figure “50,000” and inserting in place thereof the following figure:— “25,000”; *with further amendments* in section 6, in subsection (1)(a) of section 19F by striking out the words “25,000 gallons of wine or more”, and inserting in place thereof the words:— “30,000 gallons of wine or more; provided, however, any wine or wine product fermented from other than grapes shall not be included in the aforementioned 30,000 gallon figure,”; in section 6, in subsection (1)(b) of section 19F by striking out the words “25,000 gallons of wine and”, and inserting in place thereof the words:— “30,000 gallons of wine; provided, however, any wine or wine product fermented from other than grapes shall not be included in the aforementioned 30,000 gallon figure and,”; and that the House concurred with the Senate in its

amendment in section 6, in proposed section 19F, in subsection (g), by striking out clause (iii) and inserting in place thereof the following clause:—

“(iii) For a third violation, by a suspension of the winery’s direct shipment license for not more than 2 years, by a fine of \$5,000, or both; and” *with a further amendment*, striking out said amendments and inserting in place thereof the following:

In section 6, in subsection (g)(3) of section 19F by striking out the words “for a third violation by suspension of the winery’s direct shipment license for not more than 2 years, by a fine of \$5,000 or both.”, and inserting in place thereof the words: “for a third violation by prohibition of the winery from making any shipments of wine under this section or through a wholesaler or importer under section 18, by a fine of up to \$5,000, or both; provided, however, that after 1 year, the winery may apply for the authority to ship wine through a wholesaler or importer under said section 18.”.

The rules were suspended, on motion of Mr. Tarr, and the House amendments were considered.

The Senate then adopted, in concurrence, the several House amendments and receded from its amendments that the House had non-concurred in.

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill relative to heating energy assistance and tax relief (see House, No. 4473, amended), 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 2 to 0.

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

Subsequently, the bill, which originated in the House, 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 Acting President (Ms. Murray) and laid before the Governor for his approbation.

A Bill relative to senior tax relief (House, No. 2511,— on petition),— was read.

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Ms. Creem, Ms. Tucker and Ms. Murray moved that the bill be amended by inserting after the enacting clause, the following section:—

“SECTION 1. Section 5 of chapter 59 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word ‘annum’, in line 1001, the following words:— or such lesser rate as may be determined by the legislative body of the city or town, subject to its charter, no later than the beginning of the fiscal year to which the tax relates.”

The amendment was adopted.

The bill, as amended, was ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act providing senior tax relief.”

Sent to the House for concurrence in the amendment.

Engrossed Bill.

An engrossed Bill authorizing the appointment of retired police officers in the town of Weymouth to serve as special officers (see House, No. 4344, amended) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted and was signed by the Acting President (Ms. Murray) and again laid before the Governor for his approbation.**

Engrossed Bills.

The following engrossed bills (the first three 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 Acting President (Ms. Murray) and laid before the Governor for his approbation, to wit:

Relative to organ and tissue donations (see Senate, No. 2236, amended);

Relative to smart growth zoning and housing production (see Senate, No. 2237, amended);

Authorizing the town of Webster to grant an additional license for the sale of alcoholic beverages to be drunk on the premises (see Senate, No. 2274);

Relative to the mortality table for public employees (see House, No. 4424); and

Authorizing the town of Fairhaven to grant an additional license for the sale of wines and malt beverages to be drunk on the premises (see House, No. 4427).

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4516) of Virginia Rowland and others relative to the use of certain insurance underwriting guidelines for homeowners with dogs living on such insured property;
Under suspension of Joint Rule 12, to the committee on Financial Services.

Petition (accompanied by bill, House, No. 4517) of Daniel Simkewicz and others relative to hunting on Sundays;
To the committee on Public Safety and Homeland Security.

Petition (accompanied by bill, House, No. 4518) of Kay Khan for legislation to authorize the teachers' retirement system to grant creditable service retirement service to Stuart Freedman;
Under suspension of Joint Rule 12, to the committee on Public Service.

Recess.

There being no objection, at seven minutes past four o'clock P.M., the Chair (Ms. Murray) declared a recess subject to the call of the Chair; and, at twenty-eight minutes before six o'clock P.M., the Senate reassembled, the President in the Chair.

PAPERS FROM THE HOUSE.

Emergency Preambles Adopted.

An engrossed Bill providing senior tax relief (see House, No. 2511, amended), 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 2 to 0.

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

An engrossed Bill relative to direct wine shipments (see House, No. 4498, amended), 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 2 to 0.

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

A petition (accompanied by bill, House, No. 4519) of Antonio F. D. Cabral and William M. Straus relative to transition costs calculation of certain generating facilities in the divestiture of electric companies,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Telecommunications, Utilities and Energy.**

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 Governor for his approbation, to wit:

Authorizing the refund of automobile sales tax to Helen Bergman of the town of Wilmington (see House, No. 2313, amended);

Providing senior tax relief (see House, No. 2511, amended); and

Relative to direct wine shipments (see House, No. 4498, amended).

Order Adopted.

On motion of Mr. Tarr,—

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.

On motion of the same Senator, at nineteen minutes before six o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.