

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.

Wednesday, June 10, 2009.

Met according to adjournment at eleven o'clock A.M. (Mr. Rosenberg in the Chair). .

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

Petition.

Ms. Murray presented a petition (accompanied by bill, Senate, No. 2073) (subject to Joint Rule 9) of Therese Murray and Jeffrey Davis Perry (by vote of the town) for legislation to establish the Sandwich Economic Initiative Corporation,— **and the same was transmitted, under the provisions of Section 5 of Chapter 3 of the General Laws, to the Secretary of State.**

Committee Discharged

Mr. Petruccelli, for the committee on the Environment, Natural Resources and Agriculture, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 366) of Stephen A. Baddour, Viriato Manuel deMacedo, Matthew C. Patrick, other members of the General Court and others for legislation to regulate the use of off highway and recreation vehicles,— and recommending that the same be referred to the committee on Public Safety and Homeland Security. **Under Senate Rule 36, the report was considered forthwith and accepted. Sent to the House for concurrence.**

Paper from the House

A message from His Excellency the Governor recommending legislation relative to protect and enhance the rights of victims and witnesses of crime (House, No. 1137),-- **was referred, in concurrence, to the committee on the Judiciary.**

Resolutions.

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:- Resolutions (filed by Mr. Kennedy) “recognizing the dedication of the Brockton Hospital School of Nursing, Rosa Field Residence ‘Mary Cruise Kennedy Room’ Tuesday, June 9th 2009.”

Report of Committees.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that the Senate petition of Stephen M. Brewer and Lewis G. Evangelidis (by vote of the town) for legislation relative to the recreation revolving fund in the town of Rutland (having been timely filed prior to 5:00 P.M., on Friday, January 16, 2009),-- has complied with the provisions of Joint Rule 7B and has received local approval from the town. **The rules were suspended, on motion of Mr. Brown, and the petition (accompanied by bill, Senate, No. 2077) was referred**

**to the committee on Municipalities and Regional Government.
Sent to the House for concurrence.**

Papers from the House.

Petitions were referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No 1138) of Michael F. Kane and others for legislation to establish a sick leave bank for Mary F. Keeler, an employee of the Trial Court;

Under suspension of Joint Rule 12, to the committee on the Judiciary.

Petition (accompanied by bill, House, No 1139) of John J. Binienda for legislation to designate Chapter 397 of the Acts of 2008, relative to the licensing of school bus drivers, as "Darnell's Law";

Under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

Reports of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill providing for the uniform prudent management of institutional funds (Senate, No. 2078),-- ought to pass, with an amendment striking out the text of section 8 and inserting in place thereof the following:-

"This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103 of that act, 15 U.S.C. Section 7003(b)."

There being no objection, the rules were suspended, on motion of Mr. Brown, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2078, amended) was then ordered to a third reading.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill preventing oil spills in Buzzards Bay (House, No. 4119),-- ought to pass, with an amendment in section 1 by striking out, in line 9, the words "denies boarding to" and inserting in place thereof the following words:- "fails to request"; in section 2 in the definition of "state-provided tugboat escort", by striking out clauses (i) to (iv), inclusive, and inserting in place thereof the following 3 clauses:- "(i) twin radar displays equipped with ECDIS or ARPA capable of integrating AIS; (ii) a towing winch and associated wire and gear capable of towing, at minimum, a 470 foot fully loaded tank vessel; and (iii) fire fighting equipment as determined adequate by the commissioner pursuant to subsection (c) of section 6.;" by inserting after section 3 the following 4 sections:-

"SECTION 3A. Subsection (a) of section 8 of said chapter 21M is hereby amended by striking out the words 'rescue tugs', inserted by section 6 of chapter 268 of the acts of 2008, and inserting in place thereof the following words:- 'state-provided tugboat escorts'.

SECTION 3B. Subsection (c) of said section 8 of said chapter 21M is hereby amended by striking out clause (1), as amended by section 7 of chapter 268 of the acts of 2008 and inserting in place thereof the following clause:-

(1) A uniform oil spill response and prevention fee in an amount not exceeding \$.05 for each barrel of petroleum product shall be imposed upon a person owning petroleum products at the time the petroleum products are received at a marine terminal within the commonwealth by means of a vessel from a point of origin outside the commonwealth; provided, however, that the fee shall be remitted to the department of revenue on the thirtieth day of each month based upon the number of barrels of petroleum products received during the preceding month; provided further, that on or after July 1, 2015, if the commissioner calculates that the financial burden placed upon the commonwealth by the increase of covered vessels under the state escort tug program is sufficiently greater than the resources provided by the fee, the commissioner may increase the fee to not more than \$.07 for each barrel of petroleum product; and provided further, that the commissioner submit a report justifying an increase to a rate higher than \$.05 per barrel to the house and senate committees on ways and means and to the joint committee on environment, natural resources and agriculture at least 90 days before the effective date of the increase.

SECTION 3C. Clause (10) of subsection (d) of said section 8 of said chapter 21M, added by section 10 of said chapter 268 of the acts of 2008, is hereby amended by striking out the words 'rescue tugs' and inserting in place thereof the following words:- 'state-provided tugboat escorts'.

SECTION 3D. Subclause (vii) of clause (1) of subsection (f) of said section 8 of said chapter 21M, added by section 12 of said chapter 268 of the acts of 2008, is hereby amended by striking out the words 'rescue tugs' and inserting in place thereof the following words:- 'state-provided tugboat escorts'." and by striking out section 4 and inserting in place thereof the following section:-

"SECTION 4. Said chapter 21M is hereby further amended by striking out section 9, inserted by section 13 of chapter 268 of the acts of 2008, and inserting in place thereof the following section:-

Section 9. (a) An owner or operator of a tank vessel carrying 6,000 or more barrels of oil may provide 24-hour notice to the department, in a manner to be determined by the department, of the owner or operator's intent to enter or operate such vessel in Buzzards Bay.

(b) If 24-hour notice is given, pursuant to subsection (a) and the tank vessel is unaccompanied by a tugboat escort, the

commissioner shall dispatch a state pilot, if requested by the owner or operator, to the towing vessel.

(c) The commissioner shall dispatch a state-provided tugboat escort in Buzzards Bay to escort a tank vessel carrying 6,000 or more barrels of oil entering or operating in Buzzards Bay and otherwise unaccompanied by a tugboat escort.

(d) The state pilot or operator of the state-provided tugboat escort shall report to the commissioner all near and actual navigational incidents that could potentially lead to an oil spill including, but not limited to, the following: tank vessels traveling outside of the designated vessel route as appearing on the National Oceanic and Atmospheric Administration chart for Buzzards Bay; failure to use AIS; near or actual collisions, allisions or groundings; steering or engine failures; and towing gear failures. The commissioner shall record, make available to the public and keep on file these reports for not less than 10 years.

(e) Notwithstanding subsections (b) and (c), the commissioner shall not dispatch a state-provided tugboat escort and state pilot if the department determines that exigent circumstances exist. No such determination shall be construed to relieve or otherwise limit the liability of an owner or operator of a tank vessel for any release of oil that occurs while the tank vessel enters or operates in Buzzards Bay. The commissioner shall report annually on January 1, to the joint committee on the environment, natural resources and agriculture and in the Environmental Monitor, a publication of the executive office of energy and environmental affairs, the number of occasions that such exemptions were authorized.

(f) The commissioner shall adopt regulations for the implementation and enforcement of this section including, but not limited to, the dispatching of state pilots, manning requirements and the dispatching of state-provided tugboat escorts.

(g) The commissioner, after a competitive bidding process, may evaluate such bids and may enter into contracts with companies to dispatch and provide state-provided tugboat escorts, which meet or exceed the standards required under this section.”

There being no objection, the rules were suspended, on motion of Mr. Brown, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading.

Order Adopted.

On motion of Mr. Brown,—

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at one o'clock P.M., in a full formal session.

On motion of the same Senator, at seven minutes past eleven o'clock A.M., the Senate adjourned to meet again tomorrow at one o'clock P.M.