

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, October 30, 2013.

Met according to adjournment at one o'clock P.M. (Mr. Richard T. Moore in the Chair).

Distinguished Guests.

There being no objection, the President handed the gavel to Ms. Candaras for the purpose of an introduction. Ms. Candaras then introduced, in the rear of the Chamber, members of the Kenyan National Legislature. Among the group were Chief Whip of the Majority Party Katoo Judah Metito, M.P., Chief Minority Whip and Chairman of the African Union Parliamentary Group, Gideon Maitha Mung'aro, Kajwang Tom Joseph Francis, a member of the Chairpersons Panel, Mithika Linturi, a member of the House Business Committee and Principal Clerk Assistant Rana Kiteru Tiampati. The group was visiting the State House learning about the different aspects of our state government. They were accompanied by Mrs. Roslain Tiampati, wife of the Assistant Clerk. The Senate welcomed them with applause, they were presented with Joint Resolutions and withdrew from the Chamber.

Communications.

The following communications were severally received and placed on file:

Several communications from the Honorable Therese Murray, President of the Senate, announcing the appointments: Elizabeth A. Hart of Malden (pursuant to Section 66 of Chapter 3 of the General Laws) to the Massachusetts Commission on the Status of Women, for a term that will expire on October 31, 2016; and Lori Sousa (pursuant to Section 69 of Chapter 2 of the General Laws) to the Massachusetts Commission on the Status of Grandparents Raising Grandchildren; and Communication from the Massachusetts Gaming Commission (under the provisions of Section 9B of Chapter 128A of the General Laws) submitting proposed changes to 205 CMR 3.29 and 4.52 governing medications and prohibited substances (Senate, No. 1902) (received Wednesday, October 23, 2013),-- **was referred to the committee on Consumer Protection and Professional Licensure. Sent to the House for concurrence.**

Reports.

The following reports were severally read and sent to the House for its information: Report of the Inspector General (under the provisions of Section 160 of Chapter 138 of the Acts of 2013) submitting its preliminary report on the MassHealth Program (received Wednesday, October 30, 2013); and Report of the Executive Office of Health and Human Services (under the provisions of Section 3 of Chapter 283 of the Acts of 2010) relative to prescription drug monitoring (received Tuesday, October 22, 2013).

Petition.

Mr. Rush presented a petition (subject to Joint Rule 12) of Michael F. Rush, Denise C. Garlick and Thomas P. Kennedy for legislation to designate a certain bridge in the town of Needham as the Reverend (LT) Daniel J. Kennedy, USN Memorial

Bridge,--and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

PAPER FROM THE HOUSE

A Bill establishing a sick leave bank for Maritza Miranda, an employee of the Department of Children and Families (House, No. 3693,-- on petition),-- was read, and under Senate Rule 27, referred to the committee on Ways and Means.

Bills

Increasing the membership of the board of selectmen in the town of Southborough (House, No. 3551,-- on petition) [Local approval received]; and

Relative to the Cohasset Board of Sewer Commissioners (House, No. 3671,--on House, No. 3485) [Local approval received on House, No. 3485];

Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Richard T. Moore) declared a recess subject to the call of the Chair; and, at two o'clock P.M., the Senate reassembled, the President in the Chair.

The President, members, guests and staff recited the pledge of allegiance to the flag.

Resolutions.

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

Resolutions (filed by Ms. Candaras and Ms. Murray) "welcoming and honoring the delegation from Kenya on their visit to the Commonwealth";

Resolutions (filed by Ms. Candaras and Mr. Welch) "congratulating Temple Beth El in the city of Springfield on the occasion of its one hundredth anniversary"; and

Resolutions (filed by Mr. Pacheco) "commending the Benjamin D. Cushing Veterans of Foreign Wars Post 2425 and the Ladies Auxiliary on more than 80 years of service to the town of Marion."

Communications.

The Clerk read the following communication:

THE COMMONWEALTH OF MASSACHUSETTS MASSACHUSETTS SENATE

October 29, 2013

Mr. William F. Welch, Clerk
Massachusetts State Senate
State House – Room 335
Boston, MA 02133

Dear Mr. Clerk,

I was unable to be present at the formal session on Thursday, October 24, 2013, because I was attending a conference on the sustainability of public pension systems in Washington, D.C.

Had I been in attendance I would have voted in the following ways on the roll call votes for S1892, An Act enhancing protection for victims of domestic violence; and S865, An Act relative to parental leave:

In the Affirmative on Roll Call No. 198, engrossment of S1892, and in the Affirmative on Roll Call No. 199, engrossment of S865.

Thank you for your time and attention to this matter.

Sincerely,
SENATOR KENNETH J. DONNELLY
4th Middlesex

On motion of Mr. Donnelly, the above communication was ordered printed in the Journal of the Senate.

There being no objection, during consideration of the Orders of the Day, the Clerk read the following communication:

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE

October 30, 2013

Mr. William F. Welch, Clerk
Massachusetts State Senate
State House – Room 335
Boston, MA 02133

Dear Mr. Clerk,

I was unable to be present at the formal session on Thursday, October 24, 2013, because I was attending a conference on the sustainability of public pension systems in Washington, DC.

Had I been in attendance I would have voted in the following ways on the roll call votes for S1892, An Act enhancing protection for the victims of domestic violence, and S865, An Act relative to parental leave:

In the affirmative on Roll Call No. 198, engrossment of S1892, and in the Affirmative on Roll Call No. 199, engrossment of S865.

Thank you for your attention to this matter.

Sincerely,
WILLIAM N. BROWNSBERGER
STATE SENATOR
2ND SUFFOLK AND MIDDLESEX

On motion of Mr. Barrett, the above communication was ordered printed in the Journal of the Senate.

PAPERS FROM THE HOUSE

Engrossed Bills.

The following engrossed bills (both 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:

Relative to the charter for the town of Harwich (see House, No. 3577); and
Extending sewer betterment repayments in the town of Easton (see House, No. 3582).

Engrossed Bill—Land Taking for Conservation Etc.

An engrossed Bill authorizing the town of Nantucket to convey certain land to the Nantucket Islands Land Bank (see House, No. 3314, changed) (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; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at two minutes past two o'clock P.M., as follows, to wit (*yeas 36 - nays 0*)
[Yeas and Nays No. 200]:

YEAS.

Barrett, Michael J.	Joyce, Brian A.
Brewer, Stephen M.	Keenan, John F.
Brownsberger, William N.	Kennedy, Thomas P.
Candaras, Gale D.	Lovely, Joan B.
Chandler, Harriette L.	Montigny, Mark C.

Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone	O'Connor Ives, Kathleen
DiDomenico, Sal N.	Pacheco, Marc R.
Donnelly, Kenneth J.	Petruccelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Rosenberg, Stanley C.
Eldridge, James B.	Ross, Richard J.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Forry, Linda Dorcena	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.
Jehlen, Patricia D.	Welch, James T. – 36.

NAYS – 0.

ABSENT OR NOT VOTING.

McGee, Thomas M.	Wolf, Daniel A. – 2.
------------------	----------------------

The yeas and nays having been completed at ten minutes past two o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Report of Committees.

By Mr. Rosenberg, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Jennifer L. Flanagan for legislation relative to upgrading mobile broadband coverage in the Commonwealth. **Senate Rule 36 was suspended, on motion of Mr. Brewer, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Telecommunications, Utilities and Energy. Sent to the House for concurrence.**

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Reducing the sewer betterment interest rate on repayments in the town of Easton (House, No. 3583); and
Authorizing the city of Revere to issue bonds or notes for the payment of a litigation settlement (House, No. 3687);
Were severally read a second time and ordered to a third reading.

The House Bill relative to pharmacy practice in the Commonwealth (House, No. 3672, amended),-- **was read a second time. Pending the question on ordering the bill to a third reading, the amendment previously recommended by the committee on Ways and Means striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 1899),-- was considered.**

Mr. Montigny moved that the proposed new text be amended, in section 2, by striking out, in line 13, the word “8” and inserting in place thereof the following word:- “6;”;

In section 2, by striking out, in lines 13 and 14, the words “1 representative of the public with experience in health care service delivery, administration or consumer advocacy, subject to section 9B;” and inserting in place thereof the words:- “3 representatives of the public with experience in health care service delivery, regulation or consumer advocacy, subject to section 9B”;

In section 2 by striking out, in line 18, the word “8” and inserting in place thereof the following word:- “6”

In section 2 by striking out, in line 21, the words “2 of the 8” and inserting in place thereof the following words:- “1 of the 6”;

In section 2 by striking out, in line 27, the words “2 of the 8” and inserting in place thereof the following words:- “1 of the 6”;

In section 2 by striking out, in line 32, the word “8” and inserting in place thereof the following word:- “6”;

In section 2 by striking out, in line 35, the word “8” and inserting in place thereof the following word:- “6”;

By striking out, in line 38, the word “8” and inserting in place thereof the following word:- “6”;

In section 2 by striking out, in line 42, the word “8” and inserting in place thereof the following word:- “6;” and

In section 2 by striking out lines 46 and 47 and inserting in place thereof the following words:- “Not more than 1 pharmacist in any 1 practice setting defined in subsections (c) to (g), inclusive, may serve on the board at any 1 time”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at nineteen minutes before three o'clock P.M., on motion of Mr. Montigny, as follows, to wit (*yeas 9 — nays 28*) [**Yeas and Nays No. 201**]:

YEAS.

Chang-Diaz, Sonia	Lovely, Joan B.
Clark, Katherine M.	Montigny, Mark C.
Eldridge, James B.	Pacheco, Marc R.
Jehlen, Patricia D.	Wolf, Daniel A. — 9.
Joyce, Brian A.	

NAYS.

Barrett, Michael J.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	Moore, Michael O.
Candaras, Gale D.	Moore, Richard T.
Chandler, Harriette L.	O'Connor Ives, Kathleen
Creem, Cynthia Stone	Petrucelli, Anthony

DiDomenico, Sal N.	Rodrigues, Michael J.
Donnelly, Kenneth J.	Rosenberg, Stanley C.
Donoghue, Eileen M.	Ross, Richard J.
Downing, Benjamin B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Forry, Linda Dorcena	Timilty, James E.
Hedlund, Robert L.	Welch, James T. – 28.

ABSENT OR NOT VOTING.

McGee, Thomas M. – 1.

The yeas and nays having been completed at fourteen minutes before three o'clock P.M., the amendment was *rejected*.

Mr. Montigny moved that the proposed new text be amended in section 18, by striking out lines 348 and 349; in said section 18, by striking out lines 378 and 379; and by striking out section 27.
After debate, the amendment was *rejected*.

Mr. Montigny moved that the proposed new text be amended in section 24, by striking out, in line 643, the figure “6” and inserting in place thereof the following figure:- “7”; and in said section 24, by inserting after the word “compounding”, in line 647, the following words:- “, 1 of whom shall be a member of the public with experience in health care service delivery, regulation or consumer advocacy”.

The amendment was adopted.

Ms. Clark and Mr. Montigny moved that the proposed new text be amended in section 18, by striking out, in line 308, the words “and shall be kept on record for at least 2 years” and inserting in place thereof the following words:- “Defective preparation logs shall be kept on record by the board indefinitely and shall be kept on record by the pharmacy for at least 10 years”.

After remarks, the amendment was adopted.

Ms. Clark and Mr. Montigny moved that the proposed new text be amended by striking out, in line 275, the following figure:- “7” and inserting in place thereof the following:- “3”; and by striking out, in line 285, the following figure:- “7” and inserting in place thereof the following:- “3”.

The amendment was adopted.

Messrs. Montigny and Tarr moved that the proposed new text be amended in section 7, at lines 120 to 124 by striking out after the word “regulation” in line 120 the words “; provided, however, that serious adverse medical occurrences directly associated with the use of a drug in humans that may not immediately result in death, be life threatening or require hospitalization may be considered serious when, based upon appropriate medical judgment, they develop into or result in 1 of the outcomes listed in this definition”.

After remarks, the amendment was adopted.

Mr. Tarr moved that the proposed new text be amended in section 2 by inserting after the word “members” in line 73 the following words:- “, investigative agents appointed pursuant to section 25”.

After remarks, the amendment was adopted.

Mr. Tarr moved that the proposed new text be amended by adding the following section:-

“SECTION __. The board of registration in pharmacy shall, in consultation with the department of public health and the advisory

committee, established by section 42C of chapter 112 of the General Laws, study the merits of establishing specialty pharmacy certificates of registration for those persons already actively registered as a pharmacist. Said study shall consider issuing to those registered pharmacists qualified by experience, knowledge and integrity specialty licenses for those specialties delineated in section 39 to 39C, inclusive, and in sections 39F to 39G, inclusive, or any other specialty area deemed appropriate. Said study shall consider the appropriate scope of practice for pharmacists engaged in said specialties, and the development of a system requiring specialty pharmacy certificates of registration to practice within a specialty delineated in one or any of the specialties in section 39 to 39C, inclusive, or 39F to 39G, inclusive.

The board, in consultation with the department of public health and the advisory committee, shall report to the general court the results of its recommendations, if any, together with drafts of legislation necessary to carry its recommendations, by filing said report and recommendations with the clerks of the house and senate and the joint committee on public health no later than December 31, 2014.”

The amendment was adopted.

Messrs. Tarr and Montigny moved that the proposed new text be amended in line 185 by inserting after the word, “commonwealth” the following new sentence:-“Said report shall be posted on the department of public health website.”

The amendment was adopted.

Mr. Tarr moved that the proposed new text be amended in section 18, by inserting at the end of line 457 the following sentence:-“The board shall also take steps to ensure that all shipments of pharmaceuticals from in-state pharmacies to out-of-state destinations are in compliance with the licensing procedures applicable to pharmacies in the commonwealth.”

The amendment was adopted.

Messrs. Richard T. Moore, Tarr and Joyce moved that the proposed new text be amended in section 18, in proposed section 39I, by striking in lines 453 through 457, in subsection (a), the following:- “In establishing a procedure to license non-resident or out-of-state pharmacies, the board shall require that the licensing procedures of the state in which any non-resident or out-of-state pharmacy is located are equivalent to the licensing procedures applicable to pharmacies in the commonwealth under this chapter.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at one minute past four o'clock P.M., on motion of Mr. Richard T. Moore, as follows, to wit (*yeas 37 — nays 0*) [**Yeas and Nays No. 202**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	Lovely, Joan B.
Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	O'Connor Ives, Kathleen
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.

Downing, Benjamin B.	Ross, Richard J.
Eldridge, James B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Forry, Linda Dorcena	Timilty, James E.
Hedlund, Robert L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 37.
Joyce, Brian A.	

NAYS – 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. – 1.

The yeas and nays having been completed at four minutes past three o'clock P.M., the amendment was adopted.

Mr. Richard Moore moves to amend the proposed new text in section 18, in proposed section 39D of chapter 112 of the General Laws, by striking out the definition of “Compounded complex non-sterile drug preparation” and inserting in place thereof the following definition:-

“‘Compounded complex non-sterile drug preparation’, a compounded preparation which requires special training, a special environment or special facilities or equipment or the use of compounding techniques and procedures that may present an elevated risk to the compounder or the patient, as defined by the board through regulation; provided, that the regulations promulgated by the board, which are applicable to this definition, shall be consistent with the category of complex non-sterile compounding described in chapter 795 of the USP.”;

In said section 18, in proposed section 39F of said chapter 112, by striking out subsection (c) and inserting in place thereof the following subsection:-

“(c) A pharmacy licensed by the commonwealth that intends to compound sterile drug preparations and dispense compounded sterile drug preparations in or out of the commonwealth shall adhere to regulations promulgated by the board pursuant to subsection (h) of section 39H, in consultation with the advisory committee, established by section 42C.”;

In said section 18, in proposed section 39G of said chapter 112, by striking out subsection (c) and inserting in place thereof the following subsection:-

“(c) A pharmacy licensed by the commonwealth that intends to compound complex non-sterile drug preparations and dispense compounded complex non-sterile drug preparations in or out of the commonwealth shall adhere to regulations promulgated by the board pursuant to subsection (h) of section 39H, in consultation with the advisory committee, established by section 42C.”;

In said section 18, in proposed section 39H of said chapter 112, by striking out subsection (h) and inserting in place thereof the following subsection:-

“(h) The board shall establish regulations for all pharmacies intending to compound or dispense sterile or complex non-sterile drug preparations in the commonwealth. The board shall establish regulations in consultation with the advisory committee, established by section 42C. The regulations shall include, but not be limited to: (1) enhancing environmental monitoring procedures; (2) enhancing media fill testing procedures; (3) enhancing non-sterile active pharmaceutical ingredient controls; (4) enhancing procedures testing endotoxin and bioburden levels of compounded drug preparations; (5) enhancing procedures surrounding process validation and reproducibility of compounded drug preparations; (6) enhancing procedures related to end stage testing of compounded drug preparations; (7) enhancing procedures relating to the storage and beyond-use-dating of compounded drug preparations; (8) enhancing the physical inspection process for finished sterile compounded drug preparations; (9) developing effective formulation records for sterile compounding pharmacies; (10) developing effective compounding

records for compounded drug preparations produced at sterile compounding pharmacies; and (11) developing effective procedures to maintain a preparation's quality and control after the compounded sterile or complex non-sterile drug preparation leaves the pharmacy. Said regulations shall not conflict with chapters 795 and 797 of the USP, but may be more expansive than those chapters of the USP."

After remarks, the amendment was adopted.

Mr. Montigny moved that the proposed new text be amended in section 6, in the second paragraph by adding the following 2 sentences:- "The label shall also notify prescribed users if the compounded preparation is not tested or approved by the federal Food and Drug Administration or if the compounded preparation does not meet federal Food and Drug Administration good manufacturing guidelines. In such instances, the label shall notify prescribed users to contact their prescribing health care professional if the prescribed user has any questions."

After remarks, the amendment was adopted.

Messrs. Richard Moore, Tarr and Montigny moved that the proposed new text be amended by inserting after section 28 the following section:-

"SECTION 28A. The advisory committee, established by section 42C of chapter 112 of the General Laws, in consultation with the board of registration in pharmacy and the department of public health, shall study the criteria used to test compounded sterile drug preparations, as defined under section 39D of chapter 112, including, but not limited to, the feasibility of unannounced and random inspections of sterile compounding pharmacies for efficacy of compounded sterile drug preparations. The advisory committee shall submit its findings in a report, together with any drafts of legislation necessary to carry out its recommendations, to the clerks of the senate and house of representatives, who shall forward the report to the joint committee on public health and the joint committee on health care financing not later than August 15, 2014."

The amendment was adopted.

Mr. Rosenberg in the Chair, Messrs. Tarr and Montigny moved that the proposed new text be amended in section 27, in the second paragraph, by adding the following sentence:- "The board, in consultation with the department of public health and the advisory committee, shall promulgate regulations, requiring a hospital pharmacy to affix a label, to the maximum extent feasible, to notify prescribed users and practitioners that the drug is either a sterile or non-sterile compounded drug preparation."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at one minute past four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 37 — nays 0*) [**Yeas and Nays No. 203**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	Lovely, Joan B.
Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	O'Connor Ives, Kathleen
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.

Donoghue, Eileen M.	Rosenberg, Stanley C.
Downing, Benjamin B.	Ross, Richard J.
Eldridge, James B.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Forry, Linda Dorcena	Timilty, James E.
Hedlund, Robert L.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 37.
Joyce, Brian A.	

NAYS – 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. – 1.

The yeas and nays having been completed at four minutes past four o'clock P.M., the amendment was adopted.

Mr. Brewer moved that the proposed new text be amended in section 13, by striking out, in line 162, the word “American Council on Pharmaceutical” and inserting in place thereof the following word:- “Accreditation Council for Pharmacy”;

In section 18, by inserting after the word “a”, in line 212 the following words:- “compounded complex non-sterile”;

In said section 18, by striking out, in line 213, the word “sterile”;

In the definition of “compounding”, in said section 18, by striking out clause (4);

In said section 18 by inserting after subsection (e) of proposed section 39F of chapter 112 of the General Laws the following subsection:-

“(f) A pharmacy shall not compound sterile drug products that are essentially copies of commercially available, federal Food and Drug Administration-approved drug preparations or drug preparations banned by the federal Food and Drug Administration because of safety concerns. A drug product shall not be considered a copy of a commercially available preparation if the compounded preparation produces, for the patient, a significant difference between the compounded drug and the comparable commercially available drug preparation, as determined by the prescriber as necessary for the medical best interest of the patient. A significant difference may include, but shall not be limited to, the removal of a dye for medical reasons, a change in strength, dosage form or delivery mechanism. A price difference shall not be a significant difference to justify compounding.”;

In said section 18, by inserting after subsection (e) of proposed section 39G of chapter 112 of the General Laws the following subsection:-

“(f) A pharmacy shall not compound non-sterile drug products that are essentially copies of commercially available, federal Food and Drug Administration-approved drug preparations or drug preparations banned by the federal Food and Drug Administration because of safety concerns. A drug product shall not be considered a copy of a commercially available preparation if the compounded preparation produces, for the patient, a significant difference between the compounded drug and the comparable commercially available drug preparation, as determined by the prescriber as necessary for the medical best interest of the patient. A significant difference may include, but shall not be limited to, the removal of a dye for medical reasons, a change in strength, dosage form or delivery mechanism. A price difference shall not be a significant difference to justify compounding.”;

In said section 18, by striking out, in lines 398 and 399, inclusive, the following words:- “, the efficacy of the products”;

In said section 18, by striking out, in line 465, the word “change” and inserting in place thereof the following word:- “charge”;

In said section 18, by striking out, in line 466, the words “A report” and inserting in place thereof the following words:- “The designated pharmacist in charge shall submit a report”;

In said section 18, by striking out, in line 467, the following words:- “shall be made”;

By inserting after section 29 the following section:-

“SECTION 30. The department of public health shall promulgate regulations as necessary to implement sections 24A, 39D, 39F, 39G, 39H and 42A of chapter 112 of the General Laws not later than 180 days after the passage of this act.”;

In section 32, by striking out, in line 691, the figure “32” and inserting in place thereof the following figure:- “31”;

By adding the following 2 sections:-

“SECTION 33. Sections 27, 28A, 29A and 30 shall take effect upon the passage of this act.

SECTION 34. Section 42C of chapter 112 of the General Laws shall take effect upon the passage of this act.”; and

By 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 further regulate forthwith the practice of compounding and dispensing of prescription drugs, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.”.

The amendment was adopted.

The Ways and Means amendment, as amended, was then adopted.

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

The question on passing the bill to be engrossed was determined by a call of the yeas and nays at six minutes past four o'clock P.M., on motion of Mr. Keenan, as follows, to wit (*yeas 38 — nays 0*) [**Yeas and Nays No. 204**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Brewer, Stephen M.	Kennedy, Thomas P.
Brownsberger, William N.	Lovely, Joan B.
Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	Murray, Therese
Creem, Cynthia Stone	O'Connor Ives, Kathleen
DiDomenico, Sal N.	Pacheco, Marc R.
Donnelly, Kenneth J.	Petruccelli, Anthony
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Rosenberg, Stanley C.
Eldridge, James B.	Ross, Richard J.
Finegold, Barry R.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.

Forry, Linda Dorcena	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. – 38.

NAYS – 0.

ABSENT OR NOT VOTING.

McGee, Thomas M. – 1.

The yeas and nays having been completed at eight minutes past four o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments. [For text of Senate amendments, see Senate, No. 1907, printed as amended.] Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Mr. Tarr,--

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

On motion of Mr. Richard T. Moore, at nineteen minutes past four o'clock P.M., the Senate adjourned to meet again tomorrow at a half past eleven o'clock A.M.