

The Commonwealth of Massachusetts

JOURNAL OF THE SENATE.



THURSDAY, JANUARY 21, 2016.

[6]

JOURNAL OF THE SENATE.

Thursday, January 21, 2016.

Met at one minute past eleven o'clock A.M.

The Senator from Hampden, Mr. Humason, led the President, members, guests and staff in the recitation of the pledge of allegiance to the flag.

Pledge of allegiance.

Communication.

Communication from the Office of the Comptroller (pursuant to Section 2 Chapter 46 of the Acts of 2015) submitting its second quarter report on BFY2016 "Settlements and Judgments" (received January 20, 2016),-- was placed on file.

Comptroller,-- settlements and judgements. SD2395

Petition.

Mr. Fattman presented a petition (accompanied by bill, Senate, No. 2106) of Ryan C. Fattman and Peter J. Durant (by vote of the town) for legislation to authorize the town of Southbridge to place a certain question on the ballot relative to amending the charter of the town of Southbridge [Local approval received];

Southbridge,-- town charter.

Under Senate Rule 20, referred to the committee on Municipalities and Regional Government.

Sent to the House for concurrence.

Reports of Committees.

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on Senate No. 1238 and House No. 2177, a Bill relative to implementing a blue alert system in the Commonwealth (Senate, No. 1238);

Blue alert system.

By the same Senator, for the same committee, on petition, a Bill relative to the towing away and storage of motor vehicles (Senate, No. 1291);

Motor vehicles,-- towing.

By the same Senator, for the same committee, on petition, a Bill relative to critical incident intervention by emergency service providers (Senate, No. 1321); and

Emergency services, -- critical incident.

By the same Senator, for the same committee, on petition, a Bill relative to the Architectural Access Board (Senate, No. 1323); and

Architectural Access Board.

By Mr. Rodrigues, for the committee on Revenue, on petition (accompanied by bill, Senate, No. 1506), a Bill relative to the Gold Star tax abatement (Senate, No. 2105);

Gold Star,-- tax abatement.

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

PAPER FROM THE HOUSE.

The annual report of the Public Employee Retirement Commission (under sections 21, 102 and 103 of Chapter 32 of the General Laws) relative to the percentum change in the average cost-of-living as shown by the United States consumer price index for the year 2015 compared with such index for the year 2014 (accompanied by bill, House, No. 3949),-- was referred, in concurrence, to

PERAC,-- cost of living.

the committee on Public Service.

A Bill establishing a sick leave bank for Brian Sheehan, an employee of the Middlesex County Sheriff’s Office (House, No. 3921,-- on petition),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Brian Sheehan,--
sick leave.

There being no objection, at two minutes past eleven o’clock A.M., the President declared a recess subject to the call of the chair; and, at four minutes past eleven o’clock A.M., the Senate reassembled, the President in the Chair.

Recess.

Resolutions.

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

Resolutions (filed by Ms. Chandler and Mr. Eldridge) “commemorating the two hundred and fiftieth anniversary of the incorporation of the town of Northborough; and

Town of
Northborough.

Resolutions (filed by Messrs. Fattman and Timilty, Ms. Spilka and Messrs. Moore and Ross) “congratulating Francis M. Saba on the occasion of his retirement.”

Francis M. Saba.

Orders Adopted.

Mr. Tarr offered the following order, to wit:

Ordered, That by the authority of article IV of section II of chapter I of the Constitution, the Senate declares that, by reason of the resignation of Robert L. Hedlund as senator from the Plymouth and Norfolk district, the office of senator from the Plymouth and Norfolk district is vacant as of January 4, 2016. By the authority of article XXIV of the Amendments to the Constitution, the Senate directs the president of the Senate to issue precepts setting forth May 10, 2016, as the day for holding an election to fill the vacancy in the Plymouth and Norfolk district, comprising of the towns of Duxbury, Hingham, Hull, Marshfield, Norwell and Scituate, in the county of Plymouth and the town of Cohasset and the city known as the town of Weymouth in the county of Norfolk.

Precepts,--
Plymouth and
Norfolk district.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Donnelly, and the order was considered forthwith and adopted.

Ms. Forry offered the following order, to wit:

Ordered, That by the authority of article IV of section II of chapter I of the Constitution, the Senate declares that, by reason of the resignation of Anthony Petruccelli as senator from the First Suffolk and Middlesex district, the office of senator from the First Suffolk and Middlesex district is vacant as of January 21, 2016. By the authority of article XXIV of the Amendments to the Constitution, the Senate directs the president of the Senate to issue precepts setting forth May 10, 2016, as the day for holding an election to fill the vacancy in the First Suffolk and Middlesex District consisting of the cities of Boston, ward 1, precincts 1 to 14, inclusive, ward 3, precincts 1 to 4, inclusive, 6 and 8, and ward 5, precincts 1, 3 to 5, inclusive and 11, Revere and the town of Winthrop, all in the county of Suffolk;

Precepts,--
First Suffolk and
Middlesex district.

and the city of Cambridge, ward 3, precincts 2 and 3, ward 4, precincts 1 and 3, and ward 5, all in the county of Middlesex.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Pacheco, and the order was considered forthwith and adopted.

Reports of Committees.

By Mr. Montigny, for the committee on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Sal N. DiDomenico, Michael J. Barrett, Thomas M. McGee, Jason M. Lewis and other members of the Senate for legislation relative to fair wages.

Fair wages,--
Logan airport.
SD2307

The rules were suspended, at the request of Mr. Wolf, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Labor and Workforce Development.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3958) of Bradley H. Jones, Jr., Bruce E. Tarr and Theodore C. Speliotis for legislation to establish a sick leave bank for Helen Annese, an employee of the Trial Court,-- **was referred in concurrence, under suspension of Joint Rule 12, to the committee on the Judiciary.**

Helen Annese,--
sick leave.

Report of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill to establish pay equity (Senate, No. 983),-- ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2107) [Estimated cost -- \$5,000,000].

Pay equity.

Order Adopted.

Subsequently, Mr. Spilka offered the following order, to wit:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill to establish pay equity (Senate, No. 983) (the committee on Ways and Means having recommended that the bill be amended by substituting a new draft, Senate, No. 2107) shall be placed in the Orders of the Day for a second reading on Thursday, January 28, 2016.

Procedural order.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, January 25, 2016. All such amendments shall be second-reading amendments to the Senate Ways and Means new draft (Senate, No. 2107), but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Pacheco, and the order was considered forthwith and adopted.

The bill will be placed in the Orders of the Day for Thursday, January 28, for a second reading with the amendment pending.

PAPER FROM THE HOUSE.

The House Bill The House Bill authorizing the town of North Reading to convey certain park land (House, No. 3819, 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 following:-

North Reading,--
land.

“SECTION 1. Notwithstanding chapter 30B of the General Laws or any other general or special law to the contrary, but subject to paragraphs (a), (b) and (g) of section 16 of said chapter 30B, the town of North Reading may transfer the care, custody and control of all or a portion of the parcel of land located on Magnolia road and identified on assessors’ map 33, parcel 71, from the board of selectmen for park purposes to the board of selectmen for general municipal purposes and for the purpose of conveyance, and the board of selectmen may convey the parcel of land on such terms and conditions and for such consideration, which may be nominal consideration, as the board of selectmen deems appropriate.

SECTION 2. In consideration for the conveyance of the property described in section 1, the town of North Reading shall transfer a parcel of land, whether under the care, custody, management and control of the board of selectmen or another board, to the conservation commission or parks department and such parcel shall be dedicated for conservation or park purposes. If no suitable parcel may be transferred, the town shall acquire a parcel of land or a conservation restriction, as defined in section 31 of chapter 184 of the General Laws, upon private or public land. Such land shall be dedicated or restricted to conservation or park purposes and shall be under the jurisdiction of the conservation commission or parks department. The parcel dedicated or restricted pursuant to this section shall be of equal or greater size and value for conservation, park or water supply purposes when compared to the parcel described in section 1.

SECTION 3. This act shall take effect upon its passage.”

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

Matters Taken Out of the Notice Section of the Calendar.

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

The House Bill establishing an appointed superintendent of streets in the town of Hardwick (House, No. 3865),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act providing for the appointment of a superintendent of streets in the town of Hardwick”.**

Hardwick,--
superintendent of
streets.

The House Bill relative to certain elections by the city council in the city of Lawrence (House, No. 3600),-- **was read a third time and passed to be**

Lawrence,-- city
council elections.

engrossed, in concurrence.

The House Bill relative to members of the city council in the city of Lawrence (House, No. 3601) (its title having been changed by the committee on Bills in the Third Reading),-- **was read a third time and passed to be engrossed, in concurrence.**

Lawrence,-- city council.

The House Bill relative to the standing committee on housing in the city of Lawrence (House, No. 3602) (its title having been changed by the committee on Bills in the Third Reading),-- **was read a third time and passed to be engrossed, in concurrence.**

Lawrence,-- committee on housing.

The House Bill relative to publication and public hearing requirements for proposed ordinances in the city of Lawrence (House, No. 3603),-- **was read a third time and passed to be engrossed, in concurrence.**

Lawrence,-- public hearings.

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Relative to town meetings in the Town of Framingham (House, No. 3195);

Second reading bills.

Authorizing the town of Southborough to grant an additional license for the sale of alcoholic beverages not to be drunk on the premises (House, No. 3719);

Authorizing the town of Montague to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 3783); and

Authorizing the conveyance of a certain parcel of land in the town of Lynnfield (House, No. 3834);

Were severally read a second time and ordered to a third reading.

There being no objection, during consideration of the Orders of the Day, the following matters were considered, as follows:

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered as follows:

The House Bill providing for a selectman – town manager form of government in the town of Wellesley (House, No. 3883),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

Wellesley,-- form of government.

PAPER FROM THE HOUSE

Committee of Conference Report.

A report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House bill relative to substance use, treatment, education and prevention (House, No. 3947) (*amended by the Senate* by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2103), reported, in part, the accompanying bill (House, No. 3956).

Substance abuse.

The rules were suspended, on motion of Ms. Spilka, and the report was accepted, in concurrence.

Recess.

There being no objection, at twelve minutes past one o'clock A.M., the President declared a recess subject to the call of the chair; and, at three minutes past two o'clock P.M., the Senate reassembled, the President in the Chair.

Recess.

PAPERS FROM THE HOUSE

Engrossed Bills.

The following engrossed bills (the first 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 Governor for his approbation, to wit:

Relative to the position of constable in the town of Carver (see Senate, No. 1926);

Bills laid before the Governor.

Establishing a Department of Municipal Finance in the town of Milford (see House, No. 3634);

Authorizing the town of Natick to lease certain town-owned property (see House, No. 3645);

Authorizing the town of Natick to lease certain town-owned property (see House, No. 3646); and

Authorizing the town of Norwood to grant additional licenses for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 3864, amended).

At four minutes past two o'clock P.M., Mr. Tarr doubted the presence of a quorum. The President having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently, at nine minutes past two o'clock P.M., a quorum was declared present.

Orders of the Day.

The Orders of the Day were further considered as follows:

There being no objection, the following matters were taken out of order.

The Senate Bill establishing the Massachusetts paint stewardship program (Senate, No. 408),-- was considered, the main question being on ordering the bill to a third reading.

Paint stewardship.

After remarks and pending the question on adoption of the amendment, previously recommended by the committee on Ways and Means, substituting a new draft entitled "An Act establishing the paint stewardship program" (Senate, No. 2052) and pending the main question on ordering the bill to a third reading, Mr. Tarr and Ms. O'Connor Ives moved to amend the proposed new draft by inserting in line 108 after the word "implemented:" the following:- "provided that the department shall submit to the clerks of the house and senate, and senate and house committee on ways and means the amount of the paint stewardship assessment at least 30 days before said paint stewardship assessment goes into effect".

2

After remarks, the amendment was adopted.

Mr. Keenan and Ms. O'Connor Ives moved to amend the proposed new draft in section 1, in lines 23-26, by striking out the words "Paint stewardship

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assessment”, the amount added to the purchase price of architectural paint sold in the commonwealth which is necessary to cover the paint stewardship program’s cost of collecting, transporting and processing the postconsumer paint throughout the commonwealth.”;

In said section 1, in lines 57-58, by striking out the words “Other than the paint stewardship assessment pursuant to subsection (c),”;

In said section 1, in lines 74-79, by striking out the words “(viii) propose an audited paint stewardship assessment as required by subsection (c); and (ix) include a funding mechanism that requires each producer who participates in a representative organization to remit to the representative organization payment of the paint stewardship assessment for each container of architectural paint sold in the commonwealth.”;

In said section 1, in lines 81-84, by striking clauses (i) through (iii) inclusive of paragraph (3) of subsection (b), and insert in place thereof the following:- “(i) if there is revision of the producer’s or representative organization’s goals; or (ii) if requested in writing by the department”;

In said section 1, in line 91, by inserting after the word “producers,” the word “and”, and in line 91-92, by striking out the words “and the amount of the paint stewardship assessment”;

In said section 1, in lines 94-116, by striking out subsection (c);

In said section 1, in line 117, by striking out the figure “(d)”, and inserting in place thereof the following:- “(c)”;

In said section 1, in line 122, by striking out the words “and the paint stewardship assessment”;

In said section 1, in lines 124-126, by striking out the words “and information that notifies consumers that a charge for the operation of the program is included in the purchase price of all architectural paint sold in the commonwealth”; and

In said section 1, in lines 143-144, by striking out the words “, as determined by an independent financial audit funded by the paint stewardship assessment”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at seventeen minutes past two o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 11 — nays 25) **[Yeas and Nays No. 213]**:

YEAS.

deMacedo, Viriato M.	Lovely, Joan B.
Donoghue, Eileen M.	Moore, Michael O.
Fattman, Ryan C.	O'Connor Ives, Kathleen
Flanagan, Jennifer L.	Ross, Richard J.
Humason, Donald F., Jr.	Tarr, Bruce E. — 11.
Keenan, John F.	

NAYS.

Barrett, Michael J.	Joyce, Brian A.
Brady, Michael D.	Lesser, Eric P.
Brownsberger, Willia	Lewis, Jason M.

N.

Chandler, Harriette L.	L'Italien, Barbara A.
Chang-Diaz, Sonia	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.
DiDomenico, Sal N.	Pacheco, Marc R.
Donnelly, Kenneth J.	Rodrigues, Michael J.
Downing, Benjamin B.	Rush, Michael F.

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Eldridge, James B.
Forry, Linda Dorcena
Gobi, Anne M.
Jehlen, Patricia D.

Spilka, Karen E.
Timilty, James E.
Welch, James T. – 25.

ABSENT OR NOT VOTING.

Petrucelli, Anthony

Wolf, Daniel A. – 2.

The yeas and nays having been completed at twenty-two minutes past two o'clock P.M., the amendment was *rejected*.

Mr. Keenan moved to amend the proposed new draft in section 1, in lines 16 and 22, by striking out the word “stewardship” each time it appears, and inserting in place thereof in each instance the following word:- “representative”; and

In section 1, in line 159, by inserting after the word “later,” the following words:-”the producer or”.

After remarks, the amendment was adopted.

Mr. Keenan moved to amend the proposed new draft by inserting after the word “paint” in line 68 the following:- “, which shall include providing assistance or incentives for participation by small retailers that may lack the physical space or staffing capacity to serve as collection points”.

The amendment was *rejected*.

Mr. Keenan and Ms. O'Connor Ives moved to amend the proposed new draft by inserting after the word “regulations”, in line 132, the following:- “, but no retailer shall be required by a producer to participate as a collection point as a condition of the retailer’s business relationship with the producer”.

After remarks, the amendment was adopted.

Mr. Tarr moved to amend the proposed new draft in section 2, by striking the figure “2016” and inserting in place thereof the figure “2017”; in section 3, by striking the figure “2017” and inserting in place thereof the figure “2018”; and in section 4, by striking the figure “2016” and inserting in place thereof the figure “2017”.

After remarks the amendment was adopted.

Mr. Tarr, Ms. O'Connor Ives and Mr. Ross moved to amend the proposed new draft in section 1, by inserting in paragraph (2) of subsection (d) of proposed section 9 of chapter 21H of the General Laws, the following 2 sentences:- "Producers or the representative organization shall provide retailers with the educational materials, including materials detailing the total amount of the paint stewardship assessment. Retailers shall conspicuously make the educational materials, which shall include the per unit amount of said assessment, available for consumers at the point of purchase or at the display of architectural paint."

The amendment was adopted.

Mr. Tarr and Ms. O'Connor Ives moved to amend the proposed new draft by striking out, in line 96, the word "shall" and inserting in place thereof the following:-"may".

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-eight minutes past two o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 7 — nays 29) [**Yeas and Nays No. 214**]:

YEAS.

deMacedo, Viriato M.
Fattman, Ryan C.
Humason, Donald F., Jr.

Lovely, Joan B.
Ross, Richard J.
Tarr, Bruce E. – 7.

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Keenan, John F.

NAYS.

Barrett, Michael J.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia

Joyce, Brian A.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
McGe

, Thomas M.

Creem, Cynthia Stone
DiDomenico, Sal N.
Donnelly, Kenneth J.
Donoghue, Eileen M.
Downing, Benjamin B.
Eldridge, James B.
Flanagan, Jennifer L.
Forry, Linda Dorcena
Gobi, Anne M.
Jehlen, Patricia D.

Montigny, Mark C.
Moore, Michael O.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Rush, Michael F.
Spilka, Karen E.
Timilty, James E.
Welch, James T. – **29.**

ABSENT OR NOT VOTING.

Petrucelli, Anthony

Wolf, Daniel A. – **2.**

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

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

After remarks, the bill (Senate, No. 2052, amended) was then ordered to third reading and read a third time.

After further remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays at twenty-six minutes before three o'clock P.M., on motion of Mr. Fattman, as follows, to wit (yeas 25 — nays 11) **[Yeas and Nays No. 215]:**

YEAS.

Barrett, Michael J.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
DiDomenico, Sal N.
Donnelly, Kenneth J.
Downing, Benjamin B.
Eldridge, James B.
Forry, Linda Dorcena
Gobi, Anne M.
Jehlen, Patricia D.

Joyce, Brian A.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
McGee, Thomas M.
Montigny, Mark C.
Pacheco, Marc R.
Rodrigues, Michael J.
Rush, Michael F.
Spilka, Karen E.
Timilty, James E.
Welch, James T. – **25.**

NAYS.

deMacedo, Viriato M.
Donoghue, Eileen M.
Fattman, Ryan C.
Flanagan, Jennifer L.
Humason, Donald F., Jr.

Lovely, Joan B.
Moore, Michael O.
O'Connor Ives, Kathleen
Ross, Richard J.
Tarr, Bruce E. – **11.**

Keenan, John F.

ABSENT OR NOT VOTING.

Petrucelli, Anthony

Wolf, Daniel A. – 2.

The yeas and nays having been completed at twenty-three minutes before three o'clock P.M., the bill was passed to be engrossed [For text, see Senate, No. 2109, printed as amended].

Sent to the House for concurrence.

Then Senate Bill to prohibit the use of mobile telephones while operating a motor vehicle (Senate, No. 2032),-- was read a second time.

After remarks, and pending the question on adoption of the amendment previously recommended by the committee on Rules, substituting a new draft with the same title (Senate, No. 2093) and pending the main question on ordering the bill to a third reading, Messrs. Timilty and Ross moves to amend the proposed new draft in section 3 by adding the following:-

"(d) This section shall not apply to public safety personal or emergency first responders using a mobile electronic device in the course of their official duty".

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at two minutes before three o'clock P.M., on motion of Mr. deMacedo, as follows, to wit (yeas 33 — nays 3) [**Yeas and Nays No. 216**]:

YEAS.

Barrett, Michael J.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
deMacedo, Viriato M.
DiDomenico, Sal N.
Donnelly, Kenneth J.
Donoghue, Eileen M.
Downing, Benjamin B.
Eldridge, James B.
Fattman, Ryan C.
Flanagan, Jennifer L.
Forry, Linda Dorcena
Gobi, Anne M.
Humason, Donald F., Jr.

Jehlen, Patricia D.
Joyce, Brian A.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Ross, Richard J.
Rush, Michael F.
Spilka, Karen E.
Tarr, Bruce E.
Timilty, James E.
Welch, James T. – 33.

NAYS.

L'Italien, Barbara A.
Lovely, Joan B.

Rodrigues, Michael J. – 3.

ABSENT OR NOT VOTING.

Petrucelli, Anthony

Wolf, Daniel A. – 2.

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

Mr. Moore moved to amend the proposed new draft in section 3, by inserting at the end of paragraph (b) the following:-

“In addition to the fine pursuant to this paragraph, an operator who commits a second or third or subsequent offense shall also be required to complete a program

Motor vehicles,--
mobile phone use.

1

2

selected by the registrar of motor vehicles that encourages a change in driver behavior and attitude about distracted driving.”

After remarks, the amendment was adopted.

Mr. Keenan moved to amend the proposed new draft by striking the words “a part of the roadway intended for travel” in lines 17 and 18, and inserting in place thereof the words:- “any part of a roadway intended for travel by a motor vehicle or bicycle”.

8

After remarks, the amendment was adopted.

Ms. Jehlen moved to amend the proposed new draft by inserting at the end thereof the following new sections:-

9

“SECTION 4. Chapter 6 of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following new sections:-

Section 218. The governor shall annually issue a proclamation setting apart the second week of March as Massachusetts Sleep Awareness Week, and the Sunday at the beginning of Daylight Savings Time, so called as Massachusetts Sleep Awareness Day and recommending that such week be properly observed as a period of special attention to the problems of sleep deprivation and fatigue such as: impaired reaction time, judgment and vision; problems with information processing and short-term memory; decreased performance, vigilance and motivation; increased moodiness and aggressive behaviors; and, especially, the dangers of driving under the influence of sleep deprivation or fatigue. To this end, the agencies of the Commonwealth as well as private organizations, especially those interested in education, transportation, public health, and public safety, shall adopt policies and programs consistent with the goals of: (1) increasing public awareness about sleep, sleep disorders, and consequences of sleep deprivation; (2) promoting science-based public policies that improve the sleep health of the nation; (3) advancing basic, clinical, applied, and population-based research; and promoting recognition of and access to care for all individuals with sleep disorders.

Section 219. The governor shall annually issue a proclamation setting apart the second week of November as Massachusetts Drowsy Driving Prevention Week and recommending that such week be properly observed as a period of special attention to the need for public awareness and action relative to the problems of drowsy driving and driver fatigue. For purposes of this section ‘drowsy driving’ or ‘driver fatigue’ shall mean driving while being ‘sleepy,’ ‘tired,’ ‘drowsy,’ or ‘exhausted’.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-two minutes past three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 36 — nays 0) [Yeas and Nays No. 217]:

YEAS.

Barrett, Michael J.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
deMacedo, Viriato M.
DiDomenico, Sal N.
Donnelly, Kenneth J.

Joyce, Brian A.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.

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Donoghue, Eileen M.	O'Connor Ives, Kathleen
Downing, Benjamin B.	Pacheco, Marc R.
Eldridge, James B.	Rodrigues, Michael J.
Fattman, Ryan C.	Ross, Richard J.
Flanagan, Jennifer L.	Rush, Michael F.
Forry, Linda Dorcena	Spilka, Karen E.
Gobi, Anne M.	Tarr, Bruce E.
Humason, Donald F., Jr.	Timilty, James E.
Jehlen, Patricia D.	Welch, James T. – 36.

NAYS – 0.

ABSENT OR NOT VOTING.

Petrucelli, Anthony	Wolf, Daniel A. – 2.
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The yeas and nays having been completed at twenty-six minutes past three o'clock P.M., the amendment was adopted.

Mr. Keenan moved to amend the proposed new draft by striking out section 2 and inserting in place thereof the following: - 10

“SECTION 2. Section 13 of said chapter 90, as so appearing, is hereby amended by striking the words ‘mobile telephone’ in line 6 and inserting in place thereof the words ‘mobile electronic device.’”

After remarks, the amendment was adopted.

Messrs. Tarr and Ross moved to amend the proposed new draft in section 3, by striking subsection (b) and replacing it with the following: - “(b) Whoever violates this section shall be punished by a fine of \$100 for a first offense, by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense, provided further, that the fine shall be suspended for a first time violator who provides proof of acquisition of a hands-free accessory subsequent to the violation but prior to the imposition of a fine subject to regulations promulgated by the executive office of public safety.” 11

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at thirteen minutes past four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 12 — nays 24) [**Yeas and Nays No. 218**]:

YEAS.

Barrett, Michael J.	L'Italien, Barbara A.
Chang-Diaz, Sonia	Moore, Michael O.
deMacedo, Viriato M.	Rodrigues, Michael J.
Fattman, Ryan C.	Ross, Richard J.
Gobi, Anne M.	Tarr, Bruce E.
Humason, Donald F., Jr.	Timilty, James E. – 12.

NAYS.

Brady, Michael D.	Joyce, Brian A.
Brownsberger, William N.	Keenan, John F.
Chandler, Harriette L.	Lesser, Eric P.
Creem, Cynthia Stone	Lewis, Jason M.
DiDomenico, Sal N.	Lovely, Joan B.
Donnelly, Kenneth J.	McGee, Thomas M.
Donoghue, Eileen M.	Montigny, Mark C.
Downing, Benjamin B.	O'Connor Ives, Kathleen
Eldridge, James B.	Pacheco, Marc R.

Flanagan, Jennifer L.
Forry, Linda Dorcena
Jehlen, Patricia D.

Rush, Michael F.
Spilka, Karen E.
Welch, James T. – 24.

ABSENT OR NOT VOTING.

Petrucelli, Anthony

Wolf, Daniel A. – 2.

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

There being no objection, during consideration of the orders of the Day, the following matters were considered, as follows:

PAPERS FROM THE HOUSE

Engrossed Bill.

An engrossed Bill relative to civil commitments for alcohol and substance use disorders (see House, No. 3956) (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 enacted and signed by the President and laid before the Governor for his approbation.**

Bill laid before the Governor.

A Bill authorizing the recertification of the fiscal year 2016 tax rate for the town of Holbrook (printed in House, No. 3951,-- being a message from his Excellency the Governor),-- was read.

Holbrook,-- tax rate.

There being no objection, the rules were suspended, on motion of Mr. Keenan, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Orders of the Day.

The Orders of the Day were further considered as follows:

Then Senate Bill to prohibit the use of mobile telephones while operating a motor vehicle (Senate, No. 2032),-- was further considered, the main question being on ordering the bill to a third reading.

Motor vehicles,-- mobile phone use.

Messrs. Tarr and Ross and Ms. O'Connor Ives moved to amend the proposed new draft by adding at the end thereof a section:-

13

“SECTION 4. Chapter 155 of the acts of 2010, is hereby amended by striking out section 14, as appearing in the 2014 Official Edition, and inserting in place thereof the following section:-

Section 14. The registrar of motor vehicles, in cooperation with the highway safety division, shall develop and implement an annual public awareness campaign for both junior and adult operators which shall include, but not be limited to, the dangers and consequences of distracted driving, information on the restrictions of mobile telephone and mobile electronic device use while operating a motor vehicle under sections 8M, 12A, 13 and 13B of chapter 90 of the General Laws, and information on the fines and punishments which may be imposed for violations of said chapter 90. The registrar of motor vehicles shall include information on the hazards of distracted driving in each revised publication of the driver's manual.”

After remarks, the amendment was adopted.

Messrs. Tarr and Ross moved to amend the proposed new draft in section 3, by striking subsection (b) and replacing it with the following:-

14

“(b) Whoever violates this section shall be punished by a fine of \$100 for a

first offense, by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense.”

After remarks, the amendment was *rejected*.

Messrs. Keenan and Ross moved to amend the proposed new draft by inserting the following section:-

15

“SECTION _ . Said section 7B of said chapter 90, as so appearing, is hereby further amended by striking the words (c) that police intervention is necessary for the personal safety of a passenger or to otherwise ensure the safety of the passengers; and (d) and inserting in place thereof the following:-

(c) that police intervention, fire department or other emergency service is necessary for the personal safety of a passenger or to otherwise ensure the safety of the passengers; (d) that police intervention, fire department or other emergency service is necessary for the personal safety of a pedestrian in or near the roadway; (e) that police intervention is necessary due to a motor vehicle being operated erratically so as to pose a threat to the safety of travelers on the roadway or to pedestrians; or (f).”; and

By striking the word "or" the second time it appears in line 29; and by inserting after the word "roadway" in line 30 the following:- “; (v) that police intervention, fire department or other emergency service was necessary for the personal safety of a pedestrian in or near the roadway or; (vi) that police intervention was necessary due to a motor vehicle being operated erratically so as to pose a threat to the safety of travelers on the roadway or to pedestrians.”

The amendment was adopted.

Messrs. Tarr and Ross moved to amend the proposed new draft in section 3, by striking in subsection a, in line 14, the sentence: "An operator of a motor vehicle who holds a mobile electronic device to, or in the immediate proximity of the operator’s head while operating such vehicle shall be presumed to be in violation of this section." and replacing it with the following:- “Operating a motor vehicle with a mobile electronic device to, or in the immediate proximity of the operator’s head may be considered evidence of a violation of this section.”

17

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-two minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 12 — nays 24) **[Yeas and Nays No. 219]**:

YEAS.

- | | |
|-------------------------|-----------------------|
| Barrett, Michael J. | Rodrigues, Michael J. |
| Brady, Michael D. | Ross, Richard J. |
| deMacedo, Viriato M. | Rush, Michael F. |
| Fattman, Ryan C. | Tarr, Bruce E. |
| Humason, Donald F., Jr. | Timilty, James E. |
| Moore, Michael O. | Welch, James T. – 12. |

NAYS.

- | | |
|--------------------------|---------------------|
| Brownsberger, William N. | Jehlen, Patricia D. |
| Chandler, Harriette L. | Joyce, Brian A. |
| Chang-Diaz, Sonia | Keenan, John F. |
| Creem, Cynthia Stone | Lesser, Eric P. |
| DiDomenico, Sal N. | Lewis, Jason M. |
| Donnelly, Kenneth J. | L'Italien, Barbara |

A.

- | | |
|---------------------|-----------------|
| Donoghue, Eileen M. | Lovely, Joan B. |
|---------------------|-----------------|

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Downing, Benjamin B.
Eldridge, James B.
Flanagan, Jennifer L.
Forry, Linda Dorcena
Gobi, Anne M.

McGee, Thomas M.
Montigny, Mark C.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Spilka, Karen E. – **24.**

ABSENT OR NOT VOTING.

Petrucelli, Anthony

Wolf, Daniel A. – **2.**

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

Messrs. Tarr and Ross moved to amend the proposed new draft in section 3, by inserting after subsection (c), the following subsection:-

“(d) The provisions of the subsections (a) through (c) inclusively shall not apply to a vehicle operated by a person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information, an employee or contractor of a public utility who uses a handheld wireless communications device while responding to a dispatch by the public utility to respond to an emergency, including, without limitation, a response to a power outage or an interruption in utility service, or a member of the armed forces of the United States, while operating a military vehicle.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 13 — nays 23) [**Yeas and Nays No. 220**]:

YEAS.

Barrett, Michael J.
deMacedo, Viriato M.
Fattman, Ryan C.
Flanagan, Jennifer L.
Gobi, Anne M.
Humason, Donald F., Jr.
Moore, Michael O.

O'Connor Ives, Kathleen
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Tarr, Bruce E.
Timilty, James E. – **13.**

NAYS.

Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
DiDomenico, Sal N.
Donnelly, Kenneth J.
Donoghue, Eileen M.
Downing, Benjamin B.
Eldridge, James B.
Forry, Linda Dorcena
Jehlen, Patricia D.

Joyce, Brian A.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
Pacheco, Marc R.
Spilka, Karen E.
Welch, James T. – **23.**

ABSENT OR NOT VOTING.

Petrucelli, Anthony

Wolf, Daniel A. – **2.**

The yeas and nays having been completed at thirteen minutes before five

18

o'clock P.M., the amendment was *rejected*.

Messrs. Tarr and Ross moved to amend the proposed new draft in section 3, subsection (b), by inserting after the last sentence, the following:- 20

“The provisions of this subsection shall not be construed as authorizing the seizure or forfeiture of a hand-held mobile telephone or a mobile electronic device.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eleven minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 25 — nays 11) [**Yeas and Nays No. 221**]:

YEAS.

- | | |
|--------------------------|-------------------------|
| Barrett, Michael J. | Lewis, Jason M. |
| Brady, Michael D. | Lovely, Joan B. |
| Brownsberger, William N. | Moore, Michael O. |
| Chang-Diaz, Sonia | O'Connor Ives, Kathleen |
| deMacedo, Viriato M. | Pacheco, Marc R. |
| Donoghue, Eileen M. | Rodrigues, Michael J. |
| Fattman, Ryan C. | Ross, Richard J. |
| Flanagan, Jennifer L. | Rush, Michael F. |
| Forry, Linda Dorcena | Spilka, Karen E. |
| Gobi, Anne M. | Tarr, Bruce E. |
| Humason, Donald F., Jr. | Timilty, James E. |
| Keenan, John F. | Welch, James T. – 25. |
| Lesser, Eric P. | |

NAYS.

- | | |
|------------------------|-------------------------|
| Chandler, Harriette L. | Jehlen, Patricia D. |
| Creem, Cynthia Stone | Joyce, Brian A. |
| DiDomenico, Sal N. | L'Italien, Barbara A. |
| Donnelly, Kenneth J. | McGee, Thomas M. |
| Downing, Benjamin B. | Montigny, Mark C. – 11. |
| Eldridge, James B. | |

ABSENT OR NOT VOTING.

- | | |
|---------------------|----------------------|
| Petrucelli, Anthony | Wolf, Daniel A. – 2. |
|---------------------|----------------------|

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

Ms. Donoghue moved to amend the proposed new draft in section 3 by inserting after the word "head," in line 16, the following:- "or lap". 21

The amendment was *rejected*.

Mr. Tarr moved to amend the proposed new draft in section 3, subsection (a), by inserting after the last sentence the following:- 22

“For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.”

The amendment was *rejected*.

Messrs. Tarr and Ross moved to amend the proposed new draft by striking the text in its entirety and replacing it with the following:- 24

“SECTION 1. Section 7B of chapter 90 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 72, the word ‘telephone’ and inserting in place thereof the following words:- electronic device.

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SECTION 2. Said chapter 90 is hereby amended by striking out section 13B and inserting in place thereof the following new section:-

Section 13B. (a) Any operator of a motor vehicle who uses a mobile electronic device for voice communication or a navigation device while holding or touching said device and operates such a vehicle in an unsafe manner so that the lives or safety of the public might be endangered shall be punishable by a fine of \$250 for a first offense, by a fine of \$500 for a second offense and by a fine of \$1000 for a third or subsequent offense.

(b) No operator of a motor vehicle shall use a mobile telephone, or any handheld device capable of accessing the internet, to manually compose, send or read an electronic message or to input information by hand into a global positioning system or navigation device while operating a motor vehicle. For the purposes of this section, an operator shall not be considered to be operating a motor vehicle if the vehicle is stationary and not located in a part of the public way intended for travel.

(c) A violation of subsection (b) shall be punishable by a fine of \$100 for a first offense, by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense.

(d) It shall be an affirmative defense for an operator to produce documentary or other evidence that the use of the mobile electronic device that is the basis of the alleged violation was done so as a result of an emergency. For the purpose of this section, emergency uses of a mobile electronic device shall include but are not limited to communication that (i) a motor vehicle is disabled or an accident is present in the roadway; (ii) medical attention or assistance is required; (iii) police intervention, fire department or other emergency service was necessary for the personal safety of the operator or a passenger.

(e) A penalty under this section shall not be a surchargeable offense under section 113B of chapter 175.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at two minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 8 — nays 28) [**Yeas and Nays No. 222**]:

YEAS.

deMacedo, Viriato M.
Fattman, Ryan C.
Flanagan, Jennifer L.
Humason, Donald F., Jr.

Moore, Michael O.
Rodrigues, Michael J.
Ross, Richard J.
Tarr, Bruce E. — **8.**

NAYS.

J. Barrett, Michae
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
DiDomenico, Sal N.
Donnelly, Kenneth J.
Donoghue, Eileen M.
Downing, Benjamin B.
Eldridge, James B.
Forry, Linda Dorcena

Joyce, Brian A.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rush, Michael F.
Spilka, Karen E.

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Gobi, Anne M.
Jehlen, Patricia D.

Timilty, James E.
Welch, James T. – **28.**

ABSENT OR NOT VOTING.

Petrucelli, Anthony

Wolf, Daniel A. – **2.**

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

Messrs. Tarr and Ross moved to amend the proposed new draft by inserting at the end thereof the following new section:-

3

“SECTION _ . Notwithstanding any general or special law to the contrary the division of insurance shall conduct a study on the feasibility of reducing the amount of time unsafe drivers points remain on a drivers record. Said report along with recommendations shall be submitted to the clerks of the house and senate, the joint committee on transportation and the house and senate committee on ways and means by no later than December 31, 2016.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at eight minutes past five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 36 — nays 0) [**Yeas and Nays No. 223**]:

YEAS.

Barrett, Michael J.
Brady, Michael D.
Brownsberger, William N.
Chandler, Harriette L.
Chang-Diaz, Sonia
Creem, Cynthia Stone
deMacedo, Viriato M.
DiDomenico, Sal N.
Donnelly, Kenneth J.
Donoghue, Eileen M.
Downing, Benjamin B.
Eldridge, James B.
Fattman, Ryan C.
Flanagan, Jennifer L.
Forry, Linda Dorcena
Gobi, Anne M.
Humason, Donald F., Jr.
Jehlen, Patricia D.

Joyce, Brian A.
Keenan, John F.
Lesser, Eric P.
Lewis, Jason M.
L'Italien, Barbara A.
Lovely, Joan B.
McGee, Thomas M.
Montigny, Mark C.
Moore, Michael O.
O'Connor Ives, Kathleen
Pacheco, Marc R.
Rodrigues, Michael J.
Ross, Richard J.
Rush, Michael F.
Spilka, Karen E.
Tarr, Bruce E.
Timilty, James E.
Welch, James T. – **36.**

NAYS – 0.

ABSENT OR NOT VOTING.

Petrucelli, Anthony

Wolf, Daniel A. – **2.**

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

Mr. Barrett moved to amend the proposed new draft in section 3, in line 26 and 27, by striking out the words "report: (i) that the motor vehicle was disabled; (ii) that medical attention or assistance was required;" and inserting in place the following words:- "report or receive a report: (i) that the motor vehicle was disabled; (ii) that health or medical attention or assistance is required;"

4

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at nineteen minutes past five o'clock P.M., on motion of

Mr. Barrett, as follows, to wit (yeas 12 — nays 24) [**Yeas and Nays No. 224**]:

YEAS.

Barrett, Michael J.	Humason, Donald F., Jr.
Chang-Diaz, Sonia	Moore, Michael O.
deMacedo, Viriato M.	Rodrigues, Michael J.
Fattman, Ryan C.	Ross, Richard J.
Flanagan, Jennifer L.	Tarr, Bruce E.
Gobi, Anne M.	Timilty, James E. — 12.

NAYS.

Brady, Michael D.	Keenan, John F.
Brownsberger, William N.	Lesser, Eric P.
Chandler, Harriette L.	Lewis, Jason M.
Creem, Cynthia Stone	L'Italien, Barbara A.
DiDomenico, Sal N.	Lovely, Joan B.
Donnelly, Kenneth J.	McGee, Thomas M.
Donoghue, Eileen M.	Montigny, Mark C.
Downing, Benjamin B.	O'Connor Ives, Kathleen
Eldridge, James B.	Pacheco, Marc R.
Forry, Linda Dorcena	Rush, Michael F.
Jehlen, Patricia D.	Spilka, Karen E.
Joyce, Brian A.	Welch, James T. — 24.

ABSENT OR NOT VOTING.

Petrucelli, Anthony	Wolf, Daniel A. — 2.
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The yeas and nays having been completed at twenty-two minutes past five o'clock P.M., the amendment was *rejected*.

Mr. Barrett moved to amend the proposed new draft in section 3, in lines 17 and 18, by striking out the words "and not located in a part of the roadway intended for travel".

5

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-nine minutes before six o'clock P.M., on motion of Mr. Barrett, as follows, to wit (yeas 5 — nays 31) [**Yeas and Nays No. 225**]:

YEAS.

Barrett, Michael J.	Moore, Michael O.
Fattman, Ryan C.	Timilty, James E. — 5.
L'Italien, Barbara A.	

NAYS.

Brady, Michael D.	Joyce, Brian A.
Brownsberger, William N.	Keenan, John F.
Chandler, Harriette L.	Lesser, Eric P.
Chang-Diaz, Sonia	Lewis, Jason M.
Creem, Cynthia Stone	Lovely, Joan B.
deMacedo, Viriato M.	McGee, Thomas M.
DiDomenico, Sal N.	Montigny, Mark C.
Donnelly, Kenneth J.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Pacheco, Marc R.
Downing, Benjamin B.	Rodrigues, Michael J.

Eldridge, James B.
Flanagan, Jennifer L.
Forry, Linda Dorcena
Gobi, Anne M.
Humason, Donald F., Jr.
Jehlen, Patricia D.

Ross, Richard J.
Rush, Michael F.
Spilka, Karen E.
Tarr, Bruce E.
Welch, James T. – 31.

ABSENT OR NOT VOTING.

Petrucelli, Anthony
Wolf, Daniel A. – 2.

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

There being no objection, during consideration of the Orders of the Day, the following matters were considered, as follows:

Remarks of Senator Harriette L. Chandler

Mike Flynn, former High Sheriff of Worcester County, passed away peacefully in his sleep on Friday, January 8, 2016 at the age of 89.

He graduated St. Bernard's High School in Fitchburg, Massachusetts, in 1943 and Cushing Academy in 1944; he was the captain of the football team at both schools.

In 1945, he served in the 7th Infantry Division in the Pacific during World War II and was promoted to 1st Sgt. at the age of 18 while serving in Okinawa, Japan. He also served in Korea and in 1965, retired from the Massachusetts National Guard as a major in the 181st Infantry Division.

Thereafter, he served on the Fitchburg Police Department for 10 years, during which he was promoted to detective. In 1963, he became Deputy Master of the Worcester County Jail and House of Correction. In 1986, he was elected High Sheriff of Worcester County, a position that he held for 3 terms over the next 18 years.

He was past-president of the Massachusetts Sheriff's Association, and a member of the National Sheriff's Association, American Jail Association, Worcester County Chiefs of Police Association, Central Mass Police Association, Southern Mass Police Association, and Eastern Mass Police Association.

Mike Flynn has contributed to his community in countless ways.

He served as Chair of the West Boylston Democratic Committee for 15 years and was a member of the Irish American Association in Fitchburg, the Ancient Order of Hibernians in Worcester, the Emerald Club of Worcester, Ellis Island Foundation, Friends of Coggs Hall Park in Fitchburg, St. Joseph's Church in Charlton, and Co-Chair of the Korean and Vietnam War Memorial in Fitchburg. He was also a member of the Knights of Columbus Council #99 in Fitchburg, where he was a 4th degree knight; Bishop Beaven Assembly #396; the Lions Club of West Boylston; the Eastwood Club in Fitchburg; the 200 Sportsmen Club in Webster; and is a lifetime member of the Polish American Citizens Club in Webster.

He recorded books in tape for the blind in Worcester County, served on the Montachusett Alcoholism Council in Leominster, won the Emerald Club Shillelagh Award in 1996, and was Grand Marshal of the Worcester St. Patrick's Day Parade in 1997. He received the Outstanding Community Service Award from the Roman Catholic Diocese of Worcester in May 2000 and was elected to the Electoral College that same year.

He is predeceased by his wife, Joan Marie (Whealan) Flynn, whom he married in 1957; his brother, James E. Flynn; and his sister, Maureen Flynn May.

He is survived by his children: John McDonnell Flynn II of Sterling, Marianne (Flynn) and her husband, Joseph Blanchet of Charlton, Kathleen "Kelly" Flynn and her husband, David Richards Jr., of Charlton, Kevin Joseph Flynn and his wife, Kathy Flynn of Leicester, Joan Marie (Flynn) and her husband, Stephen Ceely of Leicester, and Michael James Flynn and his wife, Sasha Flynn, M.D., of Northborough.

He is survived by his grandchildren: Dr. Kristin Blanchet and fiancé, JaModi Robinson, Michael Blanchet and wife, Valaphorn Blanchet, Brittany Flynn, Malachi, Mason, and Matthew Ceely, John M. Flynn III, Shannon Flynn-Richards, Jacob and Sophia Flynn, Jesse Ceely, Alicia (Ceely) Ratliff, Deborah, Eric, Jesse, and David Richards, Anna and Robert McInnis; and great-grandson, Cole Joseph Robinson.

On motion of Ms. Creem, under the provisions of Senate Rule 6, the remarks were printed in the Journal of the Senate.

Moment of Silence.

At the request of the President, the members, guests and staff stood in a moment of silence and reflection to the memory of former sheriff Mike Flynn.

Moment of silence.

Recess.

There being no objection, at five minutes before six o'clock P.M., the President declared a recess subject to the call of the chair; and, at twenty minutes past six o'clock P.M., the Senate reassembled, the President in the Chair.

Recess.

Orders of the Day.

The Orders of the Day were further considered as follows:

Then Senate Bill to prohibit the use of mobile telephones while operating a motor vehicle (Senate, No. 2032),-- was further considered, the main question being on ordering the bill to a third reading.

Motor vehicles,--
mobile phone use.

Messrs. Barrett and Montigny moved that the proposed new draft be amended in section 3, in the first sentence by adding the following words:- “; provided, however, that the fine for a second, third or subsequent offence of an operator who completes a program selected by the registrar of motor vehicles encouraging a change in driver behavior and attitude about distracted driving shall be reduced in an amount equal to the cost to the operator to enroll in that program.”

6

After remarks, the amendment was adopted.

Subsequently, Mr. Montigny moved to amend the proposed new draft by striking out section 1 and inserting in place thereof the following 3 sections:-

23

“SECTION 1. Section 1 of chapter 90 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the definition of ‘Hands-free mobile telephone’ the following definition:-

‘Hands-free mode’, operation of a mobile electronic device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently a part of the mobile electronic device, by which a user engages in a voice communication without the use of either hand; provided, however that it may be necessary to press a single button to activate, deactivate or initiate the hands-free feature.

SECTION 1A. Section 7B of said chapter 90, as so appearing, is hereby

UNCORRECTED PROOF.

amended by striking out, in line 172, the word ‘telephone’ and inserting in place thereof the following words:- electronic device.

SECTION 1B. Section 12A of said chapter 90, as so appearing, is hereby amended by striking out, in line 23, the word ‘not.’;

In section 3, by inserting after the word “hold”, in line 9, the following words:- “in either hand”;

In said section 3, by inserting after the word “except”, in line 10, the following words:- “if it is necessary to press a single button”;

In said section 3, by striking out, in line 11, the words “feature or function” and inserting in place thereof the following words:- “voice communication”;

In said section 3, by striking out, in lines 12 and 13, the words “ or to input information by hand” and inserting in place thereof the following words”- “; to access social media, to review or input any information on a mobile electronic device or to manually input information”;

In said section 3, by inserting after the word “vehicle”, in line 14, the following words “, except if it is necessary to press a single button to activate, deactivate or initiate a voice command to the global positioning system or navigation device”; and

By adding the following section:-

“SECTION 4. The registry of motor vehicles may promulgate regulations to implement section 13B of chapter 90 of the General Laws and to further define “mobile electronic device” under section 1 of said chapter 90.”

The amendment was adopted.

The Rules amendment was then adopted, as amended.

The bill (Senate, No. 2093, amended) was then ordered to third reading, read a third time and passed to be engrossed [For text, see Senate, No. 2110, printed as amended].

Sent to the House for concurrence.

The Senate Bill relative to 2030 and 2040 emissions benchmarks (Senate, No. 458),-- was reads a second time.

Emissions,--
benchmarks.

Pending the question on ordering the bill to a third reading, on motion of Mr. Pacheco, the further consideration thereof was postponed until the next session.

The Senate Bill regulating the processing of lobsters (Senate, No. 469),-- was reads a second time.

Lobsters,--
processing.

Pending the question on ordering the bill to a third reading, on motion of Mr. Tarr, the further consideration thereof was postponed until the next session.

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.

Time of meeting.

Moment of Silence.

At the request of the President, the members, guests and staff stood in a

Moment of silence.

moment of silence and reflection to the memory of former Senator Robert D. Wetmore.

Adjournment in Memory former Senator Robert D. Wetmore.

The Senator from Worcester, Hampden, Hampshire and Middlesex, Ms. Gobi moved that when the Senate adjourns today, it adjourn in memory of former Senator Robert D. Wetmore.

Senator Robert D. Wetmore, a veteran of the Korean War, was elected to the Massachusetts House of Representatives in 1964 and to the Massachusetts Senate in 1976 through his retirement in 1996. A tireless crusader for the environment, Senator Wetmore was the sponsor of Article 97. Also known as the Environmental Bill of Rights, the initiative was approved by voters in November 1972 as the 97th Amendment to our State Constitution and became the foundation for a myriad of environmental laws that followed.

He co-chaired the Joint Committee on Commerce and Labor and also served as vice-chairman of the Senate Ways and Means Committee.

A life-long champion of sportsmen and women, the Department of Conservation and Recreation (DCR) named Quabbin Reservoir Gate 31 the Robert D. Wetmore Fishing Area. He was also influential in the passage of the Wildlands Stamp, which pays for the cost of wildlife habitat, as well as legislation that established the Quabbin Watershed Advisory Committee (QWAC). Senator Wetmore chaired the committee to study the contribution of women in leadership in the government of the Commonwealth and the gender equity committee on comparable worth in employment and segregation at work based on gender. He sponsored the Displaced Homemakers and the Older Worker Opportunity Program and was responsible for the MA Whistleblower Protection law and the overhaul of the outdated Workman's Compensation Law. Senator Wetmore championed the "Hear Us" mural at the State House recognizing women in Massachusetts history and the Massachusetts Korean War Veterans Memorial in Charlestown, Massachusetts.

Prior to his 32 years in elected office, he worked as a head lineman for the Massachusetts Electric Company, presiding over the local union. A lifelong democrat, Bob was a wonderful mentor and friend to me and many others. Senator Wetmore passed away Friday, January 15, 2016 due to complications of Parkinson's Disease. He is survived by his wife Andrea, his brother Elmer, sons Robert and Asa and daughter, Susan Fagnoli and her husband Peter, as well as seven grandchildren and six great-grandchildren

Accordingly, as a mark of respect to the memory of former Senator Robert D. Wetmore, at twenty-eight minutes past six o'clock P.M., on motion of Mr. Tarr, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.