

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, February 11, 2016.

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

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

Communications.

The following communications were severally received and placed on file, to wit:

Communication from the Department of Public Health (pursuant to item 4513-1020 of Chapter 46 of the Acts of 2015) submitting its report entitled "Early Intervention Respite Services FY15 Expenditures and Referrals Approved by Month" (received February 9, 2016);

Communication from the Department of Public Health (pursuant to item 4513-1020 of Chapter 46 of the Acts of 2015) submitting its Early Intervention program report with updates from the second quarter of FY16 (received February 9, 2016);

Communication from Bridgewater State Hospital submitting its plan of correction for each deficiency identified during the inspection conducted on October 20-21, 2015 (received February 9, 2016); and

Communication from NCCI Gardner submitting its plan of correction relative to Route 140 water main project and previous DPH inspection in September 2015 (received February 9, 2016).

Reports.

The following reports were severally received and placed on file, to wit:

Report of the Executive Office of Health and Human Services (pursuant to Section 182 of Chapter 46 of the Acts of 2015) submitting its report on potential Medicaid cost savings for prescription medications (received February 9, 2016);

Report of the Northwestern District Attorney's Office (pursuant to Section 99R of Chapter 272 of the General Laws) submitting its annual report of wiretap interceptions for the 2015 calendar year (received February 11, 2016); and

Report of the Norfolk County Registry of Deeds (under the provisions of Section 4 of Chapter 4 of the Acts of 2003) submitting its plan for expenditure from the County Registers Technological Fund (copies having been forwarded as required to the Senate Committees on Ways and Means and Post Audit and Oversight) (received February 11, 2016).

Report of a Committee.

By Mr. Lewis, for the committee on Public Health, on Senate No. 1203 and House No. 1924, a Bill relative to baseline concussion testing for student athletes (Senate, No. 1203);

Referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. Lewis, for the committee on Public Health, on Senate No. 1178 and House No. 1959, a Bill establishing the special commission on local and regional public health (Senate, No. 2128);

Read and, under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.

By Ms. L'Italien, for the committee on Consumer Protection and Professional Licensure, on petition, a Bill relative to protecting biometric information under the security breach law (Senate, No. 124);

By the same Senator, for the same committee, on Senate Nos. 135 and 198 and House No. 194, a Bill relative to public safety and unlicensed electrical work (Senate, No. 135);

By the same Senator, for the same committee, on petition, a Bill relative to jewelry sold by hawkers and peddlers (Senate, No. 139);

By Mr. Timilty, for the committee on Public Service, on petition, a Bill relative to appellate review (Senate, No. 1403); and

By the same Senator, for the same committee, on petition, a Bill relative to MassPort officers (Senate, No. 1411);

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

By Ms. L'Italien, for the committee on Consumer Protection and Professional Licensure, on petition, a Bill authorizing the town of Middleborough to grant an additional license for the sale of wines and malt beverages not to be drunk on the premises (Senate, No. 2091) [Local approval received];

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

PAPER FROM THE HOUSE

Notice was received from the House of Representatives announcing the following appointment by the Speaker:

That Representative Dykema of Holliston has been appointed to the special commission established (under Section 30 of Chapter 119 of the Acts of 2015) to make an investigation and study relative to development challenges being experienced by edge communities and that Representative Hogan of Stow has been appointed as the House Chair of said committee.

Resolutions.

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:-
Resolutions (filed by Ms. L'Italien, Messrs. Moore, Downing and Keenan, Ms. Chandler, Ms. Lovely, Ms. Gobi and Mr. Ross)
“commending the Joseph Middlemiss Big Heart Foundation, Inc. on their recognition of Congenital Heart Defect Awareness Week.”

Communication.

The Clerk read the following communications:

THE COMMONWEALTH OF MASSACHUSETTS MASSACHUSETTS SENATE

February 4, 2016.

Dear Senate Clerk,

Due to scheduling conflicts, I was unable to vote on the following item during session on February 4th, 2016. If I were present, I would have voted in the following manner.

I ask that my votes be recorded in the affirmative for:

- Roll Call 241 — H.3858 – Question on passing the bill to be engrossed
- If you have any further questions feel free to contact my office.

Sincerely,
LINDA DORCENA FORRY
State Senator

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

THE COMMONWEALTH OF MASSACHUSETTS MASSACHUSETTS SENATE OFFICE OF THE PRESIDENT PRO TEMPORE

February 9, 2015

William F. Welch
Clerk of the Senate
Room 335, State House
Boston, MA 02133

Dear Mr. Clerk:

On Thursday, February 4, 2016, I was unable to be present for the following vote relating to Senate Bill 2120: Roll Call #240. Unfortunately, the Administration scheduled an announcement in my district regarding Taunton State Hospital at the same time as formal session. Had I been present, I would have voted as follows:

Roll Call #240: Affirmative

I respectfully request that this letter be printed in the Senate Journal as part of the official record. Thank you for your assistance in this matter.

Sincerely,
MARC R. PACHECO
State Senator

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

Report of Committees.

By Mr. Montigny, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate of Anne M. Gobi and Todd M. Smola for legislation to establish a sick leave bank for Colleen Russo, an employee of the Department of Developmental Services.

The rules were suspended, on motion of Mr. deMacedo, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the House for concurrence.

Petition.

On motion of Ms. Tarr, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Ms. Montigny (accompanied by bill) of Mark C. Montigny and William M. Straus for legislation to establish a sick leave bank for Jesse B. Walker, an employee of the Trial Court,— **and the same was referred to the committee on the Judiciary. Sent to the House for concurrence.**

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Orders of the Day and considered as follows: The House Bill further regulating the membership of the school committee in the city of Lawrence (House, No. 3604) (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.**

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Relative to certain charges and fees in the town of Charlton (Senate, No. 2068);
Authorizing the town of Westport to indemnify for the payment of certain medical expenses for a retired firefighter (Senate, No. 2086);
Authorizing the town of Bolton to grant a license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 3761, amended); and
Authorizing the town of Watertown to grant 15 additional licenses for the sale of alcoholic beverages to be drunk on the premises (House, No. 3975).
Were severally read a second time and ordered to a third reading.

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

The Senate Bill relative to protecting against the transmission of pertussis (Senate, No. 1993),-- **was read a second time.** After remarks, and pending the question on ordering the bill to a third reading, the pending amendment, previously recommended by the committee on Health Care Financing, substituting a new draft with the same title (Senate, No. 2074),-- was considered,

and it was **adopted**.

The bill (Senate, No. 2074) was then ordered to a third reading.

The rules were suspended, on motion of Mr. Rodrigues, and the bill was read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act providing for further protection from pertussis".

Sent to the House for concurrence.

The Senate Bill to modernize firm leadership structures (Senate, No. 1168),-- **was read a second time.**

After remarks, and pending the question on ordering the bill to a third reading, the pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft with the same title (Senate, No. 2126),-- was considered.

Pending the question on adoption of the Ways and Means amendment, Mr. Keenan moved that the proposed new draft be amended by inserting after the words "renewal of" in line 6 the words:- "a license or".

The amendment was **adopted**.

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

The bill (Senate, No. 2126, amended) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

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

PAPER FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4004) of Josh S. Cutler for legislation to establish a sick leave bank for Carlo Casarano, an employee of the Department of Unemployment Assistance,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

Orders of the Day.

The Orders of the Day were further considered, as follows:

The Senate Bill enhancing the enforcement of illegal hunting practices (Senate, No. 2069),-- **was read a second time.**

After remarks, and pending the main question on ordering the bill to a third reading, Mr. Humason moved that the bill be amended by inserting the end thereof the following new section:-

"SECTION XX. Section 21A of Chapter 131 of the General Laws is hereby repealed."

The amendment was *rejected*.

Mr. Humason moved that the bill be amended by adding at the end thereof the following section:-

"SECTION XX: Section 66 of Chapter 131 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking the text thereof in its entirety and inserting in place thereof the following section:-

Section 66: The director, with the approval of the fisheries and wildlife board, may promulgate rules and regulations for the use and possession of shotgun cartridges containing projectiles including, but not restricted to, slugs, balls, or shot of any type or size, for the purpose of hunting."

The amendment was *rejected*.

Mr. Humason moved that the bill be amended by adding at the end thereof the following new section:-

"SECTION X. Section 129B of Chapter 140 of the Massachusetts General Laws, as appearing in the 2014 Official Edition, shall be amended by striking out, in lines 396 through 397, the words 'Failure to so notify shall be cause for revocation or suspension of such card.'; and further; in Section 131 of Chapter 140 of the Massachusetts General Laws, as appearing in the 2010 Official Edition, shall be amended by striking out, in lines 541 through 542, 'Failure to so notify shall be cause for revocation or suspension of said license'."

After debate, the amendment was *rejected*.

Mr. Humason moved that the bill be amended by inserting at the end thereof the following new section:-

"SECTION XX. Chapter 140 of the Massachusetts General Laws shall be amended by inserting the following new section; Section 131Z: Notwithstanding any general, special law or regulation to the contrary any person, not being a resident of the Commonwealth, who is not otherwise prohibited under federal law from transporting, shipping, or receiving a weapon shall be entitled to transport a weapon for any lawful purpose from any place where he or she may lawfully possess and carry such weapon to any other place where he may lawfully possess and carry such weapon.

During such transportation the weapon shall be unloaded. Neither the weapon nor any ammunition being transported shall be readily accessible or directly accessible from the passenger compartment of such transporting vehicle: Provided, that in the case of a vehicle without a compartment separate from the driver's compartment the weapon and ammunition shall be contained in a locked container other than the glove compartment or console.

If a person is found to be in compliance and exempt under this section no persons or property shall be detained, held or confiscated unless an arrestable offense exists outside of the parameters of this section.

If a person who is exempt under this section is unexpectedly delayed in their travel including but not limited to mechanical, weather, illness, flight or other commercial travel delays such person shall retain the protections of this section.”

The amendment was *rejected*.

Mr. Humason moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION XX. Section 131F of Chapter 140 of the Massachusetts General Laws, as appearing in the 2014 Official Edition, shall be amended by striking out in line 63 the following sentence:- ‘Such license shall be valid for a period of one year but the colonel may renew such license, if in his discretion, such renewal is necessary.’ and replacing it with the following:-‘Such license shall be valid for a period of six years’.”; and

In said section by striking out the fourth paragraph of subsection (x) in its entirety and replacing it with the following:-

“A license issued under this section shall be marked ‘License to Carry Firearms’. The fee for an application for the license shall be \$40, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$20 of the fee; \$20 of the fee shall be deposited into the general fund of the commonwealth. A license issued under the provisions of this section to a non-resident who is in the employ of a bank, public utility corporation, or a firm engaged in the business of transferring monies, or business of similar nature, or a firm licensed as a private detective under the provisions of chapter one hundred and forty-seven, and whose application is endorsed by his employer, or who is a member of the armed services and is stationed within the territorial boundaries of the commonwealth and has the written consent of his commanding officer, may be issued for any term not to exceed six years, and said licenses shall expire in accordance with the provisions of section one hundred and thirty-one.”

The amendment was *rejected*.

Mr. Humason moved that the bill be amended by inserting at the end thereof the following section:-

“SECTION X. Section 12D of Chapter 269 of the Massachusetts General Laws shall be amended by striking subsection(b).”

The amendment was *rejected*.

Messrs. Humason, Rodrigues, Tarr, deMacedo and Donnelly moved that the bill be amended by inserting after section 1, the following section:-

“SECTION 1A. Section 26 of chapter 90B of the General Laws, as so appearing, is hereby amended by inserting, after the word ‘case’ in line 69, the words, ‘; provided, however, that during the hunting season, a person with a valid hunting license may carry, unloaded, outside such a case, for the purpose of hunting, a firearm, rifle or shotgun in or on a snow vehicle or recreation vehicle or on a trailer or sled attached to such a vehicle or trailer’.”

After remarks, the amendment was **adopted**.

The pending amendment, previously recommended by the committee on Ways and Means, striking out, in lines 263 and 264, the following words:- “The governor shall enter into a compact on behalf of the commonwealth with any other jurisdiction legally joining therein in the form substantially as follows:-”; in section 10, in subsection (a) of Article VII of proposed chapter 131B of the General Laws by inserting after the third sentence the following sentence:- “The compact administrator for the commonwealth shall be the director of fisheries and wildlife or a designee.”; and by inserting, in line 471, after the word “presented”, the following words:- “by the compact administrator”; and by adding the following section:- “SECTION 11. The division of fisheries and wildlife shall promulgate rules and regulations for the implementation of the Wildlife Violator Compact, established in section 10, within 6 months after of the effective date of this act.”,-- was considered and it was adopted.

The bill (Senate, No. 2069, amended) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays at four minutes before twelve o’clock noon, on motion of Mr. Moore, as follows, to wit (*yeas 35 — nays 0*) [**Yeas and Nays No. 242**]:

YEAS.

Barrett, Michael J.

Keenan, John F.

Brady, Michael D.

Lesser, Eric P.

Brownsberger, William N.

Lewis, Jason M.

Chandler, Harriette L.

L’Italien, Barbara A.

Chang-Diaz, Sonia

Lovely, Joan B.

Creem, Cynthia Stone	Montigny, Mark C.
deMacedo, Viriato M.	Moore, Michael O.
DiDomenico, Sal N.	O'Connor Ives, Kathleen
Donnelly, Kenneth J.	Pacheco, Marc R.
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fattman, Ryan C.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Forry, Linda Dorcena	Tarr, Bruce E.
Gobi, Anne M.	Timilty, James E.
Humason, Donald F., Jr.	Welch, James T.
Jehlen, Patricia D.	Wolf, Daniel A. – 35.
Joyce, Brian A.	

NAYS – 0.

ABSENT OR NOT VOTING.

Donoghue, Eileen M.	McGee, Thomas M. – 2.
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**The yeas and nays having been completed at one minute before twelve o'clock noon, the bill was passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act further regulating the enforcement of illegal hunting practices".
Sent to the House for concurrence**

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

PAPER FROM THE HOUSE.

The House Bill to improve public records (House, No. 3858, amended),— came from the House with the endorsement that the House had NON-concurred in the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate, No. 2127) and had asked for a committee of conference on the disagreeing votes of the two branches; and that Representatives Kocot of Northampton, Kulik of Worthington and Muratore of Plymouth have been appointed the committee on the part of the House.

**On motion of Ms. Lovely, the Senate insisted on its amendment and concurred in the appointment of a committee of conference; and Senators Lovely, Lewis and Humason were appointed on the part of the Senate.
The bill was returned to the House endorsed accordingly.**

Orders of the Day.

The Orders of the Day were further considered, as follows:

The Senate Bill relative to compliance of condominium associations (Senate, No. 723),-- **was read a second time.**

Pending the question on ordering the bill to a third reading, Ms. Creem moved that the bill be amended by inserting at the end thereof the following section:

“SECTION X. Section 1 of Chapter 142A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out lines 6-11 inclusive and inserting in place thereof the following -

‘Claimant’ an owner and resident of a residential building, containing at least one but not more than four dwelling units, who has entered into a construction contract with a contractor to carry out construction work on said building, or, an owner and resident of a single condominium unit in a residential building, who has entered into a construction contract with a contractor to carry out construction work on an area of said building under that owner's exclusive control, and who is making a claim against said contractor for failure of performance under said contract.”

After remarks, the amendment was **adopted**.

Ms. Creem and Messrs. Tarr and Joyce moved that the bill be amended by inserting after the word “action” the following words:- “unless the request was unreasonable or was designed or intended to harass or intimidate”.

The amendment was adopted.

The bill (Senate, No. 723, amended) was then ordered to a third reading.

The rules were suspended, on motion of Mr. Wolf, and the bill was read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act further regulating condominium associations”.

Sent to the House for concurrence.

PAPER FROM THE HOUSE

Engrossed Bill Returned with Recommendation of Amendment.

A Message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill authorizing the town of Norwood to grant additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 3684, amended) [for message, see House, No. 3982],— came from the House with the endorsement that the House had rejected the amendment recommended by the Governor, and had adopted the following amendment striking out all after the enacting clause and inserting in place thereof the following:-

“SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Norwood may grant 4 additional licenses for the sale of wines and malt beverages to be drunk on the premises pursuant to section 12 of said chapter 138, to establishments located within the town's South Norwood General Business District, as that district is defined as extending from Short street north along Washington street to Lenox street, as shown on a certain plan contained in a ‘Vision Plan & Action Strategy, dated November 10, 2003, prepared by Larry Koff & Associates’ and approved by the planning board and the board of selectmen on December 16, 2003. A license granted pursuant to this act shall be clearly marked on its face ‘South Norwood General Business District Only’ and shall be subject to all of said chapter 138 except said section 17.

(b) The licensing authority shall not approve the transfer of a license granted pursuant to this act to a location outside of the town's South Norwood General Business District, but it may grant a license to a new applicant within the South Norwood General Business District if the applicant files with the licensing authority a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.

(c) If a license granted pursuant to this act is cancelled, revoked or no longer in use at the location of original issuance, the license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority and the licensing authority may then grant the license to a new applicant under the same conditions as specified in this act.

SECTION 2. This act shall take effect upon its passage.”; and by striking out the title and inserting in place thereof the following title:- “An Act authorizing the town of Norwood to grant additional licenses for the sale of wines and malt beverages to be drunk on the premises.”.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The rules were suspended, on motion of Mr. Rush, and the matter was considered forthwith.

The Governor's amendment was then rejected.

The House amendment was then considered; and it was adopted, in concurrence.

Sent to the House for re-enactment.

Order Adopted.

On motion of Mr. Tarr,--

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

On motion of the same Senator, at nine minutes past twelve o'clock noon, the Senate adjourned to meet again on Tuesday next at eleven o'clock A.M.