

Defendant's Exhibit G

STATE HOUSE NEWS SERVICE

<http://www.statehousenews.com>

SENATE SESSION - THURSDAY, MAY 27, 2004 (5-27-2004)

CONVENES: The Senate convened at 1:03 pm with Sen. Menard presiding. The Senate took a recess.

RETURNS: The Senate returned at 1:34 pm, Senate President Travaglini presiding.

RESOLUTIONS: The Senate adopted congratulatory resolutions.

STATEWIDE WORKPLACE SMOKING BAN: Question came on accepting H 4690 report of the committee of conference on the disagreeing votes of the two branches with reference to the House Bill to improve public health in the Commonwealth.

Sen. Lees said I can't believe we're doing this today. I can't believe you, Mr. President, who says local home rule is important, are doing this. This bill is a mish mash and lobbyists dream. I respect people are on both sides of the issues. We already allow local home rule on the issue. But like big brother, some people know better than our local communities. They think everyone outside their own domain is stupid. They are going to give you statistics. They are going to say that delaying this is going to cause more deaths. Yet they succumbed to every lobbyists at their doors: fat cat nursing homes and country clubs, cigar bars, knock, knock, knock, could you exempt us? Absolutely. The people who work in cigar bars, country clubs, private clubs, and nursing homes and fraternal organizations, they wear a gas mask when they go to work? If this bill was clear across the board, then I would take another look at it. But it is so full of loopholes; it's an embarrassment to this chamber.

Senate President Travaglini banged the gavel and said there should be no talking with staff and colleagues should keep their talking to a minimum out of respect for the person who is speaking.

Sen. Lees said the start date for this is outrageous. July 5. I asked for the date to be changed. It would be hard to put this in effect in 30 days. But knock, knock, knock, we're the smoking police; the public health people don't want the date changed. They went right in the tank and said as stupid as it is that we may have to implement this in 10 days, they don't want the date changed. The Boston Herald editorial said this: change the start date. The ill-conceived ban will become law, despite the best efforts of Senate Republicans to try to scuttle or improve it. The Herald called it a hodge-podge. They're a lot better writers than I'll ever be. The exemption for nursing homes is blatant political pandering, the Herald says. Even the governor says he'll sign it. In W. Springfield, a bar owner wrote about the difficulty to her business. It should be her choice, not the government's. Some Democrats in this chamber are big brother. They know more than you do, Kathy, you should learn. A Tyngsboro club owner wrote about the statewide smoking ban. He raised border issues. How dare he write a letter like this? The places that allow smoking can change. But oh, that won't be the case any more. They can't have a choice. The Democratic Party knows better. [Sen. Lees read another letter opposing the smoking ban]. The Democrats know better! We want to make the choice for them. We like to make the choice for people in this chamber. Glen is smarter than I am. He owns his own business. Why must he enforce this ban? They're making Glen smoking police. We ought to amend this bill and make badges that saying I Am A Smoking Policeman. In one area, an employee, in New York, was stabbed to death enforcing the smoking ban. Did you hear that? I don't want to expose our employees to those kinds of dangers. I urge you not to vote the ban. I have letters from Cambridge - isn't that your district, Mr. President? I have heard from all over this state. I had to do a little of this tongue in cheek because not much

else has worked. I do hope we change the date in closing. I do find it slightly offensive that some in this chamber think they know better than the local officials in the towns they represent. It's the usual Democratic snobbery thing.

Sen. Lees requested a roll call vote and there was support. - more -

SENATE SESSION - THURSDAY, MAY 27, 2004

Senate President Travaglini said the question on this should not have been on acceptance of the report. The question should have been on laying this on the table.

On voice vote, the matter was not on the table

Sen. Moore said let me clear the air. I have seen so much smoke since one of those World War II movies. We haven't heard anything new there. This happens to be a bipartisan measure, here and around the country. The governor intends to sign the bill. But unless someone has changed registrations, I think Govs. Rowland and Pataki are Republicans. Even a fellow named Bush in Florida signed the smoking ban in that state. I believe he's a Republican. This has been realized as good public policy around the country. First of all the nursing homes didn't ask for the exemption, and that exemption was not included in the conference report. Maybe Sen. Lees hasn't read the bill. The country clubs didn't know they might be included. It is clear that the exemptions are common in most other states. Ours was that these are private associations, which are charitable associations. We did not hear from MMA or any communities saying they didn't want this statewide. In fact, the restaurants in many cases would rather have it statewide. The current law is unfair. The date was set with regard to our original August date. And someone said you're doing this to protect the DNC. So we changed the date. Over 350 years ago, smoking in the General Court chambers was banned in 1646. The penalty was six pence. The puritans called the smoking ban a "wholesome order." We will save money on Medicaid, far more than any money lost. In New York, more people are coming to restaurants now that they're smoke-free. This is a good bill, a balanced bill. I hope this would be accepted. I hope it is adopted, maybe 32-7. I know it's hard to break ranks and you get taken to the woodshed. But I hope there are a few enlightened Republicans.

Sen. Tisei touched on the points. I have spoken on this a number of times. I did serve on the conference committee. This is a better bill, but it's still a bad bill. There are a lot of loopholes. Truth in advertising - that's inaccurate in this case. It is sort of ironic that we are here in this stage. The whole impetus was to get rid of the hodge-podge of local regulations. So the idea was a uniform statewide policy. This is not fair to all employees. A cigar gives off a lot more smoke than a cigarette does. So why do we exempt the cigar bars? This is a faulty piece of public policy. I credit Sen. Fargo for getting rid of some of the loopholes. I was told by one local health official that this bill is unfair. He said everyone should be treated equally. The smartest course of action would be to send this back to committee and take out the loopholes. I hope you vote this down.

Sen. Moore introduced 3rd graders from Uxbridge. [Members applauded].

Question came on accepting the conference committee.

Sen. Sprague said we speak about equality for the law in this chamber. We talk about tobacco, which is not an illegal substance and smoking, which is not illegal. We are talking about equality for the law and separate but not equal. This is not equality for the law. This goes against one of the principles that make our country great: equality, innovation, and small business. When we talk about discriminating - this is one business against another business. We are talking about some businesses being separate and equal. That is absolutely discrimination and we may seem some changes here. I hope this body sends this back to conference and takes out the discriminatory language.

Question came on accepting the conference committee report.

BY A ROLL CALL VOTE OF 27-10, CONFERENCE COMMITTEE REPORT ACCEPTED - MORE -

SENATE SESSION - THURSDAY, MAY 27, 2004

DISCRIMINATION AGAINST VETERANS: The Senate ordered to third reading H 1053 prohibiting discrimination of veterans in employment. Question came on engrossing the bill. Sen. Moore requested a roll call and there was sufficient support.

BY ROLL CALL VOTE 37-o BILL ENGROSSED

PUBLIC CONSTRUCTION REFORM: Question came on ordering to third reading S 2358 relative to public construction laws.

WILKERSON AMENDMENT: Sens. Wilkerson and Tolman offered an amendment adding a new section. By voice vote, the amendment was adopted.

Question came again on ordering the bill to third reading.

Sen. Wilkerson said this has been a long process that started in this body. Twenty months ago, when we took up the municipal relief bill, we created a commission to study public construction. Three years ago we adopted an order for a waiver of the public construction laws, to construct eight public schools. When we all began in this process, we all wanted to do a little more than just tweaking the public construction laws. All of us involved in this process have commented that this would not have been possible were it not for my chief of staff Ron Marlowe. This was not a very exciting topic, but an important one. We approached this process with the goal of increasing accountability and flexibility for cities and towns. Through this process we do allow alternative methods of delivery. Any project that is \$10 million will be required to have all contractors qualified. We heard the stories. We have changed and opened up the process so there will be transparency. Cities and towns will have access to information from DCAMM. We had many questions about how the state had not changed their threshold numbers in many years. We do that in this. We want to make sure taxpayer dollars are available to everyone. We also are going to be elevating the responsibility for cities and towns. We've learned that so much of the construction is done so without the skill set. They do it without managers and without people who really know. Through this reform, it will be mandatory for any city or town to hire a project manager. We also create some requirements for experience and certification. We want cities and towns to go straight to DCAMM. We are confident they can handle this process. We have offered language that clarifies the classification of employees. We've learned that there was a lot of distress among cities and towns who are violating the workmen's compensation laws. In 2002, we had 2,206 violations filed for workmen's comp. Of those, the state only de-barred seven contractors. What we have done with this recommendation is when you have violations, A and F will have to de-bar. But they will not be able to use discretion on repeated violations of the statute. Also, all of our commission members were involved in this process along with the administration. We've had very good public feedback. We literally accomplished what many people thought would never come. I think this body should be proud with the action I hope we are going to take today.

Sen. Tarr said I rise to encourage a unanimous vote on sending this to third reading. I would like to commend those working on this report and the broad amount of proposals. At the end of the day, this contains a number of proposals that serve specific purposes. I think most significantly are the availability of some tools we have wrestled with. They include a design-manager, and those tools will be available on a consistent basis. It seems to me that we are nearing the point when we are going to talk about some serious reforms on public construction, again when we discuss the school building assistance program. And these reforms are going to result in a more responsible, effective and most of all that says to the people that every dollar will be expended wisely. While this report doesn't go as far as some of us may have liked, it does make a positive step. - more -

SENATE SESSION - THURSDAY, MAY 27, 2004

Sen. Tolman said I think this is one of the most important issues. This involved everyone from both parties. It answers about everything we possibly could have addressed. There may be areas we may have to tweak to make it even better. The commission examined every aspect of the public construction process. We have created a system to increase transparency and give local officials more tools and a clearer path to investment. This requires all public projects more than \$1.5 million be given an experienced manager - identified as a major problem. We have also required that the bid threshold will be raised. We've added provisions to increase enforcement. This includes legislation that would make sure that violators, who repeatedly violate the law, will no longer be able to bid for public work. Finally, the misclassification of workers - independent contractors trying to avoid paying benefits to workers. The provisions of this legislation will make sure the workers are getting the benefits they deserve and the contractors, who are not playing by the rules of the game, are not playing the game. All parties were involved in this compromise. The labor unions compromised, the Mass Municipals compromised. We all did. Although it is difficult to understand, I can say to you it is the best product we could have come up with.

Sen. Tolman requested a roll call and there was support.

Sen. Tucker said I rise to thank the commission for their work. Andover High School, a number of years ago, was the poster project for the need for construction reform. I'm delighted the officials from Andover testified and assisted in getting this done. I thank you. The town of Andover thanks you. And the taxpayers thank you.

Sen. Moore said I commend the commission. It's obviously very comprehensive and very difficult. I would like to ask, one of the concerns that have been raised is a provision to ensure we've had plenty of transparency in the law. What's in this that's going to be stronger than what we've had in place the last 20 years?

Sen. Lees said the chair has done a spectacular job. But I can't let this moment go by. I don't want to be partisan. But I do believe Gov. Romney and Lt. Gov. Healey talking about reform helped push all of us along. I know the chair was working on this before they got into office. But the administration has talked about reforming state government in order to save money for the taxpayers, which was the same point made by the first speaker. In the end the taxpayer benefits. That's what the administration has been talking about as well, from the standpoint of making things more efficient and saving money. It looks like 10 percent, perhaps more. I'm the first person in here to rail on the AFL-CIO, and they're the first to rail on me. I want to say to them, especially to the leaders in my district - many of them are out of touch on issues, but they weren't on this. I think it took some work from the chair to put all those people together. I do know in discussions with the administration that the senator from Suffolk was a leading force in this. One of the reasons we did the transportation piece, they have been cooperative efforts but you have to begin pushing at some point. I agree that this issue should be passed unanimously.

Sen. Brewer said I'd like to commend the chairlady again. I just want to edify for the record, there were op-ed pieces in the Globe many years ago, well before the current governor took office, crying out for construction reform. I don't think there's a senator in here whose district hasn't had some example of some project gone bad because of poor contractors or other problems. This is driven by more than just one executive office's mission.

Sen. Moore said before she was interrupted by the unpaid advertisement by the minority leader, I think Sen. Wilkerson was going to answer my question.

- more -

SENATE SESSION - THURSDAY, MAY 27, 2004

Sen. Wilkerson said I can assure you that not only what we are offering is not going to lessen, but it is going to strengthen every area. We've heard the stories of cities and towns that have not had the skills and experience required for many projects. There will also be a pre-qualification process and people will be allowed to access the information.

Right now the public can't see the information. We lift that and make that process transparent. We are requiring cities and towns to sign off on qualification evaluations. It is also our hope that as we see these bills coming down the pipe, that we need to be consistent about how we do this. Agencies will not have to go off and have their own design process. For courthouses and school building assistance, it is our hope, that these recommendations will provide cities and towns the construction methods on the school buildings. It is exactly how state government is going to work. We are going to see savings. And we are going to be monitoring and really regulating.

Sen. Lees said I just have to respond. Again, good points by the chair. It really is Lt. Gov. Healey who's been driving this debate. When the governor's right, I point that out. But when the governor's wrong, I'm not afraid to tell him. But the senator from the Blackstone Valley is not working for the president, just as I am not working for the governor. And the senator has been acting out lately, and has had his own problems. His tenure is much shakier than mine is if he doesn't shape up. But nonetheless, this is an important bill and I hope we support it unanimously.

Sen. Baddour said construction reform has really been led by the Senate I think. The senator from Suffolk deserves credit for leading this very important issue.

Sen. Travaglini returned to the chair.

BY ROLL CALL VOTE 37-0 BILL ORDERED TO THIRD READING

By voice vote, bill was then engrossed.

BUDGET CONFEREES: The Senate insisted on its own version (S 2401) of the fiscal 2005 budget after the House non-concurred with the Senate and insisted on its own version, H 4601. Sen. Travaglini ordered that a conference committee be appointed and named Sens. Murray, Panagiotakos and Knapik to the committee.

ASSAULT WEAPONS BAN: Question came on ordering to third reading S 2282 assault weapons ban.

Sen. Barrios said we have many amendments to this bill. But first let me talk about gun safe legislation and what we are doing today - tinkering with our landmark 1998 law. The 1998 law mirrored a federal ban and tied the definitions to federal law. So with the sunset this fall, we will lose our ban unless this body acts. All these gun bills are balancing acts between the rights of law-abiding sportsmen and the need to protect public safety from malicious criminals. As we make changes today, I hope you will remember the need to balance these two needs. This bill is a moderate document. We have an amendment to create a 90-day grace period for those who fell out of compliance. We also exempt law enforcement officers from the fees, since they need this for the job. And we change the size of the gun ID from a piece of paper to a laminate, wallet-sized card. The most controversial amendment is the first. To my mind, it is important. When we passed the 1998 law, we looked at the Uzi's and Tech 9s and many more which are semiautomatic which work a little bit faster than pistols. They are used to kill with greater frequency and greater speed. There is no amendment that seeks to delete that fundamental part, which extends that post-1994 ban. I believe every member recognizes the important value of that law. So I congratulate this body for banning those. Some will say we already have the toughest ban. But you could also say we have the weakest. Ours is the same as the law in other states. - more -

SENATE SESSION - THURSDAY, MAY 27, 2004

Sen. Barrios continued: The first vote before this body will ask the members to recognize that what was good in 1994 is good today. So we would also like to ban those guns manufactured pre-1994. By closing that loophole, the loophole used by a worker at Edgewater Technologies in Wakefield, we don't need that loophole. We don't need that exception. This amendment is a reasonable one. It bans the pre-1994 guns and also recognizes that some of the owners come into possession of the guns as part of an estate from a family member and they should have a right to sell it. With this amendment, we also give people a year's time to sell their guns. The US DOJ says banned weapons crimes have declined

by 64 percent, because we have taken these weapons out of the hands of criminals. But we have not seen a decline in the pre-1994 weapons.

Sen. Barrios requested a roll call vote and there was support.

Sen. Lees said is this to order this to third reading?

Senate President Travaglini said yes.

Sen. Brewer said I hope the further amendment 1.1 is defeated.

Sen. Lees said the gentleman who is speaking just spoke of amendment 1.1. What are we on now?

Senate President Travaglini said we are on third reading. I am allowing latitude to members to make general statements before we get into in-depth discussion.

Sen. Brewer said Sen. Barrios called the 1998 law a landmark law. It was purported to be so great. We had to fix the law to allow vets to carry guns in parades. We put trigger locks on the muskets here in the chamber. There are aspects of this bill that are completely out of balance. But you get tired of having words put on bills. We call it a loophole. Well, go to the so-called loophole. This is not hidden. It's explained in clear English in the bill. This was an agreed-upon section. Now, we want to overreach and go after those people. That is a deal-breaker in this bill. We live in a violent world. Bombs are strapped on people in the Middle East. The MBTA sees stabbings every day. But licensed gun owners by and large do not cause these problems. We know if we pass laws that have no effect on crime, it is a sham. If I thought this bill would really stop the killing of children upon children, I would vote with you. But I also know that no amount of rhetoric will change minds here. If you have an assault-weapons banana clip, you could go to prison for 10 years. Is that the kind of amendment you want? I submit not.

Sen. Moore said in general probably only half the members were here in 1998. I think many members assumed it would affect the violent crime in the Commonwealth. In fact, the law has failed in that regard. Violent crime was going down before this was passed. We had people denied FID cards. They have appealed to us to put some sense into this law. Sen. Barrios had suggested that we're all on board with this. That's not right. The votes aren't there to repeal. But if we did, crime would probably drop. But the public and the media have somehow been convinced that this is the holy grail of public safety. The antique weapons were outlawed under this bill. We got an amendment to allow historic reenactments. Those who march in our parades on Sunday and Monday were also in trouble. The honor guards would have been in violation of the 1998 law. We never thought this would be under-funded. But the license renewals are backlogged. I'm glad we at least have a 90-day grace period here. I do think the look-back was an issue that was discussed at some time. We argued that anything we did, would render them ineffective. We should allow some who have committed some offenses to reapply. That is the idea of corrections. We should allow some people to rehabilitate. We should work towards a better bill.

- more -

SENATE SESSION - THURSDAY, MAY 27, 2004

AMENDMENT 1.1: Question came on Barrios further amendment.

Sen. Barrios said this would ban the sale, purchase or lease of semi-automatic weapons. This was just called confiscatory. That's a big word. So let me be clear. If you now own a Tech-9 or an Uzi, no one is going to come knocking on your door and take it away. Please read the amendment. It is clear. You are exempted from the fine - you can sell it, your children can. The person who buys it can't turn around and sell it. That's the purpose of this. We have corrective amendments and on this hand we are trying to strengthen the assault weapons portion of the 1998 law. The first vote I took in 1999 as a representative was on the corrective amendment to allow for historical reenactments. There are

problems. I file corrective amendments. A small portion of the landmark legislation dealt with assault weapons. I do not believe that portion of the legislation was flawed. If you got an Uzi in 1992, it kills just as many people as the Uzi purchased in 1996.

Sen. Barrios requested a roll call and there was support. Time was 4:02 pm.

Sen. Moore said I hope the amendment is not adopted. The further amendment offered by Sen. Barrios would allow ownership but not purchase and sale. When I use the big word of confiscatory, I meant it takes away much of the value of the property. The ability to sell establishes value. By taking up pre-94 sales, we make those weapons less valuable and cost them money. A case can be made that something owned privately and legally, that we have made a taking of sorts - in a sense taking value away and may be liable in court for reimbursing the loss of that value. It adds another wrinkle to the licensing requirements that will be difficult to administer. If we fail to adopt this amendment and adopt the basic amendment, we would not be going back on the law that is on the books now. By adopting this, we are restricting the ability of citizens and costing them money in the lost value of their piece of property.

Sen. Pacheco said I rise in opposition to the further amendment. I believe we can come to a decent compromise to reauthorize the 1998 law. But even in my Southeastern Mass. Region, this goes far beyond what the 1998 statute entailed. A retroactive provision in the original 1998 law back to 1994 was controversial. This reaches back and takes rights away from people. That is in fact what we are being asked to do with this further amendment. We also diminish the guns' value. This amendment, for me, is a deal-breaker. I will vote to extend the 1998 law. But this is a deal breaker. But instead of bringing all of our constituents to the table, this further amendment divides us in the Democratic Party. I urge you to vote no on the further amendment.

Sen. McGee said I support this amendment. This closes the pre-1994 loophole. The AK-47 used by Michael McDermott was from 1992. This will still allow inheritances for lawful owners. And we will delay the implementation date for a year to allow people who want to, to sell their guns.

Sen. Lees said there's a lot of misinformation here. I need 15 minutes to discuss this. There's a lot of misinformation floating around here.

RECESSES: Sen. Lees called for a Republican caucus and the Senate recessed at 4:23 pm.

- more -

SENATE SESSION - THURSDAY, MAY 27, 2004

RETURNS: The Senate returned at 4:38 pm, Sen. Travaglini presiding.

AMENDMENT 1.1 ADOPTED ON ROLL CALL VOTE, 20-17

Sen. Lees moved reconsideration.

Sen. Lees said I ask to have this explained right. Members who are pushing this are not telling the truth. This creates a new registry - a new registry for magazines. Read it! Read what he put in this bill. This is unbelievable because people are not telling the truth when they are standing on the floor. I want the amendment read by the clerk - completely, please.

Sen. Barrios said perhaps I could shed some light. The requirement is simply that a list be kept by EOPS. You can refer to it as a registry - hardly a new state bureaucracy.

The clerk read the amendment.

Sen. Lees said look at 4c. It talks about the CORI board to designate and track assault weapons and large-capacity feeding devices are magazines. There is no registration for them. You can't go and register individual magazines. You know the people who enforce gun laws are extremely strict. You can say anything you want. That's what a magazine is and that's what's in there.

Sen. Rosenberg said under the rules, mustn't an amendment be filed and distributed to the Senate members? Would an amendment printed in the calendar fulfill that requirement? If it were to be redrafted, would that ensure that sufficient copies are available?

Sen. Travaglini said the first question is yes; on the second question, an amendment in the calendar can be modified. On the third question, it's up to the senator to make the copies available to persuade his copies.

Sen. Rosenberg said would it be possible to take up those amendments that are not being further amended first? It would be in my opinion helpful if we could have the redrafts before us so we could complete the work with less confusion.

Sen. Travaglini said I concur. I desire to complete action on this bill today. There was plenty of time, however, to inform yourself of the scope of the amendments and the bill. To suggest it was the fault of my leadership team, I would beg to differ and leave it at that.

Sen. Barrios said I would like to read to you one word that was left out that changes the meaning of this. So I shall read Section 4c. The missing word is "inherited" assault weapons and large-capacity feeding devices. You will give them your name.

Sen. Lees said some people have not been telling the truth; inherited weapons still have to be sent to the board and separate magazines not associated with the inherited weapons. The way that it is written.

Sen. Barrios rose and asked to speak.

Sen. Travaglini said the time for debate has expired. - more -

SENATE SESSION - THURSDAY, MAY 27, 2004

Question came on reconsideration. A voice vote was taken.

Sen. Travaglini said the chair is in doubt. He ordered a roll call.

RECONSIDERATION PREVAILED ON ROLL CALL VOTE, 19-18

Question came again on adoption of pending amendment.

Sen. Lees said I appreciate people looking at this and what it will create. I hope that you will now defeat 1.1.

Sen. Lees requested a roll call vote and there was support.

Sen. Wilkerson said I totally disagree with Sen. Lees' interpretation. If you inherit an assault weapon or feeding device, you have to give notice. That is all this says. It only applies if you inherit it.

Sen. Moore said she did a very narrow reading. This deals with pre-1994 weapons. Those weapons will now be illegal to sell. So what he's doing is dealing with inherited weapons, but not all the other weapons people own. I hope this is not adopted. It is offensive to people who are law-abiding. This goes too far. And it will be a poison pill. I hope it is not adopted.

Sen. Creem said it is very clear to me that if you support this amendment, you can support it with this language. But this is a red herring. This only applies to inherited weapons. It is very clear. That is what this says. Anyone who says otherwise is not really being honest here. I can't see a reason why not to support this. I would suggest to all that they read the law.

Sen. Knapik said we have been at this issue for six years, trying to get back some sense of sanity. If someone were to suggest that our gun here on the Senate wall would have a trigger lock, that would have been thought absurd. So forgive us for thinking you might be taking this too far. We heard from veterans who wanted some redress from this hastily created, politically correct law. We have a right to be skeptical. We should move this bill forward without this language. We can codify the 1998 ban. But for those who want to protect the law-abiding gun owners, we question and we are skeptical. Someone in the AG's office will take a look at this and overuse it. We are so down the primrose path. Let's jettison this and get on to the main issue.

Sen. Barrios said I'll be brief. This is very much critical. This is a common sense gun safety bill. I thank the gentleman for recognizing that there are a number of good amendments in this bill, being the author of a number of them. But I will point out that there is no difference between an assault weapon built in 1992 and 1996. They kill just the same. There's no logical difference for making this exclusion. The people that don't want this feel for some reason that the ban on assault weapons is not necessary.

Sen. Barrios requested a roll call. Sen. Travaglini said the yeas and nays have already been ordered.

Sen. Brewer said the gentleman said those of us who don't support this amendment don't support the ban. We're saying we want something in return for that. We want a 90-day grace period. We are compromising on this by going forward. He wants us to go back. If we don't have a legitimate work product, we are not a unilateral legislature. If you care about assault weapon bans to make our streets safer, then let us eliminate amendment 1.1 and start on the rest of these and start on a work product and send it over to the House. - more -

SENATE SESSION - THURSDAY, MAY 27, 2004

Sen. Brewer continued: We are wasting time and need to get somewhere. Banning weapons pre-'94 is an overreach into people's private property that don't break the law.

Sen. Lees said I will only say to the senator from Cambridge, who has been running around this chamber all day and not telling the truth. He wants to win and doesn't care about anything else. We want an assault weapons ban. We've already given a long way. He said he doesn't care about anything else in this bill except this amendment. And then he stands up and doesn't tell the truth, and says to us privately that he doesn't care about anything else in the bill, and that this bill stinks. The last senator, who isn't here anymore, drove us insane did this stuff and handed out press releases and we always had to be correcting things.

Sen. Travaglini said the chair would like to remind the minority leader about the rules in the chamber about making the debate personal and the rules we have about making comments about senators who are no longer serving.

Sen. Lees said if I have offended anyone, I'm sorry. To that senator, who ran this place for many years, that we were told out-and-out non-truths. We were sold a bill of goods by that senator. And we were sold a bill of goods on many things. She made sure we all voted on things that we always had to come back and correct because she was never telling the truth. The way this amendment is written is wrong. I'll say to my colleagues, look at amendment 1, which has most of what this has, in it. I will tell you, I'm going to use every single parliamentary move I have if this goes on. If you look at amendment 1 and amendment 1.1, there's no ways you can't vote for 1. But because we're being driven by press release after press release, telling us what to do. If I offended anyone before, I apologize. But I'm not saying anything anybody doesn't know.

MOTION TO LAY ON TABLE: Sen. Lees moved to have the matter laid on the table.

SECOND LEGISLATIVE DAY: Sen. Havern offered an order to enter into a second legislative day so the matter can be considered forthwith.

Sen. Lees requested a roll call on the matter and there was support.

Sen. Lees said I can't believe for the first time in probably over a year we're going into a second legislative day on an assault ban, when we've had the budget and other important issues, that we can't get to, that other people want to get to. I hope we're going to the calendar. We're going to another legislative day for one member. I can't believe it.

Sen. Travaglini said the purpose for the decision has nothing to do with people in this chamber or the arguments being made. It has everything to do with the realization that we are running out of time and we have yet to gain any ground on this. We have sent nothing to the House, we're not going to be around here for the next two weeks and we have to be out of here by July 31. That's going to take time and that's time we don't have. It will probably have to be conferenced. It is imperative upon us to assume the responsibility to act quickly and take a position as a body on this issue and send it to the House. We will probably be going back and forth for three weeks, and that will bring us to July.

Sen. Lees said we're not even close to taking a final vote on this. This is a bipartisan effort, we will be printing in the calendar. We will not be done on this today. I wish we hadn't gone to another legislative day for one member. There's something I don't like about this process. But it's been bipartisan.

- more -

SENATE SESSION - THURSDAY, MAY 27, 2004

Sen. Travaglini said I'd just like remind the minority leader that reconsideration prevailed.

BY ROLL CALL VOTE 26-11 MOTION TO GO INTO A SECOND LEGISLATIVE DAY ADOPTED

ADJOURNS/RECONVENES: The Senate adjourned at 5:42 pm and immediately reconvened.

CONVENES: The Senate convened at 5:42 pm in a new legislative day.

Roll call had already been ordered.

AMENDMENT 1.1 REJECTED ON ROLL CALL VOTE, 17-20

AMENDMENT 1: Question came on amendment 1 striking section 4. Amendment adopted on voice vote.

AMENDMENT 2: Question came on Barrios amendment 2 size requirements for FID cards, which was adopted.

AMENDMENT 3: Question came on Brewer and Moore amendment 3, which was adopted.

Sen. Rosenberg later asked that no action be considered taken on amendment 3.

He requested a roll call vote and there was support.

AMENDMENT ADOPTED ON ROLL CALL VOTE, 37-0

AMENDMENT 4: Question came on Brewer and Moore Amendment 4.

Sen. Barrios offered a further amendment, which was adopted.

Main amendment 4 adopted.

AMENDMENT 5: Question came on amendment 5.

Sen. Nuciforo requested a roll call vote.

AMENDMENT 5 ADOPTED ON ROLL CALL VOTE, 25-12

FIREARM REVIEW BOARD: Question came on Brewer and Moore redrafted amendment 6 firearm licensing review board.

Sen. Brewer said I hope this is adopted. I know emotions are raw here today. But many, many things we can be proud of. This is a good piece. We can be proud of this. This amendment is a very solid piece.

Sen. Brewer requested a roll call vote and there was support.

-more-

SENATE SESSION - THURSDAY, MAY 27, 2004

Sen. Barrios said this is a significant piece here. There are some who do not want any violent offenders to get firearms licenses. Under the 1998 law, we precluded some individuals who had been convicted of certain crimes from getting this FID. This sets up a seven-member review panel of largely law enforcement officials to restore those people's rights to carry a gun. We allow some folks - misdemeanor OIU, for example, - to reapply. It will include a retired judge, State Police, a CORI board member and others. They will consider the applications. Who can go before the board? Someone with an outstanding arrest warrant cannot come before this body. Only people who have criminal misdemeanors arising from the same incident can come before this review board. Some people may feel uncomfortable about this.

Sen. Moore said I add one aspect. The people who come here cannot have been involved in drug crimes, firearm crimes or domestic abuse. So I think we have crafted this fairly narrowly. This doesn't guarantee people a license. It just allows a little but of light in the tunnel for those folks who have suffered under this law for the last six years.

AMENDMENT ADOPTED ON ROLL CALL VOTE, 37-0.

FEES: Question came on Moore and Brewer amendment 7 license to carry fee.

Sen. Barrios offered a further amendment exempting law enforcement officials, which was adopted.

The main amendment was adopted.

ONE GUN PER MONTH: Question came on Creem amendment 8 preventing illegal gun trafficking, one gun purchase per month.

Sen. Creem said this will help keep our children safe. Look at Harlan Harris, who was killed recently in Boston. Every year we seem to go through a temporary bout of outrage about kids killed, and then the rage and names fade. Every time I hear of a young person shot, I think about what we can do about it. Kids can't buy guns legally. We know kids get guns illegally. Yet today we are expanding access to guns. This measure would stop people from buying guns in bulk for resale on the street. This is not a law that would hurt people. Federal studies show guns in the hands of teens were first purchased legally. California, South Carolina, Maryland and other states have this one gun a month law. I know some here are skeptical. Look at the Robles case in Springfield; he was unable to purchase firearms legally. His options constrained, he found a straw buyer to buy one on his behalf. Robles obtained 54 guns before being arrested. Many were to be sold on the streets of Springfield - the home of Sen. Lees. We are lucky we caught Mr. Robles. But how many others have not been caught.

Sen. Creem requested a roll call vote

[Senators met by the rostrum].

Sen. Creem said I withdraw my request for a roll call.

Amendment defeated on voice vote.

AMENDMENT 10: The Senate REJECTED amendment 10 on a voice vote.

ARMED ENTRY: The Senate adopted Creedon amendment 11 crime of armed entry of dwelling place. -more-

SENATE SESSION - THURSDAY, MAY 27, 2004

Question came on ordering the bill to a third reading.

A roll call vote had already been ordered.

BILL ORDERED TO THIRD READING ON ROLL CALL VOTE, 36-1

The Senate then engrossed the bill on a voice vote.

Question came on ordering to third reading H 4744 further regulating the Department of Revenue [so-called tax loophole bill].

The Senate adopted a McGee amendment adding a sentence pertaining to apportionment and untaxed sales.

The Senate adopted Creem amendment single sales tax apportionment.

Sen. Creem said this bill will streamline the state's tax laws and close loopholes. Total savings for FY05 are between \$80 million to \$90 million. I believe these changes represent real reform and keep these savings flowing to the state. Under this bill, business will have to annually apply for business tax credits. Due to Internet resellers, we are not collecting some hotel funds. Because of the issues here, we have authorized a study on how to capture this savings. We will also study combined reporting and the single sales factor.

Sen. Creem requested a roll.

BY A ROLL CALL VOTE OF 37-0, WAYS AND MEANS AMENDMENT ADOPTED.

Bill, as amended, ordered to third reading. Rules were suspended and bill engrossed at 6:36 pm.

STATEWIDE WORKPLACE SMOKING BAN: By a standing vote of 13-4, the Senate attached an emergency preamble to H 4690 an act improving public health in the Commonwealth.

KOREAN WAR VETERANS: The Senate engrossed S 2136 definition of Korean War veteran.

TEACHER RETIREMENT: The Senate engrossed S 2121 authorizing the state Teachers' Retirement Board to grant creditable service to certain employees.

VETERAN'S RETIREMENT BENEFITS: The Senate engrossed S 1576 veteran's retirement benefits.

HOLYOKE PARK JURISDICTION: The Senate enacted S 2090 jurisdiction over public parks in the city of Holyoke.

ACCEPTANCE OF STATUTES: The Senate enacted S 2218 clarify the procedures for municipalities and districts to accept statutes.

DISCRIMINATION AGAINST VETERANS: The Senate enacted H 1053 an act prohibiting discrimination against veterans.

-more-

SENATE SESSION - THURSDAY, MAY 27, 2004

DEATH PRONOUNCEMENTS: The Senate enacted H 1663 to authorize nurse practitioners to make certain pronouncements of death.

GROTON-PEPPERELL LINE: The Senate H 4334 relative to the boundary lines between Groton and Pepperell.

JACOB SEARS LIBRARY: The Senate re-enacted H 3746 Jacob Sears Memorial Library.

NORTHBRIDGE: The Senate adopted a Moore amendment and ordered to third reading and engrossed H 3935 authorizing Northbridge to issue an additional license for the sale of all alcoholic beverages not to be drunk on the premises.

ADJOURNS IN MEMORY OF CHELMSFORD MARINE: The Senate adjourned at 6:42 pm to meet next at 11 am Tuesday without a calendar. The Senate held a moment of silence and then adjourned in memory of Marine Lance Corporal Andrew Zabierek of Chelmsford. Sen. Travaglini said Zabierek was killed last Friday night south of Baghdad.

^Z

DISCLAIMER: Bill texts and histories are available at www.state.ma.us/legis/legis.htm. All votes are voice votes, unless otherwise noted. Bills ordered to third reading have been given initial approval. To engross a bill is to pass it and send it to the other branch. The last of three votes taken on bills that reach the governor's desk is the vote on enactment. So, it's third reading (initial approval), engrossment (passage) and enactment. The News Service coverage of legislative debate is an accurate summary of remarks, not a verbatim transcript.

www.statehousenews.com

© Copyright 1997-2016 State House News Service