

# JOURNAL OF THE HOUSE.

**THURSDAY, OCTOBER 8, 2009.**

<i>Orders of the Day.</i>	
<p>The Senate Bill relative to pandemic and disaster preparation and response (Senate, No. 2028, amended) was read a second time.</p> <p>The amendments previously recommended by the committee on Ways and Means,— to amend the bill by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4271; and by striking out the title and inserting in place thereof the following title: “An Act relative to public health emergency preparation and response in the Commonwealth.”,— were adopted; and the bill, as amended, was ordered to a third reading.</p> <p>Subsequently under suspension of the rules, on motion of Mr. Murphy of Burlington, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.</p>	<p>Public health emergency preparation.</p>
<p>Pending the question on passing the bill to be engrossed, Mr. Peterson of Grafton moved that further consideration thereof be postponed, until Tuesday, October 13, 2009.</p>	
<p>After debate on the motion to postpone, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 22 members voted in the affirmative and 125 in the negative.</p> <p><b>[See Yea and Nay No. 233 in Supplement.]</b></p> <p>Therefore the motion to postpone was negatived.</p>	<p>Motion to postpone negatived,— yea and nay No. 233.</p>
<p>Subsequently a statement of Mr. Kulik of Worthington was spread upon the records of the House, as follows:</p>	
<p>MR. SPEAKER: I would like to call to the attention of the House, the fact that on the previous roll call I was absent from the House Chamber, on official business in another part of the State House while conducting a Ways and Means committee hearing in the Gardner Auditorium, along with Ways and Means committee Chairman Murphy</p>	<p>Statement concerning</p>

<p>of Burlington and Vice-Chairman L□Italien of Andover. If I had been present for the previous roll call I would have voted in the negative.</p>	<p>Representatives  Murphy of Burlington, Kulik of Worthington and L□Italien of Andover.</p>
<p>There being no objection,— On motion of Mr. Vallee of Franklin,—</p>	
<p><i>Ordered</i>, That, Notwithstanding any rule to the contrary, a court officer shall be assigned to cast roll call votes, except for quorum roll calls, for the members of the committee on Ways and Means who are conducting a public hearing in the Gardner Auditorium.</p>	<p>Ways and Means  committee chair and vice-chairs,—  voting.</p>
<p>After debate on the question on passing the bill to be engrossed, Representatives L□Italien of Andover and Bradley of Hingham moved to amend it in section 11 (as printed), in lines 223 to 226, inclusive, by striking out the paragraph in those lines and inserting in place thereof the following paragraph:</p> <p>“It shall be a violation of section 4 of chapter 151B for an employee to discharge or reduce any benefits of an employee because such employee is subject to an order of isolation or quarantine or because the employee has a child under 21 years of age, disabled dependent, elderly person or spouse of whom the wage earner has custody and responsibility is subject to an order of isolation or quarantine.”.</p> <p>After remarks the amendment was adopted.</p> <p>The same members then moved to amend the bill in section 11 (as printed), in line 200, by inserting after the word “others.” the following sentence: “The Department of Public Health will upon detection of a new occurrence of a disease, infection or viral strain notify local boards of public health, will use reasonable means to notify local public health departments and the public of isolation requirements upon immediate knowledge of incubation time.”; and after remarks the amendment was adopted.</p> <p>Representatives L□Italien and Bradley then moved to amend the bill in section 11 (as printed), in line 203, by inserting after the word “exposed” the following sentence: “The Department of Public Health will upon detection of a new occurrence of a disease, infection or viral strain notify local boards of public health, will use reasonable means to notify local public health departments and the public of quarantine requirements upon immediate knowledge of incubation time.”. After remarks the amendment was adopted.</p> <p>The same members then moved to amend the bill in section 11 (as printed), in lines 227 to 234, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following paragraph:</p> <p>“(e) The individual or group subject to an order of isolation or quarantine shall be informed that</p>	

the order may be appealed by filing a petition in superior court challenging the order at any time. The appeal shall be heard by the superior court no later than 15 days from the date of filing of such appeal. Such court shall issue a final decision on the appeal no later than 10 days after the initial hearing. If an individual fails to comply with the order within the time specified in the order, the commissioner or the local public health authority may apply to a judge of the superior court for an order requiring the individual to comply with the order within the time specified in the order of the court and to take whatever other action the court considers appropriate in the circumstances to protect the public health. The law enforcement authorities of the city or town where the individual is present shall enforce the court order.”.

After remarks the amendment was adopted.

Representatives L□Italien of Andover and Bradley of Hingham then moved to amend the bill in section 3 by adding the following sentence: “The Department of Public Health shall make accessible to the consumer on the department□s website and by telephone hotline a manner in which to receive information on already reported conditions.”; and after remarks the amendment was adopted.

The same members then moved to amend the bill in section 9 by inserting after line 148 the following two paragraphs:

“Any volunteer, regardless of medical knowledge or education, shall receive adequate and sufficient training before administering a vaccine or medication, providing information to the consumer or otherwise performing duties similar to those in the medical profession.

Prior to administering a vaccination or medication, a medical professional or volunteer shall inform the consumer of any possible side effects. If no side effects are known at the time of the administration of the vaccination or medication, the consumer shall be informed of that as well.”.

After remarks the amendment was adopted.

Mr. Sánchez of Boston then move to amend the bill in section 1, in line 73 (as changed by the committee on Bills in the Third Reading), by striking out the following: “clause (2)” and inserting in place thereof the following: “clauses (1) through (4) inclusive”; and after remarks the amendment was adopted.

Representatives Bradley of Hingham and L□Italien of Andover then moved to amend the bill by inserting after section 4 the following section:

“SECTION 4A. Chapter 111 of the General Laws, is hereby amended by inserting after section 5A the following section:—

Section 5A½. (a) The department and, any health care provider, as defined in section 1, may not administer, or allow to be administered, any vaccine, including the influenza vaccine, to any person who is knowingly pregnant or under the age of three that contains more than trace amounts of mercury. For the purpose of this act, a trace amount is that amount as determined by the United States Food and Drug

Administration.

(b) The Commissioner may declare an exemption for the department and health care providers from this section if he or she determines that there is an epidemic, an emergency or that, after diligent efforts to obtain the mercury free vaccines, or vaccine containing no more than trace amounts of mercury, there is a shortage of the mercury-free vaccine or vaccine containing no more than trace amounts of mercury. In such a case, a 12 month exemption shall be sought.

The Commissioner may seek a second 12 month exemption should he or she determine that said epidemic, emergency, or shortage persists. All health care providers who administer to any child or adult, vaccinations subject to federal oversight, must be in compliance with the National Childhood Vaccine Injury Act (42 U.S.C. §300aa-26).

(c) This law shall take effect on December 31, 2010.

(d) On or before October 1, 2010, the Commissioner, in consultation with representatives from the Massachusetts Medical Society and the Massachusetts Chapter of the American Academy of Pediatrics, shall send a report to the Governor, the Joint Committee on Public Health, the Speaker of the House, and the Senate President regarding any issues with the implementation of this law, including any changes, if any, needed to amend existing sections of the Massachusetts General Laws relating to the purchase, procurement, or administration of vaccines.

(e) The department shall promulgate regulations to carry out the provisions of this section.”.

The amendment was adopted.

Mr. Sánchez of Boston then move to amend the bill in section 11 (as printed) in line 209, by inserting after the word “individuals” the following: “, or may issue an order requiring the owner or occupier of publicly accessible premises to close the premises or a specific part of the premises, and allowing reopening of the premises when the danger has ended”. The amendment was adopted.

The same member then moved to amend the bill in section 1, in line 70, by inserting after the word “agency.” the following sentence: “Nothing in this section shall supersede the normal operating authority of the local public health authorities, except that such authority shall not be exercised in a manner that conflicts with any procedure or order issued by the commissioner to assure the maintenance of public health and the prevention of disease during such emergency.”; and after remarks the amendment was adopted.

Mr. Vallee of Franklin then move to amend the bill by striking out section 13 (as printed) and inserting in place thereof the following section:

“SECTION 20. Section 12C of chapter 112 of the General Laws, as so appearing, is hereby amended by inserting after the word „programs,□ in line 2, the second time it appears, the following words: „and no other person assisting in the foregoing□ and by inserting after the word „nurse,□ the following word, „physician assistant□.”.

The amendment was adopted.

Representatives Bradley of Hingham and L. Italiani of Andover then moved to amend the bill in section 1, in line 24, by inserting before the word “willful” the words “negligence not committed under the circumstance of a public health emergency or gross negligence”; and the amendment was adopted.

Mr. Bradley then moved to amend the bill in section 9, in line 182, by inserting before the word “willful” the words “negligence not committed under the circumstance of a public health emergency or gross negligence”. The amendment was adopted.

Representatives Rushing of Boston and Wolf of Cambridge then moved to amend the bill in section 11 (as printed), in line 222, by striking out the words “; or isolation or quarantine of an area”; and the amendment was adopted.

Mr. Dwyer of Woburn then moved to amend the bill by inserting after section 12 (as printed) the following section:

“SECTION 14A. Chapter 111C of the General Laws, as so appearing, is hereby amended by adding the following section:—

Section 25. When a Class I, II, or V ambulance transports a patient receiving care at the Paramedic level of ALS, the ambulance must be staffed with a minimum of two EMTs, one of whom is certified at the EMT-Paramedic level.”.

The amendment was adopted.

Mr. Bradley of Hingham then moved to amend the bill in section 19 (as printed), in line 301, by inserting before the word “willful” the words “negligence not committed under the circumstance of a public health emergency or gross negligence”; and the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 1, in line 3, by striking out the following: “(a) Upon” (as changed by the committee on Bills in the Third Reading) and inserting in place thereof the following: “(a) The following terms shall, unless the context clearly requires otherwise, have the following meanings:—  
„public health emergency”, an occurrence or imminent threat of a disease or condition dangerous to the public health whose scale, timing or unpredictability threatens to overwhelm routine capabilities.

(b) Upon”.

The amendment was adopted.

After remarks on the question on passing the bill, as amended to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Sánchez of Boston; and on the roll

Bill passed to be engrossed,—

call 114 members voted in the affirmative and 36 in the negative.

yea and nay

[See Yea and Nay No. 234 in Supplement.]

No. 234.

Therefore the bill (Senate, No. 2028, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments adopted by the House [for text of the House amendments, printed as amended, see House, No. 4275].

**Roll Call H4271 / S2028, Oct. 8, No. 234**

<http://www.mass.gov/legis/journal/RollCallPdfs/186/00234.PDF?Session=186&RollCall=00234>

# HOUSE OF REPRESENTATIVES

---

## CALENDAR

---

**Thursday, October 8, 2009.**

---

[At eleven o'clock A.M.]

---

**ORDERS OF THE DAY. (prepared before full House session)**

---

138. [S. 2028] Bill (S.) relative to pandemic and disaster preparation and response (Senate, No. 2028, amended). 2d. [H. L. Stanley-C. A. Murphy-Kafka.] [Reported on Senate, No. 18 and House, No. 108.]

[Amended by the Senate in section 7, in subsection (e), by striking out the first sentence; in section 13, in

proposed subsection 95(a), by inserting after clause (4) the following clause:

“4 ½ stating that failure to comply with the order poses a serious danger to public health, if the commissioner determines that non-compliance would pose such a danger; and”; by striking out section 18 and inserting in place thereof the following section:

“SECTION 18. Notwithstanding the provisions of any general or special law to the contrary, no health care provider, as defined in section 1 of chapter 111 of the General Laws, and no provider, as defined in section 1 of chapter 118G of the General Laws, shall be liable in a suit for damages or subject to administrative or licensing sanctions as a result of good-faith acts or omissions while engaged in the performance of duties as a volunteer participating in a preparedness program sanctioned by any state agency as defined in section 1 of chapter 6A of the General Laws or a local public health authority as defined in section 1 of said chapter 111, or as an employee in rendering emergency care, treatment, advice, or assistance during a public health emergency declared by the governor under section 2A of chapter 17 of the General Laws, or during a state of emergency declared under chapter 639 of the acts of 1950, as most recently amended by chapter 491 of the Acts of 1953. This section does not apply in the case of malfeasance, willful, wanton, or reckless actions by a provider occurring in the performance of the provider’s duties during said emergency.”; and in section 26, at the end of clause (a), by inserting the following sentence: “The department of public health shall consult with the division of insurance in promulgating regulations regarding the waiver of administrative requirements and claims payment requirements during a public health emergency.”].

*[The committee on Ways and Means recommends that the bill be amended striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4271; and by striking out the title and inserting in place thereof the following title: “An Act relative to public health emergency preparation and response in the Commonwealth.”].*

## JOURNAL OF THE SENATE.

*Monday, April 27, 2009.*

### *Reports of Committees.*

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill relative to pandemic preparation and response in the Commonwealth (Senate, No. 2028),- ought to pass with an amendment striking Section 18 as printed and inserting in place thereof the following:-

“SECTION 18. Notwithstanding the provisions of any general or special law to the contrary, no health care provider, as defined in section 1 of chapter 111 of the General Laws, and no provider, as defined in section 1 of chapter 118G of the General Laws, shall be liable in a suit for damages or subject to administrative or licensing sanctions as a result of good-faith acts or omissions while engaged in the performance of duties as a volunteer participating in a preparedness program sanctioned by any state agency as defined in section 1 of chapter 6A of the General Laws or a local public health authority as defined in section 1 of said chapter 111, or as an employee in rendering emergency care, treatment, advice, or assistance during a public health emergency declared by the Governor under section 2A of chapter 17 of the General Laws, or during a state of emergency declared under chapter 639 of the Acts of 1950, as most recently amended by chapter 491 of the Acts of 1953. This section does not apply in the case of malfeasance, willful, wanton, or reckless actions by a provider occurring in the performance of the provider’s duties during said emergency.”

**The rules were suspended, on motion of Mr. Tarr, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.**

**The bill (Senate, No. 2028, amended) was then ordered to a third reading.**

## **JOURNAL OF THE SENATE.**

*Tuesday, April 28, 2009.*

### *Petitions.*

Petitions were presented and referred, as follows:

**By Mr. O’Leary (by request)**, a petition (subject to Joint Rule 12) of Paul Cooper for the adoption of resolutions reasserting state sovereignty under the 10th Amendment of the United States Constitution; **Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

### *Orders of the Day.*

The Senate Bill relative to pandemic and disaster preparation and response (Senate, No. 2028, amended) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time.**

Pending the question on passing the bill to be engrossed, after remarks, Mr. Tarr moved to amend the bill by striking section 28 and inserting the following two sections:

“SECTION 28. Notwithstanding the provisions of any law or regulation to the contrary, the Department of Public Health shall not approve any reduction in licensed acute-care, medical-surgical, critical care or other beds licensed pursuant to Chapter 111 of the General Laws if such reduction would adversely impact the pandemic preparedness of any hospital which provides one or more essential health services as defined by the department pursuant to Section 51G of said Chapter 111.

SECTION 29. This bill shall take effect upon its passage.”

After remarks, the amendment was *rejected*.

Mr. Richard T. Moore moved to amend the bill (as printed) in section 7, in subsection (e), by striking out the first sentence; in section 13, in proposed section 95, in subsection (a), by inserting after clause (4) the following clause:—

“(4½) stating that failure to comply with the order poses a serious danger to public health, if the commissioner determines that non-compliance would pose such a danger; and”;

and  
In section 26 (as printed), in proposed section 24G, in subsection (a), by adding the following sentence: — “The department of public health shall consult with the division of insurance in promulgating regulations regarding the waiver of administrative requirements and claims payment requirements during a public health emergency.”

**The amendment was adopted.**

The question on passing the bill to be engrossed was determined by a call of the yeas and nays at a quarter before four o’clock P.M., on motion of Mr. Richard T. Moore, as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 32**]:

**YEAS.**

Baddour, Steven A.	Knapik, Michael R.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Montigny, Mark C.
Brown, Scott P.	Moore, Michael O.
Buoniconti, Stephen J.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Chang-Diaz, Sonia	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Donnelly, Kenneth J.	Panagiotakos, Steven C.
Downing, Benjamin B.	Petrucelli, Anthony
Eldridge, James B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Kennedy, Thomas P.	Walsh, Marian — 36.

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Candaras, Gale D.

Menard, Joan M. — 3.

Hart, John A., Jr.