

# Journal of the Senate

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FRIDAY, APRIL 2, 2010

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Terry Dorsett of Barre.

## Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with commemorative posters:

Caitlin Costello of Burlington  
Paul Croizet of Westfield  
Brandon Garbacik of South Barre  
Jasmine Jones of Northfield  
Johannah Mitchell of Burlington  
Brian Renfro of Hartland  
Zivah Solomon of Worcester  
Tanner Starr of North Troy  
Louise Weed of Putney  
Shelli Young of St. Albans

## Message from the House No. 45

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 773.** An act relating to approval of amendments to the charter of the city of Burlington.

In the passage of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 58.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

**Message from the House No. 46**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 771.** An act relating to approval of amendments to the charter of the town of Stowe.

In the passage of which the concurrence of the Senate is requested.

The Governor has informed the House that on the March 30, 2010, he approved and signed bills originating in the House of the following titles:

**H. 598.** An act relating to sorting early voter absentee ballots.

**H. 607.** An act relating to codifying and amending the charter of the Chittenden County Transportation Authority.

**H. 761.** An act relating to authorization of High-Speed Intercity Passenger Rail Program grants.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 771.**

An act relating to approval of amendments to the charter of the town of Stowe.

To the Committee on Government Operations.

**H. 773.**

An act relating to approval of amendments to the charter of the city of Burlington.

To the Committee on Government Operations.

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**Consideration Resumed; Consideration Postponed****S. 294.**

Consideration was resumed on Senate Committee bill entitled:

An act relating to identification in electioneering communications and penalties for campaign finance violations.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator White on behalf of the Committee on Government Operations?, on motion of Senator Shumlin, action on the bill was postponed until the next legislative day.

**Recess**

On motion of Senator Shumlin the Senate recessed until the fall of the gavel.

**Called to Order**

At 10:30 A.M. the Senate was called to order by the President.

**Consideration Resumed; Bill Amended; Third Reading Ordered****S. 247.**

Consideration was resumed on Senate bill entitled:

An act relating to bisphenol A.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Health and Welfare?, Senator Lyons moved to amend the recommendation of amendment of the Committee on Health and Welfare as follows:

First: By striking out the *second* recommendation of amendment in its entirety and inserting in lieu thereof the following: In Sec. 2, 18 V.S.A. § 1512, in subdivision (a)(4), by adding at the end of the subsection a new sentence to read as follows: The term shall not include commercial water cooler jugs until such time as a reasonable alternative is identified by the office of the attorney general.

Second: By adding a new section to be numbered Sec. 3 to read as follows:

Sec. 3. AVAILABILITY OF ALTERNATIVE CONTAINERS FOR USE IN WOMEN, INFANTS, AND CHILDREN (WIC) PROGRAM

The department of health shall identify as soon as possible one or more bisphenol A-free containers, including cans, for use in Vermont's women, infants, and children (WIC) program. No later than January 15, 2012, the

department shall report to the house committees on human services and on judiciary and the senate committees on health and welfare and on judiciary with respect to the availability of bisphenol A-free containers for use in the WIC program.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Health and Welfare be amended as recommended by Senator Lyons?, Senator Racine moved to amend the *first* recommendation of amendment of Senator Lyons by striking out the following: “until such time as a reasonable alternative is identified by the office of the attorney general”

Which was agreed to.

Thereupon, the recurring question, Shall the recommendation of amendment of the Committee on Health and Welfare be amended as recommended by Senator Lyons, as amended?, was agreed to on a roll call, Yeas 25, Nays 3.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Flory, Giard, Hartwell, Kitchel, Lyons, MacDonald, Mazza, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

**Those Senators who voted in the negative were:** Ashe, Illuzzi, McCormack.

**Those Senators absent and not voting were:** Kittell, Miller.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended?, Senators Nitka and Sears moved to substitute an amendment for the recommendation of amendment of the Committee on Health and Welfare, as amended, by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. FINDINGS

The general assembly finds that:

(1) According to a 2009 article in the *American Journal of Public Health*, bisphenol A (BPA) is a synthetic estrogen that was originally considered for use in managing challenging pregnancies. Low-dose exposure to BPA has been linked to breast cancer, prostate cancer, recurrent

miscarriages, early onset puberty, reduced sperm count, delayed development, heart disease, diabetes, and obesity.

(2) According to a 2006 article in the journal *Environmental Research*, over 90 percent of the more than 100 government-funded studies of low-dose exposure to BPA have demonstrated adverse health effects.

(3) According to the Centers for Disease Control and Prevention, more than 90 percent of Americans have detectable levels of BPA in their bodies, and children have higher concentrations of BPA in their bodies than do adolescents or adults.

(4) According to Frederick vom Saal, professor of biological sciences at the University of Missouri–Columbia, approximately seven billion pounds of BPA is produced globally each year for use in baby bottles, dental sealants, compact discs, water bottles, food cans, and a wide variety of other items.

(5) According to the nonprofit organization Environment and Human Health, Inc., BPA is one of the most frequently detected industrial chemicals in groundwater and is also found in landfill leachate, surface water, sewage, sludge, and treated wastewater discharge.

(6) According to William Hoyle of the North American Metal Packaging Alliance, Inc., at least 53 percent of infants born in Vermont relied on the Women, Infants, and Children (WIC) program in 2009.

(7) According to information provided by the Vermont Public Interest Research Group, alternatives to BPA already exist and the use of BPA should be limited in order to protect the health of the citizens and environment of Vermont.

Sec. 2. 18 V.S.A. § 1512 is added to read:

§ 1512. BISPHEENOL A

(a) As used in this section, “child’s container or utensil” means an empty baby bottle, spill-proof cup, or reusable utensil intended by the manufacturer primarily for use by a child three years of age or younger.

(b) Beginning July 1, 2010, no person or entity shall manufacture, sell, or distribute in commerce in this state any child’s container or utensil that contains bisphenol A.

(c) A violation of this section shall be deemed a violation of the Consumer Fraud Act, chapter 63 of Title 9. The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of

discontinuance, and bring civil actions, and private parties have the same rights and remedies, as provided under subchapter 1 of chapter 63 of Title 9.

Sec. 3. IMPLEMENTATION IN OTHER JURISDICTIONS AND AVAILABILITY OF ALTERNATIVE CONTAINERS

The department of health, in consultation with interested stakeholders, shall monitor and evaluate the implementation of bans on bisphenol A in consumer products in other states and municipalities, including the impact on those states' Women, Infants, and Children (WIC) programs. The department shall also identify as soon as possible one or more bisphenol A-free containers for use in Vermont's WIC program. No later than January 15, 2012, the department shall report to the house committees on human services and on judiciary and the senate committees on health and welfare and on judiciary its findings and recommendations with respect to expanding the scope of Vermont's bisphenol A ban, the impacts on WIC programs, and the availability of bisphenol A-free containers.

Which was disagreed to on a roll call, Yeas 12, Nays 16.

Senator Racine having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Bartlett, Campbell, Flory, Hartwell, Mazza, Mullin, Nitka, Scott, Sears, Shumlin, Starr, White.

**Those Senators who voted in the negative were:** Ashe, Ayer, Brock, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Illuzzi, Kitchel, Lyons, MacDonald, McCormack, Racine, Snelling.

**Those Senators absent and not voting were:** Kittell, Miller.

Thereupon, the recurring question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended?, was agreed to on a roll call, Yeas 26, Nays 2.

Senator Flanagan having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Racine, Scott, Shumlin, Snelling, Starr, White.

**Those Senators who voted in the negative were:** Flory, Sears.

**Those Senators absent and not voting were:** Kittell, Miller.

Thereupon, the question, Shall the bill be read the third time?, which was agreed to on a roll call, Yeas 25, Nays 1.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Racine, Scott, Shumlin, Starr, White.

**The Senator who voted in the negative was:** Sears.

**Those Senators absent and not voting were:** Flory, Kittell, Miller, Snelling.

#### **Consideration Postponed**

Senate bill entitled:

#### **S. 288.**

An act relating to the Vermont recovery and reinvestment act of 2010.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

#### **Adjournment**

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, April 2, 2010, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 58.