

Journal of the Senate

THURSDAY, APRIL 12, 2012

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Brad Keller of South Royalton.

Committee Relieved of Further Consideration

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of Senate bills entitled:

S. 137, S. 169, S. 204 and S. 233

Thereupon, under the rule, the bills were severally ordered placed on the Calendar for notice the next legislative day.

Committee Relieved of Further Consideration; Bill Committed

H. 789.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to reapportioning the final representative districts of the House of Representatives,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion on Senator Campbell, the bill was committed to the Committee on Reapportionment.

Bill Referred to Committee on Finance

H. 774.

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were referred to the Committee on Finance:

An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths.

Bill Passed

Senate bill of the following title:

S. 28. An act relating to consolidating land use and environmental permit administration, rulemaking, and appeals into a department of environmental quality headed by an environmental council.

Was read the third time and passed on a division of the Senate Yeas 21, Nays 7.

Bills Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 760. An act relating to lowering to 16 the age of consent for blood donation.

H. 761. An act relating to executive branch fees, including motor vehicle and fish and wildlife fees.

Joint Resolution Adopted on the Part of the Senate**J.R.S. 11.**

Joint Senate resolution of the following title was read the third time and adopted on the part of the Senate:

Joint resolution urging the United States Congress to propose an amendment to the United States Constitution for the states' consideration which provides that corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions.

Consideration Postponed**H. 157.**

Senator Miller, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to restrictions on tanning beds.

Reported recommending that the Senate propose to the House to amend the bill as follows:

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

Sec. 3. FINDINGS

The general assembly finds:

(1) The state of Oregon has been implementing its Death with Dignity Act since 1998. In 14 years, Oregon has seen a total of 935 terminal patients formally request medication to hasten death and, of those, 596 patients took the medication and died pursuant to the act. Oregon's most recent annual report on the act shows that in 2011, 114 prescriptions were written by 62 different physicians. A total of 71 patients died in 2011 from ingesting medication prescribed under the law. Cancer continues to be the most common terminal condition for patients qualifying under Oregon's law, as 82.4% of the 71 patient deaths in 2011 were associated with a cancer diagnosis. Over the 14 years of implementation, 80.8% of the individuals ingesting medication had a terminal cancer diagnosis.

(2) Vermont has about one-sixth the population of Oregon. According to the 2010 census, Oregon has a population of 3,831,074 and Vermont a population of 625,741.

(3) In the past 17 years, Oregon has seen its hospice enrollment increase significantly. In 1993, only 20 percent of all dying patients were enrolled in hospice. By 2005, enrollment had increased to 54 percent. In 2009, 91.5 percent of the patients who used medication under the Death with Dignity Act were in hospice care.

(4) According to a 2000 article in the New England Journal of Medicine, Oregon health care professionals report that Oregon physicians grant approximately one in six requests for lethal medication, and one in 10 requests actually results in hastened death.

(5) Despite continuing improvements in techniques for palliative care, most medical experts agree that not all pain can be relieved. Some terminal diseases, such as bone cancer, inflict untreatable agony at the end of life. Many cancer patients report that they would have greater comfort and courage in facing their future if they were assured they could use a Death with Dignity law if their suffering became unbearable.

Second: By adding a new section to be numbered Sec. 4 to read as follows:

Sec. 4. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. RIGHTS OF QUALIFIED PATIENTS SUFFERING A
TERMINAL CONDITION

§ 5280. DEFINITIONS

For purposes of this chapter:

(1) "Attending physician" means the physician whom the patient has designated to have primary responsibility for the care of the patient and who is

willing to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

(2) “Capacity” shall have the same meaning as in subdivision 9701(4)(B) of this title.

(3) “Consulting physician” means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient’s illness and who is willing to participate in the provision of medication to a qualified patient to hasten his or her death in accordance with this chapter.

(4) “Counseling” means a consultation between a psychiatrist, psychologist, or clinical social worker licensed in Vermont and a patient for the purpose of confirming that the patient:

(A) has capacity; and

(B) is not suffering from a mental disorder or disease, including depression that causes the patient to have impaired judgment.

(5) “Good faith” shall mean objective good faith.

(6) “Health care provider” shall have the same meaning as in subdivision 9432(8) of this title.

(7) “Informed decision” means a decision by a patient to request and obtain a prescription to hasten his or her death based on the patient’s understanding and appreciation of the relevant facts and that was made after the patient was fully informed by the attending physician of all the following:

(A) The patient’s medical diagnosis.

(B) The patient’s prognosis.

(C) The range of possible results, including potential risks associated with taking the medication to be prescribed.

(D) The probable result of taking the medication to be prescribed.

(E) All feasible end-of-life services, including comfort care, hospice care, and pain control.

(8) “Palliative care” shall have the same meaning as in subdivision 2(6) of this title.

(9) “Patient” means a person who is 18 years of age or older, a resident of Vermont, and under the care of a physician.

(10) “Physician” means a physician licensed pursuant to chapters 23 and 33 of Title 26.

(11) “Qualified patient” means a patient with capacity who has satisfied the requirements of this chapter in order to obtain a prescription for medication to hasten his or her death. No individual shall qualify under the provisions of this chapter solely because of age or disability.

(12) “Terminal condition” means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six months.

§ 5281. REQUESTS FOR MEDICATION

(a) In order to qualify under this chapter:

(1) A patient with capacity who has been determined by the attending physician and consulting physician to be suffering from a terminal condition and who has voluntarily expressed a wish to hasten the dying process may request medication to be self-administered for the purpose of hastening his or her death in accordance with this chapter.

(2) A patient shall have made an oral request and a written request and shall have reaffirmed the oral request to his or her attending physician not less than 15 days after the initial oral request. At the time the patient makes the second oral request, the attending physician shall offer the patient an opportunity to rescind the request.

(b) Oral requests for medication by the patient under this chapter shall be made in the presence of the attending physician.

(c) A written request for medication shall be signed and dated by the patient and witnessed by at least two persons, at least 18 years of age, who, in the presence of the patient, sign and affirm that the principal appeared to understand the nature of the document and to be free from duress or undue influence at the time the request was signed. Neither witness shall be any of the following persons:

(1) The patient’s attending physician, consulting physician, or any person who has provided counseling for the patient pursuant to section 5284 of this title.

(2) A person who knows that he or she is a relative of the patient by blood, marriage, civil union, or adoption.

(3) A person who at the time the request is signed knows that he or she would be entitled upon the patient's death to any portion of the estate or assets of the patient under any will or trust, by operation of law, or by contract.

(4) An owner, operator, or employee of a health care facility, nursing home, or residential care facility where the patient is receiving medical treatment or is a resident.

(d) A person who knowingly fails to comply with the requirements in subsection (c) of this section is subject to prosecution under 13 V.S.A. § 2004.

(e) The written request shall be completed after the patient has been examined by a consulting physician as required under section 5283 of this title.

(f)(1) Under no circumstances shall a guardian or conservator be permitted to act on behalf of a ward for purposes of this chapter.

(2) Under no circumstances shall an agent under an advance directive be permitted to act on behalf of a principal for purposes of this chapter.

§ 5282. ATTENDING PHYSICIAN; DUTIES

The attending physician shall perform all the following:

(1) Make the initial determination of whether a patient:

(A) is suffering a terminal condition;

(B) has capacity; and

(C) has made a voluntary request for medication to hasten his or her death.

(2) Request proof of Vermont residency, which may be shown by:

(A) a Vermont driver's license or photo identification card;

(B) proof of Vermont voter's registration;

(C) evidence of property ownership or a lease of residential premises in Vermont; or

(D) a Vermont personal income tax return for the most recent tax year.

(3) Inform the patient in person and in writing of all the following:

(A) The patient's medical diagnosis.

(B) The patient's prognosis.

(C) The range of possible results, including potential risks associated with taking the medication to be prescribed.

(D) The probable result of taking the medication to be prescribed.

(E) All feasible end-of-life services, including comfort care, hospice care, and pain control.

(4) Refer the patient to a consulting physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient has capacity and is acting voluntarily.

(5) Refer the patient for counseling under section 5284 of this chapter.

(6) Refer the patient for a palliative care consultation under section 5285 of this chapter.

(7) Recommend that the patient notify the next of kin or someone with whom the patient has a significant relationship.

(8) Counsel the patient about the importance of ensuring that another individual is present when the patient takes the medication prescribed pursuant to this chapter and the importance of not taking the medication in a public place.

(9) Inform the patient that the patient has an opportunity to rescind the request at any time and in any manner and offer the patient an opportunity to rescind at the end of the 15-day waiting period.

(10) Verify, immediately prior to writing the prescription for medication under this chapter, that the patient is making an informed decision.

(11) Fulfill the medical record documentation requirements of section 5290 of this title.

(12) Ensure that all required steps are carried out in accordance with this chapter prior to writing a prescription for medication to hasten death.

(13)(A) Dispense medication directly, including ancillary medication intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is licensed to dispense medication in Vermont, has a current Drug Enforcement Administration certificate, and complies with any applicable administrative rules; or

(B) With the patient's written consent:

(i) contact a pharmacist and inform the pharmacist of the prescription; and

(ii) deliver the written prescription to the pharmacist, who will dispense the medication to the patient, the attending physician, or an expressly identified agent of the patient.

(14) Notwithstanding any other provision of law, the attending physician may sign the patient's death certificate.

§ 5283. MEDICAL CONSULTATION REQUIRED

Before a patient is qualified in accordance with this chapter, a consulting physician shall physically examine the patient, review the patient's relevant medical records, and confirm in writing the attending physician's diagnosis that the patient is suffering from a terminal condition and verification that the patient has capacity, is acting voluntarily, and has made an informed decision.

§ 5284. COUNSELING REFERRAL

If, in the opinion of the attending physician or the consulting physician, a patient may be suffering from a mental disorder or disease, including depression, causing impaired judgment, either physician shall refer the patient for counseling. No medication to end the patient's life shall be prescribed until the person performing the counseling determines that the patient is not suffering from a mental disorder or disease, including depression, that causes the patient to have impaired judgment.

§ 5285. PALLIATIVE CARE CONSULTATION

If a patient is not receiving hospice services at the time the written request for medication is made pursuant to this chapter, his or her attending physician shall refer the patient for a palliative care consultation and shall attest to its completion pursuant to subdivision 5290(a)(5) of this title.

§ 5286. INFORMED DECISION

No person shall receive a prescription for medication to hasten his or her death unless the patient has made an informed decision. Immediately prior to writing a prescription for medication in accordance with this chapter, the attending physician shall verify that the patient is making an informed decision.

§ 5287. RECOMMENDED NOTIFICATION

The attending physician shall recommend that the patient notify the patient's next of kin or someone with whom the patient has a significant relationship of the patient's request for medication in accordance with this chapter. A patient who declines or is unable to notify the next of kin or the person with whom the patient has a significant relationship shall not be refused medication in accordance with this chapter.

§ 5288. RIGHT TO RESCIND

A patient may rescind the request for medication in accordance with this chapter at any time and in any manner regardless of the patient's mental state. No prescription for medication under this chapter may be written without the attending physician's offering the patient an opportunity to rescind the request.

§ 5289. WAITING PERIOD

The attending physician shall write a prescription no less than 48 hours after the last to occur of the following events:

(1) the patient's written request for medication to hasten his or her death;

(2) the patient's second oral request; and

(3) the attending physician's offering the patient an opportunity to rescind the request.

§ 5290. MEDICAL RECORD DOCUMENTATION

(a) The following shall be documented and filed in the patient's medical record:

(1) The date, time, and wording of all oral requests of the patient for medication to hasten his or her death.

(2) All written requests by a patient for medication to hasten his or her death.

(3) The attending physician's diagnosis, prognosis, and basis for the determination that the patient has capacity, is acting voluntarily, and has made an informed decision.

(4) The consulting physician's diagnosis, prognosis, and verification, pursuant to section 5283 of this title, that the patient has capacity, is acting voluntarily, and has made an informed decision.

(5) If the patient was not receiving hospice services at the time of the written request for medication, the attending physician's attestation that the patient received a palliative care consultation.

(6) A report of the outcome and determinations made during any counseling which the patient may have received.

(7) The date, time, and wording of the attending physician's offer to the patient to rescind the request for medication at the time of the patient's second oral request.

(8) A note by the attending physician indicating that all requirements under this chapter have been satisfied and describing all of the steps taken to carry out the request, including a notation of the medication prescribed.

(b) Medical records compiled pursuant to this chapter shall be subject to discovery only if the court finds that the records are necessary to resolve issues of compliance with or immunity under this chapter.

§ 5291. REPORTING REQUIREMENT

(a) The department of health shall require that any physician who writes a prescription pursuant to this chapter file a report with the department covering all the prerequisites for writing a prescription under this chapter. In addition, physicians shall report the number of written requests for medication that were received, regardless of whether a prescription was actually written in each instance.

(b) The department of health shall review annually the medical records of qualified patients who have hastened their deaths in accordance with this chapter.

(c) The department of health shall adopt rules pursuant to chapter 25 of Title 3 to facilitate the collection of information regarding compliance with this chapter. Individual medical information collected and reports filed pursuant to subsection (a) of this section shall not be public record and shall not be made available for inspection by the public.

(d) The department of health shall generate and make available to the public an annual statistical report of information collected under subsections (a) and (b) of this section. The report shall include the number of instances in which medication was taken by a qualified patient to hasten death but failed to have the intended effect.

§ 5292. SAFE DISPOSAL OF UNUSED MEDICATIONS

(a) The department of health shall adopt rules providing for the safe disposal of unused medications prescribed under this chapter.

(b) Expedited rulemaking. Notwithstanding the provisions of chapter 25 of Title 3, the department of health may adopt rules under this section pursuant to the following expedited rulemaking process:

(1) Within 90 days after the date this act is passed, the department shall file proposed rules with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841 after publication in three daily newspapers with the highest average circulation in the state of a notice that

lists the rules to be adopted pursuant to this process and a seven-day public comment period following publication.

(2) The department shall file final proposed rules with the legislative committee on administrative rules 14 days after the public comment period.

(3) The legislative committee on administrative rules shall review and may approve or object to the final proposed rules under 3 V.S.A. § 842, except that its action shall be completed no later than 14 days after the final proposed rules are filed with the committee.

(4) The department may adopt a properly filed final proposed rule after the passage of 14 days from the date of filing final proposed rules with the legislative committee on administrative rules or after receiving notice of approval from the committee, provided the department:

(A) has not received a notice of objection from the legislative committee on administrative rules; or

(B) after having received a notice of objection from the committee, has responded pursuant to 3 V.S.A. § 842.

(5) Rules adopted under this section shall be effective upon being filed with the secretary of state and shall have the full force and effect of rules adopted pursuant to chapter 25 of Title 3. Rules filed with the secretary of state pursuant to this section shall be deemed to be in full compliance with 3 V.S.A. § 843 and shall be accepted by the secretary of state if filed with a certification by the secretary of human services that a rule is required to meet the purposes of this section.

§ 5293. PROHIBITIONS; CONTRACT CONSTRUCTION

(a) No provision in a contract, will, trust, or other agreement, whether written or oral, shall be valid to the extent the provision would affect whether a person may make or rescind a request for medication to hasten his or her death in accordance with this chapter.

(b) The sale, procurement, or issue of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request by a person for medication to hasten his or her death in accordance with this chapter or the act by a qualified patient to hasten his or her death pursuant to this chapter. Neither shall a qualified patient's act of ingesting medication to hasten his or her death have an effect on a life, health, or accident insurance or annuity policy.

§ 5294. IMMUNITIES

(a) No person shall be subject to civil or criminal liability or professional disciplinary action for actions taken in good faith reliance on the provisions of this chapter. This includes being present when a qualified patient takes the prescribed medication to hasten his or her death in accordance with this chapter.

(b) No professional organization or association or health care provider shall subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for actions taken in good faith reliance on the provisions of this chapter or refusals to act under this chapter.

(c) No provision by an attending physician of medication in good faith reliance on the provisions of this chapter shall constitute patient neglect for any purpose of law.

(d) No request by a patient for medication under this chapter shall provide the sole basis for the appointment of a guardian or conservator.

(e) No health care provider shall be under any duty, whether by contract, by statute, or by any other legal requirement, to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter. If a health care provider is unable or unwilling to carry out a patient's request in accordance with this chapter and the patient transfers his or her care to a new health care provider, the previous health care provider, upon request, shall transfer a copy of the patient's relevant medical records to the new health care provider. A decision by a health care provider not to participate in the provision of medication to a qualified patient shall not constitute the abandonment of the patient or unprofessional conduct under 26 V.S.A. § 1354.

§ 5295. HEALTH CARE FACILITY EXCEPTION

Notwithstanding any other provision of law, a health care facility may prohibit an attending physician from writing a prescription for medication under this chapter for a patient who is a resident in its facility and intends to use the medication on the facility's premises, provided the facility has notified the attending physician in writing of its policy with regard to such prescriptions. Notwithstanding subsection 5294(b) of this title, any health care provider who violates a policy established by a health care facility under this section may be subject to sanctions otherwise allowable under law or contract.

§ 5296. LIABILITIES AND PENALTIES

(a) With the exception of the immunities established by section 5294 of this title and with the exception of the provisions of section 5298 of this title, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

(b) With the exception of the immunities established by section 5294 of this title and with the exception of the provisions of section 5298 of this title, nothing in this chapter or in 13 V.S.A. § 2312 shall be construed to limit criminal prosecution under any other provision of law.

(c) A health care provider is subject to review and disciplinary action by the appropriate licensing entity for failing to act in accordance with this chapter, provided such failure is not in good faith.

§ 5297. FORM OF THE WRITTEN REQUEST

A written request for medication as authorized by this chapter shall be substantially in the following form:

REQUEST FOR MEDICATION TO HASTEN MY DEATH

I, _____, am an adult of sound mind.

I am suffering from _____, which my attending physician has determined is a terminal disease and which has been confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible end-of-life services, including comfort care, hospice care, and pain control.

I request that my attending physician prescribe medication that will hasten my death.

INITIAL ONE:

_____ I have informed my family or others with whom I have a significant relationship of my decision and taken their opinions into consideration.

_____ I have decided not to inform my family or others with whom I have a significant relationship of my decision.

_____ I have no family or others with whom I have a significant relationship to inform of my decision.

I understand that I have the right to change my mind at any time.

I understand the full import of this request, and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer, and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: _____ Dated: _____

AFFIRMATION OF WITNESSES

We affirm that, to the best of our knowledge and belief:

(1) the person signing this request:

(A) is personally known to us or has provided proof of identity;

(B) signed this request in our presence;

(C) appears to understand the nature of the document and to be free from duress or undue influence at the time the request was signed; and

(2) that neither of us:

(A) is under 18 years of age;

(B) is a relative (by blood, marriage, civil union, or adoption) of the person signing this request;

(C) is the patient's attending physician, consulting physician, or a person who has provided counseling for the patient pursuant to section 5284 of this title;

(D) is entitled to any portion of the person's assets or estate upon death; or

(E) owns, operates, or is employed at a health care facility where the person is a patient or resident.

Witness 1/Date _____

Witness 2/Date _____

NOTE: A knowingly false affirmation by a witness may result in criminal penalties.

§ 5298. STATUTORY CONSTRUCTION

Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in accordance with this chapter shall not be

considered tortious under law and shall not be construed for any purpose to constitute suicide, assisted suicide, mercy killing, or homicide under the law.

Third: By adding a new section to be numbered Sec. 5. to read as follows:

Sec. 5. 13 V.S.A. § 2312 is added to read:

§ 2312. VIOLATION OF PATIENT CHOICE AND CONTROL AT END OF LIFE ACT

A person who violates chapter 113 of Title 18 with the intent to cause the death of a patient as defined in subdivision 5280(8) of that title shall be prosecuted under chapter 53 of this title (homicide).

Fourth: By adding a new section to be numbered Sec. 6 to read as follows:

Sec. 6. 13 V.S.A. § 2004 is added to read:

§ 2004. FALSE WITNESSING

A person who knowingly violates the requirements of 18 V.S.A. § 5281(c) shall be imprisoned for not more than 10 years or fined not more than \$2,000.00 or both.

Fifth: By adding a new section to be numbered Sec. 7 to read as follows:

Sec. 7. EFFECTIVE DATES

(a) Secs. 1 and 2 of this act and this section shall take effect on July 1, 2012.

(b) The remaining sections of this act shall take effect on September 1, 2012.

After passage, the title of the bill is to be amended to read:

An act relating to death with dignity and to restrictions on tanning beds.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Health and Welfare? Senator Mullin raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by the Committee on Health and Welfare was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by the Committee on Health and Welfare was *not germane* for the following reasons:

In order for an amendment to be considered, it must be germane. Mason's Manual of Legislative Procedure, Sec. 402.

Whether a proposed amendment is germane is not always an easy question. Generally speaking, the following factors are considered:

1. Is the proposed amendment relevant, appropriate, and in a natural or logical sequence to the subject matter of the original proposal?
2. Does the proposed amendment introduce an independent question?
3. Does the proposed amendment unreasonably or unduly expand the subject matter of the bill?
4. Does the proposed amendment deal with a different topic or subject?
5. Does the proposed amendment change the purpose, scope or object of the original bill?

In deciding a question of germaneness, the threshold determination must be that of the subject matter of the bill or amendment under consideration and its scope.

In the case of H.157, bill proposes to prohibit the use of tanning facilities by minors. The subject matter was very narrow: it creates a civil penalty for a tanning facility which permits a minor to use a tanning bed

The proposal amendment relates to a completely different matter. It seeks to provide rights to qualified patients suffering from a terminal condition. It would introduce an independent question. It is not one that is relevant and naturally follows from the original proposal. It expands the original subject matter of the bill. Indeed it changes the purpose, scope or object of the original bill. As such, the proposed amendment is *not germane* to H. 157 and may not be considered by the Senate.

The President thereupon declared that the proposal of amendment offered by the Committee on Health and Welfare could *not* be considered by the Senate.

Thereupon, Senator Ayer moved the rules be suspended in order to permit consideration of the proposal of amendment of the Committee on Health and Welfare which was disagreed to on a roll call, Yeas 11, Nays 18, (three-fourths majority not being attained).

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: Ashe, Ayer, Baruth, Galbraith, Kittell, Lyons, MacDonald, McCormack, Miller, Snelling, White.

Those Senators who voted in the negative were: Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Giard, Hartwell, Illuzzi, Kitchel, Mazza, Mullin, Nitka, Pollina, Sears, Starr, Westman.

The Senator absent and not voting was: Fox.

The three-fourths majority not being attained.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Sears moved that consideration be postponed until, Wednesday, April 18, 2012.

Adjournment

On motion of Senator Campbell, the Senate adjourned until eleven o'clock and thirty minutes in the morning.