

Milton Wong

Legislative History Memo

Bill S.156 (2011)

The Tax Free Weekend bill of 2011 (S.156) eliminated the application of sales tax to a wide range of purchases of up to \$2,500 made on August 13 and 14, 2011. Passed by the legislature on July 28, 2011 and signed into law on August 8, 2011 as Chapter 86 of the Acts of 2011, it was the latest of such bills that have annually passed since 2004 with the exception of 2009.

Many retailers and consumers supported the bill, and this support provided most of the impetus for its passage. The Retailers Association of Massachusetts noted that the first tax free holiday in 2004 was part of an economic stimulus package signed into law by then Governor Mitt Romney. Jon B Hurst, *Testimony before the Joint Committee on Economic Development and Emerging Technologies* (hereinafter *Testimony*). It was favorably received and pumped millions of dollars into a slumping economy. Given the grim economic situation in 2011, it was important to once again achieve a similar boost. *Id.* It was more important this year than before given the competition of tax-free online purchases offered by internet retailers. *Id.* Retailers were thus very grateful for these temporary tax reprieves that generate sales in their brick and mortar stores. *Id.* Additionally, the mid-August timing of the tax-free weekend was ideal. *Id.* That time of year is traditionally very slow for retailers, as it falls between the end of the summer sales period and the beginning of the back-to-school shopping period. *Id.* The tax weekend was projected to provide a boost in sales to the tune of an expected \$500 million – as opposed to what would typically be a \$100 million sales weekend. Retailers Association of Massachusetts, *Fact Sheet* (hereinafter *Fact Sheet*). Also, the weekend would have allowed employees to work

hours more hours and earn more may, as more workers would be needed to meet the increased traffic. *Testimony*. This also would mean the state would recoup some of its lost sales tax revenue in the form of payroll taxes. *Id.* This tax-free weekend is in line with the conduct of 16 other states that provide a similar weekend, out of 45 that have sales tax. *Fact Sheet*. Other bills have tried to establish permanent tax free days (see e.g. S.1535 introduced by Senator Bruce Tarr) but have not passed.

However, not all groups favored the tax-free holiday. The Public Policy Institute began a campaign called ONE Massachusetts whose overarching goal was restore public confidence in government by calling for the government to rework the tax system, strengthen minority voices in the community, and engage in more transparent and accountable policy-making. ONE Massachusetts *Action Alert* (hereinafter *Action Alert*). *Testimony* from the Executive Director of the Group, Judy Meredith, showed that One Massachusetts was opposed to the tax-holiday because it eliminated \$20 million from the state revenue stream, which could be used for slumping state programs. Judy Meredith, The Public Policy Institute, *Testimony*. On July 25, 2011, One Massachusetts initiated a campaign encouraging the public to contact their legislators and ask them to vote down the bill. *Action Alert*. On its website, ONE Massachusetts suggested talking points to communicate to the legislators. Ultimately, the campaign was unsuccessful as the bill passed. *Id.*

From the government standpoint, Governor Deval Patrick said he ultimately favored the bill "frankly, not because it is particularly fiscally prudent, but because it is popular." *State Capital Briefs*, July 25, 2011. Patrick initially said he could not promise that there would be a tax holiday; he was waiting until the books on fiscal year 2011 were closed, though he was almost certain there would be a surplus. *State Capital Briefs*, July 11, 2011. Later in July, Senate

President Therese Murray said she met with House Speaker Robert DeLeo and Patrick about the tax holiday and that "there's mostly a consensus that that's what we might like to do." *State Capital Briefs*, July 18, 2011.

As the bill was debated in the House, three amendments were offered: one was to create a permanent annual holiday, one was to roll the sales tax back to 5%, and one was to add an emergency preamble. *House Journal*, July 27, 2011. The first two amendments were offered by Representative Bradley Jones, and both were laid aside for being beyond the scope of the bill. *Id.* Prior to the debate, Speaker DeLeo said that he was uncomfortable making the holiday permanent, citing the unforeseeability of future economic conditions as counseling against such a move. *State Capital Briefs*, July 27, 2011. The preamble amendment was adopted, and the bill was passed 123 – 23. *House Journal*, July 27, 2011. The pro/con debate broke down essentially to giving taxpayers a break and boosting retailers' sales against losing \$20 million in valuable state revenue in a time when budgets were being reduced and programs slashed. *Id.*

In the Senate, essentially the same pro/con debate took place as in the House. *Senate Journal*, July 28, 2011. However, on the con side, an additional argument was made that small retailers are actually hurt on the holiday; it is only the large retailers that reap benefits. *Id.* Small businesses must increase labor and administrative costs on that weekend to meet the rush, however, the sales made on the weekend are just for items that would have been bought anyway throughout the course of the month, therefore they suffer a net loss. *Id.* Only one amendment was offered and this by Senator Bruce Tarr. *Id.* The amendment proposed to make the holiday a permanent, annual event, and it was rejected as in the House. *Id.* The bill passed 28 – 9. *Id.* It should be noted that the amendments offered during debate were part of the Republican party's platform to restructure the state tax system. *State Capital Briefs*, May 25, 2011.

SOURCE	INFORMATION RETRIEVED
Massachusetts Legislature Website	Bill text and bill history - http://www.malegislature.gov/Bills/187/Senate/S00156
House Journal Online	House Journal of 7/27/11 - http://www.mass.gov/legis/journal/hj070711.pdf
Senate Journal Online	Senate Journal of 7/28/11 - http://www.mass.gov/legis/journal/187/sj072811.htm
State House Library	Spoke personally to a librarian about examining the corresponding legislative package. The librarian informed me that they are no longer kept and haven't been kept since Romney was in office.
Special Collections Library	Spoke personally to the librarian and requested audio CD of the House and Senate debates. I was informed that the House session had not been made available to the library for reproduction. However, the librarian produced and delivered a copy of the Senate debate of 7/28/11.
Senator Jack Hart – Sponsor of the Bill	Spoke personally to a staffer, and she took my contact information, said they would check what they had on record, and responded by recommending I contact William Rennie – the Vice President of the Retailers Association of Massachusetts – who the office identified as the main lobbyist for the bill.
William Rennie – Vice President of the Retailers Association of Massachusetts	Emailed Rennie and received an email with 3 attached files: - The testimony submitted by Jon B. Hurst, President of the Retailers Association of Massachusetts. - A fact sheet regarding the Sales Tax Holiday. - The Retailers Association of Massachusetts' response to the bill's passage.
Senator Karen Spilka – Chair of the Joint Committee on Economic Development and Emerging Technologies where the bill was referred	Spoke personally to Emily Fitzmaurice, the Communications Director, who said she would speak to the office policy analyst. Fitzmaurice responded by email telling me that the policy analyst had said the best source of information would be Jack Hart.
Gale Candaras – Chair of the Joint Committee on Revenue	Spoke personally with a constituent services staffer, and he assured me the office had no information regarding the bill.
Governor's Office	Spoke personally to a constituent services staffer, and he assured me the office had no information regarding the bill.
Governor's Press Secretary	Spoke personally to 2 interns, they searched their database and said the Press Office only issued one statement formally to the media: "It is our hope that this will provide an additional economic boost for retailers across the commonwealth."
ONE Massachusetts Website	Testimony presented by Judy Meredith, Executive Director of the Public Policy Institute, against the bill. - http://onemassachusetts.org/sites/default/files/110725_jmeredith_testimony_tax_holiday.pdf - Action Alert
State House News Service	Numerous entries regarding discussion and debate of the bill - http://www.statehousenews.com

State Library of Massachusetts – Guide to Tracing a Massachusetts Law

Legislative research is time-consuming as well as difficult. There are no legislative histories already compiled here in the Commonwealth as is sometimes the case with federal legislative history.

Reference Librarians are here to help you locate the materials you will need to compile a history. Sources are located in the reference area (Room 341, State House), in the 4th floor Periodicals area (Room 442, State House), or in the Library's Special Collections Department (Room 55, State House). Other sources such as original papers and legislative files are located at the Massachusetts Archives at Columbia Point.

The following information should provide you with valuable guidelines for conducting your legislative history. For more detailed descriptions on legislative history research, please check our Massachusetts Legislative History document, <http://www.mass.gov/lib/guides/mlh.htm>

You have the MGL or bill numbers in hand: what next?

(Includes how to find a number if you only have a topic, indicated by **topic** in the text below.)

Your numbers/citations may represent a Massachusetts General Law (MGL) chapter and section (276 M.G.L. 26A), session law citation (Acts and Resolves numbers: 1994 Mass. Acts 60 §175 or 1995 Mass. Acts 3), or bill(s) you are interested in (Senate: S1780, House: H2400).

1. To investigate changes to M.G.L. chapter and section:

If you have the M.G.L. chapter and section number and are interested in when or how this section changed, use the M.G.L.A. (*Massachusetts General Laws Annotated*) or the A.L.M. (*Annotated Laws of Massachusetts*) volumes. Look under the Historical Notes for the section you are investigating to locate the citations representing changes in the section (session law cites).

2. Session Law citations:

For example, under 276 M.G.L.A. 26A, in the M.G.L.A., the historical note states "Added by 1994, 60, §175..." citing a session law that tells you when section 26A was first introduced. This resource will also tell you of any changes since 1994, including 1995 Mass. Acts 3. Read the editorial notes of the M.G.L.A. or A.L.M. to see if it discusses the change(s) you are interested in, e.g. when specific language was introduced.

If the change you are researching is not covered in the editorial notes, write all the session law cites down and pull the relevant volumes of the *Acts and Resolves of Massachusetts* to see the text of legislation that was passed. Glancing through these Acts may help you locate a specific change in language.

You may also search for the most recent session laws on the General Court's web site, <http://www.state.ma.us/legis/>. This is useful for searching by **topic**. Session laws are currently available for the years 1997 to 2002, but bill histories are only available for the

current legislative session on their web site. For older items you will need to use the print resources available in the Library, ones that are noted below.

An in-house database of Special Acts or Laws is available in the Library for the years 1900-date. Please check our Glossary for definitions of special acts and general laws. The database will give you session law citations. You still need to find what bill number it was before the bill became legislation.

Also, you may look through the ***Guide to Massachusetts General and Special Acts***, available for the years 1977 - date, to find a session law number (assigned to legislation that passed), and bill number for the relevant year.

3. Compiling a Bill History to trace and investigate the changes to a bill:

You need to find all numbers assigned to the bill. If you have a session law citation representing the first time specific language appeared, e.g. Chapter 3 of the Acts of 1994 or 1994 c.3, you may proceed to the resources listed below to find out what bill numbers were assigned to it and what happened to it during the legislative session.

There are three print resources called Massachusetts Legislative Documents you may look in for your bill numbers: specifically the ***Massachusetts Legislative Documents Index***, the ***Bulletin of Committee Work***, and the ***Legislative Record***. Another option is to search the index found in the last volume of the ***House Journal*** or ***Senate Journal*** for the relevant year. Also, if you only know the topic and the year or decade, you may search for bills that never passed into law by searching Journal indices. For the current legislative session a printout is available showing the bill history, listed by bill number.

In our example, Chapter 3 of the Acts of 1995 (also written as 1995 Mass. Acts 3), the ***Legislative Record*** tells us the history of the bill - it was bill S1780 before it passed into law (S for Senate), and no other bill numbers are associated with it. Dates are provided and usually linked to ***House Journal*** and ***Senate Journal*** references. These are used to check what action was taken that was reported in the Journals on the days indicated, and the dates are used to access the unofficial State House News Service publications mentioned below.

Audio and videotapes for sessions should also be searched for in case a tape is available. Search the Library Catalog for cataloged items and the list of "Uncataloged Videotapes of Committee Hearings" for the items not yet cataloged. See <http://www.state.ma.us/lib/sc/hearings.htm> for the list of uncataloged hearings.

Once you have finished with the resources in the Library, you may continue your legislative history by accessing the Legislative Packages (see below) and, if relevant, the Governor's legislative files. The availability of these resources is discussed on the next pages.

OFFICIAL SOURCES FOR LEGISLATIVE RESEARCH

TITLE	FREQUENCY	ACCESS	NOTES
House Proceedings including selected Committee hearings (since 1992)	Audio format - selective tapings, Nov. 1984 to Nov. 15, 1987; Video format- selective tapings, Nov. 16, 1987 to present	Access by date - search <u>State Library catalog</u> , also <u>videotapes</u> located in <u>Special Collections</u> , Room 55, State House	Selective coverage for certain proceedings
Senate Proceedings including selected Committee hearings (since 1992)	Video format - January 1996 to present	Access by date - search <u>State Library catalog</u> , also <u>videotapes</u> located in <u>State Library Special Collections</u> , Room 55, State House	Selective coverage for certain proceedings
Legislative Packages	For each bill introduced into the General Court since 1775	State Archives, before 2002 by bill number and year; current and previous year at <u>State Publications and Regulations Division</u>	Original petition with names of all petitioners; written changes in bill; may include letters, with margin notes
Governor's Legislative Files	For bills which have become law, available for most years since 1964.	1964 -1990 State Archives; 1991 - present Governor's Legislative Office, Rm. 161 State House	Copy of engrossed bills, position papers, sometimes miscellaneous subject files, veto messages(may help in determining intent)

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rm # 266 - gov's press release
rm 200

CONTACT TELEPHONE NUMBERS

Massachusetts Regulations Division - Room 1613 McCormack Building, 1 Ashburton Place, Boston, MA 02108: 617-727-2831, regs@sec.state.ma.us

Massachusetts House Clerk - 24 Beacon Street, Room 145 State House, Boston, MA 02133: 617-722-2356

Massachusetts Senate Clerk - 24 Beacon Street, Room 335 State House, Boston, MA 02133: 617-722-1276

Governor's Legislative Office - 24 Beacon Street, Room 161 State House, Boston, MA 02133: 617-727-7208

Governor's Press Office - 24 Beacon Street, Room 265 State House, Boston, MA 02133: 617-727-2759, press_secretary@state.ma.us

Massachusetts Archives - 218 Morrissey Blvd, Boston, MA 02125: 617-727-2816, <http://www.state.ma.us/sec/arc/arcidx.htm>

Massachusetts State Library - 24 Beacon Street, Room 341 State House, Boston, MA 02133: 617-727-2590, <http://www.state.ma.us/lib/>

Senator Hart's Office email:

Dear Milton:

The Retailers Association of Massachusetts would be the best place to find documents regarding the passage of S 156. Their main lobbyist is Bill Rennie and he can be reached at 617-523-1900. Thank you for coming by the office. If we can be of further assistance in any other matters please do not hesitate to contact us.

Sincerely,

The Office of Senator Hart

Retailers Association of Massachusetts email

Milton,

See attached. Please give me a call with any questions or if you would like to discuss further. Thanks,

Bill

William C. Rennie
Vice President
Retailers Association of Massachusetts
18 Tremont Street, Suite 810
Boston, MA 02108
Ph: (617) 523-1900 ext. 11
Fax: (617) 523-4321
brennie@retailersma.org
www.retailersma.org

Senator Spilka's Office email

Milton,

This is Emily from Senator Spilka's office, we spoke earlier about your project on the Sales Tax Holiday. I finally got a chance to talk to the policy analyst in our office about this and he said the best office to contact would be Senator Jack Hart's office – he was the first to file the legislation.

Let me know if you have any other questions.

Thanks,

Emily Fitzmaurice
Communications Director
Office of Senator Karen Spilka
Massachusetts State House
Room 511-C
617.722.1640 (O)
617.817.0257 (C)
Emily.Fitzmaurice@masenate.gov