

MAINE STATE LEGISLATURE

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OF THE

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employed for purposes of the Maine State Income Tax, and I would urge the passage of this amendment.

Thereupon, House Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Ingegneri.

Mr. INGEGNERI: Mr. Speaker, Ladies and Gentlemen of the House: This amendment, in my opinion, shows more conclusively than anything that was said yesterday why this bill should not be passed.

First of all, this bill has no fiscal note, and this very amendment added to the wordage in the bill up to now proves that there is a financial cost attached to this bill. This amendment states that the sternman shall be considered a self-employed person. This same person, as far as the federal income tax returns is concerned, is a wage earner. The owner of the boat would file a W-2 indicating how much was withheld in federal income taxes. He would give to the sternman no such W-2 indicating what was to be paid for state income taxes. If this man is a self-employed person, it means that as far as a State of Maine income tax return is concerned, he would have to file a schedule similar to the schedule for self-employed persons in the federal return, namely, schedule C. Therefore, Item 1, there is a cost involved in printing between now and January 1, 1976, a required number of Schedule C forms.

In addition, since the State of Maine does not receive any withholding tax information pertaining to Maine State Income Taxes as a concerned person, this person, speaking from the tax point of view, does not exist as far as the State of Maine is concerned.

Now I don't want to cast any reflection on the honesty of these men but there are some people who succumb to temptation a little bit more readily than others. So the State of Maine has the job then of finding out who these persons are who did not file Income Tax Returns, so the additional cost, I might point out to you, is that even for those who do file Schedule C, since it is not keyed in with the federal income tax return, the State of Maine cannot rely on the audit of the federal government as concerns these people. They would then have to have auditors to go out and check the veracity of the Schedule C filed by these persons. In order further to find out which of them did not file, the State of Maine has to go through the trouble of going to the federal people, getting a list of all the people connected with the lobstering industry who have filed returns and then coming back and checking to see if they have returns from these people. I say that this is an undue hardship, financially and manpower wise which we are setting on the State Taxation Bureau. I understand that this is a bill, which comes from the heart. I understand that. I understand that sentiment, perhaps I agree with that sentiment but I do say you are going at it the wrong way, you are not helping them but you are putting the State of Maine in a pretty tight bind and I think that this bill ought to be indefinitely postponed.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield Mr. Susi.

Mr. SUSI: Mr. Speaker and Ladies and Gentlemen of the House: I hope that you listened to the previous speaker and paid attention and go along with his motion to indefinitely postpone.

I know all of our hearts are completely with these lobstermen and stern men and all and we just love to do something kind and gracious for them, but the fact is, just a few years ago, we put in a state income tax and we put it in clean as a new born babe, it's a good law, it's working well and we are in the process now of just messing it all up, trying to develop little loopholes for spots here and there that aren't workable. It is just going to make a mess. We've got another one today that would grant an exemption to people who would manufacture a new product that is an absolute horror, there is no way in the world to enforce this one. We're going to wind up with a state tax law that's got more mess to it than the federal tax law if we pursue this course. I hope that you will defend what we have now, a real good tax law and vote the indefinite postponement of this and we will try to help these people some other way.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I honestly hope that we do not indefinitely postpone this bill and I would ask you to vote against the pending motion. I would just very briefly like to address my comments as rebuttal to the good gentleman from Bangor, Mr. Ingegneri.

I spent better than half an hour this morning discussing the physical implications of this bill with the Director of the Income Tax Division and he expressed his concerns to me about the need for another examiner. I listened to him very attentively and I agree with his comments in terms of the need for examinations of these particular returns. As we were finishing up, he told me that it was his understanding that perhaps the Appropriations Committee would be adding additional examiners to the department. You take a look at L. D. 1909, I think you will find out the Appropriations Committee has suggested that two examiners be added to the department in the first year of the biennium and an additional two examiners in the second year of the biennium. The department presently has three examiners, so by the second year of the biennium, they would have a total of seven or more than doubling their force and I would submit to you that whatever implications this bill may have for the need for auditors has been more than taken care of by the addition of examiners in the appropriations act. I think as was indicated to you, yesterday, it is a very emotional issue with those of us who represent lobster fishermen and stern men and I hope that this House would stand by its vote of yesterday and not indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Franklin, Mr. Conners.

Mr. CONNERS: Mr. Speaker, Ladies and Gentlemen of the House: I am self-employed and I have to pay my federal tax and my state income tax just the same and the stern men if they are self-employed, I don't see but what they are obligated to pay their taxes just the same and I see where there is no detriment to us, the state income tax structure.

The SPEAKER: The pending motion before the House is on the motion of the gentleman from Bangor, Mr. Ingegneri, that this Bill be indefinitely postponed. The Chair will order a division. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

27 having voted in the affirmative and 57 in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Passed to Be Engrossed

Bill "An Act Relating to the Licensing of Hearing Aid Dealers and Fitters" (H. P. 84) (L. D. 1038)

Was reported by the Bills in Second Reading and read the second time.

Mrs. Kany of Waterville offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-568) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the gentlewoman from Waterville, does this amendment, I don't have it right before me, concern the people who have to see otolaryngologists?

I would hope that we would not adopt this amendment. The committee considered this amendment and the reason we did not adopt it is because I think there are something like 12 otolaryngologists in the State of Maine and if any of you have tried to make an appointment with an eye, ear, nose or throat doctor lately, you will know that it is darn near impossible and we have required people up to the age of 18 who wanted a hearing aid to be referred to them mandatorily but this amendment would require everyone who wanted one to be fitted and it is just not a practical amendment.

The SPEAKER: The Chair would ask the Sergeant-At-Arms to escort the gentleman from Dover-Foxcroft, Mr. Smith, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Smith assumed the Chair as Speaker pro tem, and Speaker Martin retired from the Hall.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Members of the House: I'd like to address a question or two that have been raised. First of all, the amendment as Rep. Pierce indicated, the amendment changes the bill by extending the requirement that a potential hearing-aid wearer be examined by either an ear, nose and throat specialist or an audiologist to adults as well as to minors so Rep. Pierce was absolutely correct when he indicated that. The bill itself only requires the examination for minors. There are presently 24 otolaryngologists, these are ear, nose and throat specialists in the State of Maine and two more are expected very shortly plus we have some audiologists so we do have enough of these people qualified to test hearing who could adequately handle the potential patients. The purchase of a hearing aid is not an emergency matter so that there is time for making an appointment for an examination. Older people need this consultation fully as much as minors for a couple of reasons, the ears should be cleaned of wax and debris so as not to interfere with the testing picture, in fact a local ear, nose and throat specialist told me he had a new patient who had just purchased a \$700 hearing aid and when the local doctor removed the wax from the

man's ears, he no longer needed that brand new \$700 hearing aid. Secondly, ear diseases and tumors could be detected in examinations, infections can be worsened by the use of a hearing aid, so I sincerely hope after hearing the reasoning, you will accept this amendment.

The SPEAKER pro tem: The Chair recognizes the gentleman from Calais, Mr. Silverman.

Mr. SILVERMAN: Mr. Speaker and Ladies and Gentlemen of the House: At this time I would like to make the motion to indefinitely postpone the amendment and would like to speak to my motion. Since last August, there has been a group of us working in the field of hearing aids, fittings and selling of them to people who need them and the field, at that time, was wide open and we got together and a bill was presented correcting several what we figured irregularities in the selling of hearing aids especially to elderly people who could have bought a hearing aid and found that they didn't need it and, therefore, could have been out their money and the bill before you today which was somewhat in the woodwork being passed through quietly is probably one of the finest consumer bills that will come out of this legislature.

What we did was we made the corporation or company responsible for the salesmen selling hearing aids, so no longer, say a salesman would sell a hearing aid which could have been a fraudulent sale, he'd be fired, they would hire another salesman and, in turn, there was no way of getting at the parent company. With the passage of this bill, that will be corrected.

The second thing that was done in this bill was that no longer could a hearing aid be sold to a person and then not serviced. In this bill, a person has to pay possibly up to one half the price and then 35 days later, has to be serviced by the salesman and if the instrument is working correctly then he can finish paying, if not, then there is a question there and we do have the servicing element. This is two things that are very important.

The amendment, as the good gentlewoman from Waterville has mentioned, we considered very strongly because we thought it would only be proper that each person needing a hearing aid be tested by a qualified person before the purchase but we found, at this time, that due to regional areas having no one in this field, that it would be impossible for many people buying a hearing aid to reach one of these otolaryngologists or audiologists. One of the people from the Attorney General's Office did most of the writing of the bill or on my recommendation, sent me his answer as to why this amendment should not be passed and this is his answer: "I would not recommend at this time that potential purchasers of hearing aids be required to consult with an audiologist or otolaryngologist prior to purchasing a hearing aid for several reasons, first the time and travel element may be undesirable for many citizens due to their location and the small number of audiologists and otolaryngologists in the State of Maine. Many people would not be able to travel the distances required and afford to lose the time away from their activities. Second, the additional cost required to be expended in fees would be prohibitive to many potential purchasers. Third, the number of complaints received from unsatisfied consumers would not

appear to justify this additional requirement and fourth, there has not been enough information input to allow us to predict the benefits and disadvantages of a mandatory consulting provision.

I would suggest that possibly in the future when the state has many more people qualified in the field something like this could be used, but until that time, I would not try to destroy a very excellent bill especially for elderly people who, over the years, have bought instruments worth \$400, or if they bought two, \$800 and found that they were not working. I would not deny them the chance now to at least get their money back and in this bill they are required to put up say, 10 percent and the cost of the ear mold, the rest of the financing would be returned to them, if the physician showed that this hearing aid did not meet their needs." With that I would ask the indefinite postponement of this amendment.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: I rise in support of the motion on the floor of indefinite postponement of this amendment. While the amendment presented by the gentlewoman from Waterville, Representative Kany, has merit, the bill reflects the unanimous "Ought to Pass" Report from the Committee on Business Legislation. This bill is the result of prolonged and dedicated study in the area of hearing aids and their parameter fields.

I support the remarks of the gentleman from Calais, Mr. Silverman and request that you join with us in support of indefinite postponement.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: There are just a couple of statements which I would like to address, which were made by Representative Silverman, the sponsor of the bill. There are, I suppose, approximately 900 hearing aids sold in the State of Maine, as I understand it, and of these, 250 are sold by door-to-door salesmen and I commend both Representative Silverman and the Business Legislation Committee for trying to improve our existing laws but I do feel that this amendment is really not anything that is superfluous and would be difficult to manage. Since there is time, a time lag, before a hearing aid need be purchased, since it is not an acute situation, even though the specialists are not available in every single little area of the state, certainly one could travel to a medical center in order to get that examination, which I think is absolutely essential.

Now, I think an argument has also been given that some of these people are infirm and perhaps that's why you need these door-to-door hearing aid salesmen but I think that most people even the elderly and the infirm are able to get out of the house, at least to go to an emergency section of a hospital and that a doctor could evaluate them there at that time. There could even be arrangements made using the rescue vehicle so I don't think that is really an item that precludes passage of an amendment like this. I think it's important and I hope that you will consider it seriously and I hope that you have listened.

The SPEAKER pro tem: The pending motion now is on the motion of the

gentleman from Calais, Mr. Silverman, that House Amendment "A" be indefinitely postponed. The Chair will order a division. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mrs. Kany of Waterville requested a roll call.

The SPEAKER pro tem: In order for the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and obviously more than one-fifth of the member present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER pro tem: The pending question before the House is on the motion of the gentleman from Calais, Mr. Silverman, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Blodgett, Boudreau, Bowie, Burns, Bustin, Byers, Call, Carey, Carpenter, Carter, Chonko, Churchill, Clark, Connors, Cooney, Cote, Curran, P.; Curtis, Dam, DeVane, Doak, Dow, Drigotas, Dudley, Durgin, Dyer, Farley, Farnham, Faucher, Fenlason, Finemore, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hewes, Higgins, Hinds, Hobbins, Hughes, Hunter, Hutchings, Immonen, Jackson, Jalbert, Jensen, Joyce, Kauffman, Kelleher, Kelley, Kennedy, Laffin, Laverty, Leonard, Lewis, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, R.; Maxwell, McBrearty, McKernan, McMahan, Mills, Miskavage, Morin, Mulkern, Nadeau, Najarian, Norris, Palmer, Peakes, Pelosi, Peterson, P.; Peterson, T.; Pierce, Powell, Raymond, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Sprowl, Strout, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Truman, Twichell, Tyndale, Usher, Walker, Winship.

NAY — Connolly, Cox, Ingegneri, Kany, Mitchell, Perkins, T.; Susi, Wagner, Wilfong.

ABSENT — Berube, Carroll, Curran, R.; Davies, Fraser, Gauthier, Hennessey, Jacques, LaPointe, LeBlanc, Lewin, Littlefield, Lizotte, Martin, A.; Morton, Perkins, S.; Post, Quinn, Smith, Stubbs, Webber.

Yes, 119; No, 9; Absent, 21.

The SPEAKER: One hundred and nineteen having voted in the affirmative and nine in the negative with twenty-one being absent, the motion did prevail.

Thereupon, this Bill was passed to be engrossed and sent up for concurrence.

At this point, Speaker Martin returned to the rostrum.

SPEAKER MARTIN: The Chair would thank the gentleman from Dover-Foxcroft, Mr. Smith for presiding.

Thereupon, the Sergeant-at-Arms escorted Mr. Smith to his seat on the floor, amid the applause of the House, and Speaker Martin resumed the Chair.

Bill "An Act to Require the Filing of Estimated Income Tax Returns by Corporations" (H. P. 1569) (L. D. 1874)

Was reported by the Committee on Bills in the Second Reading, read the second