

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

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ABSENT—Carrier, Gauvreau, McGowan, Michael, Sproul, Telow, Thompson.

73 having voted in the affirmative and 71 in the negative, with 7 being absent, the motion did prevail.

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT: Majority (7) "Ought to Pass" in New Draft (Emergency) (H. P. 1819) (L. D. 2411)—Minority (6) "Ought to Pass" in New Draft (Emergency) (H. P. 1820) (L. D. 2412)—Committee on Transportation on Bill "An Act to Amend Certain Motor Vehicle Laws" (H. P. 1444) (L. D. 1889) which was tabled and later today assigned pending the motion of the gentleman from Limerick, Mr. Carroll, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Mechanic Falls, Mr. Callahan.

Mr. CALLAHAN: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you not to vote for the Majority Report and I will try briefly to explain why.

The Majority Report includes a bill that will allow a 10 percent tolerance on all trucking and for many years the trucks have had that 10 percent tolerance to haul forest products, road salt, building materials, transit mix concrete, farm products, concrete products, highway material and products requiring refrigeration and there has never been a charge for this tolerance. Effective this year, March 1st, the truckers must buy a special commodity permit and the cost can be up to \$360. This is also on top of a higher registration fee.

For example, a five axle truck in 1983 cost \$816 to register and put it on the road; now it costs \$1,048 including the commodity permit.

Prior to this year, if a vehicle exceeded the 10 percent, the weight reverted back to the basic road limit and this was okay because there was no pay by the owner for this tolerance. A five axle truck, for example, with the commodity permit can be registered for 80,000 pounds and the 10 percent would make it 88,000. If he was caught overloading 2500 pounds, a total of 90,500 pounds, then it would revert back to 80,000 which is 38 percent in violation or a \$460 fine. If he got credit for what he had paid for, the violation would go back to 88,000 or 2 percent or a \$45 fine.

A triaxle dump truck, so-called, is registered today for \$625, it is just \$100 more in fees than it was last year. His special commodity permit cost \$362; it cost nothing last year. But if he is caught overloaded, he can be legally licensed for 64,000 pounds, but if he is caught 2500 pounds over, he drops back to 48,000, which is a 30 percent violation or a \$700 fine. If this amend-

ment passes, it would only be a 3 percent violation or a fine of around \$30.

There are other problems with this bill, especially hauling gravel, sand and stone. The specific gravity of different materials can vary 6 or 7 percent, and when you have absolutely no tolerance, which this law says, we had 10 percent years and years before and it was easy to stay within the limit, now no one dares to come anywhere near that limit because if you went over even a thousand pounds it reverts back to the original limit without the commodity permit. I think it is very unfair, it is unjust.

I realize that trucks do more damage than automobiles to roads, but I would like to remind you that the trucks pay dearly for fuel tax, gas tax, they have an increase in their fees, and this was not specifically in the Speaker's amendment of the gas tax last year nor was it in any bill that I saw. This is a regulation that has been made without mention in any bill that I could find.

I think there is no question that the trucks need to pay more money and that is exactly what we are doing, but I feel this is a little too restrictive. I would ask you to defeat the motion on the floor so that we can accept the minority report, which will do away with this bill.

Mr. SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I would like to be excused from voting on account of the conflict of interest Rule 19.

The SPEAKER: The Chair would grant the request of the gentleman from Lewiston, Mr. Jalbert.

The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I rise in a certain amount of reluctance today because I am well acquainted with the problems of the trucking industry, but I am also well acquainted with the problems of maintaining the highways of this state. Over the years I have heard many many times, those Canadians keep coming over here and traveling on our roads with a Canadian registration which we have a reciprocal agreement with, and this particular commodity permit is the only way we can get back at those Canadian trucks that are coming over here. That is one instance right there of one of the reasons why I would like to see us keep this commodity special permit.

Also, ladies and gentlemen, if we do away with the cost of this commodity permit, we are telling them, go ahead, overload, we are going to give you the privilege of overloading without being assessed an additional penalty. The commodity permit gives you the privilege on an 80,000 registration to go to 88,000 and then when you are in violation of the law because you have overloaded, you have exceeded the 88,000, then you drop back 8,000.

In the past, we always gave this commodity permit without charging any fee for it, but when we changed the law last year, we decided that we would have to have a fee for a commodity permit. One of the big reasons behind it was, we had a severe problem with continual overloading on our highways, we had a severe revenue problem, and we just had to make the fine system a system that would make people think twice before he violated the law.

I have people in my district that have trucks and they have complained to me about the truck weight bills and the penalties they pay in court. I recall very clearly one young man standing in my driveway and complaining and I said, just what can you haul legally on this truck? He said, six and a half cords of pulp. I said, at quarter of four yesterday morning you woke me up going by; how many cords do you have on? He said eleven and a half.

Ladies and gentlemen, the shoulders on the road in front of my house are practically caved in because of overweights. They know when to haul, they haul in the wee hours of the morning and they haul late at night and they know full well they are violating the law and destroying

the roads because they are overloaded. They overload deliberately knowing that they can win enough time so they will have money enough left over to pay their fine and continue to operate that way and beat the system.

I would urge you today to vote against the motion and to accept the majority report. I think we have tried to be fair. I went over to the Attorney General's Office last Friday afternoon and spent two hours going over this commodity legislation because I had been told it was not fair. After it was explained to me how the law operates, I was satisfied and I came back and I supported the majority report.

I certainly hope that you remember the people out there that have to travel our highways back and forth to work in an automobile. We know we need the trucking industry, we know everytime we make them pay an additional cost that it costs more for that particular product, but we have to bear that cost in order to maintain our highways and that, ladies and gentlemen, is the problem that your Department of Transportation is faced with today. You gave us a 5 cent increase in the gas tax and what happened—we have got so many claims for the money that we meet over and over again trying to decide just where this money has to go. Give us a chance to catch up. I hope we don't have to continue to play the game of catch-up, catch-up, catch-up, because it is really discouraging to have someone call you and say, do you know there are ruts four inches deep on the road up here and they can't even plow this road because the heavy weights have destroyed the surface?

Give us the opportunity to address the problem and we will try our best to see that for every gallon of gas you buy, you will get something in return besides a broken up highway.

The SPEAKER: The Chair recognizes the gentleman from Eliot, Mr. McPherson.

Mr. MCPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: The people that Representative Carroll referred to that legally can haul six cord and are hauling eleven, I don't think there is anything we can do other than stricter and stricter enforcement to get to these people. It is the fellow or firm out there, we are taking his money whether it is for 54,000 or 88,000, and in fairness, all we are asking is to start the fine at 54,000 or 88,000. If he is hauling construction material such as gravel and what not, he has no way of knowing the water content of this. We are going to nail him at 54,000 and start his fines back at 48,000. It just isn't fair.

Those that signed the minority report, that is all they are asking for. Let's just use them fairly. We are taking their money, so let's give them a little bit of a break.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I heard Representative Carroll here this evening mention that there is going to be a loss of the commodity permits. I hope that is not correct because it was not my intention to sign out a report that had any dealing with any loss of revenue as far as permits or registration fees. The only thing that I could see is there might be a loss of the fines.

I guess the best way that I was able to cope with this and the easiest way to explain it to you is to use one type of vehicle, so I am going to use the largest type of vehicle and give you an illustration of the old law as I saw it before we passed the allocation last year.

Previous to last year, an 80,000 vehicle was allowed a 10 percent tolerance free, which allowed him to haul 88,000 pounds. What happened last year in the L. D. that we passed, we gave them a 10 percent tolerance but now we are charging for it. We are charging those people who go from the 80,000 and other vehicles would be under the same proportion but those people who go from 80,000, now to 88,000, have to pay for that tolerance. What is happening out there is, if you are hauling more than the 88,000, you get picked up, the fine goes back to the 80,000. This

has not changed. When we had the free tolerance and you hauled 92,000, they went back to the 80,000, and that is what they are doing now.

Basically what the industry and the truckers out there are saying is, if we are going to pay for that 10 percent tolerance and you get caught with 92,000 or 94,000 today, the fine should go back to the 88,000 instead of the 80,000. That is the way I understand it, and that is all the difference is in the two reports. Everything else in these two reports is the same except for that one provision. I ask you to give some consideration to those people out there, if they are paying the tolerance fee, let's not go back to the base of the 80,000, let's go back to the 88,000.

The SPEAKER: The Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker and Members of the House: We have sat down in that committee, we have sat there for days and days and days, and we brought out a report. I guess they even brought up the price of the hubcap on a truck. We paid for everything you could mention. They offered us the moon. A little small dump truck that has 26,000 pounds on it or a potato truck with a single axle, they are making them pay for 6,000 pounds to haul a load of potatoes to the processors. If he is a hundred pounds over that, they are going to drop him back 26,000 and fine him \$200. I think it is ridiculous.

All you people are going to say that Moholland has got 20 trucks. This is not going to help Moholland's 20 trucks because I haul paper over the highways. I break up your roads because I am hauling the road limit over the highway and up the turnpike. This is only going to involve two trucks that I own.

Why did they give us 100,000 pounds to haul and take our money? We only had 80,000 pounds plus the 10 percent they gave us free of charge. The commissioner came down and he baby-talked us into \$15 more for the decal, raised it from ten to fifteen, we are going to give you another axle, you can haul 90,000 plus 10 free free, 99,000 pounds. They give us that, but still we are staving the roads all to heaven.

I would like to say that when we were hauling 80,000 pounds, we got 8,000 free, we got 10 percent on every vehicle. I hope you can understand this. Then they said, well, put another axle under your trailer. We're not afraid of breaking up the highways, we will give you another axle under your trailer for another \$362 for the 10 percent, which lets you haul 99,000 pounds. But if you weigh 100,000 pounds, they drop you back to 90,000 pounds, take \$450 more away from you plus the \$362 that you already paid. Where are we going to get the money? Sooner or later it is going come out of the consumers' pockets.

I urge you to today to vote for the minority report and I request a roll call.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I was very reluctant to have to speak to you this afternoon a second time but this is very close to the people that I represent here and I think it is really a shame to take away something people have had for years. There is no possible way that they can haul a load of wood today and weigh it and tomorrow it never weighs the same. We just had a bad snow storm and the reason that tolerance was put on there was on account of rain storms, snow storms. A piece of hardwood, rock maple, cut on one part of a ridge weighs one thing and if it is cut in a swamp it weighs something else. These people that are hauling this wood can absolutely not have a set of scales in their dooryard. They are doing well if they can come within the 10 percent.

They get caught when they are overloaded. We have several weigh trucks on the road, and of course there are dishonest people, there are dishonest people everywhere, but they catch those people and they pay. I am here representing what I think are honest people that are trying to live within the law. I can remember many years ago when we were anxious to give them

the 10 percent and did, and now I don't feel like we should take it away. Like we used to say back in the hol days, I think it is Indian givers.

We have taxed these people 5 percent extra on fuel. Like Representative Moholland has tried to tell you, they have paid and paid every time we have come here, and now we are taking away something that they really need. There is no way that they can tell what they have got on for a load, gravel, sand, logs, pulp, all this stuff, and that is why it is on there.

I hope this House sees fit eventually to accept the minority report and just be honest with the people that we represent.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I just want to remind this House once again, we are not taking anything away from them. We used to give it to them free, they are paying for it now. It is only when they violate the law that we take it away from them.

The SPEAKER: The pending question is on the motion of Mr. Carroll of Limerick and the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 435

YEA—Andrews, Benoit, Brodeur, Carroll, D. P.; Carroll, G. A.; Connolly, Cox, Diamond, Hall, Handy, Hickey, Kelly, Kilcoyne, Macomber, Matthews, Z. E.; McCollister, Mitchell, E. H.; Mitchell, J.; Nadeau, Nelson, Paradis, P. E.; Perry, Reeves, P.; Tuttle.

NAY—Ainsworth, Allen, Anderson, Armstrong, Beaulieu, Bell, Bonney, Bost, Brannigan, Brown, A. K.; Brown, D. N.; Cahill, Callahan, Carter, Cashman, Chonko, Clark, Conary, Connors, Cooper, Cote, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Hayden, Higgins, L. M.; Hobbins, Holloway, Ingraham, Jackson, Jacques, Joyce, Kane, Kelleher, Kiesman, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, Locke, MacBride, MacEachern, Mahany, Manning, Martin, A. C.; Masterman, Masterton, Matthews, K. L.; Maybury, Mayo, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Moholland, Murphy, E. M.; Murphy, T. W.; Murray, Norton, Paradis, E. J.; Parent, Paul, Perkins, Pines, Pouliot, Racine, Randall, Reeves, J. W.; Richard, Ridley, Roberts, Robinson, Roderick, Rolde, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C. B.; Smith, C. W.; Soucy, Soule, Stevenson, Stover, Strout, Swazey, Tammaro, Theriault, Vose, Walker, Webster, Weymouth, Willey, Zirkilton, The Speaker.

ABSENT—Baker, Carrier, Higgins, H. C.; Joseph, Ketover, Martin, H. C.; McGowan, Michael, Sproul, Stevens, Telow, Thompson, Wentworth.

EXCUSED—Jalbert.

24 having voted in the affirmative and 113 in the negative, with 13 being absent and one excused, the motion did not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted and the New Draft read once.

Under suspension of the rules, the New Draft was read the second time, passed to be engrossed and sent up for concurrence.

The Chair laid before the House the following matter:

An Act to Encourage the Use of Wood and Solid Waste as a Source of Energy in State-owned Buildings (S. P. 879) (L. D. 2383) which was tabled and later today assigned pending passage to be enacted.

On motion of Representative Carter of Winslow, under suspension of the rules the House reconsidered its action whereby the Bill was passed to be engrossed in concurrence.

The same gentleman offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-631) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, what this amendment does is remove the underlined paragraph on Page 2 of the L. D. which, in effect, suspends the provisions that are now in effect which requires that any lease-purchase agreement be approved by the Appropriations Committee. By including this in the bill, it circumvents the intentions of the committee and the amendment simply removes that language.

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter:

An Act to Provide Limitations on Fishing by Weirs, Purse and Stop Seines and to Provide Notice for the Location of Weirs and their Maintenance (H. P. 1516) (L. D. 1991) (H. "A" H-542 and H. "B" H-585 to C. "A" H. 527) which was tabled and later today assigned pending passage to be enacted.

Representative Connors of Franklin moved that this be retabled until later in today's session.

Whereupon, Representative Vose of Eastport requested a division.

The SPEAKER: The pending question is on the motion of Representative Connors of Franklin that this be retabled pending passage to be enacted and later today assigned. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

61 having voted in the affirmative and 29 having voted in the negative, the motion did prevail.

The following papers were taken up out of order by unanimous consent:

Passed to Be Engrossed

Bill "An Act to Provide Funding from the Blueberry Industry Tax to Promote Market Development for the Blueberry Industry" (H. P. 1816) (L. D. 2406)

Was reported by the Committee on Bills in the Second Reading, read the second time and Passed to be Engrossed and sent up for concurrence.

Passed to Be Enacted Emergency Measure

An Act to Ensure Medical Coverage of Residents in Cost Reimbursement Boarding Homes (S. P. 843) (L. D. 2266) (S. "A" S-349)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Amending the Charter of the Boothbay-Boothbay Harbor Community School District (S. P. 849) (L. D. 2307)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish a Poultry Disease Control Fund (H. P. 1741) (L. D. 2295)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being neces-