

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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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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FIFTH CONFIRMATION SESSION

(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

July 11, 1984

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THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill in NEW DRAFT READ A SECOND TIME.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

SENATOR PERKINS: Mr. President, I present Senate Amendment "A" to L. D. 2406, under filing number S-368 and move its Adoption.

THE PRESIDENT: The Senator from Hancock, Senator Perkins, presents Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-368) was READ and ADOPTED.

The Bill was PASSED TO BE ENGROSSED, as Amended, in NON-CONCURRENCE.

Sent down for concurrence.

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act to Amend Certain Motor Vehicle Laws" H. P. 1444 L. D. 1889

Reported that the same Ought to Pass in New Draft under same title. (Emergency) H. P. 1819 L. D. 2411

Signed:

Senators:

DIAMOND of Cumberland
EMERSON of Penobscot
DANTON of York

Representatives:

MACOMBER of S. Portland
CARROLL of Limerick
REEVES of Pittston
NADEAU of Lewiston

The Minority of the same Committee on the same subject reported that the same Ought to Pass in New Draft under same title. (Emergency) H. P. 1820 L. D. 2412

Signed:

Representatives:

McPHERSON of Eliot
MOHOLLAND of Princeton
THERIAULT of Fort Kent
CAHILL of Woolwich
STROUT of Corinth
CALLAHAN of Mechanic Falls

Comes from the House, the Minority Ought to Pass in New Draft report READ and ACCEPTED and the Bill in New Draft (H. P. 1820) (L. D. 2412) PASSED TO BE ENGROSSED.

Which Reports were READ.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Danton.

SENATOR DANTON: Mr. President, I move that the Senate accept the Majority Ought to Pass Report.

THE PRESIDENT: The Senator from York, Senator Danton, now moves that the Senate accept the Majority Ought to Pass in New Draft Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

SENATOR EMERSON: I would like to ask for a Division on this and I would like to speak on the matter.

Mr. President, and Ladies and Gentlemen, I am just a little mite embarrassed because I changed my mind, and I'd like to try to explain why.

The disagreement in this Report is in one area, it's in the area of fines for the charge to truckers for overloading. Before last year, when a trucker registered his truck for seventy or eighty thousand pounds or whatever, he was allowed a ten percent tolerance for hauling, overweight tolerance for hauling, certain commodities, bulk commodities and lumber, forest products, and I don't know what others, but there is a list of commodities. Last year when we changed the registration fees for

trucks, we disallowed the ten percent tolerance for commodities, certain commodities, but we did allow them to buy that tolerance for ten percent.

Well, the problem arises that when they get picked up for being overloaded they go back to the original weight and charge them a fine which is quite excessive, sometimes. In one example I have here, which I will try to explain and this one helped me change my mind, I had a fellow call me this afternoon and he's in the forest business in hauling forest products, and he has one of these what they call Tri-axle truck, has three axles on the rear and one axle on front. He paid \$758.00 to register this truck to haul sixty-nine thousand pounds. He bought a special commodity permit which allowed him to haul ten percent over on forest products and he paid \$362.00 for that. That would allow him to haul a total limit of seventy-five thousand nine hundred pounds, but that doesn't mean that he can't haul all that weight on the rear axles, it has to be distributed. I think about twelve thousand pounds of that has to be on the front axle. So, on the tri-axle, without the commodity permit he can haul forty-eight thousand pounds, but with the commodity permit, which he paid \$362.00 for, he can haul sixty-four thousand pounds on the rear axles. Well, this person was caught for hauling seventy-one thousand pounds, which would be four thousand pounds less than the road limit which he was licensed for, but because he was overweight on his rear axles, they went back when they fined him, they went back to the forty-eight thousand pounds, which meant that he was forty-seven percent overweight and paid a fine of a \$1,000.00. If he'd gone back to the sixty-four thousand pound, he would have paid a fine of \$100.00.

Well, they feel that this is very unfair. They feel that they've bought this permit to haul ten percent over but when they are fined that doesn't count, it goes back to the original weight. Like I say, they think this is unfair, and I'm convinced it's unfair, too. I'd like to have you not accept the Majority Report and accept the Minority Report which would be the Majority Report if I was on it.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

SENATOR PEARSON: Mr. President and Men and Women of the Senate. I'm not on the Transportation Committee and I know very little about their particular items of discussion but I must say that the gentleman, Senator Emerson, was kind enough to tell me that the gentleman that he referred to comes from my district and I know exactly where he comes from. In the town where he comes from there are really only two roads, two main roads, that you can take in there and that's Route 6, which goes from Lincoln to Topsisfield, or Route 2 that goes from Lincoln to Houlton. Both of those roads, I've been to ten town meetings in the last several several weeks, and the last two that I have been to, one in Springfield and one in Mattawamkeag, the number one complaint they had was that their roads were just devastated, destroyed.

In Springfield, it is so bad that the town selectmen have asked me if I would arrange to have the Commissioner of Transportation come up, which I'm going to try to do, and they're going to have some pictures taken with five or six people standing around the middle of the road with fishing poles in the puddle that's in the middle, which is every bit as big as half of the well of this House. The road is just a mess.

Then, the other selectmen in the Town of Mattawamkeag has been complaining to me because the roads between Mattawamkeag and Lincoln are a mess and I can't ignore him because he's my cousin and he keeps telling me and telling me and telling me and finally, the Commissioner of Transportation told me that he would go up there and look at them, but I

pointed out to him that even further north than that town, in Haynesville and Hodgdon, it's a cow-path. The tar is gone, it's right down to the dirt in some of those areas, and the trucks are what's doing that. I understand that, nobody understands any better than I do, or Senator Carpenter, or any of those of us who come from pulp and paper areas that the trucks are vital, but they also have to use the roads and they can't destroy the roads by putting too much weight on them, especially during this period of year. It's one of those things of having your cake and wanting to eat it too. It seems to me that the truckers have got to be reasonable about this, too.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Danton.

SENATOR DANTON: Mr. President and members of the Senate. If there is anything I don't like to do is disagree with the distinguished Senator from Penobscot, Senator Emerson, we both sit on corners and we both have nice silver hair and it's hard for me to disagree with him.

But, you know, about a year ago, and it has been just about a year, we took and passed a highway package here. In order to get a highway package together, and let me be the first to admit to you that what I know about trucking you can write on a pin head, we took and got all of the groups together, whether they were trailer trucks or pulp trucks or construction trucks, and that's how we came to truck weights and as to what should be allowed on our roads, as to what axles they should have, as to what the tolerances should be, because there was no sense for us to come together and have a highway package if we weren't going to take and distribute loads so they wouldn't tear up the roads after we raised the gas tax by a nickel, and went along and paved them and rebuilt them.

I know that it's a year later and the trucking industry has had a chance to think this over but let us not forget this, that they were all agreeable a year ago, agreeable to what the law is today. You know, this amendment would tend to reverse the movement toward improvements of the equity of user fees that was brought by the legislation we passed last year.

Now, I could go on and read five pages about why the truck law we have today is a fair law, but after I get through reading it I probably wouldn't understand anymore than you would after I read it. The only thing I can tell you is this, if we're going to have a Department of Transportation, and if we're going to have high paid quality qualified people there to take and sit down with the trucking industry and get together so what the weights would be and what the axles should be and then adopt it as laws, then we should let it go, we should try it out, not unravel the entire highway program in a years time. I think this is a little too soon, I think it's in the right track, I think the Majority Report should be accepted, I know there might be some hardship on some of the truckers but this was understood when it was all agreed for us to have a highway program. So I would hope you would support me, accept the Majority Ought to Pass Report and allow our highway program to stay in place. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

SENATOR DIAMOND: Thank you, Mr. President. Ladies and Gentlemen of the Senate, I fully understand why the gentleman from Penobscot, the good Senator Emerson, probably had a tendency to change his mind because I didn't get to call someone back home, but I did have a chance to talk with several lobbyists, or they talked with me, also some truckers and some friends of mine on the Committee and I was leaning that way as well, and I went down and talked with the people in Transportation and also the people in our own Legislative staff, to find out the answers to some of these questions that were being posed. I would like to

share with you just some of that information because I think it's very, very, important.

The gentleman from York, Senator Danton, has hit it right on the head that this issue of the Transportation budget is very, very delicate and very important. I would caution us all about picking away and taking various pieces away if it might, just to relieve, if that's the correct word, one segment. First of all, right now if their licensed for eighty thousand pounds a truck, licensed for eighty thousand pounds, if they want to go and get an extra load, they'll by a commodity for ten percent, which means they can drive with eighty-eight thousand pounds on the truck. So we have an eighty thousand regular for example, ten percent more gives them eight-eight, all right, and they pay for that ten percent. Now, what they're paying for, as well they should, what they're paying for is a special commodity to haul pulpwood or lumber or soils, there's a whole list in the statutes, farm produce, all these things, and that's why they want to pay and be able to carry eight thousand more at ten percent.

If they go above that, though, then they're penalized, and they should be. The question before us now is, is it fair, under current law, that they're penalized, if they go to ninety-four thousand, for example, they're penalized for the excess weight all the way back to eighty thousand? So that's the question before us right now. Should they be penalized all the way back to eighty or should they be penalized only as far back as eighty-eight? That's the issue, and those, as Senator Emerson spoke of, from Penobscot, they feel you should only go back as far as eighty-eight.

Well, the reason that that's wrong is two-fold. If we don't have a strict law that says "Hey, wait a minute, eighty thousand is really what we're telling you to do, but we'll give you ten percent more that goes to eighty-eight," and also in the law, ladies and gentlemen, is a little thing that says if you go two thousand pounds beyond that, and it's unintentional, no fee. So that takes care of the arguments about rain, and load shifts, and all those things that might cause this person to have a load that then becomes a little bit extra, and the argument was forwarded that, "My word, if I have a little bit extra, it's not my fault that it rains or the temperature changes, or I have several logs and they shift over, you're not going to be fined. So, I think we've come a long way to help the truckers.

This bill also, what's not been mentioned yet, also has a phrase in it that talks about those trucks that are ten years old and older, that was another issue that they had, saying ten year old trucks are just as good as two year old trucks, and we changed that for the truckers, so we helped them in that way as well. It's just, my only point is we just can't unravel the whole thing, this is a fair law, it discourages those who would like to cheat and go above and beyond, I think there is a leeway in there now of two thousand pounds. I think it is fair and I think we ought to stay with our budget and not let it be picked apart. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Emerson.

SENATOR EMERSON: Mr. President and Ladies and Gentlemen, one point. It was said that the truckers supported the new law and I believe they did, but I think they were unaware that when they got caught for overloading that they would go back to the original weight. I think they figured they'd have the advantage of the ten percent. That's what the truckers have been telling me and they're telling me that right now.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion of the Senator from York, Senator Danton, to accept the Majority Ought to Pass in New Draft Report, please rise and remain standing until

counted.

Will all those Senators opposed, please rise and remain standing until counted.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

SENATOR EMERSON: I request a Roll Call.

THE PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a Roll Call is ordered.

The pending question before the Senate is the motion by the Senator from York, Senator Danton, that the Senate Accepted the Majority Ought to Pass in New Draft Report of the Committee.

A Yes vote will be in favor of Accepting the Majority Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

YEAS—Senators, Baldacci, Brown, Bustin, Charette, Clark, Danton, Diamond, Dow, Durtremble, Kany, Najarian, Pearson, Pray, Teague, Trafton, Violette, Wood, The President—Gerard P. Conley.

NAYS—Senators, Carpenter, Collins, Emerson, Erwin, Hayes, McBreairty, Perkins, Redmond, Shute, Twitchell.

ABSENT—Senators, Gill, Hichens, Minkowsky, Sewall, Usher.

18 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 5 Senators being absent, the motion to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT (H. P. 1819) (L. D. 2411) Report in NON-CONCURRENCE PREVAILED.

The Bill in NEW DRAFT READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill in NEW DRAFT READ A SECOND TIME.

On motion by Senator DANTON of York TABLED until later in today's session, pending PASSAGE TO BE ENGROSSED.

ENACTORS

The Committee on ENGROSSED BILLS reported as truly and strictly engrossed the following:

Emergency

AN ACT to Clarify the Licensure of Administrators of Medical Care Facilities Other than Hospitals. H. P. 1790 L. D. 2365

This being an emergency measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in the negative was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

SENATE AT EASE

The Senate called to order by the President.

On motion by Senator DANTON of York, the Senate voted to remove from the Table:

Bill "An Act to Amend Certain Motor Vehicle Laws" (Emergency) H. P. 1444 L. D. 2411

Tabled earlier in today's session, on motion by Senator DANTON of York.

Pending PASSAGE TO BE ENGROSSED.

The Bill was PASSED TO BE ENGROSSED in NON-CONCURRENCE.

Sent down for concurrence.

On motion by Senator WOOD of York, the Senate RECONSIDERED its action whereby it PASSED TO BE ENACTED:

AN ACT Concerning the Counting of Absentee Ballots in Towns with Voting Machines. S. P. 708 L. D. 1954

On further motion by the same Senator, the Senate SUSPENDED THE RULES.

On further motion by the same Senator, the Senate RECONSIDERED its action whereby the Bill was PASSED TO BE ENGROSSED.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Wood.

SENATOR WOOD: Mr. President, I offer Senate Amendment "A" and move its Adoption.

THE PRESIDENT: The Senator from York, Senator Wood, now presents Senate Amendment "A" and moves its adoption.

Senate Amendment "A" (S-365) was READ and ADOPTED.

The Bill was PASSED TO BE ENGROSSED as Amended in NON-CONCURRENCE.

Sent down for concurrence.

Out of order and under suspension of the rules, the Senate voted to consider the following:

COMMITTEE REPORTS

House

Ought to Pass

The Committee on HEALTH AND INSTITUTIONAL SERVICES on Bill "An Act to Authorize Hospital Administrative District No. 1 and Hospital Administrative District No. 4 to Engage in a Joint Venture for the Purpose of Owning and Operating a Regional Mobile Computerized Axial Tomography Scan Unit" H. P. 1778 L. D. 2356

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill READ A SECOND TIME and PASSED TO BE ENGROSSED in concurrence.

The Committee on HEALTH AND INSTITUTIONAL SERVICES on Bill "An Act to Amend the Judicial Commitment Statute" (Emergency) H. P. 1800 L. D. 2393

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.

Under suspension of the rules the Bill READ A SECOND TIME and PASSED TO BE ENGROSSED in concurrence.

The Committee on STATE GOVERNMENT on Bill "An Act to Extend the Reporting Date for the Select Workers' Compensation Study Commission" (Emergency) H. P. 1702 L. D. 2240

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

THE PRESIDENT: Is it the pleasure of the Senate that under suspension of the rules this Bill be given its Second Reading at this time by Title Only?

It is a vote.