

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Twelfth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume II**

**FIRST REGULAR SESSION**

**December 5, 1984 - June 20, 1985**

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**FIRST CONFIRMATION SESSION**

**August 29, 1985**

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Minimum for County Commissioner Purchases (H.P. 1038) (L.D. 1512)

Which was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

#### ORDERS OF THE DAY

On motion by Senator VIOLETTE of Aroostook the Senate removed from the table:

Bill "An Act to Provide for Legislative Oversight Prior to the Implementation of Departmental Rules" (H.P. 784) (L.D. 1117) (C "A" H-196)

Tabled—May 29, 1985, by Senator VIOLETTE of Aroostook.

Pending—**PASSAGE TO BE ENGROSSED AS AMENDED.**

(In House May 28, 1985, Bill **PASSED TO BE ENGROSSED AS AMENDED.**)

(In Senate May 29, 1985, **READ A SECOND TIME**)

**THE PRESIDENT:** The pending question before the Senate is Passage to be Engrossed as Amended.

Senate at Ease

The Senate called to Order by the President.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and Senators. Earlier the distinguished Senator from Kennebec, Senator Matthews, asked a question about this Bill "An Act to Provide for Legislative Oversight Prior to the Implementation of Departmental Rules."

I was out of the Senate at that moment and I would like to respond briefly because I do believe that all Senators would be interested in what this Bill does.

I am very pleased to report to you that whereas it does not allow for Legislative approval of rules prior to their implementation because there would be a Constitutional problem with the separation of powers, what it does do is require that the individual agencies notify all committee members within the committee which has jurisdiction over that agency of any impending rules 20 days prior to their adoption.

Secondly, it would require a concise statement of the principal reasons for the rule, an analysis of the rule and an estimate fiscal impact of the rule.

Obviously, the intent is that if any legislative committee then has a problem it could deal with it appropriately by communicating with the agency or secondly, of course, take statutory action if necessary.

I am happy to report that to you.

The Bill was **PASSED TO BE ENGROSSED AS Amended**, in concurrence.

The President laid before the Senate the Tabled and Specially Assigned matter:

**SENATE REPORTS**—from the Committee on **LEGAL AFFAIRS** on Bill "An Act Concerning the Return of Security Deposits Paid by Tenants" (S.P. 156) (L.D. 423)

Majority Report—**Ought Not to Pass**

Minority Report—**Ought to Pass as Amended by Committee Amendment "A" (S-117)**

Tabled—May 28, 1985, by Senator VIOLETTE of Aroostook.

Pending—Motion of Senator CARPENTER of Aroostook to **RECONSIDER** Acceptance of the Majority **OUGHT NOT TO PASS** Report.

(In Senate, May 28, 1985, Reports **READ. RECONSIDERED** Acceptance of the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-117)** Report. Subsequently, Majority **OUGHT NOT TO PASS** Report **ACCEPTED.**)

On motion by Senator VIOLETTE of Aroostook tabled until later in today's session,

pending the motion by Senator CARPENTER of Aroostook to **RECONSIDER** Acceptance of the Majority **OUGHT NOT TO PASS** Report.

The President laid before the Senate the Tabled and Specially Assigned matter:

An Act Pertaining to Polling Times (H.P. 1061) (L.D. 1540)

Tabled—May 28, 1985, by Senator VIOLETTE of Aroostook.

Pending—Motion of Senator PEARSON of Penobscot to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

(In House, May 24, 1985, **PASSED TO BE ENACTED.**)

(In Senate, May 23, 1985, **PASSED TO BE ENGROSSED**, in concurrence.)

On motion by Senator VIOLETTE of Aroostook Tabled until Later in Today's session, pending the motion by Senator PEARSON of Penobscot to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

The President laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act Concerning the Location of Agency Liquor Stores and the Licensing of Seasonal Agency Stores" (H.P. 1047) (L.D. 1522)

Tabled—May 28, 1985, by Senator VIOLETTE of Aroostook.

Pending—**PASSAGE TO BE ENGROSSED.** (In Senate, May 24, 1985, **READ A SECOND TIME.**)

(In House, May 20, 1985, **PASSED TO BE ENGROSSED.**)

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, Members of the Senate I offer Senate Amendment "A" under filing number S-148 to L.D. 1522 and move its Adoption.

**THE PRESIDENT:** The Senator from Androscoggin, Senator Trafton offers Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-148) was **READ.** **THE PRESIDENT:** The Senator has the floor.

Senator TRAFTON: Thank you, Mr. President. This amendment simply adds a fiscal note and I would suggest that this is one of the better fiscal notes that you will see this session. It is a positive fiscal note to add money to our coffers.

**THE PRESIDENT:** Is it now the pleasure of the Senate that Senate Amendment "A" be Adopted?

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Mr. President and Members of the Senate before this Bill goes through perhaps the President would advise me. I would like to speak on the Bill itself and not just on the amendment.

**THE PRESIDENT:** The pending question is Adoption of Senate Amendment "A." Senate Amendment "A" (S-148) was **ADOPTED.**

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Mr. President and Members of the Senate, before you pass this Bill, I would just like to pose some questions to you and perhaps a question to the Chair of the Committee through the Chair.

In this Bill what we are doing, as I understand it, it allowing interpretations of the ten mile radius to be interpreted as actual mileage rather than what the traditional, historical interpretation of "as the crow flies" for the ten mile limit, or ten mile radius, before you can set up an agency store where there is not a State liquor store.

I look at this Bill as perhaps another way to eliminate the State liquor stores. Right now you have practically fifty/fifty on agency stores and

liquor stores. I do not support eliminating State liquor stores and never have. I think it would be a bad thing to do for any number of reasons.

I, also, understand that this Bill, also, would allow for six seasonal stores to be set up fairly close or within the ten mile actual mileage of State liquor stores, because under section 2, subsection 153A of the Bill, they have got special stores in there. I assure that that is so they can open those seasonal stores.

What you are looking at is that you'll have six more seasonal stores competing with State liquor stores. They will be open for a longer length of time.

Then you have the same kinds of issues that you have always had with this controversy. Do you want to allow the State to get out of the business of controlling the liquor industry in this State and allow for more and more agency stores?

That means that they are open for longer and longer periods of time. We have been trying in this State to reduce the number of OUI's to reduce the number of fatalities of the drunken driving, we have tried all of that. The longer you leave these stores open the more chance you have of having people drunk on the highways after hours.

Despite the fact that they may get their liquor somewhere else if they can't get it at an agency store late at night or they may stock up, the truth of the matter is that when they run out of liquor during the evening and they want more and there is a store open they are going to go get it. If they run out and there are no stores open they aren't going to go get it.

I have a real problem with this Bill and ask you to vote against it.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you, Mr. President. In response to the good Senator from Kennebec, Senator Bustin's question that she has posed.

I would suggest that this Bill has virtually nothing, nothing to do with a direct attack or even a side attack of State liquor Stores. In brief explanation of the Bill, it does change, as the good Senator from Kennebec indicated, the determination of the ten mile radius as it now exists.

The Liquor Bureau has been interpreting this ten mile radius requirement as ten miles by the most conveniently reasonable traveled route. Similar to the determination on which we are paid mileage for traveling from our homes to the Legislature.

A recent Attorney General's opinion within the last six months instructed the Bureau that this type of interpretation was incorrect. In fact, the law requires that a circle be drawn on a map from the State liquor store and any location within that ten mile radius, meaning ten miles as the crow flies, not ten miles as we drive would be prohibited from receiving an agency license.

This does not expand the number of agency stores that are permitted within the State of Maine. The Bureau still maintains complete control over where and what stores are issued agency licenses. This simply restores the ongoing or the prior interpretation of that ten mile radius law.

The second part of the Bill, again, is not a direct attack or side attack on the State liquor stores. It simply recognizes the fact that there are municipalities within this State that may be small from September through May but come the summer months their population doubles and triples, in fact, the good Senator from York, Senator Danton, has explained that the town of Old Orchard Beach in the summer time becomes the largest municipality in the State of Maine. How do we respond in terms of selling liquor within those municipalities where the population expands so greatly dur-