

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME V

FIRST SPECIAL SESSION

July 11, 1991 to July 18, 1991

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SECOND REGULAR SESSION

House of Representatives

January 8, 1992 to March 9, 1992

that particular injury. As we know, that person is responsible for the injury but it is also the responsibility of the person who has control of that ice-skating rink to have perhaps intervened and stopped that activity. I have a problem with this bill because of that.

As you know, over the last year, we have had a number of bills claiming all types of things, inherently dangerous sports and wanting immunity. We have had a number before our committee in Judiciary — horseback riding, etc. I guess you have to say, where does it stop? Football, ice hockey, soccer, I guess the argument can be made for that — there are all types of sports and I think my major objection is that we have to say enough is enough.

Mr. Speaker, I move indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Ladies and Gentlemen of the House: The Representative from Hampden is right, we did pass a similar bill on skiing and passed a similar bill on roller skating. All of these places have got rules posted on what proper action is to be taken in whatever activity is going on. If there is tomfoolery on the roller rink or the ice-skating rink, there are notices on the walls or wherever. There are signs that are hung saying that you can't do those kinds of activities at this establishment.

I feel that the ice-skating rink and the roller rink people and the ski people came to us and said they needed to lower their liability insurance and this is one way of doing it, to define in law that yes, it is an inherent risk to ski, to ice-skate and to roller skate. You have to have some kind of coordination, some ability to do these activities and that is all this law is saying. They post that sign up, they post their rules up at their establishments to what it takes and what are the rules to participate. That is all we are saying. If the person is running a shoddy operation, if he doesn't enforce those rules, then I think people do have a case that that person is not adhering to the law. This bill, basically, is taking care of the last component and really there are only four or five public ice-skating rinks throughout the state, this has nothing to do with municipalities or schools or whatever the case is. This is strictly private enterprises that are doing business in this state.

I hope you will oppose Representative Richards motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: We are not plowing new ground with this bill, it is very much a pro-business bill to help them control their costs. It doesn't surprise me at all that a lawyer would object to a bill that would decrease the number of lawsuits that we have in this state.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Men and Women of the House: I guess we now have a new phrase of when you have a bill you want to pass through that is a bad bill, call it pro-business. Well, let me tell you, this is anti-family and I guess that is the label that I can put on it.

My last statement is that we have got to say,

enough is enough.

Representative Anthony of South Portland moved that this item be tabled one legislative day.

Representative Tracy of Rome requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than 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 less than one-fifth of the members present and voting expressing a desire for a roll call, a roll call was not ordered.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from South Portland, Representative Anthony, that L.D. 1775 be tabled one legislative day. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

54 having voted in the affirmative and 43 in the negative, the motion to table did prevail.

PASSED TO BE ENACTED

An Act to Clarify the Relevant Information in Administrative Rule-making Procedures (H.P. 1235) (L.D. 1799) (C. "A" H-873)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I have serious misgivings with this Committee Amendment. I have read the Statement of Fact and I would like to read it to you. "This amendment changes the title of the bill and replaces the original language of the bill. The amendment specifies that economic, environmental, fiscal and social impact analyses are relevant information and must be considered by agencies when adopting rules. An agency is not prohibited from considering other information the agency considers relevant."

I have problems with this because, for one thing, it was sent to State and Local Government and where it could seriously impact environmental laws that this body passed in very good faith, I question whether we should pass this here today.

I am concerned that things we passed dealing with the Rivers Bill, dealing with ambient air, when we go home the Department of Environmental Protection will be under great and severe stress under different industries to come in and look at the fiscal impact seeing as we are in a serious recession and I feel that it is a dangerous thing for us to undertake lightly.

I was told that this was already the edict of the Governor. I didn't know that we ran the state by edict. Just because the Governor thinks this is a good idea, that does not mean that I think it is a good idea.

I would urge you to think seriously before you okay this bill.

Mr. Speaker, I would request a roll call.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I think the good Representative misunderstands the intention of this piece of legislation. Yes, the title was changed and I am sorry I don't have either of the amendments or the bill before me but I will in a second.

I do want to say that it was the committee's intention to have departments and agencies consider and evaluate the environmental and economic impact in their criteria as they are developing and promulgating rules which have the effect of law.

The committee worked long and hard on this piece of legislation and it was a carryover bill. In fact, had the bill itself been before us today, I am sure that it would have received an "Ought Not to Pass" Report from the committee but we felt by balancing the environmental impact and the economic impact that one would not supersede the other.

I would urge you to enact this piece of legislation.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I am sure that the State and Local Government Committee did work long and hard and I certainly applaud the work of the committee. I am not criticizing that at all.

I just feel that this bill had it gone to Energy and Natural Resources Committee would have gotten a lot of us down there to look at it and to speak on it. It really got by the desk, practically. It is a very dangerous bill and I really urge you to defeat this.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the State and Local Government Committee who did work on this bill and very strongly supports this bill, I think it is important to point out that not all rule-making that happens in the state is in fact environmental rule-making. The original idea of the bill was to incorporate into the decision-making process of departments the fiscal impact of particular rules. A compromise was struck within the committee to also include in that environmental impact so that there would be a balance but there are many, many rules that go through in this state that are not environmental rules. I think what we were attempting to do was to put that balance in and for this bill to have gone to the Energy and Natural Resources Committee would mean possibly that many of the rules that are not environmentally related might not have had the kind of scrutiny that it deserves. So, it was more of a general bill than just being environmental.

I think it is really important to understand that the reason the committee took this step was to assure that all of the issues involved in rule-making were addressed. The concern that was brought to us was that the fiscal impact of a rule was not part of the information that was taken into consideration by departments. I think most of us would agree that it is very, very important for that consideration to be part of the rule-making process. Certainly it is a consideration that we all have as part of our decision-making process when laws are passed and

because rules do have the effect of law, it is very important that that be a consideration when rules are passed.

I would urge your strong support for this legislation.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than 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 more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 304

YEA - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Bowers, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Garland, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heino, Hepburn, Hichborn, Hichens, Hoglund, Hussey, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Look, Lord, MacBride, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, Melendy, Michael, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Paul, Pendexter, Pendleton, Pfeiffer, Pines, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Savage, Sheltra, Simonds, Simpson, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Tammaro, Tardy, Tracy, Vigue, Waterman, Whitcomb.

NAY - Adams, Duplessis, Heeschen, Holt, Jacques, Kutasi, Lebowitz, Libby, Luther, Macomber, McHenry, McKeen, Merrill, Michaud, Nutting, Parent, Pineau, Powers, Rand, Salisbury, Swazey, Tupper, Wentworth.

ABSENT - Cashman, Dore, Lipman, Skoglund, Townsend, Treat, The Speaker.

Yes, 121; No, 23; Absent, 7; Paired, 0; Excused, 0.

121 having voted in the affirmative and 23 in the negative with 7 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Establish a Forest Service Bureau in Each Division of the District Court (H.P. 1482) (L.D. 2094)

An Act to Authorize Transfer of Venue for Multiple Cases by the Chief Justice of the Superior Court (H.P. 1511) (L.D. 2123)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.