

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-First Legislature  
State of Maine

Volume II

First Regular Session (Continued)  
May 21, 2003 to June 14, 2003

First Special Session  
August 21, 2003 to August 22, 2003

First Confirmation Session  
October 30, 2003

Second Regular Session  
January 7, 2004 to January 30, 2004

Second Special Session  
February 3, 2004 to March 18, 2004

Pages 715 - 1415

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

Report **READ** and **ACCEPTED**, in concurrence.

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, in concurrence.

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All matters thus acted upon were ordered sent down forthwith for concurrence.

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Senate at Ease.

Senate called to order by the President.

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Off Record Remarks

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**RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate considered the following:

**REPORTS OF COMMITTEES**

**House**

**Ought to Pass As Amended**

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2003, June 30, 2004 and June 30, 2005" (EMERGENCY)  
H.P. 1190 L.D. 1614

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-560)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-560)**.

Report **READ** and **ACCEPTED**, in concurrence.

**READ ONCE**.

Committee Amendment "A" (H-560) **READ**.

On motion by Senator **MARTIN** of Aroostook, Senate Amendment "B" (S-274) to Committee Amendment "A" (H-560) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President and members of the Senate. Let me just tell you why I'm presenting this amendment. You may recall, in the discussion on adoption of the initial budget, I offered an amendment which got X number of votes. The discussion that occurred around the amendment was that this is an issue that we will deal with when we get to the next budget. Well, the next budget has come and it is here, but the issue has not been dealt with.

I want to first say to the members of the Appropriations Committee that I am pleased that they have accepted part of the recommendations that came from a number of people who worked on the whole question of the liquor enforcement issue. Now we have at least been able to merge the issue of gambling and liquor enforcement. They will now be involved, in a combined effort, working in that direction for the same purpose.

The second thing accomplished by the committee was to create a bureau under the Department of Public Safety, rather than another entity. That progress, I think, is excellent and I applaud that because it was part of some of the recommendations that were made. However, what is not part of it is the personnel and the number of personnel that will be involved in enforcing both gaming and liquor. I know some discussions took place among members of the Appropriations Committee. I want to lay out my concern, because I suspect this amendment will probably not be adopted because of the philosophy of not trying amending a budget that comes unanimously from the Appropriations Committee. If it were, I would be shocked.

On a matter of principle, I think it becomes important that we lay out the potential fears that I and others foresee. That is the lack of enforcement that will take place. When we come back in January, I suspect that the revenue figures that have been inserted into the budget for the amount of revenue from liquor, we will find that those do not exist. They will be substantially reduced. If you happen to own a restaurant or a bar, obviously you will be very pleased. There will be no enforcement to worry about. The amount of liquor that will now be picked up in New Hampshire to be sold in bars and restaurants in this state will be substantially increased. I cannot blame those individuals who are in business, for trying to cut their costs by 18% to 20%. As a matter of fact, I would be shocked if they do not. Frankly, if I were in that business, I would do the same. Part of our problem is that we are going to have to rely on the Maine State Police to do that enforcement on top of the other jobs that they have. What that means, if they try to do this, is that they will not do something else that they ought to be doing.

I had a friend of mine who happened to stop at the New Hampshire Liquor Store across the border. He told me there were about 20 cars there. One was from Florida, one from Vermont, one from New Hampshire, and the others were from Maine. What we are doing is increasing the income for the granite state while decreasing ours. That doesn't make much sense to me. Keep in mind that liquor will still be sold in this state. For the most part, however, it will be sold bottle by bottle by those people who simply go out to get a bottle. The amount of

businesses that do it for a profit will be the ones who will pick it up. Some of you may come back and say, 'Gee, you can only bring a gallon across.' More than that is illegal. As you all know, any law, in my opinion, is illegal if you get caught. If you don't, no one ever knows or particularly cares. If no one cares, frankly, the law will be broken.

What the amendment does it adds in personnel and increases the fee. On a six-pack of beer it is roughly a little more than 1¢. That is what this amendment does. It is that simple, because it is simply a fee based on gallons. That is the way it is structured. I hope that when next year rolls around I am dead wrong. I hope that I am dead wrong about the lack of income. Dead wrong about the enforcement question and dead wrong about the potential deaths in our state as a result of the number of people who will go across the border. That is why I am offering the amendment tonight and for no other reason. I think it is clear that this is going to occur.

I feel bad about it because I am one of those who, for many years as a presiding officer in another body, was one of those who screamed about putting amendments on the budget, and perhaps even twisted arms so that they didn't get on. I feel so strongly about the issue that it needs to be mentioned. I am concerned about it. If you haven't been contacted by businesses, I am shocked because I have. I have received more calls on this issue and requests from the business community than perhaps any other issue this session. There is a need for this. Many of them said, 'If you want to do 10%, if you want to do a little more, we understand.' I hope the members of this body who own restaurant and bars will not be going to New Hampshire to pick up their liquor in violation of state law. I would hope that someone would watch all of us.

Senator **CATHCART** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-274) to Committee Amendment "A" (H-560).

Same Senator requested a Roll Call.

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

Senator **CATHCART:** Thank you, Madame President, men and women of the Senate. I urge you to vote to indefinitely postpone this amendment. I think that many of us in this body have some concerns about what has happened with liquor enforcement in our budget this year. However, I do not think that this is a very wise way to deal with that problem.

As you know, we have spent some weeks crafting the Part 2 budget, which the Governor has presented to us. It has required a lot of effort on the part of the Appropriations Committee, in a bipartisan and very cooperative manner, to come up with a unanimous budget that we all, whole heartedly, could support. It has also taken an effort by leadership in both the Republican and Democratic parties, working together cooperatively, the members of our committee, and the Chief Executive to get an agreement on this budget.

It is a good budget. I feel proud that our committee has been able to present four budgets this session on which we have agreed unanimously. I know that all of you, in this chamber, feel proud that you, too, have participated in such an agreeable, amenable, and cooperative spirit throughout this whole session. We have set aside differences. We have really tried to work

together. I think we can all go home feeling good about the effort we have made. I do think this is a budget we can feel good about. It has parts that will please everyone, regardless of party; liberal, conservative, moderate, or whatever we are. It includes no new taxes. It has budget stabilization funds and places a cap on the amount that the Executive and agencies can request in the budget. Many people in this caucus wanted this, and thought this needed to be done. We have all agreed it is very important. It also does something that pleased a number of us so much. Through the efforts of working together, we were able to restore some of the most drastic cuts to our most vulnerable citizens, children with mental illness, in this budget. We found more money to put back some of the cuts that were made in the Part 1 budget that troubled all of us. I know this, because our hearts go out to little children like that and we didn't want their services to be cut off. It defers, for a year, the increase in MaineCare premiums for children in the Cub Care children's health insurance program. It defers some of the co-pays that were put in by the Part 1 budget for the federally qualified health centers.

I think that all of us can support this kind of restoration of some drastic cuts. I believe that there are many things to commend in this budget. I hope that we will not break our agreement that we all spent so many hours working towards by passing any amendments to it. I ask you to support the motion to indefinitely postpone so that we can go right ahead and pass the budget tonight. Thank you, Madame President.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, men and women of the Senate. A few months back, as some of you might remember, we had a similar motion presented by the good Senator from Aroostook, Senator Martin. There were many reasons at that time to reject it. The reason that stands out most in my mind is not supporting an amendment to a unanimous budget. I went along with that. Tonight, in this body, I do not intend to.

This morning, at least two members of this body were with two of the 16 sheriffs in this county, both of whom mentioned to me this particular problem. They are concerned because they are not able to handle liquor enforcement in their counties. They do not have the manpower. They do not have the knowledge. They do not have the professional expertise to do this. I would suspect, that with the possible exception of one or two counties, that holds true in the State of Maine.

Ladies and gentlemen of this body, we are headed into a major problem. I am concerned, as is the good Senator from Aroostook, Senator Martin, with the income projections. I have already been told by an organization in my community, of which I am a member, what they intend to do and how and where they intend to buy liquor in the future. Believe me, it is not in the State of Maine. They will be making a good additional profit on the liquor that is sold. I think if anyone in this body took it upon themselves to speak to organizations and other entities in their districts, they would find that this is going to be the rule, and not the exception in the State of Maine. How we can book income when, in fact, all we're going to be doing is giving the State of New Hampshire income in this regard.

I realize it is difficult to do anything against the unanimous report of the Appropriations Committee. We have heard about the fine work from that group from the good Senator from

Penobscot, Senator Cathcart. I do not, personally, feel that this is going against them. It is not taking anything in that document out. It is adding something in that document that they choose not to include, for whatever reason. It does not change the bottom line financially. It will solve a problem that I fear we will be back here before too long having to solve when it has gotten worse than it is tonight.

I would urge you to not support the indefinite postponement of this amendment. Thank you.

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

Senator **TURNER:** Thank you, Madame President, ladies and gentlemen of the Senate. I would ask that you set aside the comments made by the good Senator from Sagadahoc, Senator Mayo, and the good Senator from Aroostook, Senator Martin, and concentrate and reflect on the fine words from the Senator from Penobscot, Senator Cathcart. I won't begin to repeat all the good things she said about the process that we went through. I will simply say that I agree with her words, totally. I would ask you to vote in support of her motion of indefinite postponement. Thank you very much.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Madame President and members of the Senate. I'd like to pose a question to the good Senator from Penobscot, Senator Cathcart, or to other members of the Appropriations Committee that are in this body. I'd just like to find out, to some degree, what the problem was. I was told by members of the Appropriations Committee that the reason liquor enforcement was not dealt with more appropriately was because those in agreement with the Chief Executive and the Administration agreed that nothing would go into the budget unless it had the approval of the Republican leadership. I was told, that since the Republican leadership did not agree to add any more liquor enforcement, this issue was not done. I would pose that as a question, is this accurate or inaccurate?

On motion by Senator **CATHCART** of Penobscot, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Madame President. Since the Senator from Penobscot, Senator Cathcart, cannot answer, perhaps I could pose a question to the Senator from Cumberland, Senator Turner.

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

Senator **TURNER:** I'm not sure I can answer the good Senator from Aroostook, Senator Martin, directly. What I can tell you is that I'm not supportive of what has been put forward because I've had repeated assurances from the Commissioner of Public Safety that he can deal with the matter. He was asked pointed questions, repeatedly, by members of the Appropriations

Committee and continued to affirm, publicly and privately, that he could deal with the problem with the resources that he had requested. I do recognize that he has said repeatedly that much of the dependence on the enforcement of these laws falls below the state level. They have been a key part of the mechanism for enforcing these laws. They will continue to be an even greater key. I'm comfortable that this problem can be dealt with within the budget. If the worse predictions of some come true, we will have to revisit it with the Administration, and change it accordingly. I am comfortable that it is being dealt with in the budget that is before us. Thank you.

**THE PRESIDENT:** The Senator from Aroostook, Senator Martin, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **MARTIN:** Thank you, Madame President. I would like to thank the good Senator from Cumberland, Senator Turner, for his answer. I would simply say, at this point, that whatever happens now lies on the responsibility of the Commissioner of Public Safety. I pray to God that nothing does.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Senator **CATHCART** of Penobscot to Indefinitely Postpone Senate Amendment "B" (S-274) to Committee Amendment "A" (H-560). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#156)

**YEAS:** Senators: BLAIS, BRENNAN, BROMLEY, CARPENTER, CATHCART, DAVIS, DOUGLASS, GAGNON, GILMAN, HALL, KNEELAND, LAFOUNTAIN, LEMONT, MITCHELL, NASS, SAVAGE, TREAT, TURNER, WESTON, WOODCOCK, THE PRESIDENT - BEVERLY C. DAGGETT

**NAYS:** Senators: BRYANT, EDMONDS, HATCH, MARTIN, MAYO, PENDLETON, SAWYER, STANLEY, STRIMLING

**ABSENT:** Senators: BENNETT, ROTUNDO, SHOREY, YOUNGBLOOD

**EXCUSED:** Senator: DAMON

21 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 4 Senators being absent and 1 Senator being excused, the motion by Senator **CATHCART** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-274) to Committee Amendment "A" (H-560) **PREVAILED**.

Committee Amendment "A" (H-560) **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.