

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME V**

**SECOND REGULAR SESSION**

March 20, 1990 to April 14, 1990

Index

**HOUSE & SENATE LEGISLATIVE SENTIMENTS**

December 7, 1988 to April 14, 1990

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-951) on Bill "An Act Regarding Importation of Liquor" (H.P. 1741) (L.D. 2405)

Signed:

Senators: MATTHEWS of Kennebec  
BALDACCI of Penobscot  
DILLENBACK of Cumberland  
Representatives: PRIEST of Brunswick  
PAUL of Sanford  
JALBERT of Lisbon  
LAPOINTE of Auburn  
LAWRENCE of Kittery  
PLOURDE of Biddeford  
BEGLEY of Waldoboro  
STEVENS of Sabattus  
TUPPER of Orrington

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Representative: MURPHY of Berwick  
Reports were read.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest. Representative PRIEST: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

This bill deals with the question of importation of liquor into the State of Maine. As you know, it is now illegal to import into this state more than four quarts of spirits, three gallons of malt liquor or four quarts of wine.

As you also know, this state has passed a returnable bottle provision which applies to containers of spirits, will apply to containers of wine, and applies to beer containers. The price difference now between Maine and New Hampshire is approximately 27 percent. The effect of this price differential is that there has been a larger and larger amount of liquor which is being imported into the State of Maine in violation of Maine tax laws.

What this bill would do is to establish a prima facie presumption that if you are importing more than eight quarts of spirits or six gallons of malt liquor or eight quarts of wine, then prima facie you in violation of the importation law. That only means the state has to only show that you have that amount of liquor and that they are without the returnable bottle stickers that are supposed to be on those bottles. You are still able to get up if you want to show that you purchased those bottles in the State of Maine and make that case. All this does is make it easier for the liquor control people to try to get convictions when people import large quantities of liquor into the state in violation of the statutes.

You may notice that the bill itself has limits which are twice that, which constitute a violation of the statutes. In other words, we are not going after the person who buys one quart too many or one six-pack too many. We are talking about a violation which happens to be twice as much as the amount which establishes a violation under Maine law.

We heard evidence before our committee that there are in fact increasing numbers of people who are bringing in large quantities of liquor into the state. The effect of allowing that to continue is obviously to lead to a decrease in the amount of money they get from our liquor tax. It seems to me that if you seek to get a decrease in the amount of money that you get for liquor tax that you should lower the taxes but not enforce the statute. This is only an enforcement tool, it does not change the law now as to the importation of liquor. Those limits are still on the books and are not changed by this at all. This does not affect the small person.

Remember, you would have to bring in more than 2 gallons of spirits, more than six gallons of beer, more than 8 quarts of wine from another state to be concerned about this. This is a needed enforcement tool, we have been requested to have this enacted by Captain John Martin and I would urge you to adopt it.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I rise today on this bill, not because I don't realize that there is a problem on enforcement there, because there is. My problem with it is that it is an enforcement problem that I think we created ourselves right here in this legislature.

Back in the 112th, the owners of restaurants and lounges could go and buy their liquor from the state liquor stores and get a 15 percent discount because they were in the retail business. Every business in this state or in this country has to make a profit from what they buy to what they sell. I believe that is just good business. We took that 15 percent discount away from them. At the same time, we let the agency stores make 8 percent because they buy from the liquor stores and we give them an 8 percent discount so they can make 8 percent on the sale of spirits or alcoholic beverages. I don't have a problem with that.

Then when the innkeepers, lounge people and the restaurants started buying their liquor from the agency stores because the agency stores would give them the 8 percent discount, we passed a law and took that 8 percent away from them, making it illegal for them to buy at agency stores. They had to buy from the liquor stores.

Some of these people came in and told us that they had to travel 30, 60 and 100 miles to buy their liquor in order to be near a liquor store. Now they claim that they are going to New Hampshire to buy their liquor. I can't believe that too many of them are and this bill is supposed to close that loophole. In my opinion, this bill is harassment to us who live on the border.

We had a bill in this legislature to allow another discount store on the border, in fact, some of us supported to have more. It would have kept a lot of money in Maine and I believe probably another million dollars would have been brought in if we had been able to do that. We chose not to do it so now we are going after the people down there who live on the border who could be coming across the river. They did add another gallon on thinking I'd go with it but it didn't work. To me, it is just an harassment of these people. Those who live in my district, we don't have a choice, we can drive 20 miles to Sanford to the nearest liquor or agency store or we can drive 15 miles to Kittery. It is just not going to happen, people are not going to drive that distance and I just can't imagine having harassment of coming across the bridge and happened to be stopped for a speeding ticket or something else and having this law on the books where the police can enforce it. I believe we live in the United States and I have a right to spend my money wherever and whenever I want to.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Conley.

Representative CONLEY: Mr. Speaker, Men and Women of the House: I can see that this report is a strong report in favor of passing this bill but I rise today to join my good friend, Representative Murphy from Berwick. We don't have the same problems in my part of the state that people on the border do with businesses down there losing so much to our good

friends from New Hampshire but, taking a look at this, it scares me again to see the way that a committee can continue to give so much power to law enforcement authorities. I sympathize with the good Representative from Berwick, it happens time and time again that our good Captain John Martin comes before this legislature and comes before the Appropriations Committee seeking more and more law enforcement officers to enforce these very laws which we pass here little by little by little to give them the authority they seek.

It seems to me that if we are going to continue on this route, I hope more people continue to bring back little pieces of that wall from East Berlin because we are going to erect it right across our own state line and we will have little "check point Charlies" so you can't get into this state unless you go through one of them and pass their inspection.

I hope we go along with the good Representative from Berwick.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I, too, rise to support the good Representative from Berwick. When we speak of enforcing on the border, we speak of Kittery. What about the rest of the border lines in New Hampshire? What about Fryeburg that is right across from Conway? What about all these other little towns up and down the border? Do we have enough enforcement personnel to go and check them? This is positively asinine. I have to go to my friend and see what I am supposed to buy to fill my little old liquor thing when they bring it for me. If someone asked me to bring something when I happen to be going to New Hampshire, even though I am paying taxes in the State of Maine, I keep everything I can in the State of Maine, but there are a lot of people in the State of Maine who do not have that privilege. They don't have stores to purchase from, whether it be white goods, brown goods or liquor. We don't have an agency store in Sanford, we have a state liquor store and we intend to keep it that way. I urge you to support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: The last few speeches have been interesting but you should ask yourself I think whether or not they are related to this particular bill that we have before us. There may be some general philosophical concerns with the concept of having limits on liquor importation but this bill doesn't deal with those concerns. If you don't like that concept, if you don't want to have a limitation on liquor importation, then deal with that issue. There may be some concerns on the amount of taxes on liquor and that is a legitimate concern. Our committee has great concerns, frankly, as to the amount of taxes which are being put on liquor but that is something which does not have anything to do with this bill.

What this bill will do is enable even enforcement of the liquor importation laws and will stop large importation of liquor. Those of you who do not live on the border, and there are people who cannot get to a New Hampshire liquor store, those people will go to a state liquor store and pay the normal price. That is what they should do and that is the way it is supposed to be done. They obviously want to have even enforcement of the liquor importation laws and that is the way it should be. They don't mind an occasional person going over and purchasing too much but they do mind someone getting into large scale

importation. They do mind a pickup truck being filled with cases and cases of liquor which in fact has been seen and then brought across the border and trucked up to a business to be bought. It is the question of even enforcement of the liquor importation laws. That's all it is. If you don't like the basic liquor policy, that is another question, you may very well want to change that in the future. This bill doesn't deal with that.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: It has been stated that this bill is harassment for the people who live along the border. I have to tell you that when I wake up in the morning, if I get out on the wrong side of the bed, I end up in Portsmouth, New Hampshire and I can tell you this bill is not harassment for people on the border. I would encourage people like the Representative from Berwick, Representative Murphy, to not shop in New Hampshire and to shop in the liquor store in Kittery where she should be shopping.

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Tupper.

Representative TUPPER: Mr. Speaker, Ladies and Gentlemen of the House: In all due respect to my good friend and seatmate, Representative Murphy, I urge you to support this bill.

As a former code enforcement officer, sometimes it was frustrating to enforce some of the laws on our books. This law is a tool which would make the liquor enforcement more effective.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, Ladies and Gentlemen of the House: I stand here today because one of my great concerns is that we love to pass laws and we surely have done so over the years. We never seem to give the law enforcement officials the ability to impose or act on these laws. We wrestled with this particular issue and the bottom line is that we heard that there is large importations of alcohol being brought into this state and it simply was not a means to harass individuals but to check and balance what is being imported by businesses, large businesses as well as small businesses.

I urge you to support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Mr. Speaker, Ladies and Gentlemen of the House: I have to tell you that last Saturday afternoon I happened to be in a parking lot of a liquor store in New Hampshire. Naturally I went in and bought what I believe and I am sure was within the law that I could carry across the line. The other packages, the brown bags that I saw come out of the store, I don't believe were brown paper bags containing Tri-State Megabucks.

In the original bill, it called for a possession of not more than four quarts of spirits. In our committee work session, with Captain John S. Martin present, we finally ended up with an amendment that I feel is very reasonable. It allows up to four quarts of spirits with redemption stickers under the state bottle law to cross the line.

It has been mentioned about a certain amount of harassment of people going to New Hampshire to get their liquor -- I don't place any weight on that because, in my past experience over many years in law enforcement, I can say to you today that the rules of evidence has been very strongly improved and we are looking after the protection of people's rights. Law enforcement is more in tune today in enforcing our many laws and protecting people's rights so I don't

place any weight on this claim of a certain amount of harassment. The liquor enforcement people don't operate that way.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, I would like to pose a question through the Chair.

Did the brown paper bag have a Maine license on it?

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Brunswick, Representative Priest, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

66 having voted in the affirmative and 44 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-951) was read by the Clerk and adopted.

The Bill assigned for second reading Thursday, March 22, 1990.

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(Off Record Remarks)

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On motion of Representative Telow of Lewiston, Adjourned until Thursday, March 22, 1990, at eight-thirty in the morning.

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STATE OF MAINE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
SECOND REGULAR SESSION  
JOURNAL OF THE SENATE

In Senate Chamber

Tuesday

March 20, 1990

Senate called to Order by the President.

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Prayer by Reverend Calvin Dame of the All Souls Unitarian Church in Augusta.

REVEREND CALVIN DAME: Let us pray. O great and gracious Spirit, known to all ages and all people, called by a thousand names and called by no name at all. We give thanks this day for the great gift of life which is ours, life a gift we did not ask for, life a gift we did not earn, life a mystery beyond our poor powers of apprehension.

May our thankfulness for this gift, and our awe and reverence for this mystery in which we share, issue forth in a dedication to serve life. This day and every day may we work for that which we know to be good, stand firm for that which we know to be right, struggle for those who are oppressed and dispossessed. And strive always to know ourselves and to be counted with those who serve life. Amen.

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Reading of the Journal of Monday, March 19, 1990.

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Off Record Remarks

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PAPERS FROM THE HOUSE  
Non-concurrent Matter

Bill "An Act to Promote and Assist Barrier-free Construction in Places of Public Accommodation and Places of Employment"

S.P. 733 L.D. 1932  
(H "A" H-907 to C "A"  
S-536; S "B" S-568)

In Senate, March 14, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-536) AS AMENDED BY HOUSE AMENDMENT "A" (H-907) thereto, AND SENATE AMENDMENT "B" (S-568), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-536) AND SENATE AMENDMENT "B" (S-568) in NON-CONCURRENCE.

On motion by Senator CLARK of Cumberland, the Senate RECEDED and CONCURRED.

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Non-concurrent Matter

Bill "An Act to Regulate the Handling of Manure"

H.P. 1575 L.D. 2182  
(C "A" H-910; S "A"  
S-565)

In House, March 14, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910).

In Senate, March 15, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910) AND SENATE AMENDMENT "A" (S-565) in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-565) AS AMENDED BY HOUSE AMENDMENT "A" (H-946) thereto, AND COMMITTEE AMENDMENT "A" (H-910) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

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House Papers