

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 2, 1995 to June 16, 1995

because there is no way we can affect anything guiding marijuana until the feds decide to remove it from the Schedule 1. Thank you.

Off Record Remarks

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

Senator **RAND:** Thank you Mr. President, Men and Women of the Senate. I hope that you will reject the motion on the floor so we can go on to pass the Majority Ought to Pass Report on this L.D. While it is true that some changes are really necessary on the federal level, when it comes to marijuana, marijuana research, and these sorts of things, it is not quite accurate that we cannot, at the State level, do anything with marijuana. Certainly, in Maine we have passed a law that says that possession of less than one and a half ounces is still a civil offense, but it is not a criminal offense. This very legislation passed both the House and the Senate in the 116th Legislature. It does not make marijuana legal. This continues to have marijuana as an illegal substance. The only thing this Bill would do, as amended, would give the person who is smoking marijuana for relief of horrible nausea and vomiting, or for relief that can be obtained for glaucoma patients, give them an affirmative defense, which means that the judge would look at the situation and realize, with the medical documentation that would be necessary, would realize that this person had a medical reason for using this illegal substance, and would take that into consideration when weighing the decision. I would hope that you would give the motion on the floor a no vote, so that we can go on to pass the Majority Ought to Pass Report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **PENDEXTER** of Cumberland that the Senate **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

21 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator **PENDEXTER** of Cumberland to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Establish the Maine Outdoor Heritage Fund"

I.B. 3 L.D. 717

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-279)** (8 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook

Pending - **ACCEPTANCE** of Either Report

(In House, May 24, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-279)**.)

(In Senate, earlier in the day, Reports **READ**.)

Senator **FERGUSON** of Oxford moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **STEVENS:** Thank you Mr. President, Men and Women of the Senate. I would be pleased if everyone would go against the motion that has been put on the floor and vote Ought Not to Pass. This is something that came into the Legal Affairs Committee by the signature of 60,000 people. It could go out as a referendum in November and I think that's what should happen to it. The fiscal note on it would be about \$1.2 million to \$1.6 million. One of the things that disturbed me a little on it was that 15% of the money would go to endangered and threatened species. One of the groups who came to testify for the bill was the Maine Wolf Coalition. I think they would like to see the wolf introduced back into the State, and that is something that I would be very definitely against.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **FERGUSON** of Oxford that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

22 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **FERGUSON** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-279) **READ** and **ADOPTED**, in concurrence.

The Bill, as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums"

S.P. 458 L.D. 1254

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-186)** (6 members)

Tabled - earlier in the day by Senator **KIEFFER** of Aroostook

Pending - **ACCEPTANCE** of Either Report

(In Senate, earlier in the day, Reports **READ**.)

Senator **ABROMSON** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

Senator **McCORMICK:** Thank you Mr. President, Men and Women of the Senate. I would urge you to vote against the pending motion so that we can take up the very modest proposal contained in the Minority Report. This is one portion of the bill. The bill had many components. We killed all of them, but the one that many members of the Committee thought had merit was a closed claim study of malpractice costs, because this is an argument that we perennially engage in and we don't have enough facts. What we need is facts so that we just don't keep spinning our wheels. So, the Committee Amendment "A" is a closed claim study. It will be funded through assessments on malpractice insurers. It will have little or no impact on rates. Thank you.

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

Senator **ABROMSON:** Thank you Mr. President. I call the body's attention to the main law, which in Title 24, section 2601, Report of Claim. It says, "Every insurer providing professional liability insurance in this State to a person licensed by the Board of Registration in Medicine, or the Board of Osteopathic Examination and Registration, or to any

health care provider, shall make a periodic report of claims under the insurance." Under the Report of Disposition, the Report calls for a final judgement or award to the claimant of any amount, a settlement involving payment of any amount of money or services, or a final disposition not involving any money or services, the insurer shall make a report of disposition as provided, and so forth. I think we already have this in law, Mr. President, and do not need to pass the Minority Report.

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

Senator **McCORMICK:** Thank you Mr. President. I haven't had the benefit of reviewing, closely, that particular section of the law, but as I strained to hear it, and I didn't catch all of the words, as I understand what the good Senator from Cumberland, Senator Abromson, read is a yearly report of ongoing claims, which varies very significantly from a closed claim study. A closed claim study means claims only that have had their beginning and their end determined, and that the full cost of malpractice can be determined for those cases. It is a recognized way of determining the cost of malpractice insurance and malpractice in general, and that is what we keep arguing about as a policy matter, and that is why we need this particular set of facts. Thank you.

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

Senator **ABROMSON:** Thank you Mr. President. L.D. 1254, requiring a closed claim study, I would like to quote from the testimony, "Closed claim data is a very limited utility in regulating insurance rates, particularly for a line of insurance such as medical malpractice where claims close many years after they are reported. Making insurance rate, essentially, involves projecting future claim costs based on prior claim experience. To the extent that claims are not closed for several years, the date derived from such a study would be several years old. In a highly volatile line of insurance, such as medical malpractice, where trends can change frequently, old data is a limited utility in projecting future claim costs."

What basically happens is the easy claims, such as a chipped tooth or something, are closed pretty rapidly, but infant damage, or something of this nature, can stretch out well beyond the five years. In addition, I should point out, that the Bureau has indicated at this time internal actuarial resources of the Bureau remain insufficient to permit a closed claim study to be conducted without the involvement of outside actuarial resources, consequently a fiscal note for \$30,000 should be included to insure that the data is collected and quality standards met on an annual basis and for completion of the final report. I think I've said enough.

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

Senator **McCORMICK:** I would like to pose a question through the Chair. To the good Senator from Cumberland. Could you read the cite? Who was it that testified before us in that paragraph that you read?