

MAINE STATE LEGISLATURE

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Senate Legislative Sentiments

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Senator **BUTLAND**: To someone from the Appropriations Committee, who I'm sure that when they passed this bond looked at the issue and its entirety, can you tell me how many bonds that we have sent out to the public and passed over the last ten years specifically dealing with tires? How much money those bonds have raised? I also believe at one time that we had a disposal fee on tires? How much money did that raise? How many positions in DEP these funds have helped to create and then, lastly, how many tires have we disposed of during that time frame? Thank you.

THE PRESIDENT: The Senator from Cumberland, Senator Butland poses a question through the Chair to anyone who may be able to answer. The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND**: Thank you, Mr. President. First thing this morning here, actually having left here only after 3 a.m. and now being back here, I don't have my file at my desk this morning. We did look at a number of those issues, and I would be happy to retrieve that information, given a little time to do that. But I also want to reiterate though that the funds in this request is for the direct services of removing the dumps, for removing the tires. As you know we cannot use bond money for operational expenses or for positions. It has to go for capital kinds of items. So none of this particular money, or any of the other bond money goes for positions whatsoever but actually for the task involved. Other funds, through other special revenue, would fund positions. But I will look to get that information for the good Senator.

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

Senator **TREAT**: Thank you, Mr. President. If I may further respond to the series of questions. In addition to the information about whether there are positions, I believe, the question went to how much has been done thus far and how much is left to do? The total stockpile that we have across the State in different locations is 40 million scrap tires. The State has a plan to remove 15 million of these by the year 2000. This bond issue is an integral part of that proposal. The program has already been in place for the last two years and we have managed to remove 2.3 million tires. An additional 2.5 million are presently under contract and another 2 million will be spent out of bond issues that were voted on in a previous time. Again, all this is aimed toward getting 15 million tires removed by the year 2000. This particular bond issue will make that next round and again I already commented on how many tires we are planning to remove at various spots around the State of Maine.

On motion by Senator **RAND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by Senator **CLEVELAND** of Androscoggin to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED** Report.

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

Bill "An Act to Implement the Recommendations of the Great Pond Task Force"

S.P. 573 L.D. 1730

Tabled - April 2, 1998, by Senator **PINGREE** of Knox.

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-600) AS AMENDED BY SENATE AMENDMENTS "B" (S-677); "C" (S-686) AND "F" (S-691)** thereto

(In Senate, April 2, 1998, on motion by Senator **KILKELLY** of Lincoln, Senate Amendment "F" (S-691) **READ** and **ADOPTED**. On motion by Senator **KIEFFER** of Aroostook, Senate Amendment "G" (S-697) **READ** and **FAILED ADOPTION**.)

Senator **BENNETT** of Oxford inquired as to whether there was a quorum present.

The Chair declared a quorum present.

On motion by Senator **BENNETT** of Oxford, Senate Amendment "H" (S-699) to Committee Amendment "A" (S-600) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT**: Thank you, Mr. President. Fellow members of the Senate. This Amendment is pretty simple and pretty important. What this would do is strike out sections 8, 9 and 10 of the Bill which means that we would be striking the licensure requirement and the fee requirement thereto from this Bill for renters of personal watercraft. I know the amendment, if you are looking at it, says motor boats. It was prepared prior to the adoption of the other amendment. I'm sure that can be taken care of in engrossment. The more important issue is that of licensing. I have not been persuaded that there is any pressing need to engage in a new licensing and regulatory scheme on those that would rent these crafts. The cost of doing so, the additional regulatory burden, in my view, clearly outweighs any benefit that would come from it. This Bill does not change any of the requirements that renters would have under the Bill. This amendment would keep those in place. It would simply take away the licensing requirement. I've given this a lot of thought. I've talked with constituents, and I just am not persuaded that it is necessary to have the licensing to have effective enforcement of the substantive portions of this Bill.

I recently had a conversation with a gentlemen in my district who is an entrepreneur, a businessman, small businessman who runs a marina. He told me that he is not going to invest any further in his business in the State of Maine. He doesn't mind the provisions of this Bill. He understands the concern and controversy around personal watercraft. He has no desire to further invest in his business in the State of Maine because, in his view, he is hammered constantly by State government with more regulations, more taxes, more fees. I think it's very easy for us to sit here in this Body and convince ourselves that this incremental licensing requirement, this incremental fee is worth doing because, taken in a vacuum, it's probably not too onerous. But the result of years of more licensing and fees heaped upon small business owners in this State are onerous. And it's beginning to reach the saturation point, if it hasn't already met it.

People are beginning to say, "no more. I'll take my business elsewhere. I'll take my investments elsewhere." I'll take my time, my talent, my energy elsewhere. Maine can ill afford that kind of loss. The truth is that my constituent is right. The incremental costs far outweighs the incremental benefit for the licensing scheme in this Bill. I think there are a lot of positive pieces in this Bill, but it needs to be perfected. It needs to do its work without proposing new regulations and new licensing requirements and fees on the people that will be responsible for affecting the change that this Bill promises. Now I believe at the outset at least while we engage in this change, we should give at least the renters, the business people a break. Give them chance. Let's see whether or not this Bill can work without the licensing scheme, without the fees. There's nothing wrong with passing the rules, the guidelines and requirements, but let's just see if they work without the licensing. The next Legislature, the one following if that proves to be the case, can easily impose a licensing scheme to make sure that the law can be enforced.

You'll note that the fiscal note on this amendment, Senate Amendment "H" says that eliminating the proposed licensure requirement and the associated fee will also eliminate the minor increase in revenues anticipated by the DIF & W from license fees. The Department will also avoid minor costs associated with licensure process. Yesterday on this matter, I asked some questions about the licensing and the reason for this level. The reason is because it follows the snowmobile licensing. I have yet to be convinced that there is a reason to impose this fee now. As a matter of fact, it's doubtful that much money beyond the mere cost of printing licenses and dealing with paperwork at DIF&W is going to be raised through this fee. And if that is the case then why are we doing it. And if I can be shown hard cost information that suggests otherwise, then I'd like to have it. But the truth is that the Office of Fiscal and Finance Program Review, on the second floor of this building, the non-partisan office has clearly stated that these costs and these benefits are minor. Now what is minor for that office? Less than \$1,000. We can't dispute that. Many times I'd like to dispute the findings of the Office of Fiscal and Finance Program Review but we can't. We have to make decisions based on their work and I believe they are right in this regard. There are just simply not that many entities out there renting personal watercraft. So I would suggest that because there aren't many, and because the cost of this licensing will just go to pay the paperwork of licensing without getting beyond is reason to support this amendment. Now, you were probably told that really the purpose behind this licensing requirement is to get a list, a list of the people, businesses, the entities which are renting these devices so the Department can better enforce the guidelines of the Bill. I would contend that this is a small, inherently as you can tell by the fiscal note, it's a small pool of businesses. And I think that probably, except for an occasional casual business arrangement, these entities are fairly well known. We can still say in the Bill, as it does clearly and would even with this Amendment, that if you are in the business of renting these crafts, you still have the obligation for instruction. You still have the obligation for safety. We can do that and we can still apply the penalties to those who don't. But please let's not at this point in this Bill impose another series of regulations, another licensing and fee requirement. Let's give the folks engaged in this business a chance to show that they don't need the heavy hand of government over them to follow the law, to do what's right. Let us do this now and improve this Bill so that all of us can feel better about voting for its passage. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President. Men and women of the Senate. I would hope that you would vote against the pending motion so that we can go on to send this Bill down to the other Body so that they can have some quality time with it as we have had. As has been pointed out, first of all this amendment is in conflict with an amendment that's currently on the Bill which would require some backing up and correction. It's interesting to me that first of all there is that assumption about how many individuals or businesses are, in fact, renting personal watercraft. And the reality is that we don't know. We're assuming that there aren't a large number, but we don't know that for sure. The idea here was, in fact, to provide, as has been pointed out, information to the Department about who was renting personal watercraft so that we could, in fact, as we look at this issue of safety education, work on that further. We've already tried the voluntary piece. We did that over the course of the last year. We asked the Maine Marine Trade Association, and they've done a very good job of providing information to their members about the Ride Smart Program. And we also asked the Wardens Service to give us information about people that were riding personal watercraft that they stopped and talked to and how many of them had, in fact, gotten the information about the Ride Smart Program, and what we found often was that the person who went to rent the watercraft was not the person riding the watercraft so that the person who was riding it didn't, in fact, have the benefit of the information. And that's one of the issues that we wish to work on.

The issue of cost is always an interesting one to me in terms of the Department of Inland Fisheries and Wildlife. It's a department that is supported almost entirely by hunting and fishing license fees, and our committee has worked diligently to assure that any new effort that we ask of that department is, in fact, paid for. Now, we have tried to be very conservative in that, and I'm interested to see that we are being criticized for it because we are not a profit-making entity at the Department of Inland Fisheries and Wildlife and don't intend to be. We really wanted to look at what is the least amount of money we could charge to cover our costs, not to go out and make money on this, not to make it a serious difficulty for people to raise the money necessary for this particular license. We are talking about \$25 and in looking at, for example, the snowmobile rental situation, the snowmobiles rent for about \$100 a day for each machine. It seemed that \$25 would cover the cost of the paperwork and would not be onerous on the business.

I'd also like to point out that earlier in the course of this debate, Senator Hall distributed a letter from the Maine Marine Trade Association and obviously, this is a group of folks that are very concerned about the future of boating in this State and the future of a variety of boating in this State. I'd like to read to you a section of their letter. "I'd like you to know that throughout the course of the Task Force work and legislative process, we have supported the concept of rental agent licensing. It would bring an added level of safety to our waters and would, hopefully, discourage imprudent agents and operators from spoiling our waters. In addition, we have been in support of educating operators in an effort to make our waters safer and more enjoyable for all, and they go on to talk about the Ride Smart Program. The Maine Marine Trade Association, which is made up of folks concerned about marine issues, supports the concept

of licensing rental agents. So this is not something that we are imposing on business without talking to business. We are looking at something that they believe will, in fact, assist them in the continuation of a variety of marine related businesses. So I would urge you to defeat the pending motion and allow us to send this Bill to the other Body. Thank you.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Mr. President. Fellow members of the Senate. I assure all members of the Senate that this Bill will eventually end up in the other Body and whether or not we give due consideration to this amendment or any other will not stop this Bill from that path. Let me just briefly address a couple of the issues raised by the previous speaker, the good senator from Lincoln. Regulated groups, industry groups, invariably come to this Legislature and ask for licensing, ask for prohibitions in addition making it difficult for others to join their industry. Sometimes this is done with good motive because they are trying really to ask State government to help them clean up industry's act. But what this does is that it creates a barrier to entry. A barrier to entry into the industry and so often it is not surprising at all to have trade groups, industrial associations come to us and say, " please license us." Because it has the effect of closing the door behind them so that others can't as easily join the business. That's not in my view a good use of state authority. The good Senator from Lincoln, Senator Kilkelly said that the past year's work on voluntary enforcement hasn't worked. Well, let me be clear again about what this Amendment does. This Amendment is not voluntary. It does not allow the renters of these crafts any slack. It doesn't say that you should or that you might educate or that you might make sure that the crafts that you are renting are not safe. It says clearly, and you can read it in the amendment as well as the original Bill, that it's set up specific penalties, keeps the penalties that are in the Bill for people engaged in this business, who rent craft that is unsafe or that fail to instruct a person intending to rent or lease on safety issues. So this does not, this is not voluntary. It is mandatory. It's simply removes the licensing and fee requirement. Again, I ask you to support this amendment. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BENNETT, BUTLAND, CAREY, CASSIDY, FERGUSON, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON, SMALL

NAYS: Senators: BENOIT, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senators: JENKINS, RUHLIN

EXCUSED: Senator: MITCHELL

13 Senators having voted in the affirmative and 19 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **BENNETT** of Oxford to **ADOPT** Senate Amendment "H" (S-699) to Committee Amendment "A" (S-600) **FAILED**.

On motion by Senator **BENNETT** of Oxford, Senate Amendment "I" (S-700) to Committee Amendment "A" (S-600) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Mr. President. Fellow members of the Senate. Well having failed that, I'll try the next effort. This very briefly, very succinctly eliminates the fee associated with the licensing. It doesn't eliminate the license and you would still get the list for enforcement purposes but it doesn't provide the fee so, of course, the criticism that you will hear is that it doesn't pay for the cost of the license which is, in fact, exactly the only purpose to have the license and the fee to begin with. The fee is to support the license. The license to support the fee and around and around we go. This Amendment, as you can read on the fiscal note prepared by the reputable folks on the second floor, would also affect revenues for the Department in only a very minor way. That's less than \$1,000.00! Last evening on the Appropriations Table, we blithely took some money off the savings account of the Department. They've got carrying accounts with thousands of dollars in them. They can certainly handle this small cost. Let's please not add unnecessary fees onto people, onto businesses who are struggling to make ends meet in this State and provide jobs and opportunities in our economy. Please vote with me in support of this Amendment.

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President. Men and women of the Senate. I am pleased that the previous speaker requested a Roll Call because that was certainly something that I'm interested in. Because the Inland Fisheries & Wildlife Committee has worked so hard to provide an opportunity for any additional mandate on that Department to be paid for and not to be put as a burden on folks who buy hunting and fishing licenses. And that is exactly what this will do. This is a mandate to the Department that will not be funded. It's an unfunded mandate that will be paid for by people who buy a hunting and fishing license, a trapping license, a duck stamp or any of the other

kinds of licenses that people buy from that Department. We have struggled over the course of this budget to not increase the cost of a hunting license and not increase the cost of a fishing license. And we've done that because we have looked very carefully at every requirement asked of that department and have said that it must pay for itself. Last year in the budget, for example, one of the things that we said that because that Department collects excise tax for the Bureau of taxation, the Bureau of Taxation ought to pay the cost of collecting that money because people who buy a hunting license or a fishing license should not have to pay for it. What we are asking is for people who are not benefiting necessarily from this service to pay for it. So it's a hidden cost. It's a hidden cost on the people in your districts that buying hunting and fishing licenses. I would urge you to defeat the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Mr. President. Fellow members of the Senate. In no way does this have to be a cost borne by hunting and fishing license holders in this State. There is nothing in the Constitutional Amendment which prescribes the Legislature from appropriating enough money from the General Fund or from any other source to the DIF&W to do their work. This is a minor cost. It is less than a thousand. If we do not want the Department to take it from license holders, I will happily, when this Bill is on the Appropriations Table, I will happily vote for a \$1,000.00 appropriation from the General Fund to cover this cost. Do not be lead to thinking always inside the box. This is easily dealt with, and I would suggest that is no reason to oppose this Amendment. Thank you.

ROLL CALL

YEAS: Senators: AMERO, BENNETT, BUTLAND, CAREY, FERGUSON, HALL, HARRIMAN, KIEFFER, LIBBY, MACKINNON

NAYS: Senators: ABROMSON, BENOIT, CASSIDY, CATHCART, CLEVELAND, DAGGETT, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, PINGREE, RAND, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senators: JENKINS, RUHLIN

EXCUSED: Senator: MITCHELL

10 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 2 Senators being absent and 1 Senator being excused, the motion by Senator **BENNETT** of Oxford to **ADOPT** Senate Amendment "I" (S-700) to Committee Amendment "A" (S-600) **FAILED**.

Committee Amendment "A" (S-600) as Amended by Senate Amendments "B" (S-677); "C" (S-686) and "F" (S-691) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME**.

At the request of Senator **BENNETT** of Oxford a Division was had. 24 Senators having voted in the affirmative and 7 Senators having voted in the negative, was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-600) AS AMENDED BY SENATE AMENDMENTS "B" (S-677); "C" (S-686) AND "F" (S-691)** thereto.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Act

An Act to Clarify the Definition of Functionally Water-dependent Use as it Pertains to the Shoreland Zone
H.P. 1368 L.D. 1918
(S "A" S-658)

On motion by Senator **TREAT** of Kennebec, **TABLED** until Later in Today's Session, pending **ENACTMENT**.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Concerning Legislative Review of Rules Adopted under the Maine Clean Election Act"
H.P. 1678 L.D. 2296

Comes from the House, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.