

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume II

First Regular Session

May 7, 1979 to June 15, 1979

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the affirmative and ninety-two in the negative, with eleven being absent and two paired, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Simon.

Mr. SIMON: Mr. Speaker, having voted on the prevailing side, I now move the House reconsider its action whereby L. D. 1612 was passed to be engrossed and ask that all 90-odd members vote against me.

The SPEAKER: The gentleman from Lewiston, Mr. Simon, moves that we reconsider our action whereby this Bill was passed to be engrossed. All those in favor will say yes; those opposed will say no.

A Viva Voce Vote being taken, the motion did not prevail.

Sent up for concurrence.

Passed to be Enacted

An Act to Reimburse Municipalities for Expenses Incurred in Enforcing Statutes, Ordinances and Regulations Relating to the Operation or use of Motor Vehicles, Streets and Highways (S. P. 183) (L. D. 413) (C. "A" S-137)

An Act to Prevent Cruelty to Animals by Establishing Certain Licensing Categories and Restrictions (S. P. 206) (L. D. 538) (C. "A" S-153)

An Act to Allow Unions to Negotiate on Behalf of Former Employees of a Company with Which the Union is Negotiating (S. P. 319) (L. D. 949) (C. "A" S-151)

An Act to Clarify Inconsistencies in the Liquor Laws (S. P. 436) (L. D. 1367) (H. "A" H-395; S. "A" S-138)

An Act to Facilitate Operation of Department of Conservation Campsites (S. P. 454) (L. D. 1370) (C. "A" S-155)

An Act to Amend the Maine Veterinary Practice Act of 1975 (H. P. 291) (L. D. 388) (C. "A" H-361)

An Act Authorizing the Issuing of Ex Parte Orders by the Courts and Complaint Justices to Allow Humane Agents and Other Authorized Officers to take Possession of Neglected, Mistreated or Injured Animals (H. P. 292) (L. D. 389) (C. "A" H-362)

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.

Enactor

Later Today Assigned

An Act to Establish a Marijuana Therapeutic Research Program (H. P. 523) (L. D. 665) (C. "A" H-332)

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

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: The amendment that we have on this bill, L. D. 665, has put an absolute duty on the Department of Human Services in that they will have to analyze for the impurities of the marijuana they will be confiscating. The department has indicated that they do not have the expertise to do this analysis and they do not have the specific equipment that would be necessary. I am checking with the department to see exactly what will be necessary and whether or not it will require a fiscal note. So I would ask that someone table this until later in today's session, until I can resolve that issue.

Thereupon, on motion of Mr. Brenerman of Portland, tabled pending passage to be enacted and later today assigned.

An Act to Permit Juveniles in the Custody of the Department of Mental Health and Corrections to Receive Services from the Department of Human Services (H. P. 560) (L. D. 707) (C. "A" H-365)

Was 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.

An Act to Require the Public Utilities Commission to Study the Safe and Proper Decommissioning of Nuclear Generating Facilities in Maine (H. P. 632) (L. D. 783) (C. "A" H-346)

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

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: This bill has been very thoroughly debated. I have no intention of debating it here this morning. I think it is an entirely unnecessary bill and I would ask for a roll call on it.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one-fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Bachrach, Baker, Barry, Benoit, Berry, Berube, Blodgett, Brannigan, Brodeur, Brown, K.C.; Carroll, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Dow, Dutremble, L.; Elias, Fenlason, Fowlie, Gillis, Gowen, Gray, Gwadosky, Hall, Hanson, Hickey, Howe, Hughes, Jacques, E.; Jacques P.; Kane, Kany, Kelleher, Laffin, LaPlante, Locke, Lowe, MacEachern, Mahany, Martin, A.; Masterton, McHenry, McKean, McMahon, Michael, Mitchell, Nadeau, Nelson, M.; Paradis, Paul, Pearson, Post, Reeves, P.; Roide, Sewall, Simon, Tarbell, Theriault, Tierney, Tuttle, Vincent, Viollette, Vose, Wood, Wyman, The Speaker.

NAY—Aloupis, Austin, Birt, Bordeaux, Boudreau, Bowden, Brown, K.L.; Bunker, Call, Carrier, Carter, F.; Conary, Cunningham, Damren, Davis, Dellert, Dexter, Doukas, Drinkwater, Dudley, Fillmore, Garsoe, Gavett, Gould, Higgins, Hunter, Hutchings, Immonen, Jackson, Joyce, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lund, MacBride, Marshall, Masterman, Maxwell, McPherson, McSweeney, Morton, Nelson, A.; Nelson, N.; Payne, Peterson, Reeves, J.; Rollins, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Torrey, Tozier, Wentworth.

ABSENT—Beaulieu, Brenerman, Brown, A.; Brown, D.; Dutremble, D.; Hobbins, Huber, Jalbert, Lizotte, Matthews, Norris, Peltier, Prescott, Roope, Soulas, Strout, Twitchell, Whitemore.

Yes, 72; No, 61; Absent, 18.

The SPEAKER: Seventy-two having voted in the affirmative and sixty-one in the negative, with eighteen being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

An Act Concerning State Highways and Parking on State Controlled Property (H. P. 1109) (L. D. 1372)

Was 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.

An Act Relating to Gifts in Contemplation of Death (H. P. 1145) (L. D. 1407) (C. "A" H-363)

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

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. McKEAN: Mr. Speaker, Ladies and Gen-

tleman of the House: I haven't really delved into this bill. I would like some sort of an explanation, especially as it relates to contemplation. What is the difference between a contemplated death and a non-contemplated, death? I think I would like to have the version of what is meant under the federal statutes and what is also meant under the state statutes.

The SPEAKER: The gentleman from Limestone, Mr. McKean has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: Essentially what the amendment and the bill does is define what gifts in contemplation of death means. Essentially what it does, it was a bill suggested by the Bureau of Taxation and it brings us in line with federal statute in that any gift that is made within three years prior to the death of an individual is considered to be a gift in contemplation of death and therefore trying to get away from having to pay the inheritance taxes. So, if you give a gift of \$20,000 to an individual six months before you pass away, then that is considered to be a gift in contemplation of death and taxes have to be paid on it. There is a \$3,000 exemption made to—you can give \$3,000 to any one individual and not have to come under the subsection and not have to pay taxes on it.

At the present time, the contemplation of death statutes in the State of Maine are for six months' time, and this would bring us into line with the federal inheritance taxes and I think really a situation which is more reasonable, and put a three-year period before death as the time you would be liable for taxes.

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I still have a problem with this three-year period of contemplated and non-contemplated death. I think three years is a rather long span of time. This means that if I give a gift to my son or daughter, or whoever may be in my family, and I have a heart attack or I am killed in any way in two years and six months and I was contemplating death when I gave that gift, I don't think I would have contemplated it, I hope I never have to, sooner or later it will come, I don't think this is a fair valuation of contemplation of death and I do believe that it is an awful gooiish way for the state tax assessor to come up with money.

I would like to see a roll call on this, Mr. Speaker.

The SPEAKER: The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: This is not a matter of the Bureau of Taxation trying to come up with a little bit of extra money. There will be about \$50,000 a year coming into the General Fund.

The situation is, under the present Maine statutes if you want to, it is very easy to get around in many instances from having to pay inheritance taxes by simply giving your assets away at a period of time when you reach an elderly age or, in some instances, when you find out that you do, indeed, although it is not an issue that we like to talk about, but you do indeed have a disease which is likely to be terminal.

I think it is an issue on whether or not you really want the state to have on the books a law which gives them the tools that they need so that people are not able to avoid having to pay inheritance taxes. So I would simply hope that you would support the bill.

I would mention that at the hearing, there was no opposition voiced.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would