

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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Knox suggested, is a form of harrassment not only to the physician but to the woman as well.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President, I am sure that the 48 Hours Rule, exists in the proposed statute the same way that we now have for many bills that have come out in the last few years from the Business Legislation Committee, Consumer Legislation to give people a chance to change their mind.

You buy a set of Encyclopedias, you have 48 or 72 hours to change your mind if you signed the contract at home.

If this State can say that it is so important to protect the consumer, from buying a set of encyclopedias or signing a siding contract, why should it balk at giving a woman 48 hours to perhaps change her mind. I am not saying that she is going to change her mind, but why can't we give her the same chance that you give somebody who decides to have siding put on their house, or to get a set of encyclopedias. Thank you very much, Mr. President.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President. I request Leave of the Senate to pair my vote with the gentleman from Oxford, Senator Sutton, who if he were here would be voting No and I would be voting Yes.

The PRESIDENT: The Senator from Cumberland, Senator Clark, requests Leave of the Senate to pair her vote with the Senator from Oxford, Senator Sutton, who if he were here would be voting No and the Senator from Cumberland, Senator Clark would be voting Yes.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I request Leave of the Senate to pair my vote with the Senator from Sagadahoc, Senator Chapman who if he were here would be voting Yes and I would be voting No.

The PRESIDENT: The Senator from Kennebec, Senator Pierce requests Leave of the Senate to pair his vote with the Senator from Sagadahoc, Senator Chapman, who if he were here would be voting Yes and the Senator from Kennebec, Senator Pierce would be voting No.

Is this the pleasure of the Senate?

It is a vote.

The pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that the Senate Accept the Ought Not to Pass Report "B" of the Committee.

A Yes vote will be in favor of Accepting the Ought Not to Pass Report "B".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Collins, Emerson, Huber, Lovell, Narian, Perkins, Trafton, Trozky.

NAY—Ault, Carpenter, Conley, Danton, Devoe, Farley, Gill, Hichens, Katz, McBrearty, Minkowsky, O'Leary, Pray, Redmond, Shute, Silverman, Teague, Usher.

ABSENT—Cote, Martin.

PAIRED—Clark-Sutton; Chapman-Pierce

A Roll Call was had.

8 Senators having voted in the affirmative, and 18 Senators in the negative, with 4 Senators pairing their votes, and 2 Senators being absent, the Motion to Accept the Ought Not to Pass Report "B" does not prevail.

The Ought to Pass, as amended, Report "A" of the Committee, Accepted, and the Bill Read Once. Committee Amendment "A" Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

Second Readers

The Committee on Bills in the Second Reading reported the following:

House

Bill, "An Act Protecting Security Deposits." (H. P. 1378) (L. D. 1603)

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

Which were Passed to be Engrossed, in concurrence.

House — As Amended

Bill, "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)

Bill, "An Act to Amend the Maine Veterinary Practice Act of 1975" (H. P. 291) (L. D. 388)

Bill, "An Act to Allow the Board of Environmental Protection to Regulate Activities Affecting Sand Dunes under the Alteration of Coastal Wetlands Program." (H. P. 1163) (L. D. 1468)

Bill, "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)

Bill, "An Act to Require Payment of Taxes on Timberland Repossessed by the Maine Guarantee Authority." (H. P. 1104) (L. D. 1319)

Bill, "An Act Relating to Gifts in Contemplation of Death." (H. P. 1145) (L. D. 1407)

Which were Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Bill, "An Act to Make the Attorney General's Explanations of Proposed Constitutional Amendments and Statewide Referenda more Available to the Voters." (H. P. 183) (L. D. 235)

Which was Read a Second Time, and Passed to be Engrossed, as amended, in non-concurrence.

Sent down for concurrence.

Bill, "An Act to Establish a Marijuana Therapeutic Research Program." (H. P. 523) (L. D. 665)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, I would move Indefinite Postponement of this bill and all its accompanying papers and I'd like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator GILL: This morning I spent about an hour on the telephone with the people from Washington at the Federal Drug Administration in the Drug Enforcement Agency.

I stated what we in Maine had before us in this Legislation. They told me that there was no need for this State or any other State to put in any Legislation because there was already Federal Law on the books. I asked if they would go through the protocol that a physician has to go through to become a researcher in this therapeutic program and to become a Therapeutic Agent, and they went through the protocol for me. They wanted to make the point that the bill is unnecessary.

The protocol that a physician has to go through is that they have to fill out a form from the Drug Enforcement Administration. The form is Form Number 225, which they have to mail into the Drug Enforcement Agency. It would take about a half an hour for the physician to fill out. At the same time they would send a report to the Drug Enforcement and Federal Drug Administration and it would go through their training, their past experience, their past background.

They are required by law to respond within 30 days to anyone sending in for a Researcher or

as a Therapeutic Agent. If all the information sent is all O.K. and all the procedures in their background is sufficient then within 30 days the physician would be given the opportunity to enter into an agreement with the Government to handle marijuana for a patient.

If there is some problem within 30 days, the problem could be corrected because an investigator would get back to the physician within that 30 day period. They assured me that there were quite a few States that had pending Legislation and the language in the Legislation is in conflict with the Federal Law. So I would ask that this bill and all its accompanying papers be Indefinitely Postponed.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, I would oppose the pending motion and I would just say that I think the rather complicated formula that was just read to us by the Senator from Cumberland, Senator Gill, gives us all the more reason why it would be a much better idea if we're going to go in this direction, and I hope we do, if the State itself were to get in touch with the Federal Agencies in order to get the product, in order to refine it and take care of it.

I was aware that there was a way to do it through the Federal Government. It is a very complicated way, a very complicated way and I don't think that your doctor, your average doctor, back home who might like to participate in this program has readily accessible the number of the Food and Drug Administration, that he can pick and find out this. I don't know where he would turn and get the information.

I have in front of me a list of States that passed this bill, New Mexico, Louisiana, Illinois, Washington, Texas, California, Iowa, the last 3 are presently under its acts of consideration. It's very interesting, all of the votes on this bill, once the facts are known, it appears to me a very non-controversial issue. The votes are just over-whelmingly in favor of it. New Mexico, not exactly the bastion of liberalism, the bill passed under the hammer. There wasn't even a recorded vote on it, Louisiana, 34 to 4, another very conservative State.

Presently Nevada, New Jersey, Massachusetts, and Michigan are considering similar pieces of legislation. So I think this bill was adequately debated the other day. I went home this weekend and talked to a lot of my people. I talked to some doctors, I talked to some physicians, I talked to clergy people, Clergymen. I didn't find a great ground swell of anger out there that the Maine Legislature was contemplating doing this and I didn't find the misconceptions that were talked about in here the other day.

The headline in the Bangor Daily News Saturday read "Medical Marijuana O.K.'d" or something to that effect. I didn't find the misconception that we were legalizing marijuana. So I would just ask that you do stand by your vote of the other day and defeat the pending motion. Mr. President, when the vote is taken, I would request the Yeas and Nays. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I'm going to be very brief. It's a long day. All the proponents of this bill talked about getting the marijuana to the people because it would make them more comfortable. I've been assured that all Federal Rules and Regulations have to be met. The State Law would only create another level of review. Expeditious handling of this marijuana to the patient would not be what the proponents wanted.

The States that have put in a bill, New Mexico, for instance, they did have a budget. The budget was in the neighborhood of \$40,000 to \$50,000. On this particular bill, there is no fiscal note. I would urge adoption of my motion and I would ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call, it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: I request Leave of the Senate, to pair my vote with the Senator from Oxford, Senator Sutton, who if he were here, would be voting No, and I would be voting Yea.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, requests Leave of the Senate, to pair his vote with the Senator from Oxford, Senator Sutton, who if he were here would be voting Nay, and the Senator from Penobscot, Senator Emerson would be voting Yea.

Is it the pleasure of the Senate to grant this Leave?

It is a vote.

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Gill, that L. D. 665 be Indefinitely Postponed.

A Yea vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA—Collins, Danton, Devoe, Gill, Hichens, Katz, Perkins, Redmond, Shute, Silverman, Teague.

NAY—Ault, Carpenter, Clark, Conley, Farley, Huber, Lovell, McBreairsty, Minkowsky, Najarian, O'Leary, Pierce, Pray, Trafton, Trotsky, Usher.

ABSENT—Chapman, Cote, Martin.

PAIRED—Emerson, Sutton;

A Roll Call was had.

11 Senators having voted in the affirmative, and 16 Senators in the negative, with 2 Senators having paired their votes and 3 Senators being absent, the Motion to Indefinitely Postpone does not prevail.

The Bill, as amended, Passed to be Engrossed, in concurrence.

Senate

Bill, "An Act Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1979, Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government and Amending the Effective Date of Abolishing the Mental Health and Mental Retardation Fund." (S. P. 500) (L. D. 1562)

Bill, "An Act to Amend the Maine Sunset Law." (S. P. 512) (L. D. 1577)

Which were Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Bill, "An Act to Assess a Surcharge on Fines for the Operation of the Maine Criminal Justice Academy." (S. P. 545) (L. D. 1608)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, I would like to ask the members of the Committee, or anyone who has knowledge whether this does not in fact establish a new tax and a new dedicated revenue?

The PRESIDENT: The Senator from Knox, Senator Collins, has posed a question through the Chair to any member of the Committee who may care to answer.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate: In answer to the good Sen-

ator's question, this establishes a surcharge of 10% on fines which would go into a Criminal Justice Training Fund. However, this is not a typical dedicated revenue fund as this bill has called for, in times past. Instead the funds would be earmarked for training but they would go through the same appropriations procedure as they go through now. The Appropriations Committee, whatever they wanted to take, instead of taking the money from the General Fund, would take it from the Training Fund. They could give them half of it or all of it, or one-tenth of it, or whatever they wanted to do. This would free up money from the rest of the taxpayers in the General Fund.

There is also a 2 year sunset of this provision so they can see how this does work. Similar provisions in New Hampshire, and several other States find that it's working very well, but we did want to put a 2 year provision on it here. It must be re-enacted in order for us to continue after that time.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I'd pose a question through the Chair to the good Senator from Kennebec, Senator Pierce, as to how much revenues are presently being contributed from Local Government, for the purpose of training our police officers.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate: In answer to that question, I'm not sure of the total number of dollars. I would be happy to find that out exactly prior to enactment of the bill. However, I do know that each officer, and we do mandate at the state level, we mandate that all these officers have to go to the academy for training. Each municipality pays \$125 for the officer to go there.

Obviously now with only 1 in 3 being accepted, there are long periods of on-the-job training which I think, nobody applauds, and this would get more officers into the Academy quicker. It also, at \$125, is obviously a losing proposition. So that all the towns as they send the officers, are going to have to be paying more than \$125 very shortly, unless the Academy is properly funded.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I think the good Senator for his explanations. I really don't intend to wait around until it's enacted though before I get the figures.

I think the State should face up to facts, that if we want to support the Criminal Justice Academy, then I think we should come up front with the money. I think that adding a surcharge to fines is nothing but a gimmick on the part of the Maine Criminal Justice Academy. It's an old chestnut. This bill has been in and out of this Senate Chamber as often as I have, and perhaps as often as the good Senator from Kennebec.

I hope this thing goes down into a spiral defeat and I would request a Division on it's Engrossment.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I request that this bill and all its accompanying papers be Indefinitely Postponed.

On motion by Senator Katz of Kennebec, Tabled for 1 Legislative Day, pending the Motion by the Senator from Cumberland, Senator Conley to Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Directing the Senate's atten-

tion to L. D. 1319, on which we have just acted previously, I move the Senate Reconsider its action whereby this bill was Passed to be Engrossed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that the Senate reconsider its action whereby Bill, "An Act to Require Payment of Taxes on Timberland Repossessed by the Maine Guarantee Authority." (H. P. 1145) (L. D. 1319), was Passed to be Engrossed, in concurrence.

Is this the pleasure of the Senate?

It is a vote.

On Motion by Senator Pierce of Kennebec, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

Senate — As Amended

Bill, "An Act to Establish a Special License for Retired or Inactive Pharmacists." (S. P. 331) (L. D. 965)

Bill, "An Act to Provide for the Codification and Indexing of State Agency Rules by the Secretary of State." (S. P. 510) (L. D. 1576)

Bill, "An Act to Assist School Administrative Units in Addressing Problems Associated with Alcohol, Tobacco and Drug Use and Abuse." (S. P. 209) (L. D. 582)

Which were Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

Enactors

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

An Act to Appropriate Funds to Provide for Lobster Rearing Stations. (H. P. 475) (L. D. 592)

An Act Eliminating the Requirements for Licensing Retail Cigarette Outlets and Cigarette Vending Machines. (H. P. 1122) (L. D. 1452)

On Motion by Senator Huber of Cumberland, Placed on the Special Appropriations Table. Pending Enactment.

An Act Authorizing the State to Contract with Tufts University School of Veterinary Medicine. (H. P. 411) (L. D. 528)

On Motion by Senator Collins of Knox, Tabled for 1 Legislative Day, Pending Enactment.

An Act to Amend the Form of Election Ballots to Omit the Secretary of State's Name under Certain Conditions. (S. P. 272) (L. D. 842)

An Act to Amend the Laws Relating to Beano or Bingo. (H. P. 508) (L. D. 625)

An Act to Amend the Burden of Proof Placed on the Bureau of Taxation in an Appeals Proceeding. (H. P. 1036) (L. D. 1273)

An Act to Clarify the Powers of the Masonic Trustees of Portland as to their Authority to Sell Real Estate. (H. P. 1335) (L. D. 1582)

Which were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act to Increase Merchandising in State Liquor Stores. (S. P. 433) (L. D. 1335)

On Motion by Senator Hichens of York, Tabled for 1 Legislative Day, Pending Enactment.

Emergency

An Act to Allow an Emergency Opening of the Purse Seine Season in Washington County. (H. P. 321) (L. D. 425)

This being an emergency measure and having received the affirmative votes of 26 members of the Senate, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1979. (H. P. 1360) (L. D.