

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Seventh Legislature

State of Maine

Daily Edition

First Regular Session
beginning December 3, 2014

beginning at Page 1

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

All matters thus acted upon, with the exception of those matters being held, were ordered sent down forthwith for concurrence.

RECESSED until the sound of the bell.

After Recess
Senate called to order by the President.

The President requested the Sergeant-At-Arms escort the Senator from Androscoggin, Senator **MASON**, to the rostrum where he assumed the duties as President Pro Tempore.

The President retired from the Chamber.

The Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Assigned (5/13/15) matter:

Bill "An Act To Promote Industrial Hemp" (EMERGENCY)
H.P. 7 L.D. 4

Tabled - May 13, 2015, by Senator **MASON** of Androscoggin

Pending - **CONSIDERATION**

(In Senate, April 28, 2015, **PASSED TO BE ENACTED**, in concurrence.)

(In House, May 12, 2015, Veto **OVERRIDDEN** and the Bill **PASSED TO BE ENACTED**, notwithstanding the objections of the Governor.)

(In Senate, May 13, 2015, Veto Communication (H.C. 141) **READ** and **ORDERED PLACED ON FILE.**)

The President Pro Tempore laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor? In accordance with Article IV, Part Third, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays. A vote of yes will be in favor of the Bill. A vote of no will be in favor of sustaining the veto of the Governor."

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#257)

YEAS: Senators: ALFOND, BAKER, BRAKEY, BREEN, DIAMOND, DILL, DUTREMBLE, EDGEComb, GERZOFsky, GRATWICK, HAMPER, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO, VOLK, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, THIBODEAU, WHITEMORE

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, and 28 being more than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **OVERRIDDEN** and the Bill become law notwithstanding the objections of the Governor.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later Assigned (5/29/15) matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Provide Reasonable Accommodations for School Attendance for Children with Disabilities for Whom Medical Marijuana Has Been Recommended"

H.P. 381 L.D. 557

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-207)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - May 29, 2015, by Senator **LANGLEY** of Hancock

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 28, 2015, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-207).**)

(In Senate, May 29, 2015, Reports **READ**.)

Senator **LANGLEY** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. I rise today to support the Ought to Pass Report on L.D. 557 and I want to take this opportunity to share the story of a constituent of mine. Her name is Cyndimae Meehan and she lives in Auburn. In June 2002, at 10 months old, she was diagnosed with Dravet Syndrome, a severe epilepsy disorder. Cyndimae and her mother have tried every available pharmaceutical option for her epilepsy, to no avail. Pharmaceuticals and prolonged seizures hampered Cyndimae's development. There have been times she has had to relearn to walk and talk and eat after prolonged status seizures. Pre-Cannabis Cyndimae often had thousands of seizures a day. Most of them show as slow wave spikes on her EEG and clinically she had hundreds of myoclonic jerks a day and many life threatening generalized clonic seizures, known as GTCs. These full generalized tonic-clonic seizures significantly impact her breathing, her cardiac rate, and perfusion and her overall survival. At high risk for sudden unexplained death after seizure, that's what it's called, Cyndimae sleeps on a cardiac monitor that alarms to wake her Mom. At her worst, Cyndimae has had GTC seizures lasting several hours and upwards of hundreds a day. In good control with pharmaceuticals she would regularly have four to ten GTC seizures a day. No pharmaceutical has ever effectively stopped Cyndimae's seizures. The longer a seizure lasts the greater the potential for further brain damage. Thankfully Cyndimae's mother found one medicine that does work, medical cannabis. Not only does it stop her seizures, it does so faster than any pharmaceutical has ever stopped them. Additionally, on a maintenance dose, Cyndimae is having some zero seizure days. A zero seizure day has been unheard of for Cyndimae prior to having access to this medicine. Typically any illness would result in hospitalization, but when she has a cold she has one or two breakthroughs a day that her medicine stops within seconds. Medical cannabis has given Cyndimae her life back and allowed her to be a kid again.

A child who needs a particular medicine to live and function is not normally prohibited from having access to that medicine while at school. Before cannabis gave her her life back, Cyndimae had to travel with far more dangerous medications, including, and I may mispronounce some of these because they're medical terms, Versed, a powerful anesthesia drug; Diazepam, an opium derivative and powerful benzodiazepine; and Primidone, a phenobarbital precursor. All of these medications, in even small doses, are far more dangerous than the marijuana oil that Cyndimae takes orally, yet these medications are not prohibited in school when administered by a responsible adult. Cyndimae's cannabis oil is prohibited.

This bill remedies that problem and makes reasonable provisions, including reasonable restrictions, so Cyndimae can go to school without risking her life. It establishes that only a parent, guardian, or another designated primary caregiver may possess and administer the medical cannabis for a minor in a school. That means the minor is not handling it and it also means that the school staff is not storing or administering it. It also restricts the

medicine to a non-smokable form so it does not disturb anyone else.

I've heard objects from some, including, "What about Marinol?" Marinol is an FDA approved synthetic cannabinoid. It is often marketed as a legal pharmaceutical alternative to natural cannabis. It has been asked, "Why can't Cyndimae and children like her with epilepsy conditions use Marinol?" Marinol contains synthetic THC, a psycho-active compound found in cannabis, and it is useful for certain cancer patients and AIDS patients. Marinol does not, however, contain CBD, which is the compound found in natural cannabis that helps epilepsy patients. Marinol would not help children like Cyndimae.

I believe this is reasonable legislation to ensure every child can go to school. Please join me in voting Ought to Pass and supporting Cyndimae so that her Mom does not need to choose between her child's safety and her education. Thank you very much.

On motion by Senator **LANGLEY** of Hancock, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-207) **READ**.

Senator **BURNS** of Washington requested a Roll Call.

Senate at Ease.

Senate called to order by President Pro Tempore **GARRETT P. MASON** of Androscoggin County.

On motion by Senator **CUSHING** of Penobscot, the Senate **RECONSIDERED** whereby it **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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 PRO TEMPORE: The Chair recognizes the Senator from Cumberland, Senator Millett.

Senator **MILLETT:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise in support of this motion. We, in the Education Committee, worked very hard on this legislation. We had at least four work sessions on it to narrowly define this as much as possible. In the end, for all of us, as it was a unanimous report, I believe, it was about making sure no child is denied access to public education, that they can be provided with the medication that will allow them to participate as fully as possible. We had the testimony in support of this from the Maine School Management Association and the Maine Education Association. We are all in agreement that this is the right thing for Maine and for Maine's students. Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Washington, Senator Burns.

Senator **BURNS:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I'm sorry to cause after-the-fact confusion there about requesting a Roll Call. I have great philosophical and technical and professional objections to us allowing another substance into the schools in this state, a substance that is not condoned by federal law, a substance that is not needed or necessary, and I will not sit here and not let my vote be counted. I intend to vote on each and every one of these and I'll request a Roll Call on each and every one of these. Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I concur with Senator Burns and I feel the same way. I want a voice and I believe we are really making important steps here in our state and we're being taken advantage of by other states and it's very evident here with all these bills. I'm going to make my voice be heard as well. Thank you, Mr. President.

THE PRESIDENT PRO TEMPORE: The pending question before the Senate is the motion by the Senator from Hancock, Senator Langley to Accept the Majority Ought to Pass as Amended Report, in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#258)

YEAS: Senators: ALFOND, BAKER, BRAKEY, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HAMPER, HASKELL, HILL, JOHNSON, LANGLEY, LIBBY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, ROSEN, VALENTINO, VOLK, WILLETTE, WOODSOME

NAYS: Senators: BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGECOMB, KATZ, SAVIELLO, THIBODEAU, WHITTEMORE, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

24 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **LANGLEY** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (H-207) **READ.**

On motion by Senator **LANGLEY** of Hancock, Senate Amendment "A" (S-148) to Committee Amendment "A" (H-207) **READ.**

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Hancock, Senator Langley.

Senator **LANGLEY:** Thank you, Mr. President. Men and women of the Senate, this amendment corrects a mistake that was done in the drafting of the bill by our analyst. We had lots of moving parts over the four work sessions that we had. This amendment clarifies a paragraph in which the word "disability" had been in the original bill and then this changes it to "a student who has a written certification for medical use of marijuana" and it was just something clerical. It should have come across in the Committee Amendment and when my good Senate colleague asked a question during the amendment review we found out that this had been missed. It's just a chance to make the bill correct from what we voted on in the committee. Thank you very much.

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

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Hancock, Senator Langley.

Senator **LANGLEY:** Thank you, Mr. President. I understand the reason for the Roll Call, but I wanted to make sure that this Body knows that if this were to fail that the definition that was in the bill would then put this in reference to special needs students because of the definition of disability. It just clarifies that definition. Thank you very much.

THE PRESIDENT PRO TEMPORE: The pending question before the Senate is the motion by the Senator from Hancock, Senator Langley to Adopt Senate Amendment "A" (S-148) to Committee Amendment "A" (H-207). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#259)

YEAS: Senators: ALFOND, BAKER, BRAKEY, BREEN, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HAMPER, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO, VOLK, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

NAYS: Senators: BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGECOMB, THIBODEAU, WHITTEMORE

27 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **LANGLEY** of Hancock to **ADOPT** Senate Amendment "A" (S-148) to Committee Amendment "A" (H-207) **PREVAILED**.

Committee Amendment "A" (H-207) as Amended by Senate Amendment "A" (S-148) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-207) AS AMENDED BY SENATE AMENDMENT "A" (S-148)** thereto, in **NON-CONCURRENCE**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/29/15) matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Remove from the Maine Medical Use of Marijuana Act the Requirement That a Patient's Medical Condition Be Debilitating"

H.P. 22 L.D. 23

Majority - **Ought to Pass** (12 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - May 29, 2015, by Senator **BRAKEY** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence

(In House, May 28, 2015, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.)

(In Senate, May 29, 2015, Reports **READ**.)

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

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. I rise today in support of the Ought to Pass motion on L.D. 23 and I hope this Body will join me on this issue. As Chairman for the Health and Human Services Committee, I'm proud to report that we arrived at a strong, bi-partisan, report on this legislation with 12 Republicans and Democrats signing on to the Ought to Pass Report. Under current law, the Legislature or DHHS must approve the use of medical cannabis for any new condition before it can be recommended by a medical provider to a patient. L.D. 23 removes the State's role in preapproving conditions and allows that decision to be made by the medical community. The Department of Health and Human Services testified in support of this legislation. Ken Albert, Direct and Chief Operating Officer of the Maine CDC, stated, "The Department welcomes this opportunity to remove itself from the medical provider/patient relationship." There are certain conditions for which medical cannabis is not currently allowed under state law, but for which medical cannabis could have significant health benefits for some

patients, as some doctors believe. These conditions include Tourette Syndrome, Parkinson's Disease, obsessive/compulsive disorder, anorexia nervosa, neuropathy, autism spectrum disorder, sickle cell disease, decompensated cirrhosis, traumatic brain injury, and osteoarthritis, among others. If L.D. 23 is rejected patients with these conditions will continue to be prohibited from getting the care they need. This legislation restores the doctor/patient relationship by allowing doctors to make appropriate decisions about whether medical marijuana is a recommended treatment for their patient's condition. Mr. President, I invite the Body to join with me and the Department of Health and Human Services in supporting this commonsense bill and please follow my light on the Ought to Pass motion. Thank you very much.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Cumberland, Senator Haskell.

Senator **HASKELL:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, I want to reiterate or reaffirm the Department's position here. Medical marijuana has been the law in the state of Maine for quite a while and the Department of Health and Human Services has done a very good job of being measured, careful, and professional in their approach to how they control and manage this program. If I were to add anything at all to Senator Brakey's comments I would simply continue that what the Department said is that they do not want to erode or make meaningless a cornerstone of the program, and that is the treatment of medical conditions that require the certification of a medical provider. Thank you.

THE PRESIDENT PRO TEMPORE: The Chair recognizes the Senator from Penobscot, Senator Gratwick.

Senator **GRATWICK:** Thank you, Mr. President. Ladies and gentlemen, I rise in major opposition to L.D. 23. I think this is an ill-considered, very poor bill and, alas, I do disagree with my good colleague from Androscoggin. This is not a good, commonsense bill. This is a nonsense bill. This bill makes no sense whatsoever. Specifically, we need to have rules and regulations about the medicines that are prescribed by healthcare providers, specifically when you go to your healthcare provider you want to know that the medicines you've been given have been used and looked at by the FDA, the Federal Drug Administration, which does good, controlled trials, or has stood up to standards in the medical literature, that is controlled data and controlled trials. You do not want your doctor to go pick a medicine off the shelf and say, "Well, this looks like a good medicine for today. Let's try it. It's a pretty pink elixir." This is going back to the 17th Century. This is putting medicine back a long way. The Federal Drug Administration exists for a very good reason. You have to remember that all medicines have the potential of benefit, presumably, but they also have the potential of harm. You really need to know what those are and it's really important that a prescribing physician or provider knows the therapeutic indications, potential side effects, the drug interactions. These are all essential things when you go to your healthcare provider. I think medicine should be given for specific indications only. One of the great sadness's of our life is that marijuana is a Title 1 drug and has not been well studied. That's because of a political decision in Washington. Nothing we can do anything about right here now. If we're going to use it, and you want to have a certain