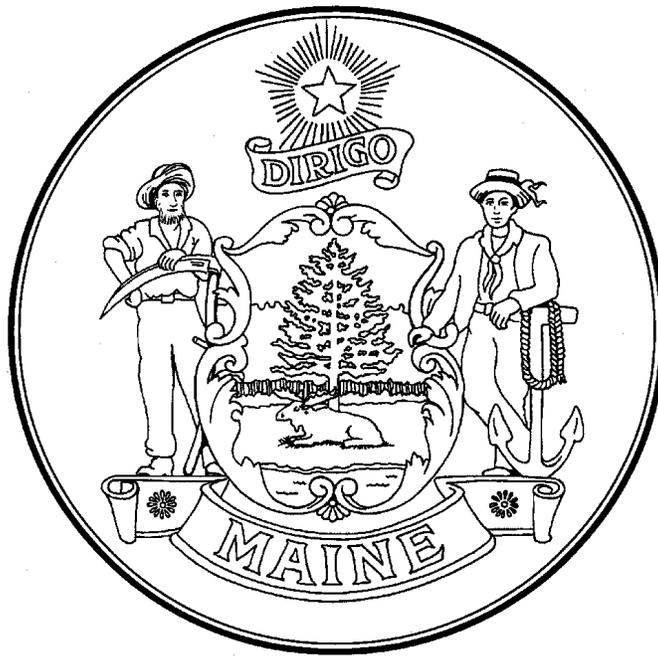


MAINE STATE LEGISLATURE

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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

NAYS: Senators: BAKER, BURNS, COLLINS, CUSHING, CYRWAY, DAVIS, EDGECOMB, GRATWICK, HAMPER, HILL, LANGLEY, MCCORMICK, ROSEN, SAVIELLO, THIBODEAU, VOLK, WHITTEMORE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

16 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report **ACCEPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later Assigned (6/11/15) matter:

An Act Regarding Patient Information Under the Maine Medical Use of Marijuana Act

H.P. 384 L.D. 560
(C "A" H-330)

Tabled - June 11, 2015, by Senator **CUSHING** of Penobscot

Pending - **ENACTMENT**, in concurrence

(In Senate, June 9, 2015, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-330)**, in concurrence.)

(In House, June 10, 2015, **PASSED TO BE ENACTED**.)

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 Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. I rise today in support of the Ought to Pass motion on L.D. 560, An Act Regarding Patient Information Under the Maine Medical Use of Marijuana Act. This bill received unanimous support from the Health and Human Services Committee after amending it with input from the department. The Health and Human Services Committee is made up, as you all know, 13 members, Republicans and Democrats, Conservatives, Liberals, and everything in between. Every member of that committee supported this bill. This bill prohibits DHHS from storing or retaining in electronic format or requiring healthcare providers to transmit over the internet personally identifying patient information related to the Maine Medical Use of Marijuana Act, including the name, address, and date of birth. This is a simple privacy issue.

As many can imagine, for a multitude of reasons, there is an understandable interest from many patients in maintaining their privacy, as would be the case in many medical records, but in this case especially so because of the posture with the federal government. DHHS has the technological capability to implement this. As we worked through this bill, as a committee, for many hours and over the course of several days we got to a place where everyone agreed to this and the department had no objection to the final version. Mr. President, I hope the Body will join me in passing this simple privacy protection for patients. Thank you very much.

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, this is not a simple privacy issue. I think this is more of a complicated issue. I think this is more an issue of who is using marijuana. This is a cover up. I'm tired of hearing all these excuses of why we should use marijuana and how we can hide it and how we can get away with it and how we can pretend we're doctors and how we can pretend we're nurses and caregivers. This is important stuff and we have no evidence that this actually works. Now we're going to try to avoid from having privacy issues about marijuana. This is where it's all leading to, folks. We have to make a decision and we can't keep doing this and making our lives to the point where marijuana is going to control our society. Once you get a hold of the drug, it controls you. That's a simple fact on any drug. We're allowing it to happen to our state. I cannot believe, if we vote for this, that this is the way to go. I can't believe that even a person can consider this to be okay. Senator Gratwick said it right. This is nonsense. This is not a medication. It's not a medication that is proven. Thank you for listening and I hope you go against this bill. Thank you.

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

Senator **VOLK:** Thank you, Mr. President. I wish to pose a question through the Chair.

THE PRESIDENT PRO TEMPORE: The Senator may pose her question.

Senator **VOLK:** Thank you, Mr. President. In looking at the testimony that's posted on-line, the Department of Health and Human Services seemed to sort of be neither for nor against because the original version of this bill was a concept draft. I'm wondering whether or not this is something the department supports in its current form.

THE PRESIDENT PRO TEMPORE: The Senator from Cumberland, Senator Volk poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. We worked with the department. We spent several hours together working through this bill to get it to a place where the department and the committee was comfortable. The department, on the final version

of the bill, the version that's before us, had no objection any more to the version that the committee reported out.

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

Senator **CUSHING:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise in opposition to the pending motion. I'm concerned that we are, again, establishing a policy here and setting a precedent that is somewhat troubling. I recognize that there are federal regulations to protect the privacy of patient information. I certainly respect the desire of anyone to have their medical history protected so it cannot be an embarrassment or used in any way that may be adverse to them or in any way to threaten or hold them in a situation where they would be forced or coerced into doing something to prevent revelation of certain medical conditions. I do, however, Mr. President, have concerns when we establish a precedent here regarding a product that, again, is not being appropriately tested, without the regimens in place to assure that the potency that is being delivered is of the necessary quantity and appropriate nature for the individuals. I'm concerned when we are not holding people accountable for their participation in growing or in consuming a product that doesn't flow through some of the same safety considerations that we require other pharmaceuticals and medications, compounds and so forth, that are provided to people for their care and for the treatment of any chronic or other conditions that they may have. I think it's very important that we reflect on this. I can appreciate the department feeling that they are put in an awkward position. I think many of us feel in this debate we're being put in an awkward position. Even those who are supporters are, I'm sure, feeling some pressure and I respect that they have their reasons, but I just don't think it is appropriate, Mr. President, that at this point we launch off on a system that has not been appropriately addressed from its foundation. Thank you.

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

Senator **BRAKEY:** Thank you, Mr. President. I appreciate the thoughtful commentary of my colleague from Penobscot, Senator Cushing. I just wanted to clarify that having the records of patients and keeping that information private and DHHS not keeping that, that's already the policy. What this bill is, it's not a debate about whether or not the Department of Health and Human Services should be protecting the privacy of patients or not, or should be keeping records of patients or not. This is already the policy. All this bill does is fix some potential oversights in the implementation of that policy with some of the technology that's used at the department. That's all this does. If we want to debate whether or not we should be having this policy or not, that's a valid debate, but I would suggest that I think that's somewhat outside the scope of this bill because that's already the policy and this is just shoring up some of the glitches in that policy. Thank you very much.

THE PRESIDENT PRO TEMPORE: The pending question before the Senate is Enactment, 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 (#261)

YEAS: Senators: ALFOND, BRAKEY, BREEN, DAVIS, DIAMOND, DILL, DUTREMBLE, GERZOFKY, GRATWICK, HASKELL, JOHNSON, KATZ, LIBBY, MCCORMICK, MILLETT, MIRAMANT, PATRICK, SAVIELLO, VALENTINO, VOLK, WILLETTE

NAYS: Senators: BAKER, BURNS, COLLINS, CUSHING, CYRWAY, EDGECOMB, HAMPER, HILL, LANGLEY, ROSEN, THIBODEAU, WHITTEMORE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, was **PASSED TO BE ENACTED** and, having been signed by the President Pro Tempore, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

The Chair laid before the Senate the following Tabled and Later Assigned (6/11/15) matter:

An Act To Permit Medical Marijuana Cultivation by Incapacitated Adults

H.P. 505 L.D. 752
(C "A" H-331)

Tabled - June 11, 2015, by Senator **CUSHING** of Penobscot

Pending - **ENACTMENT**, in concurrence

(In Senate, June 9, 2015, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-331)**, in concurrence.)

(In House, June 10, 2015, **PASSED TO BE ENACTED**.)

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 Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. I rise today in support of the Ought to Pass motion for L.D. 752, An Act to Permit Medical Marijuana Cultivation by Incapacitated Adults. This bill received unanimous support from the Health and Human Services Committee. Again, 13 Republicans and Democrats all supported this bill after intensive work on it. This bill allows a qualifying patient under the Maine Medical Use of Marijuana Act who is an incapacitated adult to possess and cultivate medicinal cannabis for his or her own use with the strong requirement that the patient's legal guardian, or the person to whom the patient has granted power of attorney for healthcare decisions, is