

MAINE STATE LEGISLATURE

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number is programmed so that it's a lifetime opportunity for non-resident kids to buy that license.

Senator **SULLIVAN** of York requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Session.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, unfortunately we didn't have a chance to caucus this amendment, but I would try and reinforce the Senate Chair, the Senator from Oxford, Senator Bryant, that this is a friendly amendment. I think this is consistent with what the Committee wanted to do, and I just wanted my caucus to know that. Thank you.

On motion by Senator **BRYANT** of Oxford, Senate Amendment "A" (S-191) to Committee Amendment "A" (H-276) **ADOPTED.**

Committee Amendment "A" (H-276) as Amended by Senate Amendment "A" (S-191) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-276) AS AMENDED BY SENATE AMENDMENT "A" (S-191) thereto, in NON-CONCURRENCE.

Sent down for concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (5/20/09) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act To Require Motorcyclists To Wear Helmets"

H.P. 341 L.D. 453

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-297)** (2 members)

Tabled - May 20, 2009, by Senator **BARTLETT** of Cumberland

Pending - motion by Senator **DAMON** of Hancock to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE** (Roll Call Requested)

(In House, May 18, 2009, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**)

(In Senate, May 19, 2009, Reports **READ.**)

On motion by Senator **RAYE** of Washington, 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 Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'm rising to urge you to support the pending motion of Ought to Pass, and I will make a few remarks regarding that. It's a fairly contentious issue and if you haven't observed that already, you will. In the committee, when we heard this bill, we also heard the constant refrain of 'let those who ride decide.' 'Let those who ride decide.' Unsaid in that is that it's their right to do that. It's their right to ride without a helmet. We heard it from biker groups, we heard it from club members, and we heard it from those who told us there is conclusive evidence, conclusive evidence, that wearing a helmet is actually more dangerous when you operate a motorcycle, or ride on one, than not wearing a helmet. A helmet reduces one's hearing, restricts the field of vision, and it substantially contributes to more serious neck injuries to the wearer when a crash occurs. We heard that. The committee also heard much testimony from healthcare professionals citing various studies published in professional journals, such as the Journal of Health Economics, the Injury Prevention Journal, the American Journal of Public Health, and the Cochrane Database Review, claiming that helmets do, in fact, substantially reduce the incidence of head trauma and fatalities associated with head injuries.

During the public hearings there always seems to be some particular testimony that raises one's eyebrows and that has me think differently than I had been thinking, or serves to cement my thinking as I had been thinking. Mark Kiefner, a PhD neuropsychology consultant, who one would say better informed on brain and head injuries than most and is perhaps even an expert on those matters, told of a client of his who died following a very long period of care after his motorcycle accident. He was not wearing a helmet and he suffered a severe head injury as a result of not wearing a helmet. Following the accident, while he continued living and following the medical treatment and the long-term rehabilitation paid for by MaineCare, his total cost borne by the State of Maine, by you and me, was in excess of \$10 million. So you let those who ride decide. The Libertarian in me agrees with that statement even though the Democrat in me wants to protect everyone I can, even if at times it means I try to protect them from themselves, and the Republican in me wants to make sure that I don't spend tax dollars taking care of somebody else's actions. I understand all three of those views, and I agree with all three.

You can understand how I am conflicted. You can see that I am indeed conflicted on this issue. I have ridden my motorcycle while wearing a helmet and also while not wearing a helmet. I enjoy the latter more than the former. I was free. The devil may care, and if he didn't, neither did I. As Seinfeld's Kramer would

say, 'I was out there, Jerry. I was free as a bird and just lovin' it!' Now ladies and gentlemen, the facts surrounding this issue have been weighed, and the balance has been tipped for me, and I hope for you. It's been tipped in the facts that led me to the position that indeed, just as we have required occupants in a car or truck to wear a seatbelt, we should require motorcyclists and passengers to wear helmets. Now if this motion were to succeed, and I have every expectation that it won't based on what I've heard, I would be prepared to talk to you again about a way that we could allow people to ride both with a helmet and without one if they so chose. That's a different piece of paper and I don't think that this Body is going to let me introduce that as an amendment. So you vote, and you let those who ride decide, and you let those who pay continue paying. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise in opposition to this bill. I think it is no surprise to anybody that I've been riding a motorcycle for a long time. I think people here know that. I've been in boats, and plenty of people get in accidents in boats, and if they have an accident they might get injured. People riding in many forms of transportation might have an accident. I was one of those who testified in front of the committee and spoke about how actually riding with a helmet and without a helmet affects the riding. Now some people might think it doesn't affect your hearing, but I certainly know it does mine. Some people say it might not affect your vision, but I certainly know it affects my peripheral vision. If I can't hear a car pulling up next to me, I'm in danger. Now we do have a law in the State of Maine for wearing helmets. First-year riders have to wear a helmet. We put that in back in the '80s when we got rid of the mandatory helmet law for all riders. We made an exception that first-year riders should wear a helmet. We've since made an exception that 17 and 18-year-olds should wear a helmet. Let those who ride decide. Especially if they are mature enough to make that decision. I'm mature enough to make the decision if I want to ride with or without a helmet, and depending on the weather I choose one or the other. This afternoon it's about 90 degrees out and I plan on getting home in time to go out for a ride, without a helmet. If it's October or November, I might decide to wear a helmet because of the weather, but I think it's my right to be able to decide.

We've had literature handed out today that shows some of the tourist activities that motorcycle riders come from around the country to ride in New England. They like riding in Maine because it's beautiful. We have beautiful highways, and they're not congested too much with traffic if you stay off the coast. They like to ride in New Hampshire. New Hampshire doesn't have a helmet law. They don't like to go to Vermont too much, so we get the benefit of that. I want to be against this motion to amend this bill because I don't think it's necessary. I don't think it's warranted, and I certainly don't think it gives more safety to motorcycle riders. I think it does just the opposite.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. Men and women of the Senate, I don't ride a motorcycle, but I am very much in opposition to this piece of legislation, as I was with the

seatbelt law. Do I think people should wear protective gear when they either ride in their automobile or on their motorcycles? Yes. Something about freedom really disturbs me in this country. We take it for granted. We are allowing our freedoms to be picked off one by one, because somebody doesn't like paying what perhaps might be a cost later on down the line. This is disturbing to me. I don't think people should be able to climb into my car and say that I must wear my seatbelt. Should I? Perhaps I should, but I am totally opposed to it because we would somehow be penalized or get less money from the federal government. It's the insurance lobby climbing into our automobiles with us, telling us what we should and shouldn't do, so they don't have to pay more if we were to have an accident. I have a real problem with that.

I'm in opposition to smoking in public spaces. However, I'm totally in opposition to going into somebody's home, or into a club where that club can decide whether or not their patrons, by a vote, want to either smoke or not to smoke. I don't think it's appropriate for us to go into people's homes and decide what they should and should not do, even if it's in opposition to what might be best for their health. Why? Because it's picking away at those fundamental freedoms that I think too often we take for granted, and I think this should be considered one of those freedoms. I absolutely think that we are too quick to allow government to intervene into our freedom of choice in this country.

I remember when a person I know well who has an island had invited me to have a celebratory election party on this island. I said, 'No, George, I'm not interested in having my party over on your island.' He asked, 'Why not?' I said, 'Well, you have cameras everywhere.' He had it done to protect in a terrorist situation, it was sort of like a test for terrorism and he had all these cameras everywhere. I just don't think we should have government intervene or have people watching over us like Big Brother, and this is Big Brother, absolutely. I hope that you will not support the pending motion, because this is slowly but surely picking away at our freedoms. Thank you, Madame President.

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

Senator **MARRACHÉ:** Thank you, Madame President. Madame President, men and women of the Senate, I wasn't going to speak on this issue, but I figure I had better now at this point. First of all, I'm going to go along with the Minority Report. As a provider, I have to say that you can't take a better time to talk about this issue because the recent death that we suffered and all had to read about of Natasha Richardson. She was just skiing down a hill without a helmet. Not wearing a helmet puts you at an incredible risk of a head injury. You may survive it, but you may not be normal afterwards. We've seen it time and time again. If we make people wear helmets when they're riding a bike, or when they're skiing down a hill, you sure as heck should be having people wear them when they're riding on a motorcycle going the speed limit on a highway.

When we do risk assessments on our patients, especially our adolescents, we go through the whole review of systems, and we also ask people, 'Do you wear a seatbelt? Do you wear a helmet when you're riding a bike?' We ask these things to try and educate people that there are choices that you make in life and that you need to be well aware that your freedoms are one thing, and it's great to have them, but you also need to understand that you put yourself in a very bad place if you choose not to wear a

helmet. In the end, as the good Senator mentioned earlier, it costs us all a lot of money because brain injury victims cost a lot in rehabilitation. We're all paying for that. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Craven.

Senator **CRAVEN:** Thank you, Madame President. Men and women of the Senate, life, liberty and the pursuit of happiness is a right. Almost all other privileges that we have are just that, a privilege. If you've ever worked with a group of people who have head injuries, it's heartbreaking and it's very expensive. Almost all of them rely on MaineCare payments not just for a short time while their injuries are being tended to, but for the rest of their lives. The incidence of recovery are so miniscule that they will probably never be able to work again if they've had massive brain damage from their injury. I'm going to support this motion. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Damon.

Senator **DAMON:** Thank you, Madame President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **DAMON:** Thank you, Madame President. I've heard in some of the comments a little earlier that there was opposition to the amendment. Is there an amendment before us? Thank you.

THE PRESIDENT: The Chair would answer in the negative. The pending question is the motion to accept the Minority Ought to Pass Report.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you, Madame President. Men and women of the Senate, then we'll talk about that. Thank you, I thought we were debating an amendment, but I hope we don't get there yet. Christopher Reeves, Superman, fell off a horse with a helmet on, and he spent the rest of his life in bed. I don't know who paid for that. He was probably wealthy enough to, but whether he was wealthy enough to or not, he wasn't on a motorcycle he was on a horse. At the same time, riding a motorcycle, as we all know, is inherently dangerous. I know that every time I get on my bike. Getting on a four-wheeler is inherently dangerous out in the woods. Getting on a snowmobile is inherently dangerous in the wintertime. There are many things that we do that are inherently dangerous. Trying to walk across Main Street is inherently dangerous in some towns, mine being one of them. We have to remember that we all get to choose. It's an inalienable right, or a privilege, how we conduct our lives. That's what this bill is about. It's not about the medical profession. I sit on a board of directors of a hospital. I know many of the hospital issues and the cost of giving care. I carry insurance on my motorcycle if I should get in an accident. The Minority position on this bill is what I'm fighting against and what I'm going to vote against. I hope the members of this Body will do the same. Thank you.

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

Senator **TRAHAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise in opposition to the Ought to Pass Report being accepted and I'll speak briefly to why that is. It's very difficult to stand and oppose something that may make life safer for people, but this issue reminds me a lot of the movie 'Titanic' when Kate Winslet stands on the bow of the Titanic and the wind is racing through her hair and she's absorbing the freedom of the ocean around her. That moment is just something that is important to free Americans and our way of life. I wouldn't recommend that on a motorcycle because you might get a bee in your teeth, but for the purposes of freedom it's just such an awesome opportunity to just feel that freedom. I guess riding a motorcycle represents that type of thing for me. As much as I'd like the world to live in a bubble, for no one to ever be injured, and for life to be wonderful for everyone, that's just not life. Sometimes a little bit of risk is worth it. In this case I would oppose this and hope that the Senate will as well.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Simpson.

Senator **SIMPSON:** Thank you, Madame President. Madame President, men and women of the Senate, I rise just to give you some more information. In case people were unaware, I went to a meeting in Washington in April with the Task Force on Military Preparedness. One thing the military is working on is trying to get states to pass helmet laws. You might find that a little odd, but more Marines died in motorcycle accidents last year than died in Iraq and Afghanistan. As we think about this Memorial Day and our armed service people, we might want to consider that having them stay in the armed forces and be able to finish their tours of duty after they come home on leave and go back safely. This is an important issue to the American military. Not just the Marines, but the Navy and Army have also seen spiking increases in deaths by motorcycle accidents stateside. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you, Madame President. I'd like to pose a question through the Chair.

THE PRESIDENT: The Senator may pose her question.

Senator **SCHNEIDER:** Thank you, Madame President. Is there a helmet law? Earlier on there was reference to helmets being used when skiing. I was just wondering if there is a helmet law in place for skiing currently and if not, is that a proposal we are to see?

THE PRESIDENT: The Senator from Penobscot, Senator Schneider poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Franklin, Senator Gooley.

Senator **GOOLEY:** Thank you, Madame President. Men and women of the Senate, I wasn't going to get up on this issue, but in response to the question from the good Senator from Penobscot, I am a skier and you do not have to wear a helmet. I always wear

a helmet, especially when I go to Sugarloaf, but it's optional. That's the way I feel, that it's the choice in the matter. I recommend that all motorcyclists wear helmets, but I'm not going to vote that way. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Hancock, Senator Damon to Accept the Minority Ought to Pass as Amended Report. 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 (#94)

YEAS: Senators: ALFOND, BARTLETT, BOWMAN, BRANNIGAN, CRAVEN, DAMON, MARRACHE, MILLS, SIMPSON

NAYS: Senators: BLISS, BRYANT, COURTNEY, DAVIS, DIAMOND, GERZOFKY, GOODALL, GOOLEY, HASTINGS, HOBBS, JACKSON, MCCORMICK, NASS, NUTTING, PERRY, PLOWMAN, RAYE, RECTOR, ROSEN, SCHNEIDER, SMITH, SULLIVAN, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

ABSENT: Senator: SHERMAN

9 Senators having voted in the affirmative and 25 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **DAMON** of Hancock to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

On motion by Senator **DIAMOND** of Cumberland, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following:

Emergency Measure

An Act To Provide Free Admission to State Parks to Veterans and Military Personnel

S.P. 159 L.D. 456
(C "A" S-69; S "A" S-74)

Tabled - May 6, 2009, by Senator **DIAMOND** of Cumberland

Pending - **ENACTMENT**, in concurrence

(In Senate, April 28, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-69) AND SENATE AMENDMENT "A" (S-74)**.)

(In House, May 5, 2009, **PASSED TO BE ENACTED**.)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator **BARTLETT** of Cumberland, **ADJOURNED**, pursuant to the Joint Order, to Tuesday, May 26, 2009, at 10:00 in the morning.