

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-Sixth Legislature**  
**State of Maine**

**Daily Edition**

**First Regular Session**

beginning December 5, 2012

beginning at page H-1

**ENGROSSED** or **PASSED TO BE ENGROSSED** as Amended and sent for concurrence.

(H.P. 341) (L.D. 499)  
(C. "A" H-18)

**BILLS IN THE SECOND READING**  
**House as Amended**

Bill "An Act To Prohibit a Requirement That a Superintendent Reside in the School Administrative Unit" (EMERGENCY)  
(H.P. 10) (L.D. 6)  
(C. "A" H-31)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

An Act To Adjust Maine's Minimum Wage Annually Based on Cost-of-living Changes  
(H.P. 430) (L.D. 611)  
(C. "A" H-16)

An Act To Exempt All-terrain Vehicle Trail Management from Storm Water Management Requirements  
(S.P. 232) (L.D. 642)

An Act To Amend or Repeal Outdated or Underutilized Laws Related to Transportation  
(H.P. 447) (L.D. 655)

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.

Bill "An Act To Equalize the Fire Investigation and Prevention Tax Paid by Insurers"

(H.P. 205) (L.D. 296)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative DION of Portland, was **SET ASIDE**.

The same Representative **PRESENTED House Amendment "A" (H-32)**, which was **READ** by the Clerk and **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-32)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The following items were taken up out of order by unanimous consent:

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, April 4, 2013, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Resolve, Regarding Legislative Review of Portions of Chapter 2: Rules Concerning the Processing of Applications and Other Administrative Matters, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

(H.P. 612) (L.D. 861)

- In House, Unanimous **REFER TO THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES** pursuant to the **Maine Revised Statutes, Title 5, section 8072** Report of the **Department of Environmental Protection READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY** on March 7, 2013.

- In Senate, Unanimous **REFER TO THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES** pursuant to the **Maine Revised Statutes, Title 5, section 8072** Report of the **Department of Environmental Protection READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **ENVIRONMENT AND NATURAL RESOURCES** in **NON-CONCURRENCE**.

**TABLED** - March 26, 2013 (Till Later Today) by Representative WELSH of Rockport.

**PENDING - FURTHER CONSIDERATION.**

The House voted to **INSIST**.

**ENACTORS**  
**Acts**

An Act Relating to Ways under the Jurisdiction of the Midcoast Regional Redevelopment Authority and the Loring Development Authority

(S.P. 48) (L.D. 127)  
(C. "A" S-15)

An Act To Amend and Clarify the Maine Uniform Securities Act

(S.P. 65) (L.D. 176)  
(C. "A" S-18)

An Act Concerning the Use of Tobacco Settlement Funds for Children's Health Care

(H.P. 140) (L.D. 180)  
(C. "A" H-10)

An Act To Electronically Issue Permits for Burning

(S.P. 118) (L.D. 285)  
(C. "A" S-14)

An Act To Amend the Representation on the Telecommunications Relay Services Advisory Council

(H.P. 213) (L.D. 304)

An Act To Amend the Charter of the Augusta Parking District

(S.P. 137) (L.D. 357)

An Act Concerning Hurricane Deductibles

(H.P. 302) (L.D. 452)  
(C. "A" H-17)

An Act To Eliminate Certain Data Collection Requirements of the Forest Health and Monitoring Program of the Division of Forestry

(H.P. 307) (L.D. 457)

An Act Regarding Maine Commercial Motor Carrier Safety Regulations

(S.P. 187) (L.D. 494)  
(C. "A" S-16)

An Act To Promote Dental Care for Low-income Populations

**HOUSE DIVIDED REPORT** - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-20)** - Committee on **TRANSPORTATION** on Bill "An Act To Require That Motorcyclists Wear Helmets"

(H.P. 69) (L.D. 66)

**TABLED** - April 2, 2013 (Till Later Today) by Representative THERIAULT of Madawaska.

**PENDING** - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Theriault.

Representative **THERIAULT**: Thank you, Mr. Speaker. With reference to LD 66, "An Act To Require That Motorcyclists Wear Helmets," again, as I said previously, I move the Ought Not to Pass Report. In summary, current law requires persons under 18 years of age to wear a helmet when operating a motorcycle or riding as a passenger on a motorcycle, as well as persons operating under a learner's permit, or within one year of completing a driving test and any passenger that's with that. The history of the motorcycle helmet laws in the U.S. are characterized by change. They changed in 1967. The Federal Government made it mandatory for all states who would receive federal funds for highways, that they would have to wear a helmet. In 1968, the State of Michigan challenged this and were able to change that law, so therefore, now as we stand, we have 19 states that require motorcyclists to wear helmets. Twenty-eight have laws such as the one that we have and some of them are 16 years of age and 18 years of age, riding as a passenger, they must wear a helmet. So if they are on a learner's permit, they must wear a helmet. So as we go, some of the people who testified on this bill in Transportation, every accident is different. Helmet use may not prevent injuries. All DOT approved helmets have a safety disclaimer above 15 miles per hour. Persons who testified against mandatory helmet law felt that most issues are the inadequacy of rider training. This law would also make it a \$500 fine if you were riding a motorcycle without a helmet. So as it is, with all due respect to the good Representative from Biddeford, Representative Beaudoin, I stand before you with the Ought Not to Pass Report. Thank you, Mr. Speaker.

Representative **FREDETTE** of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 30**

YEA - Ayotte, Beaulieu, Bennett, Berry, Black, Briggs, Brooks, Campbell J, Campbell R, Carey, Casavant, Cassidy, Chase, Chenette, Clark, Cotta, Crafts, Cray, Crockett, Daughtry, Davis, DeChant, Dill, Dion, Doak, Dorney, Dunphy, Duprey, Espling, Evangelos, Farnsworth, Fitzpatrick, Fowle, Fredette, Frey, Gattine, Gideon, Gifford, Gilbert, Gillway, Goode, Graham, Grant, Guerin, Harvell, Hayes, Herbig, Hickman, Hobbins, Hubbell, Jackson, Johnson D, Johnson P, Jones, Jorgensen, Kaenrath, Kent, Keschl, Kinney, Knight, Kornfield, Kruger, Kumiega, Kusiak, Lajoie, Libby A, Libby N, Lockman, Long, Longstaff, Luchini, MacDonald S, MacDonald W, Maker, Malaby, Marean, Marks, Mason, Mastraccio, McCabe, McClellan, McElwee, McGowan, Moriarty, Morrison, Nadeau A, Nadeau C, Nelson, Newendyke, Noon, Nutting, Parry, Pease, Peavey Haskell, Plante, Pouliot, Priest, Reed, Sanderson, Saucier, Saxton, Schneck, Shaw, Short, Sirocki, Stanley, Theriault, Timberlake, Tipping-Spitz, Treat, Turner, Verow, Villa, Volk, Wallace, Weaver, Welsh, Willette, Wilson, Winchenbach, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beck, Chapman, Chipman, Cooper, Dickerson, Hamann, Harlow, McLean, Monaghan-Derrig, Moonen, Powers, Pringle, Rankin, Rochelo, Rotundo, Rykerson, Sanborn, Stuckey, Werts.

ABSENT - Boland, Bolduc, Devin, Peoples, Peterson, Russell, Tyler.

Yes, 123; No, 21; Absent, 7; Excused, 0.

123 having voted in the affirmative and 21 voted in the negative, with 7 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-19)** - Committee on **TRANSPORTATION** on Bill "An Act To Prohibit the Use of a Handheld Mobile Telephone while Operating a Motor Vehicle"

(H.P. 71) (L.D. 68)

TABLED - April 2, 2013 (Till Later Today) by Representative **THERIAULT** of Madawaska.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Beaudoin.

Representative **BEAUDOIN**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. As the sponsor of this bill, I rise to speak in opposition to the pending motion and in support of the Minority Ought to Pass as Amended Report. I introduced this bill because I believe it could save lives, maybe even the life of someone you know. The science is absolutely clear about what happens when people use a handheld cell phone while driving. The drivers become distracted and the chance that they will cause a car accident goes through the roof – or maybe through the windshield. I have seen these drivers on my commute between Biddeford and Augusta. You can tell right away who they are, because they are drifting all over the road at inconsistent speeds. They are a danger to themselves, and they are a danger to all the other drivers and passengers around them. The previous Legislature banned texting while driving because they knew that you can't do two things at once when you're behind the wheel. In fact, people who use handheld cell phones while driving can often have slower reaction times than even drunk drivers. No wonder it's one of the leading causes of car accidents in the country. We as a body need to show that we are serious about road safety. Ten states have already banned the use of handheld cell phones. Putting this ban into place would send a clear message to drivers that they need to find safer alternatives. And there are many safer alternatives out there. If you feel the way I do about this, if you believe that we have a real chance here to improve road safety and save lives, please vote red to reject the Majority Ought Not to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Theriault.

Representative **THERIAULT**: Thank you, Mr. Speaker. Again, with all due respect to the Representative from Biddeford, Representative Beaudoin, we are asking the Ought Not to Pass and basically what we're saying here is this bill makes the offense a traffic infraction. It clarifies and this is where we ran into our problem, that law enforcement officers, corrections officers, firefighters, drivers of emergency vehicles, holders of commercial driver's licenses, physicians, municipal public works personnel, Maine Turnpike Authority personnel, state transportation personnel including all employees and contractors of DOT may use the handheld mobile phones while driving within the covers of their work. So now as we stand, we currently restrict the use of phones to the most vulnerable populations, those are our young adults and new drivers, so therefore there are too many exceptions in this rule, in this law. That's why we are asking for the Ought Not to Pass. Thank you, sir.