

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Ninth Legislature

State of Maine

Daily Edition

First Regular Session
beginning December 5, 2018

beginning at Page 1

EXCUSED: Senators: SANBORN L

13 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **TIMBERLAKE** of Androscoggin to **TABLE** until Later in Today's Session, pending the motion by Senator **LAWRENCE** of York to **ACCEPT** Report "A", **OUGHT TO PASS, FAILED.**

On motion by Senator **LAWRENCE** of York, Report "A", **OUGHT TO PASS ACCEPTED.**

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED.**

Sent down for concurrence.

ENACTORS

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

Emergency Measure

An Act To Support Maine Craft Distillers
S.P. 294 L.D. 1015
(C "A" S-93)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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 approval.

Emergency Measure

An Act Regarding Licenses for the Sale of Liquor for On-premises Consumption
S.P. 516 L.D. 1619
(C "A" S-92)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with no Senators having voted in the negative, and 35 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 approval.

Acts

An Act To Amend the Definition of "Subdivision" in the Laws Governing Planning and Land Use Regulation for Subdivisions and a Provision Excepting the Division of a New or Existing Structure from Those Laws Beginning July 1, 2018
S.P. 172 L.D. 550
(C "A" S-97)

An Act Regarding the Cancellation of Subscription Services
H.P. 576 L.D. 771
(S "A" S-99 to C "A" H-143)

An Act To Clarify Maine's Protection from Abuse Statutes
H.P. 733 L.D. 978

An Act To Ban Discretionary Clauses in Disability Income Insurance Policies
S.P. 321 L.D. 1089
(C "A" S-89)

An Act To Amend the Law Prohibiting the Denial by Health Insurers of Referrals by Out-of-network Providers
S.P. 372 L.D. 1197
(C "A" S-90)

An Act Regarding Filing Fees in Transmission Line Proceedings
S.P. 491 L.D. 1556
(C "A" S-96)

PASSED TO BE ENACTED and, having been signed by the President, were presented by the Secretary to the Governor for approval.

An Act To Increase Access to Nutritious Foods in Schools by Implementing an After-school Food Program for At-risk Students
H.P. 421 L.D. 577
(C "A" H-226)

On motion by Senator **BREEN** of Cumberland, placed on the **SPECIAL APPROPRIATIONS TABLE** pending **ENACTMENT**, in concurrence.

An Act To Protect Maine Children and Students from Preventable Diseases by Repealing Certain Exemptions from the Laws Governing Immunization Requirements
H.P. 586 L.D. 798
(C "A" H-120)

On motion by Senator **BLACK** of Franklin, 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 York, Senator Foley.

Senator **FOLEY:** Mr. President, ladies and gentlemen of the Senate, I rise in opposition to the Enactment motion. Several weeks ago, when this bill first came for consideration, I shared with you my own personal story of grief and tragedy, citing my

daughter's untimely unwarranted death as the result of a reaction to a set of vaccinations she received the day before. Obviously that had little impact on the vote taken that day. That was disappointing, not for me but for the thousands of parents who have reached out to us in search of justice, freedom of choice for them and their children. Of the over 800 persons who testified on the bill at the public hearing, 80% opposed this bill and yet we've ignored them. They've been dismissed as the antivaxers, shunned as they reached out to many of us in the halls asking for our understanding and support. We have heard from constituents who threaten to move from the state as a result of this bill's passage. Some have dismissed this claim that they would leave the state but I know of a small business owner in Sanford who reached out to me on this bill and has since moved his business and family to New Hampshire where he and his wife will raise their three year old son who will start preschool next year. They fear their religious rights were being taken away as a result of this bill's passage. We have alienated a vast number of citizens of this state and deprived them of their religious freedom and their personal choice as well. It disappoints me greatly that we couldn't find the common ground needed in a situation as dire and serious as this one with so many of our citizens feeling disenfranchised by their elected officials. Many of you have been contacted by constituents pleading to protect their rights. How can we not provide them the same freedom of choice that so many in this Body cherish? We had an opportunity to provide some relief by restoring the religious freedoms but when the time came to reconfirm that right we fell short by one vote. Mr. President, in my address to this Body several weeks ago I pleaded that we find a better way to protect all of Maine's children. I'm disappointed we weren't able to reach across the aisle more to seek that common ground. The evidence is clear. If not for my personal experience but from the evidence provided by the vaccine injury court, \$4 billion isn't paid out by the federal government for no good reason. It's paid out because a judge has determined, based on the evidence, that a child was injured, or even died, as the result of a vaccination gone wrong. I spoke of one case, J.B. Boatman, decided last year but there are thousands more, and how can we simply ignore those facts. I understand that the majority of vaccinations are given with little or no adverse reactions, and for that I am grateful. But I know from my personal experience, and the testimony on this bill, that there are those who have caused different results which require a different response than what this bill does. It is our job as elected officials to protect both sets of parents and children with a balanced bipartisan approach. In this case we have failed and that, too, was disappointing. No matter what we do here today, I can say with certainty that those parents who became so engaged and dedicated to this cause will not disappear. They will be back. They will be heard. For that I am grateful and today I thank you.

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

Senator **GUERIN:** Thank you, Mr. President. Mr. President, ladies and gentlemen of the Senate, all of the speeches that we have heard in support of L.D. 798 have been based on fear, the fear that perfectly healthy children who have not been vaccinated somehow pose a risk to medically fragile or immuno compromised children. I have a grandmother in my district who is also fearful, fearful that her oldest granddaughter, at the age of

12, Natalie, will once again experience a severe reaction to a vaccine. When Natalie was 2 she received the varicella vaccine. Shortly after, she lost the ability to walk, sit up, or feed herself. Both her pediatrician and neurologist confirmed and documented that this was a vaccine injury. Their case spent many years in the vaccine court before they were eventually compensated, the federal Vaccine Injury Compensation Program declaring that the varicella vaccine had caused her paralysis. This same family met with their trusted pediatrician this Monday, the same doctor who worried that the varicella vaccine had caused Natalie's paralysis advocated for her to get an accurate diagnosis and treatment that respected the family's decision to stop vaccinating. This same doctor told the family the devastating news that the only exception their daughter could be allowed under the law would be for the varicella vaccine. She would be required in the next two years to get up to date on all other vaccines if she wants to remain in school. We can lie to ourselves about the expanded medical exemption, saying that children who need exemptions can get them, but they won't. They're already being refused exemptions. If Natalie can't get a medical exemption after being paralyzed by a vaccine, who can? Should her mother be forced to pull her out of school and homeschool her to avoid further injury or should she play Russian, or rather vaccine, Roulette with her daughter's health and risk another severe vaccine injury? This is not a decision that any parent should be forced to make. This bill forces parents to put their children at risk against their will. These same parents are in this room, outside these doors, and came to the rally to show that they do not consent. Let them have the rights that they deserve as parents, the right to decide what is injected into their children's bodies. I do not support the pending motion.

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

Senator **H. SANBORN:** Thank you, Mr. President. I rise again today to urge this Body to follow science and to vote in favor of Enactment to protect those who cannot be immunized. Those include newborns. They include severely immuno compromised or medically weakened individuals and the very old may also be very susceptible to communicable diseases. I remind this Body that we had our first case of measles in the state recently identified. Fortunately the person has recovered and fortunately his teammates had been vaccinated and so the measles cases did not spread further, as far as we know so far. That's a victory but it's one that we could lose given the very low rates of kindergarten immunization for kids entering school in Maine today. This is a public health issue. We need to follow the science and we need to vote to Enact this bill today. Thank you.

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

Senator **POULIOT:** Thank you, Mr. President. I hadn't intended to speak on this today because I spoke to this previously. However, the good Senator from Cumberland just raised an issue, which is the first case of measles that we've seen in the state in over two years, which happened at Madison Junior High, which is unfortunate. But what the Senator failed to mention was that this young man was vaccinated for measles. So here we are passing, or seeking to pass, legislation to protect children in this state by requiring all children, whether they're going to public

school, private school. This isn't just children by the way, folks, this is adults who are trying to go to postsecondary institutions in this state. Private schools, students who are doing on-line charter schools, a number of different institutions. A lot of the focus has been on kids, right, and protecting our kids and the immuno compromised. The person that posed the danger just this week was vaccinated. So what we're going to do is pass a law to protect people when the case that we've just had this week shows that a vaccination is in no way a panacea to solving this purported issue. So the pretense that somehow this legislation is going to protect kids is totally false. Instead what we're going to do is ostracize and vilify, segregate and expel kids from school who don't want to be pumped with these vaccines because we're seeking to solve a problem that doesn't exist and we have evidence that shows that the solution that's being purported by this bill doesn't actually solve any problem at all. So I think it's important that when we're making this decision we do it based on facts and science, and the facts and the science show that vaccines are in no way a panacea as evidenced in our state just this week. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Miramant.

Senator **MIRAMANT:** Thank you, Mr. President. Men and women of the Senate, my colleague said many of the things and I was challenged to look at the science from the first time this bill was brought up four years ago and brought up again from 20 years from watching my wife treat vaccine injured kids without much attention to it really. I have to say, she just say another horrible case and this family's life has been changed forever. What do you mean? We don't care about that. We don't care about it because it's not mandatory to report. Nobody's reporting all the money that's spent on these injuries. They're happening here. They're happening every day. That's why the gallery's filled with folks that are taking their time and I, every day, know that every one of you is trying to protect our children, no matter which side of this you're on. But when you challenge me to look at the science, and I do, and I come back with, "Hey, you're right. Let's look at the science." With the exemptions, all three, in place and the medical one not being very good; with all three in place we're somewhere around 98% because you must include that percent that just went to school and didn't have their shot records, that didn't get the hepatitis shot for their kids because they don't have it. There's only three countries in the world that require you get it when you're mother doesn't have it. The kids from Japan, where there are no mandatory vaccines, are very healthy. They have a 1.8 infant mortality rate for the developed world. Guess where the U.S. is? Number 46, tied with Serbia. The last westernized country to try to start a major war in their own country and shot at each other, their neighbors, their friends, and created atrocities. This is a country we watched the Olympics be held in. We're tied with them, number 46, for infant mortality. You want a problem? Let's tackle that one. Let's tackle getting all these births into the hospitals and then being the last in developed nations. Let's get to real problems. There are plenty to solve. We find them every day. What you discover when you chase the science is that there's a problem with vaccine injuries. There's not a problem with having exemptions in place and still coming up to about a 98% of vaccinated people, minus one on a delayed schedule or whatever. This makes no sense.

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

Senator **L. SANBORN:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I just want to respond to some comments about the recent case of measles that happened in Somerset County. I think that what this case showed is how well vaccines actually work. It does not mean that they are not 97% effective. Indeed, that's what the statistics tell us and this young man had a mild case. He recovered quite easily without complications, and that's just what the vaccine is meant to do. It clearly blunted the disease. Also, no one else in the community came down with this, as best we know. This is just what vaccines are meant to do. This is just the effectiveness that we are looking for. Nobody knows where this child was exposed but we do know that the vaccine did not cause the disease. We know that the benefits of vaccination outweigh the risks. About 90% of people who are unimmunized are going to get the measles, 97% of people who do get the vaccine are not going to get the measles. These are the kinds of statistics. This is the kind of science we're looking for. Its safety has been scrutinized through hundreds of national and international studies. It's time for us to take a vote and finish this task and I hope you will all follow my light. Thank you.

THE PRESIDENT: The pending question before the Senate is Enactment. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#130)

YEAS: Senators: BELLOWS, BLACK, BREEN, CARPENTER, CARSON, CHENETTE, CHIPMAN, CLAXTON, DESCHAMBAULT, DIAMOND, DILL, GRATWICK, LAWRENCE, LIBBY, MILLETT, SANBORN H, SANBORN L, VITELLI, PRESIDENT JACKSON

NAYS: Senators: CYRWAY, DAVIS, DOW, FARRIN, FOLEY, GUERIN, HAMPER, HERBIG, KEIM, LUCHINI, MIRAMANT, MOORE, POULIOT, ROSEN, TIMBERLAKE, WOODSOME

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, was **PASSED TO BE ENACTED**.

Senator **BLACK** of Franklin moved the Senate **RECONSIDER** whereby the Bill was **PASSED TO BE ENACTED**.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#131)

YEAS: Senators: BLACK, CYRWAY, DAVIS, DOW, FARRIN, FOLEY, GUERIN, HAMPER, HERBIG, KEIM, LUCHINI, MIRAMANT, MOORE, POULIOT, ROSEN, TIMBERLAKE, WOODSOME

NAYS: Senators: BELLOWS, BREEN, CARPENTER, CARSON, CHENETTE, CHIPMAN, CLAXTON, DESCHAMBAULT, DIAMOND, DILL, GRATWICK, LAWRENCE, LIBBY, MILLETT, SANBORN H, SANBORN L, VITELLI, PRESIDENT JACKSON

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion by Senator **BLACK** of Franklin to **RECONSIDER** whereby the Bill was **PASSED TO BE ENACTED, FAILED.**

PASSED TO BE ENACTED and, having been signed by the President, was presented by the Secretary to the Governor for approval.

Resolves

Resolve, Requiring the Collection of Data on the Marriage of Minors

S.P. 288 L.D. 998

FINALLY PASSED and, having been signed by the President, was presented by the Secretary to the Governor for approval.

Resolve, To Require the Construction of a New District Headquarters Building for the Bureau of Forestry in Fort Kent

S.P. 295 L.D. 1016
(C "A" S-94)

On motion by Senator **BREEN** of Cumberland, placed on the **SPECIAL APPROPRIATIONS TABLE** pending **FINAL PASAGE**, in concurrence.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later Assigned (5/8/19) matter:

HOUSE REPORTS - from the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** on Bill "An Act To Provide Sustainable Funding for Drinking Water and Wastewater Infrastructure"

H.P. 273 L.D. 347

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-206)** (11 members)

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

Tabled - May 8, 2019 by Senator **TIMBERLAKE** of Androscoggin

Pending - motion by Senator **LAWRENCE** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in concurrence

(In House, 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-206).**)

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

Bill **READ ONCE.**

Committee Amendment "A" (H-206) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/16/19) matter:

HOUSE REPORTS - from the Committee on **JUDICIARY** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Explicitly Prohibit Discrimination Based on the Sex of an Individual

H.P. 342 L.D. 433

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-230)** (9 members)

Minority - **Ought Not to Pass** (4 members)

Tabled - May 16, 2019 by Senator **LIBBY** of Androscoggin

Pending - motion by Senator **CARPENTER** of Aroostook to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report in concurrence

(In House, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the **RESOLUTION PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-230).**)