

MAINE STATE LEGISLATURE

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One Hundred and Twentieth Legislature
State of Maine

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House Legislative Sentiments
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If you look at the amendment, it is a tax on Maine consumers. It would be a fee on new cars. As I said earlier, new cars in the State of Maine are going to be mercury free. It is not even an appropriate fee or tax to have in place. Furthermore, a quarter of the new car sales in the State of Maine are not through dealers according to the statistics of the Secretary of State's Office. It is really not even fairly assessed across the board on new car sales. Used car dealers are also assessed a fee, or a tax, in the proposed House Amendment, but more than half of all the used car sales in the State of Maine, year after year, are handled privately. Again, this is an unfairly assessed tax. It would be assessed only on used car dealers and not on private sales.

This amendment would also delay the program for as much as a year and directs the DEP to go through a series of three sets of rulemaking and also has to wait for a long time until we get sufficient funds to actually run a program. This amendment creates a new state bureaucracy, a state administered program and a majority of the committee wants to rely on the private sector to use their ingenuity and efficiencies to run the program. As I said, it is probably going to delay it about a year.

Without this amendment, the original report, the decision on how to pass any costs onto the consumers, should the manufacturers decide to do so, it totally up to the manufacturers. It is not going to be predetermined as the proposed amendment before you does. I ask you to join me in voting for Indefinite Postponement.

Representative DUPLESSIE of Westbrook **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-1073) to Committee Amendment "A" (S-476)**.

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 Indefinite Postponement of House Amendment "A" (H-1073) to Committee Amendment "A" (S-476). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 612

YEA - Ash, Belanger, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Davis, Desmond, Dorr, Dudley, Duplessie, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Haskell, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, Michaud, Mitchell, Murphy T, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Quint, Richard, Richardson, Savage, Sherman, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Trahan, Tuttle, Twomey, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Annis, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Duncan, Dunlap, Estes, Foster, Glynn, Goodwin, Gooley, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Madore, McKenney, McNeil, Mendros, Michael, Murphy E, Muse C, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Rosen, Schneider, Shields, Snowe-Mello, Stanley, Stedman, Tobin D, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Bagley, Baker, Dugay, Duprey, Landry, McGowan, Morrison, Rines, Tobin J.

Yes, 83; No, 59; Absent, 9; Excused, 0.

83 having voted in the affirmative and 59 voted in the negative, with 9 being absent, and accordingly **House**

Amendment "A" (H-1073) to Committee Amendment "A" (S-476) was INDEFINITELY POSTPONED.

Senate Amendment "C" (S-535) to Committee Amendment "A" (S-476) was READ by the Clerk and **ADOPTED.**

Committee Amendment "A" (S-476) as Amended by Senate Amendment "C" (S-535) thereto was ADOPTED.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on Bills in the **Second Reading.**

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-476) as Amended by Senate Amendment "C" (S-535) thereto in concurrence.**

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

The House recessed until 7:20 p.m.

(After Recess)

The House was called to order by the Speaker.

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1057) on Bill "An Act to Amend the Freedom of Access Laws to Protect Security Plans"**

(H.P. 1647) (L.D. 2153)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn
MADORE of Augusta

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Representatives:

WATERHOUSE of Bridgton
SHERMAN of Hodgdon
MENDROS of Lewiston

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The **SPEAKER**: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I will be asking you to vote against the Majority Ought to Pass Report. During the testimony on this bill, one of the parties opposing the bill said that this proposal will serve no purpose and will be unenforceable. The belief that

building plans and security procedures can and should be kept secret is illusionary and would not slow down a person with determination and motive. The other thing that they mentioned in their opposition to this piece of legislation was "it is more important as the principle embodied in the freedom of access law." Once you start down the erosion of this statute, it becomes meaningless. This is another one of those bills in a series of bills to try to address a situation from what happened at the World Trade Center, the anti-terrorism legislation. As we debated a bill to do a similar measure last night, I told you my concerns then. Some of my concerns on this bill is that this bill presumes that we will all be safer if we do not know what the government is doing to make us safe. It presumes that government acts wisest without the dialog with its citizens. I think the bill is not necessary and what good it might do is heavily outweighed by the damage that it does to an open democratic society.

As I mentioned last night on some other legislation, if we surrender more of our public right to know and government accountability, then we surrender to our fears for a false sense of security and the terrorists, whoever they may be, will have won that battle. I, for one, hope you are not willing to give in to that. If I might just make one quote from a person long ago, 225 years ago, Patrick Henry, "The liberties of a people never were nor ever will be secure when the transaction of their rulers may be concealed from them." I hope you will vote against this pending motion.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative LAVERDIERE: Mr. Speaker, Men and Women of the House. This bill is the product of some hard work on the part of the Judiciary Committee to try to narrow down a very difficult area. I think the committee did a very good job working on this. If you look at the amendment, what you will see is that we are trying to get at those situations where, for instance, the State of Maine has done a risk assessment, either at the request of private business or at the request of the state to determine those areas that are potentially subject to acts of terrorism. The risk assessment is done and provided to that company or provided to the state so that they can prepare appropriate measures to deal with that. The one thing that companies and the state don't want to do is find out that a company that owns or operates an oil facility in South Portland or a nuclear power station in Wiscasset or some other facility anywhere in the state, if they ask the state to come in and help them with that risk assessment, the one thing that they don't want to do is see that entire risk assessment including their own vulnerable places on the internet somewhere so that anybody that wants to can look to see exactly where that company is vulnerable to attack. That is all we are trying to get at.

The amendment before you has been looked at by the Maine Press Association and it has been worked on by the ACLU and in both cases they are satisfied that there are sufficient protections here so that we are not going to be creating civil liberties issues. This is a measured and appropriate way for us to make sure that our most vulnerable facilities, the vulnerability of those facilities are not advertised.

At my request this bill was amended so that the information will be made available to the Legislature or to the governing body or the officials of that municipality if done on a municipal level. The Legislature will have access to that information and can make sure that, in fact, information is not being hidden from the public that should be made available to the public. This is an extremely limited bill. It is an appropriate bill. It safeguards all of us and I would ask that you support the Majority Ought to Pass as Amended Report.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I serve as the vice-chair on the advisory commission for radioactive waste and decommissioning. Part of the area we oversee is the activities that are taking place at the Maine Yankee Atomic Power Plant. We have had meetings to discuss the events of September 11. We have not reviewed the state's specific plans to protect that facility. What we have done instead is be sure we have the right people and the right jobs at Maine Emergency Management and the right people with the National Guard and having confidence in these people that they can tell us not to worry, we think it is okay. I know they have done this kind of work. I am speaking for the commission when we last talked about this. Do we want to have this stuff come out in a public hearing or even in Executive Session? We said no. Although we have not asked the commission to discuss this particular legislation, I would like to say that in the spirit of what we discussed when we dealt with this issue, it would be my expectation that they would strongly be in favor of the Majority Ought to Pass Report on this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. When our founding fathers said, I believe it was Jefferson, "Anyone who would sacrifice freedom for security deserves neither." Terrorists don't file a freedom of information act to find out what the security is like in an airport or what security is like in a state building. They go in. They stake the place out and they attack. We are sacrificing our rights as citizens to find out what is going on, to find out any information that could be labeled as important to a security plan be given out so that the freedom of information act no longer applies. We don't gain any security by doing it. The terrorists aren't going to file for the freedom of information act. As a matter a fact, if a terrorist does file a freedom of information act, then we know who it is that filed and then we can change our security plan. If they were to do it, we would actually be better off. They don't. They stake the place out, the find our security and then they breach it. All we are doing is taking away a tool that can be used by honest citizens who want to know, people who want information to keep their government safe. We are sacrificing freedom for security and gaining neither. I urge you to defeat the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Norbert.

Representative NORBERT: Mr. Speaker, Ladies and Gentlemen of the House. I sponsored this bill for the administration. I first want to begin by saluting the Judiciary Committee, which worked extremely hard on this through a couple of work sessions to address the very concerns that were raised last night on another related piece of legislation. This is quite different. It is very reasonable. I encourage you to take a look at the new amended language. What it does is it simply shields security plans that have been designed to address terrorist threats only from public disclosure. I think if you want to weigh the balance here, I don't think there is much of a sacrifice of our freedoms here, but rather it is a very common sensible approach to protecting the citizens we represent. I really don't think there is a compelling interest to have free disclosure of plans that have been designed and risk assessments of some of our most vulnerable private and public places in this state. I do not think there is a compelling interest to have full and complete access to it. If access needs to be had, as was mentioned by the

good chair of the committee, there is a provision in here to allow for the review of such documents by the local municipalities and legislative bodies. Currently on the books it is law enforcement agencies who are exempted from this freedom of information act. What this is is that it should be extended. Again, I really want to thank the committee for all their hard work. I just ask you to consider who it is we are here to represent and protect and what it is that is being sacrificed here. I say that exempting the security plans from terrorists is the higher call for us to do. I think there are good safeguards in here. I strongly encourage you support this reasonable measure to protect Maine's citizens.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

A vote of the House was taken. 82 voted in favor of the same and 18 against, and accordingly the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1057)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1057)** and sent for concurrence.

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 yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act to Amend the Motor Vehicle Laws"

(H.P. 1406) (L.D. 1844)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941) AND HOUSE AMENDMENT "A" (H-1009)** on March 26, 2002.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941) AS AMENDED BY SENATE AMENDMENT "A" (S-524)** thereto in **NON-CONCURRENCE**.

TABLED - April 2, 2002 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING - FURTHER CONSIDERATION.

Representative FISHER of Brewer moved that the House **RECEDE AND CONCUR**.

Representative WHEELER of Bridgewater **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

The **SPEAKER**: The Chair recognizes the Representative from Bridgewater, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. The other day we sat here and put an amendment on this bill that does several things. The thing that I was concerned about was the increase in fees for the sand and gravel people, truck weights and others who had to deal with overheight and overweight loads. On the low end it went from \$3 to \$6 and from the high end it went from \$15 to \$30. It brought in in the first year some \$279,000 and the second year it was about the same. You figure that out and there is a lot of people who are doing odd jobs around the State of Maine, your constituents and my constituents, that have to get these one-way permits. We voted the other day by a big margin, 80 to 60, to put the amendment

on. It went down to the other body and it was taken off. I would ask that you defeat the pending motion so that we can go on to Insist and Ask for a Committee of Conference. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Mr. Speaker, Men and Women of the House. I know that Committee of Conferences are not generally successful. Let me tell you some of the things that don't happen. Those of you who are concerned for the veterans, the \$5 fee on veterans plates will not be removed. The spouses of veterans who die lose their veterans plates. They will continue to lose their veterans plates. The Goodwill Auto Donation Program where folks who are indigent and trying to get back to work and get off the welfare rolls will be hindered by language in the present law. There are provisions for canceling driver's licenses will not be changed. Presently if you decide you are not able to drive anymore and surrender your driver's license, it is called a suspension, which looks bad on your records. Road exams for motorcycles will stay as they are instead of being improved by present language. Removal of social security numbers from non-driver's lds will not occur. Many things will not occur.

The point that my good friend from Bridgewater mentioned, the special permits, he is right, there are a good number of people who use these special permits. Last year it was 35,000, which is an increase of 70 percent from fiscal years 95 to 99. The suggestion that these fees are excessive, well Vermont's fee is presently \$20, New York's fee \$40, Connecticut's fee \$23, Massachusetts has a \$15 fee, but the truck weight also must be registered at actual weight, New Hampshire, its rates are about the same as ours, but there is a \$2 fee for each additional 10,000 pounds. The Maine Overload Limit Fee generates about \$350,000, which barely pays for the cost of administering that fee. It does not pay for the cost of enforcement. It does not pay for the damage caused by these often grossly overweight trucks on the highway.

I would hope that you would not jeopardize all of the things in this bill by Adhering. I would hope that you would follow my light on the Recede and Concur motion. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Bridgewater, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I agree wholeheartedly with the good Representative from Brewer, Representative Fisher on the other items of this bill. That is exactly why we need a Committee of Conference to protect those issues. I think it is very important that we do not raise these fees on these people that are out there trying to make a living. We already hit this industry with other fines, tripling them in some cases and putting a burden on them is uncalled for. I wish that you would follow my light. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Recede and Concur. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 613

YEA - Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bull, Bunker, Canavan, Chick, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Michaud, Mitchell, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Pineau, Povich, Richard, Richardson, Rines, Savage, Simpson, Smith,