

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eleventh  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**FIRST REGULAR SESSION**

**December 1, 1982 to May 13, 1983**

Which was Read a Second Time and Passed to be Engrossed as Amended.  
Sent down for concurrence.

#### Enactors

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

An Act to Revise the Charitable Solicitations Law. (H. P. 852) (L. D. 1102)

An Act to Provide the Department of Transportation with the Ability to Collect Rents on Acquired Properties. (H. P. 813) (L. D. 1053)

An Act to Allow the Department of Educational and Cultural Services to Administer the Child Nutrition Program in Private, Nonprofit Schools. (H. P. 772) (L. D. 1002)

An Act to Require Persons being Licensed to Hunt for the First Time to have Completed a Gun Safety Course. (H. P. 168) (L. D. 199)

An Act Relating to the Capitalization and Board of Directors of the Maine Fidelity Life Insurance Company. (H. P. 260) (L. D. 320)

An Act to Reestablish the Time for Announcing a Shorter Deer Season. (S. P. 304) (L. D. 918)

An Act to Change References to the Public Utilities Commission in the Transportation Statutes (S. P. 360) (L. D. 1081)

An Act Relating to Clam Regulation in the Unorganized Territories (H. P. 908) (L. D. 1187)

An Act to Amend the Maine Coastal Protection Fund (H. P. 993) (L. D. 1303)

An Act to Prohibit Smelting on Morrill Pond in Somerset County (H. P. 995) (L. D. 1305)

An Act to Authorize Easements for the Purpose of Sewage Disposal and to Eliminate Undersized Rights-of-way on Certain Leased Lots Owned by the Town of Bridgton (H. P. 1079) (L. D. 1425)

Which were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act to Make Confidential Certain Documents of the Maine Human Rights Commission (H. P. 1156) (L. D. 1526)

Which was Passed to be Enacted, and having been signed by the President, was the Secretary presented to the Governor for his approval.

An Act Concerning Public Easements for Access to Harvested Lands and Cemeteries. (S. P. 326) (L. D. 971)

On motion by Senator Pray of Penobscot, Tabled for 2 Legislative Days, pending Enactment.

An Act Concerning the Distribution of Table Wines. (H. P. 833) (L. D. 1070)

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate, with reference to L.D. 1070, through the cooperation of the Director of Alcoholic Beverages and the parties concerned, there has been an agreement reached with regard to this piece of Legislation, and I would like to read a portion of a letter from the Director, which I received this morning, and after that, I would make a motion.

"The Bureau is willing to grant permission to a retail licensee to purchase wine from other wholesalers when the licensee can demonstrate that he/she has had difficulty with the wholesaler assigned the exclusive territory in his area. The Bureau would rather resolve problems administratively rather than weaken what is considered one of the finest franchise statutes within the Country."

Mr. President, Ladies and Gentlemen of the Senate, I concur with this letter, and would say that through the cooperation of the Director and some of the other people who were involved, we were able to reach amicable agreement which would address the problems of

several of my constituents; and therefore, would move the Indefinite Postponement of this Bill and all its Accompanying Papers.

The PRESIDENT: The Senator from Hancock, Senator Perkins moves that L.D. 1070 and all Accompanying Papers be Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President, I would direct a question to the good gentleman from Hancock, Senator Perkins relative to a clarification of the words "has had difficulty", and would hope that for the Record we could expand and/or define that somewhat. Thank you, Mr. President.

The PRESIDENT: The Senator from Cumberland, Senator Clark has posed a question through the Chair to the good Senator from Hancock, Senator Perkins who may respond if he so desires.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, Ladies and Gentlemen of the Senate, with regard to this agreement, the difficulty which we would be addressing would be price, availability, selection, minimum quantities required for delivery, and matters which with regard to doing business in a generalized manner with regard to distribution of table wines.

On motion by Senator Perkins of Hancock, L.D. 1070 and all its Accompanying Papers was Indefinitely Postponed, in concurrence.

An Act to Provide Cost-of-living Adjustments to Retired State Employees, Teachers and Beneficiaries (H. P. 1142) (L. D. 1507)

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President, in respect to L.D. 1507, and in the absence of the Chairperson of the Appropriations Committee, I move that this item be placed on the Special Appropriations Table.

The PRESIDENT: The Chair would have to state that the Senator has debated a Tabling motion.

On motion by Senator Pray of Penobscot, placed on the Special Appropriations Table, pending Enactment.

An Act Requiring Motorists to Protect Children in Motor Vehicles by Use of Approved Child Safety Seats (H. P. 1149) (L. D. 1514)

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, this Bill, "An Act Requiring Motorists to Protect Children in Motor Vehicles by Use of Approved Child Safety Seats" has gone through the Legislature without any debate.

I have a few questions about the Bill and how it would be implemented, and how it would work. If you're a grandparent and you're taking four children, under four years of age in your car, and you had your wife with you, so you have six people in a five passenger car, probably that's illegal too, I don't know, where would you put the fourth child? The floater, as it's called? You only had room for three safety seats in the rear of the automobile. The fourth one would, as we call them floaters, aren't secure.

I don't really like these bills that go and tell parents how to use their children. I'm one of those that probably don't care about their children if they get stove up in an automobile, and that we have to look out for people like me; we have to make laws so that I'll abide by these things and my children will be safe, and probably I don't care about my grandchildren, either.

I think that I have a bit of, I'm a bit responsible when it comes to taking care of my children, my grandchildren and I don't think I need the State Legislature to tell me everything, every way you have to do it.

Possibly, if this Bill had been really as worthy as we've been made to think it is, I'm sure Washington would have taken care of this problem; they've taken care of the bumpers, they've taken care of the shocks, the seatbelts, and safety glass, and safety tires, and everything else. Certainly, if Washington couldn't see their way clear to pass this Legislation, there must be some reason they didn't.

In the winter when it is about 30 below zero and you take the children out in the automobile and the heater only heats the front seat, they're going to have a real nice trip if you go about fifty miles or a hundred miles in the back seat, freezing. They can't get into the front seat because they can't be secured in a seat restraint.

I really think that we could trust the parents of the children, at least another year, and I'm sure most of them—last year this Bill started I was having a warning and this is about where I felt it would windup this year. You give the warning the first year and the next year you put the fine on the people, make it mandatory.

Mr. President, I would ask for a Division on the Enactment.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator DIAMOND: Thank you, Mr. President, Men and Women of the Senate, this Bill has, as the Gentleman from Waldo County, Senator Shute has indicated sailed along pretty well because, for several reasons; number one, we had a very very good hearing on this; well attended by Legislators, as well as, well attended by the public.

We had an awfully good discussion on both sides of this, in fact, the proponents were obviously in the majority. We only had one or two. I think, people spoke against it, and they spoke against it because of logistic concerns. We are not the first to entail such Legislation, there are twenty-three states that have passed this type of Legislation. Twenty-three! So it's not a new idea, it's not a new idea to Maine, nor is a new idea to this Nation.

The concern that's been brought up, most of the time, why this was needed and why this law needs to be passed was because most accidents are simple fender benders. Most accidents are not the spectacular two or three car crashes that you see. Most of them are not. We were told that and most of us know that any way, if you look at the data.

You see a fender bender, or a quick stop for a light, any sudden stop, a one-year-old, or a two-year-old, or a three-year-old that is standing up, becomes a projectile, and that youngster starts throwing towards the front. If you want to understand what that is like, you just need to have a car going twenty miles an hour, slam the breaks on quickly, and you imagine that child going until it stops and the reason it stops is because that that child hits the windshield, the dashboard or any of those instruments on the dashboard, and that's why this law is needed.

We were shown at the hearing, data after data, examples after examples, how just this seatbelt and safety seat would save so many injuries, and yes even so many lives.

The Governor's Office has been very helpful in this Bill, has provided us the data, and also provided us with solutions for paying, and getting funds, Federal Funds, for seats. The Maine Automobile Association and several others spoke to us at the hearing. There's been several volunteer groups that have offered to provide seats for those who cannot afford them. We have five or six thousand seats just waiting out there to be used. I think we've covered most of the areas of concern. We tried to do that, knowing full well this had to be practical as well as wanting in our hearts to get passed. So I guess that I would stop at that point, answer any questions anyone might have, but I think we've touched all the real basis in trying to solve the problems. Thank you very much.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Enactment, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

21 Senators having voted in the affirmative, and 9 Senators in the negative, the Bill was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

An Act to Establish a Workers' Compensation Hearing Exemption for Agricultural Employers' Liability Insurance Claim Disputes. (S. P. 358) (L. D. 1079)

Comes from the House, Indefinitely Postponed.

On motion by Senator Dutremble of York the Senate voted to Suspend its Rules.

On motion by Senator Dutremble of York the Senate voted to Reconsider its action whereby LD 1079 was Passed to be Engrossed.

The PRESIDENT: The Senator has the floor. Senator DUTREMBLE: Mr. President, I now offer Senate Amendment "A" under filing number S-98 and move its Adoption.

The PRESIDENT: The Senator from York, Senator Dutremble offers Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-98) was Read and Adopted.

Which was Passed to be Engrossed, as amended, in non-concurrence.

Sent down for concurrence.

RESOLVE, Authorizing the Exchange of Certain Public Lands. (H. P. 1008) (L. D. 1333)

Which was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### Emergency

An Act to Amend Special Education Statutes Pertaining to the Filing of Allowable Expenditures by Special Purpose Schools, Agencies or Institutions. (H. P. 856) (L. D. 1106)

This being an emergency measure and having received the affirmative votes of 30 Members of the Senate, with No Senators having voted in the negative, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### Orders of the Day

The President laid before the Senate the first Tabled and specially assigned matter:

SENATE REPORTS—from the Committee on Labor on BILL, "An Act to Prohibit Residence Requirements for Municipal Employees" (S. P. 61) (L. D. 167) Ought to Pass as Amended by Committee Amendment "A" (S-90).

Tabled—May 5, 1983 by Senator PRAY of Penobscot.

Pending—Acceptance of Committee Report.

On motion by Senator Pray of Penobscot, Retabled for 2 Legislative Days.

The President laid before the Senate the second Tabled and Specially assigned matter:

BILL, "An Act to Amend the Obscenity Laws" (S. P. 477) (L. D. 1438)

Tabled—May 5, 1983 by Senator CARPENTER of Aroostook.

Pending—Enactment.

(In House April 29, 1983 Passed to be Enacted)

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President. Mr. President and Ladies and Gentlemen of the Senate, as every member of this Chamber is aware this Bill has been sitting on the table for some time.

Several individuals have been reviewing the Legislative proposal and had expressed some concerns to me. I feel that they are concerns

that should be addressed. Yesterday I had asked Senator Carpenter to table this Bill for the opportunity to allow some amendments to be distributed for consideration.

Now to be able to offer those amendments, of course, we would have to Suspend the Rules, and have Reconsideration. Thus to do so, I think that each and every one of you should understand the intent of that Reconsideration or Suspension of the Rules for amendment, as well as Reconsideration.

It would be my intent that we address, what I consider to be possibly some concern in reference to changing the balance of our punishments that are established in the Maine Criminal Code. Although this Bill is not part of the Criminal Code it uses Criminal Code punishment classification for its enforcement.

Under the existing laws which prohibit dissemination to minors of obscene material the penalty is a Class "D" crime. This punishment, Class "D" violation provides for up to one year in jail and/or a fine of up to one thousand dollars for individuals and five thousand dollars for partnerships, cooperations and other entities.

The New Draft upgrades the punishment to a Class "C" crime. This makes a violation punishable by imprisonment up to five years and allows the imposition of fines of up to twenty-five hundred dollars for individuals, and up to ten thousand dollars for cooperations, partnerships and other legal entities.

Now the effect of this upgrading is readily apparent that it throws out to some individuals' perspective, and perhaps mine as well, it throws out of balance the schemes of punishment and what we consider, I think, an equity of our laws.

This New Draft if enacted without amendment would provide that any individual under the age of eighteen that distributes obscene material to a minor, then could be thrown in prison up to five years, and could have that fine of up to twenty-five hundred dollars. I have some legitimate questions and concern about an individual who perhaps is not eighteen, but close to that age that may upon his own provide or make the opportunity available that he, himself seeking the material, is then not the individual himself guilty? Do we want to punish them to the degree of a maximum penalty of five years in prison and the fine that goes along with it?

I had noted looking through the Criminal Code some of the other penalties that we have for other crimes in a related manner that we would make more serious or that is presently a Class "D" crime, for an example we are concerning ourselves with the passing out of obscene materials to these individuals yet we have a number of laws which are Class "D". The abandonment of a child or a minor, the endangering of the welfare of the child is a Class "D" crime, incest is a Class "D" crime, but if we distributed, or if someone distributed obscene material we are going to make it a Class "C" crime.

It would be my hope that we could back this Bill up and amend it to address perhaps what the problem maybe. If there is a problem out in society; which I know that we all would prefer not to see this event occurring, but I have not heard a great outcry that it is occurring. So I question the sincerity of making this penalty as harsh as we are proposing to make it in this instance.

The amendment which I would like to offer, in a few minutes, would provide that a minor is under the age of eighteen that it would be a Class "C" offense, if the minor is younger than fourteen years of age or younger, which is used in various sections of the law, then we would make it a Class "C" penalty as proposed in here, and we would, also, provide a Class "C" punishment for repeat offenders. I would hope that we would not at this time enact this Bill so we could reconsider.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, and would ask for what purpose does the Senator rise?

Senator TRAFTON: I rise to raise a point of order, I question whether or not it is appropriate to discuss an amendment that is not before us at the present time.

The PRESIDENT: The Chair would state that present status of the Bill is that it is presently before Enactment. That the rules would have to be Suspended for the Senator from Penobscot, Senator Pray to debate the amendment, but we are presently discussing the Enactment of the Bill.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, I move that the Rules be Suspended.

The PRESIDENT: The Senator from Penobscot, Senator Pray moves that the Rules be Suspended.

The Chair recognizes the Senator from York, Senator HICHENS.

Senator HICHENS: Mr. President, I rise in objection to Suspension of the Rules.

The PRESIDENT: In order for the Senate to Suspend its Rules it must take two-thirds of those present and voting.

Will all those Senators in favor of the Suspension of the Rules, please rise and remain standing until counted.

Will all those Senators opposed, please rise and remain standing until counted.

16 Senators having voted in the affirmative and 12 Senators in the negative, the motion to Suspend the Rules, Failed.

The Chair recognizes the Senator from Kennebec, Senator BUSTIN.

Senator BUSTIN: Mr. President, I move that this Bill and all of its accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Kennebec, Senator Bustin moves that LD 1438 be Indefinitely Postponed.

The Chair recognizes the Senator from York, Senator HICHENS.

Senator HICHENS: Yes, Mr. President, I ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the motion by the Senator from Kennebec, Senator Bustin that LD 1438 and all accompanying papers be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Baldacci, Bustin, Charette, Clark, Hayes, Wood, The President—Gerard P. Conley.

NAY—Brown, Carpenter, Collins, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hichens, Kany, McBrearty, Minkowsky, Pearson, Perkins, Pray, Sewall, Shute, Teague, Trafton, Twitchell, Usher, Violette.

ABSENT—Najarian, Redmond.

A Roll Call was had.

7 Senators having voted in the affirmative and 24 Senators in the negative, with 2 Senators being absent, the motion to Indefinitely Postpone, Failed.

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: I would request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from York,