

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 2, 1995 to June 16, 1995

(In House, May 10, 1995, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-112).**)

(In Senate, May 11, 1995, Reports **READ.**)

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

Senator **RAND:** Thank you Mr. President, Men and Women of the Senate. I would move to reject the Ought Not to Pass report so that we can pass the Ought to Pass as Amended Report of the Committee. What this bill does is to ensure that State monies that are given to non-profit agencies are used for the purpose they are given for. It came to the attention of one of our elected Representatives, who at one time worked as a State Auditor, when she was auditing a particular non-profit, she came across a \$10,000 expenditure, which she could not immediately account for. After investigating, it was found that \$10,000 was used to attempt to prevent the organization of a union in that particular facility. What this bill, as amended, does is to prevent the use of funds for any reason, other than the monies that were actually given by the State to the agencies for. So, I would hope that you would reject the Ought Not to Pass, so that we can go on and pass this bill. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President. The incident mentioned, according to the situation as presented, is but one. The bill, if it were passed, would create all kinds of bookkeeping horror stories. It doesn't appear to me, or the majority of the Committee, that it is necessary in that fashion at all. Most of the business people would almost definitely find that it would be almost impossible to handle the situation in any fashion.

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

Senator **MCCORMICK:** Thank you Mr. President, Men and Women of the Senate. I rise, briefly, on this bill because I am the director of a non-profit, and it would never even occur to me; the rules that we have to abide by, the Maine Accounting Practices Act, et cetera, are so strict that, clearly, this should never have been done. This, to me, is a good government bill. It cleans up a loophole. The funds are given for very specific purposes and it should be made clear that public monies, that taxpayers give, shouldn't be used against lawful activity by those same taxpayers. Especially when the money was given for either job training, as it is in my case, or serving the homeless or funding a food bank. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BEGLEY** of Lincoln that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator **BEGLEY** of Lincoln to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Require All Persons to Use Safety Belts in Motor Vehicles"

S.P. 77 L.D. 165
(C "A" S-91)

In Senate, May 2, 1995, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-91).**

Comes from the House with the Bill and Accompanying Papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **PENDEXTER** of Cumberland, the Senate **RECEDED**.

Senator **KIEFFER** of Aroostook moved that the Senate **CONCUR**.

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

Senator **PENDEXTER:** Thank you Mr. President. I would urge members of this body to vote against the pending motion to Concur so that we may position this bill in a way with an amendment that I feel will pass muster in both bodies. So, I would ask you to please vote against the pending motion, and I request the yeas and nays.

On motion by Senator **PENDEXTER** of Cumberland, 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 Penobscot, Senator O'Dea.

Senator O'DEA: Thank you very much Mr. President, Men and Women of the Senate. I would urge you to support the motion on the floor. If this body wanted to move this bill into a posture where it could be amended, and I think, having looked at the amendment I know what it is, then what we would be doing is moving the bill to a point where it would no longer be a bill that provides for primary enforcement of the seat belt law. I guess, if you are one of those people who found the arguments of the proponents of the bill compelling, and who thought that the cost savings that would result from passing the bill, outweighed the concerns that were raised about the level of intrusion in people's lives by their government, than I would think that the amendment that will be up will substantially alter that balance. Because, as we heard in testimony during the last discussion on this bill in this chamber, it's the primary enforcement that really reaps the savings. If you are to believe in the premise at all, that seat belt laws are a good thing. I would suggest that if we really find that argument to be so attractive, that we really must have these cost savings, then what we should probably do is keep the bill in its present form, to allow for the most effective level of enactment. I don't think that there is anyone here who would really want to pass this bill, and have all of the negative ramifications of it, and not have any of the positive benefits. I still, in thinking back over the long campaign season that I endured last year, and the campaign season that many of us endured, I can't remember one constituent who came up to me and said, "Please pass another law that will result in me getting a summons to go to District Court." I just can't think of one constituent. I'm sure some people had them, but I don't have many in my district. I find this move to unweight this bill to be a little questionable at this time and I would urge you to support the main motion.

THE PRESIDENT: The Chair would remind members of the body that the motion before the body is Concurrence. The amendment is not before the body. If we could focus our comments on the motion to concur. The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator CAREY: Thank you Mr. President. I would, if I could, direct a question through the Chair, after a remark that I might want to make. I would ask, if I may, a question of the Senator from Penobscot, Senator O'Dea. How many states have a primary law, and how many states have a secondary law? When he spoke about us being intrusive into people's lives, apparently we can only be intrusive into people's lives as long as they are nineteen years old or younger.

THE PRESIDENT: The Senator from Kennebec, Senator Carey, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator O'DEA: Thank you Mr. President, Men and Women of the Senate. I was sitting here looking for that information just a few minutes ago. I do not have it here, but there is a good mix of states that have primary and secondary enforcement laws. As was brought up the other day, in the discussion on this

bill, there are a substantial number of states that have seat belt laws, 48 or 49. I think it is important to also consider that right now, in the United States Senate, a subcommittee of the Transportation Committee, is working on ways to get the federal government out of the business of mandating seat belt laws, and a number of other onerous provisions that affect several states also. I don't think that there is a whole lot to be gained by picking this up right now, on the tail end of what, hopefully, will be the end of federal involvement of things that are fairly state issues.

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

Senator PENDEXTER: Thank you Mr. President, Men and Women of the Senate. I will try to adhere to the rules to discuss the Concur motion. We tried to pass the best law that we could, and I think it is becoming obvious that we will have to pass a law that is acceptable. There is nothing wrong in doing that, a majority of states have the type of law which we hope to get this bill into position to look like. Most states have passed those types of laws. There is movement, however, amongst the states to change their laws to be primary enforcement. I still say, no matter what type of legislation we pass, you automatically get a 20% usage rate out there, because there is 20% of the population out there just waiting to be told to wear their seat belts. It doesn't matter what type of enforcement we have on our laws. So, even though this is not the best we could do, it is certainly very acceptable. I just remind people in this Senate that this is a safety issue. This is a highway safety issue. Thank you.

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

Senator HARRIMAN: Thank you Mr. President. Good afternoon Ladies and Gentlemen of the Senate. I rise, in hopes that you will join me and my good colleague from Cumberland, Senator Pendexter. To me it is very difficult to understand why this bill would not receive your support. This is a life saving measure. The action we may take today will, indeed, save lives. If you will join me in supporting the good Senator from Cumberland, we will also be sending a message to those people who respond to 1055's and 1099's. For those of you who aren't familiar with these codes, they are the codes used by rescue personnel, firemen, police, and emergency room people. In my own personal experience, before having the honor of serving here in the Senate, I was a lieutenant in a volunteer fire department for eight years, and responded to more 1055's, car accidents, than I care to remember. Unfortunately, many of them also came with a request to respond to a 1055, possible code 99, which means potential fatality. After spending many long nights and weekends helping extricate people from vehicles involved in car accidents, I can assure you that the people who were not wearing their seat belts were the ones who were hurt more severely than others. This is a life saving device for our citizens, for their families, and for our emergency personnel. I hope you will join me in supporting the good Senator from Cumberland, Senator Pendexter. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Mr. President. I think we have heard this same bill for some time now, and I have no intention of getting into debating the merits of the bill as to whether it saves lives or not. I have been in the insurance business all of my life, and I have seen people killed wearing seat belts, and I have seen them killed when they were not wearing seat belts. It seems to me they were equally as dead. I did hear the people tell me to stop passing regulations, first of all, that are totally unenforceable. They say no more government regulations, and that is exactly what this is, again. How many times do we have to be told this by the public that sends us down here, to stop overburdening them with government regulations? I just can't support this and I won't be supporting any other regulations that are burdening the public and are basically unenforceable. Thank you Mr. President.

The President noted the absence of Senator **BERUBE** of Androscoggin, and excused her from today's Roll Call votes.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **KIEFFER** of Aroostook to **CONCUR**.

A vote of Yes will be in favor of **CONCURRING**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: **BEGLEY, BENOIT, CARPENTER, CASSIDY, FERGUSON, HALL, HANLEY, HATHAWAY, KIEFFER, LORD, MICHAUD, O'DEA, SMALL, and the PRESIDENT, Senator BUTLAND**

NAYS: Senators: **ABROMSON, AMERO, BUSTIN, CAREY, CIANCHETTE, ESTY, FAIRCLOTH, GOLDTHWAIT, HARRIMAN, LAWRENCE, LONGLEY, McCORMICK, MILLS, PARADIS, PENDEXTER, PINGREE, RAND, STEVENS**

ABSENT: Senators: **CLEVELAND, RUHLIN**

EXCUSED: Senator: **BERUBE**

Senator **ABROMSON** of Cumberland requested and received Leave of the Senate to change his vote from **YEA** to **NAY**.

14 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 2 Senators being absent and 1 Senator having been excused, the motion of Senator **KIEFFER** of Aroostook to **CONCUR, FAILED**.

On motion by Senator **PENDEXTER** of Cumberland, the Senate **RECEDED** from its action whereby it **ADOPTED** Committee Amendment "A" (S-91).

On further motion by the same Senator, Senate Amendment "A" (S-135) to Committee Amendment "A" (S-91) **READ**.

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

Senator **PENDEXTER:** Thank you Mr. President, Men and Women of the Senate. This is the amendment that reduces the enforcement to secondary enforcement, instead of primary. I had a chance to look through my notes. The question asked earlier was how many states had primary and how many had secondary enforcement. There are 14 states that have primary enforcement. The rest of the states tend to pass secondary enforcement laws. As I mentioned before, the best law that we could pass definitely would have primary enforcement, there is no question that that sends out a more positive message. It says that we are serious about people developing the habit of buckling up, however, a secondary enforcement bill is certainly very acceptable. As I had mentioned, it certainly gets to the root of getting people to develop the habit of wearing their seat belts. I hope you will look favorably upon this amendment. I feel that it positions the bill in a way that it will be acceptable and hopefully, we will be able to enact it. Thank you.

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

Senator **BEGLEY:** Thank you Mr. President. Very briefly, my point to all of you, once again, is please give me a choice. You are talking about accidents, the law, the point of my choice, as an adult, in leading my life. You are letting the insurance companies off the hook, and that is where it belongs.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **PENDEXTER** of Cumberland to **ADOPT** Senate Amendment "A" (S-135) to Committee Amendment "A" (S-91).

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

17 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **PENDEXTER** of Cumberland to **ADOPT** Senate Amendment "A" (S-135) to Committee Amendment "A" (S-91), **PREVAILED**.

Committee Amendment "A" (S-91) as Amended by Senate Amendment "A" (S-135), thereto, **ADOPTED**.

Which was **PASSED TO BE ENGROSSED, As Amended in NON-CONCURRENCE**.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

COMMITTEE REPORT

House

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Provide a Cost-of-Living Adjustment to Minimum Wage Earners"

H.P. 206 L.D. 265

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

BEGLEY of Lincoln
MILLS of Somerset

Representatives:

JOY of Crystal
JOYCE of Biddeford
LEMAIRE of Lewiston
PENDLETON, JR. of Scarborough
STEDMAN of Hartland
WINSOR of Norway

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-68)**.

Signed:

Senator:

RAND of Cumberland

Representatives:

HATCH of Skowhegan
CHASE of China
SAMSON of Jay
TUTTLE, JR. of Sanford

Comes from the House with the Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

Which Reports were **READ**.

Senator **BEGLEY** of Lincoln moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Senator **LAWRENCE** of York requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BEGLEY** of Lincoln that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **BEGLEY** of Lincoln to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Senate at Ease

Senate called to order by the President.

Senator **CARPENTER** of York was granted unanimous consent to address the Senate off the Record.

On motion by Senator **BUSTIN** of Kennebec, **RECESSED** until 4:30 o'clock in the afternoon.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORT

House

Divided Report