

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Seventeenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

**House of Representatives**  
May 24, 1995 to June 30, 1995

TABLED - May 18, 1995 by Representative CLOUTIER of South Portland.

PENDING - Final Passage.

Subsequently, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

SENATE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (S-115) - Minority (3) "Ought Not to Pass" - Committee on Taxation on Bill "An Act to Create an Income Tax Stabilization Program" (EMERGENCY) (S.P. 98) (L.D. 238)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-115).

TABLED - May 23, 1995 (Till Later Today) by Representative DORE of Auburn.

PENDING - Motion of same Representative to accept the Minority "Ought Not to Pass" Report.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative DORE of Auburn to accept the Minority "Ought Not to Pass" Report and later today assigned.

Bill "An Act to Authorize Certain Employees of the Department of Corrections to Use Deadly Force" (S.P. 454) (L.D. 1250) (S. "A" S-149 to C. "A" S-133)

TABLED - May 23, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Engrossed.

Subsequently, the Bill was passed to be engrossed in concurrence.

An Act to Require All Persons to Use Safety Belts in Motor Vehicles (S.P. 77) (L.D. 165) (H. "A" H-181; S. "A" S-135 to C. "A" S-91)

TABLED May 23, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage to be Enacted.

On motion of Representative LIBBY of Buxton, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 165 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-91) as amended by Senate Amendment "A" (S-135) was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "A" (S-135) was adopted.

The same Representative moved that Senate Amendment "A" (S-135) be indefinitely postponed.

The Chair ordered a Division on the motion to indefinitely postpone Senate Amendment "A" (S-135).

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Obviously, I urge the House to defeat the motion to indefinitely postpone and may I pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative O'GARA: To the Representative from Buxton, would the Representative from Buxton like to explain the purpose, the reason for asking for this to be indefinitely postponed.

The SPEAKER: The Representative from Westbrook, Representative O'Gara has posed a question through the Chair to the Representative from Buxton, Representative Libby. The Chair recognizes that Representative.

Representative LIBBY: Mr. Speaker, Men and Women of the House: Seat belt advocates want us to buckle up and I can understand their position. Yet, it doesn't make too much sense at this point, they don't want primary enforcement in the referendum, because they don't think the voters will vote for it. They don't think the voters will buy it, that's why you saw Senate Amendment "A" go under the hammer. You can't have it both ways. If you want seat belt usage up, then let's vote for primary enforcement in the referendum. I don't go along with adding passive enforcement to the debate just because the seat belt advocates think they have a better chance of it passing out there by the voters.

By adding this amendment, seat belt advocates are admitting that Mainers aren't going to vote for this very easily. Last week this body approved a seat belt measure that would go to the voters. A measure that we all voted on and it included what's called primary enforcement, that means that the police could pull you over and give you a summons if you don't wear the belt. Later under the hammer, the Senate Amendment changed this body's position from primary enforcement to passive enforcement, i.e. no summons, unless you are pulled over for another reason. I tried to approach this the right way, rather than object, I tried to have the bill, after it had gone under the hammer, I tried to have the bill held for reconsideration, but I was told that it had been sent forthwith so that is the reason I requested that the rules be suspended here.

In conclusion, I'm kind of surprised to be challenged on this motion, nobody has been challenged before. It's kind of a courtesy that we've been given. I realize this is an important matter and so I can understand the challenge, but I hope that you will support letting the people decide on a real seat belt law, either one with enforcement or one without. I think it should go to the voters that way. I would appreciate your consideration here.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I would try to be as calm in responding to the comment about the common courtesy regarding the move to indefinitely postpone by simply pointing out that the House, in fact, the Chair of the Committee on Transportation was not given any discussion of the amendment, whatsoever, before hand. Enough about that.

Ladies and gentlemen of the House, let me expose this for exactly what it is. Our purpose originally was to have a seat belt law be passed by the legislature and go out as a law with primary enforcement. It became obvious that the majority, at least a lot of the people expressed the desire to vote for seat belts, but they did not want it to be primary enforcement. They requested it be secondary enforcement. We agreed with that and we amended it to do so. Subsequently, that was defeated and the motion to extend it out to referendum was passed and

it went to the Senate, and it is a fact, that we decided that since we had be told up front during the earlier discussion that primary enforcement was a major issue with many of you in this body.

We decided in both Houses that we would put the amendment in that would make it secondary and that was agreeable to the sponsors, I understand, it would go out to the voters in November. Now let me tell you what will happen. If the seat belt goes out the way it is without this amendment or this attempt to indefinitely postpone, and it were passed in November, we would have a seat belt law that the voters said they wanted, but it would be with secondary enforcement, meaning that the concern you had about a law enforcement officer being able to stop the person for any reason at all, just for that reason I mean, would not be included.

If it goes out the way it is now being suggested, if this amendment goes through, rather if we indefinitely postpone this amendment, it will go out to the voters and they'll be voting on a seat belt law that includes primary enforcement, the very thing that you're saying the constituents who might be supportive of seat belts do not want. See this attempt, ladies and gentlemen of the House, for exactly what it is, there are those who are getting up and suggesting to you that they want to give the voters of Maine a chance to vote, but they are deliberately making it so difficult that, in fact, this will be an issue used in November, an issue we're trying to avoid.

I hope I have explained it completely to you, what is happening here and what the attempt is. Those who are absolutely positively determined that there will not be a seat belt law in this state, I am amending this out, not for the reason that you heard a few minutes ago, however, nice sounding they might be, but for one reason, and one reason only, they know that it will become a major issue in the newspaper and on TV and the radio that this primary and do you want, I can see it now, law enforcement officers to be able to stop you just for seat belts and the answer is going to be no. I do believe that if it goes out the way we have it now, the citizens of Maine will, in fact, adopt the seat belt law with secondary enforcement. I urge you, sincerely, to defeat the motion to indefinitely postpone. Thank you.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I think the Chairman of the Committee has done a good job this morning explaining exactly what the bill does, but I must disagree with him. I must tell you that this body last week supported another version. It seems to me that the other body doesn't want to agree with us and that's fine.

I think if we want to pass the seat belt bill in here to put it to referendum, we have that choice. I think our choice is to stay with our position we had last week and I think we ought to support the gentleman from Buxton in indefinitely postponing Senate Amendment "A". It's very clear to me last week that we were willing to go that route and that's the way we voted. If the other end of this building doesn't want to agree with us, that's fine. I think that we have a choice of passing it, our version.

I would just say to the Chairman of the Committee, you've done a good job explaining your position. I'm trying to explain my position and that's the way I see it and that's the way I'm going to vote.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I would just caution people from reading too much into previous votes of this body on this issue. I recollect that the first time we voted on this there were three votes and this body was unable to pass or kill any one of the proposals before it, so I think this is certainly open for further discussion.

I for one would encourage people to oppose the indefinite postponement of the Senate Amendment for the following reason. I do believe that there are many of us who are, in fact, uncomfortable with primary enforcement and is less an issue of what is going to pass or shouldn't pass with the voters as what is the right thing to be doing here. I know there are a number of people that were not comfortable with the original proposal that came from primary enforcement, some voted against the proposal for that reason, others voted for it hoping it would be amended. I was in that category. I think it is a good proposal.

We should trust the voters on this. It seems that this body is unable to make up its mind on any logical way on this and I think we ought to send something out to the voters and give them the opportunity. I believe they will use common sense and come up with the right decision.

The SPEAKER: The pending question before the House is indefinitely postpone Senate Amendment "A". The Chair will order a division.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative GERRY: Mr. Speaker, Ladies and Gentlemen of the House: I encourage this body to support Representative Libby to indefinitely postpone this additional amendment. This weekend I've had 23 phone calls in support of my putting it out for referendum. They said, "Thank you for giving us the choice." Then they also concluded "well, what to heck are you guys doing up there, throwing another amendment on there, to say that the police can't stop us just for the sake of wearing a seat belt, but they have to stop us for something else." They said, "heck, now the cops are going to come up with other excuses for stopping us. They could say our brake light is out, pull us over and woe you don't have you don't have your seat belt on, than you go check your brake light and they say well maybe it came back on when you started up or when you stopped." I don't know, all I know is this is just a way for a game for the police to enforce this thing, so please vote to indefinitely postpone this.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: In response to the remarks from the gentleman from Corinth, I submit to you that from the conversation that we had with dozens of legislators following the vote the other day, that most all of those people did not realize that when they voted to send out to referendum, which they thought was the best compromise of all of the votes that was mentioned by Representative Treat, a few minutes ago, that was the best compromise we could come up with.

I submit to you that the great majority did not realize that it was going to include primary enforcement and have requested and suggested that this is why we added that amendment on. I do urge

you to vote against the motion to indefinitely postpone. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins. Representative PERKINS: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative PERKINS: Is it not true that the way the current law is for people under 19 it's a passive enforcement? I believe that's true. Could somebody comment on that?

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: The answer is yes and it would seem to me that would be a further reason to defeat this motion and leave the amendment on that we have so that it would be consistent all the way through. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Mr. Speaker, Men and Women of the House: Just a further clarification question, is that written into law or is that just a way that they do enforce it? Does anybody know that?

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: As I said the answer is yes.

The SPEAKER: The Chair will order a division. If you're in favor of the motion to indefinitely postpone Senate Amendment "A", you'll be voting yes; if you're opposed you'll be voting no. Is the House ready for the question? The Chair will open the vote.

Representative STROUT of Corinth requested a roll call on the motion to indefinitely postpone Senate Amendment "A" (S-135).

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question before the House is to Indefinitely Postpone Senate Amendment "A" (S-135). All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 109

YEA - Ahearne, Aikman, Ault, Bailey, Bigl, Birney, Buck, Cameron, Campbell, Chick, Chizmar, Clark, Clukey, Cross, Damren, Donnelly, Gerry, Gould, Greenlaw, Hatch, Heino, Hichborn, Joseph, Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Look, Lumbr, Luther, Madore, Marshall, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Neal, Peavey, Pendleton, Perkins, Pinkham, Poirier, Rice, Ricker, Robichaud, Rosebush, Rotondi, Savage, Spear, Stedman, Strout, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor, Yackobitz.

NAY - Barth, Benedikt, Berry, Bouffard, Brennan, Bunker, Carleton, Chartrand, Chase, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Green, Hartnett, Heeschen, Jacques, Johnson, Jones, K.; Keane, Kontos, Lemaire, Lovett, Martin, Marvin, Mayo, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, Ott, Paul, Poulin, Povich, Reed, G.; Reed, W.; Richardson, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Stone, Taylor, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Winglass, Winn, The Speaker.

ABSENT - Adams, Dexter, Guerrette, Jones, S.; Kilkelly, Lindahl, Plowman, Pouliot, Thompson, Truman. Yes, 70; No, 71; Absent, 10; Excused, 0.

70 having voted in the affirmative and 71 voted in the negative, with 10 being absent, the motion to indefinitely postpone Senate Amendment "A" (S-135) did not prevail.

Committee Amendment "A" (S-91) was adopted. Senate Amendment "A" (S-135) to Committee Amendment "A" (S-91) was adopted. The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-91) as amended by Senate Amendment "A" (S-135) thereto and House Amendment "A" (H-181).

Representative MARSHALL of Eliot requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 110

YEA - Barth, Benedikt, Berry, Birney, Bouffard, Brennan, Buck, Bunker, Cameron, Carleton, Chartrand, Chase, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Gould, Green, Heeschen, Jacques, Johnson, Jones, K.; Keane, Kontos, Lemaire, Lovett, Martin, Marvin, Mayo, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, Ott, Paul, Plowman, Poulin, Povich, Reed, G.; Reed, W.; Richardson, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Stone, Taylor, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Vigue, Volenik, Watson, Winglass, Winn, The Speaker.

NAY - Ahearne, Aikman, Ault, Bailey, Bigl, Campbell, Chick, Chizmar, Clukey, Cross, Damren, Donnelly, Dunn, Gerry, Greenlaw, Hartnett, Hatch, Heino, Hichborn, Joseph, Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Look, Lumbr, Luther, Madore, Marshall, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Neal, Peavey, Pendleton, Perkins, Pinkham, Poirier, Rice, Ricker, Robichaud, Rosebush, Rotondi, Savage, Spear, Stedman, Strout, True, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor, Yackobitz.

ABSENT - Adams, Dexter, Guerrette, Jones, S.; Kilkelly, Lindahl, Pouliot, Thompson, Truman. Yes, 76; No, 66; Absent, 9; Excused, 0.

76 having voted in the affirmative and 66 voted in the negative, with 9 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Concerning Sick Leave and Vacation Benefits (H.P. 388) (L.D. 523) (C. "A" H-140)  
 TABLED May 23, 1995 (Till Later Today) by Representative ROBICHAUD of Caribou.  
 PENDING - Passage to be Enacted.

Representative ROBICHAUD of Caribou requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 111

YEA - Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Johnson, Jones, K.; Joseph, Keane, Kerr, Kontos, Lemaire, Lemke, Luther, Martin, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Perkins, Poulin, Povich, Reed, G.; Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Winn, The Speaker.

NAY - Aikman, Ault, Barth, Birney, Buck, Cameron, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Gieringer, Gooley, Greenlaw, Hartnett, Heino, Joy, Joyce, Joyner, Kneeland, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JD; Libby JL; Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Pendleton, Pinkham, Plowman, Poirier, Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Wheeler, Winsor, Yackobitz.

ABSENT - Adams, Campbell, Dexter, Guerrette, Jacques, Jones, S.; Kilkelly, Lindahl, Pouliot, Thompson, Truman, Whitcomb, Winglass.

Yes, 74; No, 64; Absent, 13; Excused, 0.

74 having voted in the affirmative and 64 voted in the negative, with 13 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Permit the Buyback of Retirement Time (H.P. 567) (L.D. 768) (C. "A" H-196)  
 TABLED May 23, 1995 (Till Later Today) by Representative JOYCE of Biddeford.  
 PENDING - Passage to be Enacted.

Representative JOYCE of Biddeford requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the

expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 112

YEA - Ahearne, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gates, Gerry, Gould, Green, Hatch, Heeschen, Hichborn, Johnson, Jones, K.; Joseph, Keane, Kontos, Lemaire, Lemke, Lemont, Luther, Martin, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, O'Gara, O'Neal, Paul, Pendleton, Poulin, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, The Speaker.

NAY - Aikman, Ault, Barth, Birney, Buck, Campbell, Carleton, Chick, Clukey, Cross, Damren, Donnelly, Dunn, Farnum, Gamache, Gieringer, Gooley, Greenlaw, Hartnett, Heino, Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, LaFountain, Lane, Layton, Libby JD; Libby JL; Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McElroy, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, True, Tufts, Underwood, Waterhouse, Winglass, Winn, Winsor, Yackobitz.

ABSENT - Adams, Dexter, Guerrette, Jacques, Jones, S.; Kilkelly, Lindahl, Nadeau, Pouliot, Thompson, Truman, Whitcomb.

Yes, 73; No, 66; Absent, 12; Excused, 0.

73 having voted in the affirmative and 66 voted in the negative, with 12 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Ensure Disclosures under the Used Car Information Laws (H.P. 859) (L.D. 1190) (C. "A" H-236)  
 TABLED May 23, 1995 (Till Later Today) by Representative JOYCE of Biddeford.  
 PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

At this point, pursuant to House Rule 1, the Chair announced the following change in Committee appointments:

Representative PAUL of Sanford is appointed to the Joint Standing Committee on Banking and Insurance, replacing Representative MITCHELL of Vassalboro.

At this point the Speaker appointed Representative JACQUES of Waterville to serve as Speaker Pro Tem for the evening session.