

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Nineteenth Legislature**  
**State of Maine**

**Volume I**

**First Regular Session**

December 2, 1998 – May 12, 1999

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bowles, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Dugay, Duncan, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, Kneeland, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Mack, Madore, Martin, Marvin, Matthews, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Nass, Norbert, Nutting, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Pinkham, Plowman, Povich, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shorey, Skoglund, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, True, Twomey, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Bouffard, Clough, Desmond, Dunlap, Frechette, Labrecque, Mailhot, McAlevey, McDonough, Powers, Quint, Shields, Sirois, Snowe-Mello, Tessier, Thompson, Tripp, Tuttle, Volenik.

ABSENT - Bragdon, Campbell, Goodwin, Joy, Kasprzak, Lemont, Mayo, Muse, O'Brien, Watson.

Yes, 120; No, 20; Absent, 10; Excused, 0.

120 having voted in the affirmative and 20 voted in the negative, with 10 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass as Amended by Committee Amendment "A" (H-175)** - Committee on **TRANSPORTATION** on Bill "An Act to Amend the Seat Belt Law Regarding the Enforcement of Penalties"

(H.P. 869) (L.D. 1226)

TABLED - April 13, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of Representative JABAR of Waterville to **ACCEPT** the Majority **OUCHT NOT TO PASS** Report.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House. I don't mind losing on an issue, I do it regularly here. I just want to make sure that everybody understands what the issue is. I have a feeling there is a little bit of misunderstanding and I respectfully suggest that maybe even one or two people on the committee don't fully understand what this is about or what we did last session.

We hear the term a lot now a days about institutional memory, or loss thereof, due to term limits. I am starting to wonder if there is some validity in the concern. Those of you who were here in the, I think, 117<sup>th</sup> that we passed the seat belt law. Those of you who were here, or followed it in the press, remember that it was very divisive. It went back and forth between the House and Senate. In fact, if got defeated in the House. It went to the other body and it was modified, amended, and it came back to this body and the upshot of it is, it narrowly went out to the people as a referendum. It could not pass either body as a law so it went out to the people.

One of the very pivotal points in the debate was whether it was going to be a secondary or primary offense. It was

extremely pivotal. In fact, after it got defeated in this body, it got amended in the other body. I would just like to read to you a little bit of the debate that went on regarding that issue. This is a Senator, one of the prime sponsors of the original bill for the seat belt mandate. This is talking about the amendment now. "This is the amendment that reduces the enforcement to secondary enforcement instead of primary." This is after it went back and forth several times here. "The best law that we could pass would have been primary enforcement. There is no question that that sends out a more positive message. This amendment positions the bill in a way that will be acceptable and hopefully we will be able to enact it." Here is more debate. This is in the House, in this chamber after it came back from the other body and that amendment. This is a quote from one of the members of the Transportation Committee. "This amendment makes the matter a secondary enforcement to law enforcement officers which was a concern to some of you. It is an important difference, so we now talking with this amendment about a major imposition on anyone's life should they choose because of personal beliefs not to wear a seat belt."

I would like to stress upon you that that was the pivotal point in the debate. Lo and behold in the last Legislature and very few people even know it happened and if you look at one of your green sheets, the one with the copy of the existing law, you will see the box that I circled. It says Paragraph E, "Deleted the second sentence which had read 'an operator is not subject to the penalty established in paragraph D unless the operator is required to pay a fine for the primary offense.' That is what we repealed in the last Legislature effectively making it a primary offense. A very pivotal difference that failed to pass in here. It went out to the people as a secondary offense.

What my bill would do is simply restore it to the way it was when the people voted on it. It is a matter of people's trust. The referendum barely passed. It was less than 1 percent statewide. Vast areas of the State of Maine voted the other way. As a secondary offense it barely passed. I would like simply to restore the trust of people.

I would like to say one more thing. This 11 to 2 sounds like quite a disparity, but from talking to some of the members on the committee and other people, I think once they realize what this is about, I think you will see a big shift. I would request a roll call please.

Representative PERKINS of Penobscot **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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 Eliot, Representative Wheeler.

Representative WHEELER: Mr. Speaker, Men and Women of the House. Just to clarify a little bit of the confusion on the bill. As the good Representative from Penobscot, Representative Perkins, did say. What his bill will do is actually make it tougher on your constituents. I don't know how many of you here want to make it tougher on your constituents. I know I don't, for one. If we keep the law the way it is right now, if they get stopped for a tail light out, for example, the officer does not have to give them a ticket to cite them for the seat belt. The way the law was previously was they had to get a ticket for that break light or tail light or whatever it was and then they would get a ticket also for the seat belt. If you want to change it so that your constituents will get two tickets instead of just being noted or warned for the seat belt, then I urge you to vote with

Representative Perkins. If you want to keep the law a lot similar and more educational to your constituents, then I urge you to vote the Majority Ought Not to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative **GAGNE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to oppose this motion. I was a cosponsor with Representative Perkins on this bill. I agree wholeheartedly that we don't need more restrictions. In fact, I believe the present seat belt law has been extended too far. You just heard them try to explain to you the difference. They said that what we would do here would be confusing. What you just heard was confusing. I want you to know that everyone, the law says we must wear a seat belt. Enforcement is guilt and fear of non-compliance. If you don't wear it, you have a possibility of a \$60 fine if you are stopped for any other offense. That is enough. That is as far as it should go. That is what we voted for. When that referendum came out and we were voting ourselves in the booth we said that it was okay and it was really a close vote. He mentioned that and it was. The people primarily passed that, I am sure, having that seat belt law in this state because they knew it was going to be a secondary offense. Last session we added something to it to make it even more difficult so that we would be fined or picked up or whatever for that. That is what bothers me the most. What I would like you to do is to say that we oppose what transportation has told us and instead we are going to return it to what it was when we voted. Maine is proud of their independent nature. We have always felt that we can make our own decisions. We do it every day when we get into our car and buckle up. We don't need the added fear that we are going to be doubled up on fines, which is what would happen. Let's support the bill that we had put in and vote against this motion and return the law to its original status that we voted on years ago. Thank you.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. I know this is a controversial issue. As a matter of fact, I just got off the phone not more than 15 minutes ago about this very issue. I just want to point out that you cannot be stopped if you are suspected of not having your seat belt on. Keep that in mind when you vote.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. The original referendum when it went out, the people voted for the concept of mandatory seat belts. I doubt if most people in this body realize the difference between primary and secondary enforcement. The original bill that went out required secondary enforcement. That is correct. A juvenile operator of a car was responsible for all adults in his car being buckled up. If they got stopped for a violation and there was an adult in the car that was not buckled up, then that juvenile was liable for a summons to appear in court. The Legislature in its infinite wisdom thought that was wrong and we made adults responsible for their own actions. We made the change. Now if a car is stopped for a tail light out and there is an adult in the car, then that adult can be summonsed to court for not wearing a seat belt. That is the changes that we made to the seat belt law. I think it is a good change. It does not require that you summons a juvenile operator, let's say, that happens to be in the car. You don't have to summons him and get a conviction before you can summons an adult in the car. I think that makes

sense to me. With this change you have to write two summons now. I don't know how you would follow that up with summonsing an adult in the car for not wearing a seat belt. You would have to wait until you got a conviction on the driver. Say he was speeding. You would have to get that conviction before you could get a conviction of the seat belt violation. It just makes it almost impossible to enforce. I urge you to accept the Majority Ought Not to Pass. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote against the pending motion. This is an issue of due process. When the person gets the ticket, they get two tickets, one for the whatever the violation is and one for not wearing a seat belt. If they don't get a ticket for the other issue, then they could have been pulled over for no reason at all because there is no proof that they were actually pulled over for a valid reason. This country is based on due process. That is what protects our citizens. We need that protection so they are pulled over for a frivolous reason. They were validly pulled over. They get a ticket. They are found guilty on that count, then they would be found guilty for not wearing a seat belt. Don't convict them of not wearing a seat belt then they have no due process at all. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I just wanted to comment on a couple of statements. Please don't get confused. In the Legislature that came after it went out to the people, there was an actual bill in to make it a primary offense. I remember seeing the bill and I told myself I was going to watch that, then somehow it disappeared. The bill disappeared, but what happened was in an amendment or in another bill in Transportation, it was mentioned a minute ago, there were some amendments added. One had to do with juveniles. Don't make a mistake. This is not what we are talking about here. There was another amendment that exempted rural mail carriers, that passed. On that bill, somehow it got tacked on to repeal the section that I have circled on the green sheet that I won't hold up that said that you had to be stopped for something else and you had to be found guilty. In other words, you had to be fined for that. We took that out so you still have to be stopped for something else, but the police officer can just say that he thought your tail light was blinking, but I see it isn't. By the way, your seat belt. I thought your sticker was run out, but, by the way, it isn't or any number of things. In other words, they don't need suspicion of anything. They can nab you for your seat belt. It has, in effect, become a primary offense.

I would just like to mention one thing. As far as my bill being harmful for your constituents. If you could have been to the hearing and the work session, you would see who was on which side. All the police officers and the entire state public service people were against my bill. Ask yourself, is that against or for the constituents? My last question is, where were the police and the public safety people back when we debated the bill five years ago. Why didn't they tell us at that time that this wouldn't be workable? Certainly they did the research, but we never heard a word until it got put in that way in the last Legislature. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. Just to clarify who the opponents were of the bill. They were Public Safety. I emphasize safety officials that patrol the roads every day and that deal in public safety every day. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. Let's use this scenario here. You are driving your automobile and one of your tail lights is not working. You are now in violation of the law because a car is supposed to have everything operational. A policeman pulls you over to give you a warning to say get your light fixed. If you are not wearing your seat belt, now he has to turn around and fine you for having a broken tail light, go to court and get a conviction there so that he can cite you for not wearing a seat belt. I think that we have to leave a little bit of discretionary knowledge to the State Police and our law enforcement officers. This would be a very difficult law the way that it was written before to enforce. Therefore, I caution you to accept the Majority Ought Not to Pass Report.

The **SPEAKER**: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative **PLOWMAN**: Mr. Speaker, May I pose a question through the Chair?

The **SPEAKER**: The Representative may pose her question.

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. To anyone who would answer the question, could the scenario go like this? He gives you a warning that your tail light is out and he gives you a warning that you should be wearing a seat belt.

The **SPEAKER**: The Representative from Hampden, Representative Plowman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. Yes, he can stop you for a warning for a tail light or speeding and still give you a warning for not having a seat belt. It is officer discretion.

The **SPEAKER**: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. Very quickly, when you vote on this I ask you to keep in mind the young man that died here in Maine on Monday or Sunday just this past week. It was a rollover. There were four young folks in the car. The one that died did not have a seat belt on and came out of the car and the car rolled on him. The other three children lived or young people lived. That is what this is really about is saving lives folks. A little inconvenience on the part of the rest of us to save the lives of teenagers or adults I think is worth the inconvenience. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. After this was passed last year I received some calls. I have an assisted living facility in my district. The volunteer drivers who used to come pick up some of the people who live in the assisted living housing had to stop. Their agency told them they could no longer pick up some of the clients because the seat belts would not fit around the clients. I had a woman who could not go to her medical appointment. It sounds

great. You could send a bus. You could send something that doesn't require that you have to have seat belts. In Newburgh, Maine, it is a little hard to get a bus all the way out to the middle of no where. This volunteer agency would no longer allow its volunteers to pick up this woman and several other women who lived in this community housing. We caused some problems along the way to the point where the liability is so strict that we hurt people. Please keep that in mind.

The **SPEAKER**: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative **GAGNE**: Mr. Speaker, Men and Women of the House. I have to stand again and tell you this is not whether you are for or against seat belts. We are talking about a bill that has to do with stopping you and charging you with offenses. Keep that in mind when you are voting on this. It is important to teach safety habits. It is important that babies are in car seats. It is important that they have driver education and teach them all those things. It is important to have seat belt awareness and people wear them. Yes, some choose not to and you see the results. We are looking at a bill here that is going to make it a stronger penalty. I know they keep telling you they can still not cite you, but you have been on the road. If you have ever been stopped by police, how many times have you been told too bad we stopped you, we won't charge you. Keep that in mind too. Vote no.

The **SPEAKER**: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. As one of the cosponsors of the original bill, we had a compact with the people. We worked it out here. We came up with some language. We sent it to them for their consideration and they choose to enact it, not a pig in a poke. They got everything right up front what the bill would and wouldn't do. I have never taken a dead person out of a seat belt in all my life as a police officer. Seat belts do save lives. If we are going to make this substantive change, then we better send it back to the people because that is where it originated from. The law to mandate seat belts came from the people, not from this body. It came through this body. If we are going to make this substantive change, then we should go back to the people who authorized it in the first place and tell them we would like to enhance it further. It is their compact with us. I hope you keep that in mind before you vote. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. I have only spoken once. This is my second time. In answer to my good friend, Representative Plowman, there is a medical exemption for people who have medical problems. If it ends up being a liability problem, it has nothing to do with the seat belt. If the doctor says they have a medical condition, whether it is obesity or had open heart surgery and can't wear the seat belt, then there is a medical exemption. I would also like to answer to my good friend, Representative McAlevey from Waterboro, the people did not have the choice. They only had the choice of enacting what we gave them. That was it. They did not have the choice. They enacted the concept of seat belts and we made some changes to it, which I think made it a better bill. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 82**

YEA - Bagley, Baker, Berry DP, Berry RL, Bouffard, Bowles, Brooks, Bruno, Bull, Bumps, Cameron, Carr, Chick, Clark, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, Green, Hatch, Heidrich, Jabar, Jodrey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, McGlocklin, McKee, McKenney, Mitchell, Murphy E, Murphy T, Norbert, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Shiah, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tripp, True, Tuttle, Twomey, Usher, Volenik, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Belanger, Bolduc, Bragdon, Bryant, Buck, Chizmar, Cianchette, Clough, Collins, Cross, Foster, Gagne, Gerry, Gillis, Glynn, Gooley, Honey, Jacobs, Jones, Kasprzak, MacDougall, Mack, McAlevey, McDonough, McNeil, Mendros, Nass, Nutting, Peavey, Perkins, Pinkham, Plowman, Rines, Rosen, Schneider, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stedman, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Brennan, Campbell, Goodwin, Joy, Lemont, Mayo, Muse, O'Brien, Watson.

Yes, 89; No, 52; Absent, 9; Excused, 0.

89 having voted in the affirmative and 52 voted in the negative, with 9 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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The following items were taken up out of order by unanimous consent:

**SENATE PAPERS**

Bill "An Act Concerning Licensure of Chiropractors" (EMERGENCY)

(S.P. 784) (L.D. 2199)

Came from the Senate, **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed.

**REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in concurrence.

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Bill "An Act to Permit Persons Out-of-state to Ship Malt Liquor and Wine to Maine Residents"

(S.P. 785) (L.D. 2200)

Came from the Senate, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

**REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

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**ORDERS**

On motion of Representative COLWELL of Gardiner, the following Joint Order: (H.P. 1545)

ORDERED, the Senate concurring, that Bill, "An Act to Correct Errors and Inconsistencies in the Laws of Maine," S.P. 18, L.D. 3, and all its accompanying papers, be recalled from the Engrossing Department to the House.

**READ and PASSED.**

Sent for concurrence.

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

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At this point, pursuant to his authority under House rule 401.1, the Chair assigned Representative COTE of Lewiston to Seat 69.

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On motion of Representative HEIDRICH of Oxford and Representative WHEELER of Eliot, the House adjourned at 12:25 p.m., until 9:00 a.m., Thursday, April 15, 1999 in honor and lasting tribute to Myrtle Callahan of Mechanic Falls.