

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-First Legislature
State of Maine

Volume I

First Regular Session

December 4, 2002 – May 23, 2003

Pages 1-776

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

**SENATE PAPERS
Non-Concurrent Matter**

Bill "An Act To Establish the Pine Tree Development Zones Program"

(S.P. 456) (L.D. 1385)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-68) AS AMENDED BY HOUSE AMENDMENT "A" (H-406) thereto in the House on May 16, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-68) AS AMENDED BY SENATE AMENDMENT "C" (S-231)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act To Assist Regional Transportation Providers To Comply with the Booster Seat Law (EMERGENCY)

(H.P. 474) (L.D. 644)

(H. "A" H-407 to C. "A" H-161)

FAILED of **PASSAGE TO BE ENACTED** in the House on May 22, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-161) AS AMENDED BY HOUSE AMENDMENT "A" (H-407)** thereto **AND SENATE AMENDMENT "A" (S-226)** in **NON-CONCURRENCE**.

On motion of Representative **KAELIN** of Winterport, the House voted to **RECEDE**.

The same Representative **PRESENTED House Amendment "B" (H-519)** to **Committee Amendment "A" (H-161)**, which was **READ** by the Clerk.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. What my amendment would do would extend the implementation date after which a fine could be levied on individuals who have not yet complied to the new booster seat laws from last year to the same date that the committee amendment would have extended the laws affect on municipalities, on non-profits and contracted transportation service providers. The Representative from Baldwin, Representative Cressey's original bill attempted to extend the implementation date for individuals through the end of this calendar year and the committee amendment agreed that, in fact, the implementation would be extended until September 1 of this year. In other words, the Committee Amendment says for individual constituents that we have at home who are faced with possibly buying a new car to comply with this new law that the fines would not be levied until September 1. As we all know from the brief discussion we had the other afternoon, the Committee Amendment would have further extended the implementation date until February 1, 2005 for municipalities in terms of compliance. What my amendment does is move the compliance date forward to that date for all effected parties, including our constituents.

I want to thank the committee and Representative Marley from Portland for attempting to work with us to put off the implementation date of this legislation which was actually passed last year so that our constituents could comply. I understand that the Department of Public Safety was concerned that to do this would create problems for their education program. I say to this

body that I don't see how it could hurt to spend some additional time educating our constituents about the program that is coming, allow them additional time to consider the cost to them. As the good Representative from Kennebunk pointed out yesterday, allow the new vehicle cycle to occur so that additional time can be given to them to purchase a new vehicle to comply with the law. I pointed out yesterday that I have a constituent who has three kids under 8 years old that can't physically get them in the back seat of her vehicle and has asked me to do something about this.

That is the context of my amendment. I would urge its adoption by the body. I thank you for the time Mr. Speaker.

Representative **USHER** of Westbrook moved that **House Amendment "B" (H-519)** to **Committee Amendment "A" (H-161)** be **INDEFINITELY POSTPONED**.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. I would urge the members of the House to vote against the motion that is before us, the motion to Indefinitely Postpone. I think what we are dealing with is the issue of fairness. As we look at the municipalities and we look at the regional quasi-governmental organizations, they have laid out specific problems in terms of the rotation of people in those vehicles. The people you are dropping off aren't necessarily the people that you are picking up. What we have looked at is that we have large families, people trying to be good neighbors, people trying to help out people in the neighborhood, whether it is Little League or getting people to school or after school activities. We also have a statistic in this state that 10 to 11 percent of our working people work two jobs. I would bet that if you look at these larger families, look at the distance from which the town centers they live, that they probably are the ones being impacted. One set of rules to deal with a specific set of problems ought to be applied fairly. What we have done is we have carved out a different date for those who are the beneficiaries of government dollars and then the Maine citizens who are paying the taxes sometimes on two jobs, aren't denied that same effective date. They are being discriminated against. They don't get the same set of rules as those people who receive their dollars. I think in the interest of fairness we ought to defeat this motion that is before us, accept the good gentleman's amendment and have equity and move forward.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative **MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. Those of you who were present in the last session may remember that we told you there may be unintended consequences to this booster seat law. We have just heard about an unintended consequence. I believe that if this issue is brought before the committee at the time we were negotiating the Committee Amendment, that we would have made that accommodation. It is a minor change to this law. I would urge you to make this accommodation and vote against this Indefinite Postponement please.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I don't understand why one would move to Indefinitely Postpone this. We are leaving it in law. It is very similar to me to the requirement for children to wear helmets riding bicycles, which many of you know is very important to me. In that case, we are trying to seek compliance with a safe practice, not the heavy handed government to fine people. It works very well. I encourage you, especially in the absence of

any argument that there is something broke with this amendment, which is usually the case when someone indefinitely postpones this. I urge you to vote against the pending motion.

Representative KAELIN of Winterport REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-519) to Committee Amendment "A" (H-161)**.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Marley.

Representative MARLEY: Mr. Speaker, Ladies and Gentlemen of the House. This has been an interesting bill. Representative Cressey had a bill that had a large fiscal note. It was going nowhere in the committee. I had a bill specifically for regional transportation providers. We talked a little bit about them. We have cut literally millions of dollars between our funds and the federal match that they will receive. They are a much larger organizations than a family. They have thousands of volunteers. They asked for more time to comply. They did not ask to be eliminated from the law. They wanted more time to comply with the law. That is why I was willing to put this bill forward. As a courtesy to several members, Representative Murphy, Representative Kaelin and Representative Cressey, I put in the language that is now being used to defeat this bill or amend this bill drastically. That is disappointing when you try to reach out to the other side of the aisle.

The reason we didn't go farther was that Public Safety came in and testified that tens of thousands of dollars had been spent on the education program. Unfortunately many of you were not here during the last debate when we talked about education being as important as the actual enforcement of the law. If you have gone into Dunkin Doughnuts, you have seen the buckle up program. It talks about the law. You have heard on the radio and there soon will be a television ad coming out very soon explaining why booster seats are important. It talks about the public safety issues and so forth. Public Safety, as they have shared with the committee, I should point out a unanimous committee report, came out with the bill that we are discussing and trying to amend. It is very difficult to explain to people that this is so important that we are going to start it right away and now we are going to postpone it and then we are going to start it right away again. It is very confusing to the public.

I am going to go back to my list of things on the original testimony. I just want to remind people, please don't forget about what the ultimate point of this is. The Center of Disease Control has identified auto crashes as the number one death for children age 4 to age 8. That is the age for the booster seats. The National Transportation Safety Board, which is an independent federal government agency has an interest in child restraint booster seats from the fact that highway crashes are the leading cause of death of children between 4 and 8. In Maine it is approximately 25 to 26 kids that are going to be killed and seriously injured in automobile crashes because they are inappropriately restrained.

Look around you, look at the number of kids we have here. Choose which ones you would like to see injured because that is what we are doing. Right now the State of Maine actually has a mandate for child safety belt laws. Unfortunately the mandate that you want to hold off until 2005 is going to be that they are in shoulder straps which create paralysis and death.

Another state that did this and we found studies on explained that a child that is injured in one of these and has paralysis can cost up to \$140 million in health care costs in their lifetime.

At a time when we are talking about Dirigo Health and health care reform, I don't know how you can't look at this as preventative health. If you can keep a child from being injured or killed, we save monies, we save lives and we save the family from the pain of a lost child.

I apologize if this is going on longer than can be expected. I was told to speak three minutes and move on, but I feel very passionate about this.

In the last session we also talked about the United States Senate, who I believe just passed a budget 51-50. It shows you just how close they are.

On **POINT OF ORDER**, Representative BOWLES of Sanford asked the Chair if the remarks of Representative MARLEY of Portland were germane to the pending question.

The Chair reminded Representative MARLEY of Portland to stay as close as possible to the pending question.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Marley.

Representative MARLEY: Mr. Speaker, Ladies and Gentlemen of the House. Actually I think I was debating the bill from last session. The reason I gave these facts and figures is I think it is very relevant to this amendment because by extending the law we are forgetting about the facts in the previous bill. I support the Indefinite Postponement of this. We had a strong vote on this bill. If you support the Indefinite Postponement of this, you support what you voted for yesterday.

The last point I will make is a national highway transportation safety administration found that 9 out of 10 parents believe that by following the current state law, they were taking the necessary steps to keep their children safe. It is very important that the law reflects safety concerns. This is a very legitimate safety concern and I hope you will support the Indefinite Postponement. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House. I really do want to thank the Representative from Portland. He has listened to us through the process. In both of our cases these problems arose after deadline. The gentleman was quite responsive. Just having listened to the arguments the gentleman from Portland made, if one subscribes to his argument, then for the governmental and quasi-municipal, then he should be supporting moving that from a year and a half out to the same date as he is for the regular citizens of the State of Maine. You can't have it both ways. On one hand you argue that you need to do this right now for the citizens, but for another group, taxpayer supported, we are going to extend it out beyond them for another year and a quarter or year and a half. You have to do it for both. You can't have it both ways. It either needs to be September 1st for everyone or it needs to be the date you have established for those that are taxpayer supported.

On **POINT OF ORDER**, Representative MARLEY of Portland asked the Chair if the remarks of Representative MURPHY of Kennebunk were germane to the pending question.

The Chair reminded Representative MURPHY of Kennebunk to stay as close as possible to the pending question.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative KAELIN: Mr. Speaker, Ladies and Gentlemen of the House. I apologize to the body for this dragging on. I know we all want to go home. I have to respond to one of the points that the good Representative from Portland made. I also respect this willingness to work with us. Again, my people got to me after deadline and so forth.

The point he makes about the Public Safety education program is equally the case whether the date is September 1 of this year as the Committee Amendment would do or the further extension to comply with the same date that the Committee Amendment proposes, which is the date in my amendment for the municipalities. There is absolutely no difference in the effect of my motion or the Committee Amendment in terms of the effect on the Public Safety Department's education program. In fact, we all should be educating people about the potential safety affects of children in booster seats. It is the same issue no matter how the date is changed. Again, I appreciate you time. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-519) to Committee Amendment "A" (H-161). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 166

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Brannigan, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Gerzofsky, Grose, Hatch, Hutton, Jennings, Kane, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McGowan, McLaughlin, McNeil, Norbert, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Usher, Walcott, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Berry, Bierman, Bliss, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Fletcher, Gagne-Friel, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McKenney, Millett, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Woodbury.

ABSENT - Andrews, Berube, Bowen, Breault, Churchill E, Churchill J, Davis, Duprey B, Eder, Goodwin, Jackson, Ketterer, Landry, Marraché, McKee, Mills J, Norton, Sampson, Shields, Sykes, Watson, Wotton, Young.

Yes, 67; No, 61; Absent, 23; Excused, 0.

67 having voted in the affirmative and 61 voted in the negative, with 23 being absent, and accordingly **House Amendment "B" (H-519) to Committee Amendment "A" (H-161) was INDEFINITELY POSTPONED.**

Subsequently, the House voted to **CONCUR.**

On motion of Representative KAELIN of Winterport, the House **RECONSIDERED** its action whereby it voted to **CONCUR.**

The same Representative **REQUESTED** a roll call on the motion to **CONCUR.**

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

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

ROLL CALL NO. 167

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Bull, Bunker, Canavan, Clark, Collins, Cowger, Craven, Cressey, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gerzofsky,

Glynn, Grose, Hatch, Heidrich, Hutton, Jackson, Jennings, Kane, Koffman, Laverriere-Boucher, Lemoine, Lessard, Mailhot, Makas, Marley, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Mills S, Moody, Moore, Norbert, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rines, Saviello, Simpson, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Trahan, Usher, Walcott, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berry, Bierman, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Clough, Courtney, Crosthwaite, Curley, Daigle, Fletcher, Gagne-Friel, Greeley, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, Millett, Murphy, Muse, Nutting, Peavey-Haskell, Richardson M, Rogers, Rosen, Sherman, Smith N, Snowe-Mello, Stone, Tardy, Tobin D, Tobin J, Treadwell, Vaughan.

ABSENT - Andrews, Berube, Bowen, Breault, Churchill E, Churchill J, Davis, Duprey B, Goodwin, Ketterer, Landry, Lerman, Lundeen, Marraché, McKee, Mills J, Norton, Sampson, Shields, Sykes, Twomey, Watson, Wotton, Young.

Yes, 81; No, 46; Absent, 24; Excused, 0.

81 having voted in the affirmative and 46 voted in the negative, with 24 being absent, and accordingly the House voted to **CONCUR.**

Non-Concurrent Matter

Bill "An Act Regarding Wrongful Discharge"

(H.P. 820) (L.D. 1117)

Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-265)** in the House on May 8, 2003.

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE.**

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

ENACTORS

Resolves

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Increase the Ground Lease Term at the Long Creek Youth Development Center from 50 to 90 Years

(H.P. 1034) (L.D. 1412)

(C. "A" H-387)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

Acts

An Act To Promote Stewardship of Forest Resources

(H.P. 1194) (L.D. 1616)

(C. "A" H-512)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative TRAHAN of Waldoboro, was **SET ASIDE.**