

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Volume I

First Regular Session

December 6, 2006 - June 5, 2007

Pages 1-681

Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Assist Maine Pharmacies"

(S.P. 450) (L.D. 1287)

- In Senate, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

TABLED - March 20, 2007 (Till Later Today) by Representative BEAUDETTE of Biddeford.

PENDING - **REFERENCE IN CONCURRENCE**.

Subsequently, the Bill was **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES**, in **NON-CONCURRENCE** and sent for concurrence.

Bill "An Act To Require the Department of Environmental Protection To Exclude Repeat Violators of Environmental Laws from Receiving State Contracts"

(S.P. 388) (L.D. 1200)

- In House, **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT** on March 13, 2007.

- In Senate, Senate **ADHERED** to its former action whereby the Bill was **REFERRED** to the Committee on **NATURAL RESOURCES** in **NON-CONCURRENCE**.

TABLED - March 20, 2007 (Till Later Today) by Representative BARSTOW of Gorham.

PENDING - **FURTHER CONSIDERATION**.

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

Bill "An Act To Provide Oversight for Crematoriums"

(H.P. 907) (L.D. 1289)

- In House, **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on March 13, 2007.

- In Senate, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** in **NON-CONCURRENCE**.

TABLED - March 20, 2007 (Till Later Today) by Representative BEAUDETTE of Biddeford.

PENDING - **FURTHER CONSIDERATION**.

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

Bill "An Act To Assist Maine Property Owners of Land near State-owned Railroads"

(H.P. 1037) (L.D. 1475)

(Committee on **INSURANCE AND FINANCIAL SERVICES** suggested)

TABLED - March 20, 2007 (Till Later Today) by Representative BRAUTIGAM of Falmouth.

PENDING - **REFERENCE**.

Subsequently, the Bill was **REFERRED** to the Committee on **STATE AND LOCAL GOVERNMENT**, ordered printed and sent for concurrence.

Bill "An Act To Provide an Income Tax Credit for Donations to Maine Public Schools"

(H.P. 1042) (L.D. 1480)

(Committee on **TAXATION** suggested)

TABLED - March 20, 2007 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **REFERENCE**.

Subsequently, the Bill was **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**, ordered printed and sent for concurrence.

Bill "An Act To Restrict the Time during Which an Airmobile May Be Operated"

(S.P. 523) (L.D. 1496)

- In Senate, **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE**.

TABLED - March 20, 2007 (Till Later Today) by Representative PINGREE of North Haven.

PENDING - **REFERENCE IN CONCURRENCE**.

Subsequently, the Bill was **REFERRED** to the Committee on **INLAND FISHERIES AND WILDLIFE** in concurrence.

SENATE DIVIDED REPORT - Majority (10) **Ought to Pass** - Minority (3) **Ought Not to Pass** - Committee on **TRANSPORTATION** on Bill "An Act To Make Failure To Wear a Seat Belt a Primary Offense"

(S.P. 22) (L.D. 24)

- In Senate, Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

TABLED - March 21, 2007 (Till Later Today) by Representative BROWNE of Vassalboro.

PENDING - **ACCEPTANCE OF EITHER REPORT**.

Representative MARLEY of Portland moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

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

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a perennial bill before the Legislature, but as you will see, it is gaining momentum around the country. I believe over 25 states currently have a primary seat belt law. Texas, Oklahoma, Mississippi, Alabama, Georgia, the Carolinas. These states, when they passed, went from a secondary to a primary seat belt law, saw a 10 percent increase, simply by that change. That saved a number of lives and saved taxpayers millions of dollars. We are going to talk a little bit about that today.

I wish I could convey to you—like many of us before our Committees, we hear hours, and hours of very compelling testimony. That it is our job to come here and try to convey that to our colleagues. It is difficult to take those testimonies from those medical professionals, LifeFlight of Maine, ER doctors. They can talk about that real personal experience that they have had. They can talk about the lives and families who were killed.

The Maine CDC said that in 2005, in their testimony, more Mainers died from car accidents than HIV, meningitis, hepatitis, tuberculosis, skin caners, cervical cancers, homicide, and snowmobile accidents, combined. Car crashes are the leading cause of death among all causes of death, and among Maine young people 15 to 35.

Today in Maine, we can expect 94 car accidents on our roads. We can expect three people to be rushed to the hospital after an accident, who are seriously injured enough to be hospitalized. And today or tomorrow, we can expect one Mainer

to die on our roads. So, this is an issue that we see perpetually on the news or in the paper, or we hear about it through personal experiences.

In Maine, on Maine roads in 2006, 150 people died while riding in motor vehicles. Of those 150, 55 of those were not wearing seat belts. In 2006, of the 46 young Maine people who have died in car accidents, only 13 of them were wearing safety belts. If you remember this summer, I believe, the *Portland Press Herald* had a fairly large, extensive ongoing series talking about the loss of how many young people we are losing in the State of Maine. They focused primarily around the vehicular accidents.

If Maine was to enact a primary seat belt law, we would save approximately 10 lives and 155 serious injuries every year. A primary seat belt law would also save about \$33 million in associated costs each year. So there is the personal issue, the life saving issue, and then there is the economic issue. We have talked a lot and we are talking a lot about our budget right now, and how can we save the state taxpayers money.

The ER doctors I just talked about—of the 115 unbelted Mainers who came to Eastern Maine Medical Center, their total medical costs are about \$6.8 million. The difference between a person who is belted and a person who is unbelted that is in an accident, a patient I should say, is \$59,000 for the patient who is unbelted, on average. The person who is belted, the cost is about \$34,000. They showed us one bill which was staggering. It was for \$937,000. This person was unfortunately ejected from the vehicle, spent 77 days in the hospital, and eventually died. But these costs are going to all taxpayers. About a quarter of these accidents are paid for by either Medicaid or Medicare.

So, we are talking about life savings and we are talking about economic savings. I hope you will support the passage of this. This came from our colleagues down the hall, 20–4, Ought to Pass. And just yesterday, I believe, or this past week, the New Hampshire Legislature voted out a Committee 8–7, support for a primary seat belt law. That is a state that has had no seat belt law, and they are already looking towards going to a primary seat belt law. This saves lives. It saves money. I think it is good legislation. I hope that you will support it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Hogan.

Representative **HOGAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do agree with the good Representative from Portland, Representative Marley, on all of his statistics and everything he had to say.

The seat belt law is the only secondary motor vehicle law in Maine. This means that police officers can pull someone over for a broken taillight, but they cannot pull someone over for failing to use the most important piece of safety equipment in their car, the seat belt. We heard testimony in our Committee from all of the major hospitals, doctors and nurses. They impressed us so much, it was a 10–3 vote. Ten of our people in Committee did understand and have come to the realization that this is a necessary law.

One of the other telling testimonies that occurred in our Committee was from the LifeFlight of Maine. These are people that fly in for emergency potential problems. They tell us that 62 percent of the patients LifeFlight sees, have suffered potentially life-taking injuries. Eighty-six percent of those patients are injured in motor vehicle crashes. The most grievously injured patients we encountered generally have suffered severe brain and multiple system traumas. A leading precursor for these devastating injuries is the ejection from a vehicle, of being subjected essentially to what they call a "clothes dryer" type phenomenon. That is, being bounced around in a car.

There needs to be nothing more said, as far as I am concerned. Too often, this bill and a few others, it is more of a personal, self-serving type approach. We have to think of the whole state, especially of our young. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative **THOMAS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. There is something that I would like to know. When did we become everyone's mother? Once we force everyone to wear their seat belt, what is next? Do we outlaw Quarter Pounders? Do we tax Twinkies? Mr. Speaker, when the vote is taken, I request a roll call.

Representative THOMAS of Ripley **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought 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 Berwick, Representative Burns.

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The arguments, the logic, and the statistics that suggest we should do this, are compelling. There is no doubt about that. I am inclined, very reluctantly, to support this effort, but I do have questions.

My questions—I apologize for asking them here and not prior; I was not able to attend the multiple caucuses that we had around this because I was in Committee. How do we enforce such a thing? How do we prevent this from being used for unreasonable searches, which you all know is a Constitutional protection? Not just from the State of Maine, but from the United States, as well. That is one of the obstacles I face.

Again, I repeat, the arguments are compelling that we should do this. But those are my concerns. If someone can speak to them, I would appreciate it. Thank you, Mr. Speaker.

The SPEAKER: The Representative from Berwick, Representative Burns has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Marley.

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will do my best to answer the good Representative's question. If I may, I would just like to try to respond to the good Representative from Ripley, Representative Thomas.

You are saying, talking about—I heard a "nanny state" and those other phraseologies, as far as—and throw in, why don't we ban smoking everywhere, and I think Twinkies was used. I think if you look at those—and I had not prepared this response—but those are things that take a lifetime. They take years and years. This is truly a decision that people make that can instantaneously change your life, or end your life—and cost taxpayers millions of dollars.

I had a statistic—and I apologize, I have piles of paper here with statistics on this—I believe, for a seriously injured individual. It is over \$1 million is health care costs that it takes, on average, to mitigate their injuries. So, if we are talking about when did the state become a parent? Well, my parents always said, "As long as I'm paying for you, I've got a say so." We are paying for you. If you do not use these seat belts, like it or not.

As far as the good Representative—his question around the civil liberties question. I have, once again, reams of paper to address that on. But I think one of the first pieces is—and the Representative from Old Orchard, Representative Hogan, talked about this—this is the only secondary law that we currently have. So, as an officer, they can pull you over for literally driving to

close to the line. They can say you are driving erratically. Your headlights are not on.

There is actually a law—if you know it or not, because I see a lot of people not doing it—is if your wipers are on, your lights are supposed to be on. They could pull you over for that. I personally think that, just like this Legislature, 99 percent of the people who are doing their jobs as law enforcement officers, are not out there trying to pull people over for the wrong reasons. If they are, they will fine you and get you for any other reason.

Currently, the law is you are to wear your seat belt—it is how we enforce it, which is what we are talking about. The irony here is the people who are concerned about increased exposure to the public to be pulled over—in California, when they imposed this law in 1993—it is beginning to scare me that I can remember all the statistics off the top of my head—their seat belt usage increased dramatically. The first year that it went into effect, in 1994, there was a small blip of additional citations. Then it started to drop steadily, as far as the number of citations. It has dropped from 500,000 in 1992, to below 200,000 in 2005. So fewer people are being pulled over, more lives are being saved, and more money saved for the taxpayers from medical issues.

I think the civil liberties argument, while I am concerned about it as well, I think that there is enough room out there that if people want to use it for unreasonable search and seizure, unfortunately that discretion is already out there. We are really talking about the seat belt law and how it is enforced. I just have not heard statistics, as being misused here in the State of Maine. So, I hope that I have answered your question.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Cebra.

Representative **CEBRA**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was one of the three people in Committee to oppose this bill, and I am going to tell you why. Before I start that, I just would like to turn the attention of the House to the two handouts that I distributed this morning. A salmon colored one and a light blue one.

The salmon colored handout, I received from the Maine Civil Liberties Union. An area that I had not thought of before, but they brought to my attention recently, was that LD 24 will lead to a racial profiling. What it does is it gives the law enforcement officers in this state, an opportunity to pull over anybody that they feel like pulling over, and say that they would like to pull them over for seat belt violations. I think that this opens us up to more of a police oriented state. I think it violates the spirit of the Fourth Amendment. I would also like you to take a look at the blue sheet that I handed out. There are nine reasons listed there, why this LD 24 is not a good thing.

I would also like to point out that during the 122nd Legislature, when we were discussing this as a secondary offense, we were told that we would never have to face this primary offense. That they would get their secondary offense and nobody would push for it to be a primary offense. Well, here we are a year and an half later, and here it is being spoken as a primary offense—talk about incrementalism. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative **MAZUREK**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I too, rise to support this seat belt law. I offer you just a little test to take, to find out whether or not you think it is worth it.

I would like you to, at your own leisure, go outside in the hall, put your arms behind your back and walk into the wall, face first. If that does not hurt, then you do not have to wear a seat belt. But if you think it might break your nose, imagine your face hitting

the steering wheel at 40 or 50 mph. So, take that little test and see you if you pass it. That is all I can say.

I know when I was a youngster, I was in a car accident. I was below the legal age of driving. I was driving the car. When I finally woke up, I went and looked at the automobile. The steering column of a great big, old, 1954 Buick station wagon, with my weight behind it, actually had bent right up to the ceiling. So yes—it can do damage. Thank goodness, I am still here. But with the luck of God, I could have not been here.

So I speak from, not only what I have read in statistics, but from personal knowledge that in those days, you did not have to wear seat belts. I survived—thank goodness—but other people are not quite as lucky. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. LD 24 is a bill that's time has come. We have for many years in the State of Maine, operated with a secondary law on seat belt use. We have not been that kind or considerate when it comes to the safety of our children and infringing on their civil liberty rights. We mandated, and we also enforced, the fact that children under 4 in a certain weight will be strapped into child safety seats. Periodically, there are grants that come down for the State Police and all municipal departments to enforce this, and stop and check that the child's car seat is in fact installed correctly.

I want to jump through and put you through another scenario on this. The child is in the back seat. You are in an accident. The child is strapped in. You are not. You are dead. Who brings up that child? When you have a child and you take on that commitment, you agree to bring that child up and protect that child until it reaches adulthood. If you put yourself in danger, that is so simple to prevent—snap the seat belt—are you doing an injustice to your children? Is that child endangerment? Maybe it could be classified as that.

In an ideal world under ideal circumstances, no Legislature would ever, ever have to legislate what is and should be common sense for everybody. But unfortunately, the people in the State of Maine have proven that common sense is not prevalent in their thinking—they get in the car and do not fasten that seat belt and they drive down the road. So, maybe it is time we stepped in and played "nanny" to everybody that does not have enough common sense to protect themselves, to be around to raise their children.

We can all relate to horror stories. I have them. Everyone in this room has them about automobile accidents. I was involved in an accident, 35 years ago, no probably 40 years ago now, where the driver of the car that I was in, took his eyes off the road for a minute and hit a parked vehicle. I went up under the dashboard, broke the tibia bone in my leg in eight different places, and was in hip wide cast for 10 months. Not fun. Was it preventable? You bet. Had I had the seat belt on, I would have remained in the seat and gotten out of there with no problems at all.

Ladies and Gentlemen, we have an obligation to the people in this state that look to us as parents, as grandparents, as foster parents, as guardians, to make sure that we are going to do our utmost—when we get in that vehicle and we take to Maine roads, that we are going to come back as safe as we can. It does not hurt. In fact, it is sort of, kind of, a relief when you are driving down the road and you know that seat belt is on.

Ladies and Gentlemen, it is time this was a primary law. I ask for your vote on this because your children, your grandchildren, your wife, your husband, your mother—all of your dear family members want you to come home safe. They do not want you in body bag. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Browne.

Representative **BROWNE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am sure that I am not going to change anybody's mind. Everyone has feelings. Some perceive problems with it—and I agree—just a couple of facts.

First of all, we know that seat belts save lives. We heard from the LifeFlight people. We heard from the ambulance drivers. We heard from the Department of Public Safety. That is pretty much an agreed upon feature.

Secondly, we do have a secondary seat belt law now. It has a certain fine structure associated with it. This would make it a primary. There would be an opportunity for abuse from our law enforcement officials. I do not particularly share that hysteria, but a lot of people do, so there is that possibility. Unfortunately, some of these people are the same ones that have the bumper sticker that says, "Troopers Care".

Finally, I just think that you have to weigh the pluses and minuses. Is it worth it that we are going to get \$3.7 million from the Federal Government, which may or may not be an incentive? Of that, \$1 million does have to go for safety education. But again, it is obviously up to the individual, to make your choice if you think it is for better or for worse. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lee, Representative McLeod.

Representative **McLEOD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to request through the Chair, if I may, to anybody that may wish to answer it. I would like to know, how would this bill impact vehicles that were made prior to seat belts having been invented?

The SPEAKER: The Representative from Lee, Representative McLeod has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In the interest of temporarily considering Supplement No. 6, and hopefully to resume this debate and answer the question, I move that this item be tabled.

On motion of Representative FAIRCLOTH of Bangor, **TABLED** pending the motion of Representative MARLEY of Portland to **ACCEPT** the Majority **Ought to Pass** Report and later today assigned. (Roll Call Ordered)

ENACTORS
Emergency Measure

An Act To Encourage Municipalities To Abate Coastal Pollution

(H.P. 319) (L.D. 403)
(H. "A" H-33 to C. "A" H-31)

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

Representative TARDY of Newport **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken

ROLL CALL NO. 9

YEA - Adams, Annis, Austin, Ayotte, Babbidge, Beaudette, Beaudoin, Beaulieu, Berry, Berube, Blanchard, Blanchette, Bliss, Boland, Brautigam, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carter, Casavant, Cebra, Chase, Clark, Cleary, Conover, Cotta, Craven, Cray, Cressey, Crockett, Crosthwaite, Curtis, Dill, Driscoll, Duchesne, Dunn, Eaton, Eberle, Edgcomb, Emery, Faircloth, Farrington, Finch, Finley, Fischer, Fisher, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Greeley, Grose, Hamper, Hanley S, Haskell, Hayes, Hill, Hinck, Hogan, Holman, Hotham, Jackson, Jacobsen, Joy, Kaenrath, Knight, Koffman, Lewin, Lundeen, MacDonald, Makas, Marean, Mazurek, McDonough, McFadden, McKane, McLeod, Miller, Millett, Mills, Miramant, Nass, Norton, Patrick, Peoples, Percy, Perry, Pieh, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rand, Rector, Richardson D, Richardson E, Richardson W, Rines, Robinson, Samson, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Sutherland, Tardy, Theriault, Thibodeau, Thomas, Tibbetts, Treat, Trinward, Tuttle, Vaughan, Wagner, Walcott, Walker, Weaver, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Connor, Duprey, Fitts, Harlow, Lansley, Marley, Moore, Muse, Pendleton, Rosen, Sykes, Valentino, Watson.

Yes, 137; No, 0; Absent, 14; Excused, 0.

137 having voted in the affirmative and 0 voted in the negative, with 14 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass** - Minority (3) **Ought Not to Pass** - Committee on **TRANSPORTATION** on Bill "An Act To Make Failure To Wear a Seat Belt a Primary Offense"

(S.P. 22) (L.D. 24)

Which was **TABLED** by Representative FAIRCLOTH of Bangor pending the motion of Representative MARLEY of Portland to **ACCEPT** the Majority **Ought to Pass** Report. (Roll Call Ordered)

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative **PIEH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to rise to speak in support of this motion and remind us all that is already illegal to not wear a seat belt.

I would like you to know that my husband is a physician, whose specialty is in Emergency Medicine, and also runs something called the Critical Care Training Institute of Maine. He teaches the LifeFlight paramedics about difficult airways. He also works with mostly emergency people around the state and how to deal with, in particular, these kinds of traumatic accidents.

I do have favor for those emergency folks. They are there to save your lives. But when you are not wearing a seat belt, the odds are a lot worse, it is a lot bloodier, and it is a lot worse. There is nothing like a failed attempt by an emergency provider to save somebody who was injured because they were not taking safety precautions. It makes me feel like we ought to do everything we can to help it.

I do not think it is truly an economic issue, but I will say that in my opinion, my civil liberties stop when you start paying for it. I thank you and I hope you support the motion.

The **SPEAKER**: The Chair recognizes the Representative from South Berwick, Representative Gould.

Representative **GOULD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am so glad that Representative Blanchette had her seat belt on because it gives me the pleasure of sitting beside her, on Legal and Veterans Affairs.

I too, was involved in a very serious accident, in 1987, and had I not had my seat belt on, I would not be with you here today. However, I had my seat belt on because it was my free choice, in a free country known as the United States of America. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Eliot, Representative Lewin.

Representative **LEWIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to preface the remarks that I want to make, by telling you that I always wear my seat belt.

I have worn my seat belt since the widow of a gentlemen friend of mine was killed by a runaway truck that lost some logs on 495. He was the only one in the car that was not belted in, and he was killed when he was thrown from the vehicle. His wife and two daughters, however, were belted in and one suffered a scratch.

So since that day, at the funeral that I attended, when Jane looked us all in the eye and said, "Please, when you leave here, wear your seat belts. Always wear your seat belts." Not the story that I want to tell you. We all have horror stories about all of the things that have happened to people, and those who have been saved by wearing their seat belts.

I wanted you to know that on February 3, 1972, I was involved in an automobile accident when the only vehicle I have ever owned brand new, took a slide in a blizzard condition on I-95, rolled over down in the embankment and landed on the roof. But for the fact that I was not wearing a seat belt, I would have been decapitated, and I would not be here.

So I think we need to understand: you give a little and you get a little. In this country, I believe in personal freedoms, despite the fact that I could have and would have been killed. I still suffer a lot of things that are an end result of that accident, but it did not put me down, it did not put me under. It was my lucky day. I was not meant to go. There is a day that we are all meant to go, with or without a seat belt on. I think personal freedoms are more important here than they seem to be here to the people in this body.

The **SPEAKER**: The Chair recognizes the Representative from Camden, Representative Miramant.

Representative **MIRAMANT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It is hard to pass an emotional argument about these, about the fact that people have incredible stories, sometimes in both directions. These Committee testimonies are just incredible. But this may be the last place where we stand up for some of our rights, here at the state level. I think we have to do that. Let's put a stop to finding all kinds of way to eliminate our freedoms because we are guarding them.

I am going to go skiing in the next couple of days and go, hopefully, more than 50 mph down the hill, with no seat belt, no airbag, or anything else. So, is that recklessly irresponsible, if the chance of crashing creates an economic burden on the rest of the folks in the state? I do not think they are going to go down that slope right now.

The **SPEAKER**: The Chair recognizes the Representative from Fayette, Representative Holman.

Representative **HOLMAN**: Mr. Speaker, may I pose a question through the Chair?

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

Representative **HOLMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My question is a technical one and it is to better understand what the implications will be if this law passes. On the next regarding insurance, I conferred with my colleague, Representative Brautigam about this. We went to the Insurance lobby and asked him this question and really did not get an answer.

So, if anybody in this body knows the answer—what would the insurance implications be if this was made a primary offense? If it does not affect the underwriting in any way, would it affect people's ability to access their benefits? Thank you.

The **SPEAKER**: The Representative from Fayette, Representative Holman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Falmouth, Representative Savage.

Representative **SAVAGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My guess is that somewhere down the road, it will really affect the rates, the way the policies are written.

My other issue with it is how are we to identify if a seat belt was hitched or not hitched once the cars go by? Sometimes it is awfully hard to tell.

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

Representative **MAKAS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Now we have heard a lot of reasons, many of them abstract for voting in support or opposition of this bill. I would like to add my personal story to this.

A number of years ago—many, many, years ago when I was in high school—my best friend lost her mother in an accident because her mother was not wearing a seat belt. My friend Emily insisted that nobody ride in her car unless they wore a seat belt. I was so petrified that I kept telling my parents constantly that they had to wear their seat belts when they drove. My dad, who was very much a believer in free will, felt that he did not need to do that because he was a good driver.

To make a long story short, on September 25, 1980, my father fainted and hit the back of a bus. He was not wearing a seat belt and was killed almost instantly. My mother, who was in the car, was thrown through the window. She was thrown sideways because she had turned towards my father, apparently. If my dad had been wearing his seat belt, and my mother had been wearing her seat belt, my dad would have survived that crash and my mother would have been much healthier than she is today, which is the tender age of 96. So it is very true, as the Representative from York said: Sometimes a seat belt can prohibit someone from being thrown in a crash.

However, I believe, the statistics show that it is much more likely that a person will be seriously injured if they are not wearing a seat belt. So I encourage you to support this LD 24, to make it a primary offense. I wish it had been that way back in 1980, because my dad would have been wearing his seat belt to not break the law. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Hinck.

Representative **HINCK**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It is tough to follow a story like that. I feel it is obviously unfortunate when an accident occurs and we did not have the proper safety equipment in place. My problem is that all of our compromises, our liberties,

and freedom, come because of the compelling, noble purpose of the common good.

Our liberties, our freedoms, cost us money sometimes. They are inefficient, often. Sometimes they cost us lives. I do not think that this measure is the most critical one, as civil liberties measure. I do not think our freedom hangs in the bows of this one. But I think that each one needs to be scrutinized carefully. I am concerned, particularly, when where we go is regulating somebody, controlling somebody against the actions of themselves.

One justification I find troubling, that is that there are other measures that allow arbitrary conduct by an officer of the law. I also agree with the vast majority—99 percent someone said—99 percent are doing their job very effectively and well on our behalf. I think what we are talking about, is always the possibility that it is not done right in some instances, and who does that fall on?

In this case, I think that we should be debating whether or not it is appropriate that we can be pulled over because our headlights are not on when our windshield wipers are on. We should be debating whether or not it is appropriate to be pulled over because there is a crack on the reflector in the back of the car. I am not so sure that just because those are allowed, that is justification for this measure and I will be voting Ought Not to Pass.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Harlow.

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have no great stories about how my life was saved with a seat belt. Rather, I had an accident with no seat belt and was not injured at all. But that did not mean it was right or wrong. I will vote for this enforcement of the seat belt because it is against the law.

If it is against our rights and all of this stuff—we do it all of the time with smoking. You cannot smoke in a bar. You cannot smoke in some restaurants. So, I think, if this is a safety issue, then we should enforce it and make it as safe as we can, and give the policemen a chance to enforce it and save our lives despite of ourselves.

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

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have not answered some of the questions either. I was asking for information or I was trying to let a couple of these build up, so that I would be able to answer them and not extend the debate.

The good Representative asked about the vehicle—if a seat belt would be required in an older vehicle. My understanding is that if it is not original equipment at the time of the manufacturing, that it would not be required in inspection. It would be exempt from this.

The good Representative from Portland, Representative Hinck, and several others, have talked about civil liberties. One in particular: I think the Representative from Berwick, Representative Burns, talked about racial profiling. I was given a synopsis of a study called *Minorities in Primary Versus Secondary Seat Belt Enforcement*. It actually said the results of a before and after comparison in states that upgrade to primary enforcement, indicated that for minorities, primary enforcement is associated with higher belt use and proportionally equal to fewer citations. Specifically in Louisiana, black ticketing actually went down as a percentage of all citations issued, following the implementation of primary enforcement.

Then, the third bullet says, secondary seat belt laws as contrasted with primary were originally adopted to limit the authority of the policeman stopping motor vehicles. The

secondary solution, however, created a nonstandard of potentially higher discretionary type of law. The belt law violation of an add-on, after police stopped a driver for some other violation, when secondary enforcement was replaced by primary enforcement, the percentage of all citations that are issued to minorities either decreased or remained the same.

The final thing we are talking about is civil liberties. I should have the right when I am in that car and the government is not in there with me. But if I am in there and I am with four other people—three of them are belted and I am not belted—I am looking at my civil liberties, but I have just become a projectile if I am in an accident.

When we did have the seat belt debate on the child safety seat, the saddest testimony I heard—and this is emotional, but this is where these things converge—was an Emergency Room attendant talking about a woman who put her child in the child safety seat. She did not buckle herself up because it was not the law, even though it is—actually, it is just that you cannot be enforced unless you are pulled over for another reason—was in an accident and was thrown into that child. I do not recall if that child was just seriously injured or killed. But where does that one person's freedom converge with the other person that is injured?

I do think that we have to weigh safety and personal liberties—and then the financial cost to all of us, when we are discussing this debate. I appreciate the level of this debate. I disagree, obviously, with the opponents. I think that they are sincere in their beliefs, but I truly believe this is good and needed legislation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Knight.

Representative **KNIGHT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am not going to try to change anybody's mind. Everybody pretty well has their views and they have been well expressed. I just wanted to give you a little bit of my own background on this particular issue.

I served 18 years on an ambulance. I have to tell you that anybody who does not wear a seat belt, is not using very much common sense. When I get into my automobile, I do not move 10 feet, without putting my seat belt on. It is just good common sense. Seat belts do save lives.

My mother-in-law, back in the late 60's, was killed in a motor vehicle accident because she did not have her seat belt on. But the primary reason she was killed, was she was hit by a drunk driver. That to me, is a far, far more serious problem that we need to deal with in this state.

Trying to legislate behavior and common sense, to me, does not make a lot of sense. I am going to be voting in opposition to the measure before the House today. I really would love to see everybody buckle up, but I do not believe it is up to us to legislate common sense. That is really what we are trying to do: legislate common sense. Thank you.

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

Representative **SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think that this bill is about dollars and sense. Some people have no sense and it costs the rest of us a whole lot of dollars.

People with traumatic brain injuries spend months and months in rehab and sometimes live out for many years, sometimes decades, in nursing homes on Medicaid, costing the taxpayer fortunes. People of the state are tired of paying for someone else's irresponsible behavior. I will be supporting the pending motion. We should all start wearing our seat belts. I know I never start my car without my seat belt already on.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative **BERRY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I happen to have a constituent who is the Director of the Safety Office at Maine DOT. Writing me from home in his capacity as a constituent, he wanted to express to me his very energetic support for this legislation, and for the 10 members that have voted with the majority on the Committee.

I want to share with you one of his arguments for it. I want you to know that in sharing this, I am very supportive of most of things that Maine Civil Liberties Union stands for. I am cosponsoring another bill with them, but I think he makes a legitimate point. Perhaps Maine Civil Liberties Union could work on this with others who have expressed their libertarian concerns around this issue. "Those who currently do not wear a safety belt might do well to sign a waiver, that would prevent the rest of us from having to pay their medical services, to pay the childcare, if they die and their kid is not belted up."

We heard the figure cited earlier—\$30 million or so—\$30 million plus, I think it was, a year that we are estimated to be paying now, that we could save. The research is clear: When it becomes a primary offense, your incidents of seat belt wearing goes up by about 10 percent

I think he makes a good point. He sees every day in his office, at the Safety Office at Maine DOT, the consequences of the regulations that Maine currently does not have. So many other states do. That is why I will be supporting this, I think a very appropriate bill, which is about public safety over and above civil liberties. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I agree with everything that my seatmate said, except one thing—he said he did not want to legislate for people that do not have common sense. But if they do not have the common sense, then I think that we better legislate for them. Thank you.

The SPEAKER: A roll call having previously 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. 10

YEA - Adams, Babbidge, Berry, Blanchard, Blanchette, Bliss, Boland, Brautigam, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carter, Casavant, Conover, Craven, Crockett, Dill, Driscoll, Duchesne, Dunn, Eaton, Eberle, Faircloth, Fletcher, Flood, Gerzofsky, Giles, Grose, Harlow, Haskell, Hayes, Hill, Hogan, Koffman, Makas, Marley, Mazurek, Miller, Mills, Patrick, Peoples, Percy, Pieh, Pineau, Pingree, Piotti, Pratt, Priest, Rand, Savage, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Treat, Trinward, Valentino, Wagner, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Berube, Cebra, Chase, Clark, Cleary, Cotta, Cray, Cressey, Crosthwaite, Curtis, Edgecomb, Farrington, Finch, Finley, Fischer, Gifford, Gould, Greeley, Hamper, Hanley S, Hinck, Holman, Hotham, Jackson, Jacobsen, Joy, Kaenrath, Knight, Lewin, Lundeen, MacDonald, Marean, McDonough, McFadden, McKane, McLeod, Millett, Miramant, Nass, Norton, Pilon, Pinkham, Plummer, Prescott, Rector, Richardson D, Richardson E, Richardson W, Robinson, Samson, Saviello, Schatz, Sutherland, Tardy, Theriault, Thibodeau, Thomas, Tibbetts, Tuttle, Vaughan, Walcott, Walker, Weaver, Weddell.

ABSENT - Barstow, Connor, Duprey, Emery, Fisher, Fitts, Lansley, Moore, Muse, Pendleton, Perry, Rines, Rosen, Sykes. Yes, 67; No, 70; Absent, 14; Excused, 0.

67 having voted in the affirmative and 70 voted in the negative, with 14 being absent, and accordingly the Majority **Ought to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative CEBRA of Naples, the Minority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-27)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Require a Test for Operating under the Influence for a Driver Involved in an Accident That Caused Bodily Injury"

(H.P. 88) (L.D. 96)

TABLED - March 21, 2007 (Till Later Today) by Representative BLANCHETTE of Bangor.

PENDING - Motion of same Representative to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to rise in support of the pending motion. This piece of legislation was brought forward in a request by a constituent in my area. There were three incidents in my district within a two-year period that I feel dictated this type of legislation. The legislation really does one thing in terms of adding to what exists in statute.

Right now, in a fatal accident or an accident where a fatality is likely to occur, then a drug alcohol test or a blood alcohol test is required. This piece of legislation would add, "Substantial body injury" to that statute. That is defined in statute as "Substantial", meaning "Substantial risk of death, impairment of bodily functions, permanent disfigurement, or extensive convalescence." So this is the criteria that would be used.

In the hearing itself, the State Police and the Secretary of State's Office, once the bill was amended, felt that they had no problem with it, that it would increase a number of incidences of testing to somewhere between 800 and 900. They felt this was workable. The District Attorney from Kennebec County, who was there neither to support nor oppose, said that once that amendment was placed on it that he would have supported it.

There is a need since the time of submitting the legislation. I have gotten a number of reports from other areas where people feel that adding this would be a plus, in terms of public safety and protection of victims. So, I hope you would indeed support this Minority Report as well. Thank you.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **OUGHT TO PASS as Amended** Report.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Minority Ought to