

# MAINE STATE LEGISLATURE

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**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

Came from the Senate, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** and ordered printed.

**REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** in concurrence.

**CONSENT CALENDAR**  
**First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 16) (L.D. 41) Bill "An Act Regarding Final Agency Action Subject to Appeal Pursuant to the Maine Workers' Compensation Act of 1992" Committee on **LABOR** reporting **Ought to Pass**

(S.P. 137) (L.D. 436) Bill "An Act To Postpone the Expiration of the Required Nonhospital Expenditures Component in the Capital Investment Fund" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(S.P. 154) (L.D. 467) Bill "An Act Regarding the Protection and Advocacy Agency Advisory Council" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(S.P. 89) (L.D. 252) Bill "An Act To Establish Emergency Response to Illegal Introductions of Invasive Fish Species" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-38)**

(S.P. 144) (L.D. 443) Bill "An Act To Require the Department of Environmental Protection To Meet the Federal Requirements on Regional Haze Visibility Impairment" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-50)**

(S.P. 208) (L.D. 671) Bill "An Act To Amend the Laws Dealing with the Posting of Gas Prices" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-45)**

(S.P. 209) (L.D. 672) Bill "An Act To Strengthen the Scientific Research Support Capability of the Maine State Museum" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-42)**

(S.P. 219) (L.D. 682) Bill "An Act To Allow Schools in the State To Self-insure for Fire, Property and Theft Insurance" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-41)**

(S.P. 228) (L.D. 711) Bill "An Act Regarding Notice That Must Be Provided by a Psychiatric Facility Concerning Certain Patients" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-49)**

(S.P. 240) (L.D. 791) Bill "An Act To Ensure Equitable Geographic Representation on the State Board of Education" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-43)**

(S.P. 273) (L.D. 880) Bill "An Act To Increase the Amount of Money a Resident in a Nursing Home May Spend on Personal Expenses" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-39)**

(S.P. 281) (L.D. 883) Bill "An Act To Allow a Self-pay Patient To Choose between Generic and Brand-name Medications" Committee on **HEALTH AND HUMAN SERVICES** reporting

**Ought to Pass as Amended by Committee Amendment "A" (S-40)**

(S.P. 286) (L.D. 898) Bill "An Act To Increase Educational Opportunities in the Kennebec Valley Region" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-44)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1235) (L.D. 1769) Resolve, Regarding Legislative Review of Portions of Chapter 11.15: Scallop Conservation Areas, Beals-Jonesport, a Major Substantive Rule of the Department of Marine Resources (EMERGENCY) Committee on **MARINE RESOURCES** reporting **Ought to Pass**

(H.P. 492) (L.D. 643) Bill "An Act To Clarify Certain Equipment Provisions for Motor Vehicles" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-128)**

(H.P. 639) (L.D. 840) Bill "An Act To Update the Authority of the Maine Employers' Mutual Insurance Company To Better Serve the Needs of Maine Employers" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-129)**

(H.P. 640) (L.D. 841) Bill "An Act To Extend Health Insurance Coverage for Dependent Children up to 25 Years of Age" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-130)**

(H.P. 1002) (L.D. 1428) Bill "An Act To Facilitate Reporting by Maine Financial Institutions of Elder Financial Exploitation" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-131)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

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

An Act To Make Failure To Wear a Seat Belt a Primary Offense

(S.P. 22) (L.D. 24)  
(S. "A" S-35)

Which was **TABLED** by Representative MARLEY of Portland pending **PASSAGE TO BE ENACTED**.

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 wanted to explain the Senate Amendment before people voted on this. Several things were added.

After the last debate on this, many people came forward and approached us and said there were certain things, in particular, that really made them have to pause in support of this legislation, so we tried to address those things. The first one was a built-in six-month grace period before the law would go into effect and it would become a primary offense. The second thing is we asked the advocates to go out and look for something that would address the piece around the search issue, so we found that several states have done it.

So, the summary of the Senate Amendment that you will be voting on, as part of this bill, is this bill prohibits searches of vehicles and occupants solely because of a violation of the mandatory seat belt law—a number of people had real concerns around that. To go even further, several states also, upon passage, approached representatives of the groups that are opposed such as ACLU and had them involved in the implementation strategy, to give them the vantage point to maunder this law. So I am currently drafting a letter to the Public Safety and ACLU, saying this is a concern and we have tried to address it, but you know, I think we are trying to be as inclusive as we can in this. So that is the amendment that you will be voting on today.

The other thing that I would just like to point out, and I understand the emotions on all the different sides, many of us whenever we have a bill before us—I think you noticed we had a sign bill in Transportation. I started noticing the size of signs and the placement—it just becomes second nature—but the sad thing is, whenever you see an accident reported in the news, I immediately, I will be honest, look to see if the occupant was buckled or not. We heard anecdotal evidence during the last debate that it is not 100 percent—we understand that—but statistically you are more safe, more likely to survive a crash if you are seat belted. We had several—one of our Colleagues down the hall mentioned a 20-year-old man—there was a two-car head-on accident. The 20-year-old man did not survive, he was not seat belted. The 39-year-old man was in fact wearing his seat belt and because of that and the airbags survived the accident.

In Sebago, there were two young drivers, I believe, in an accident—the one seat belted survived, the other was ejected from the vehicle and killed. Then probably the most public of all of these is the Governor of New Jersey. Just think about—Governor Corzine's left femur bone was fractured, it punctured two holes through his skin. He lost about half of the blood in his body, requiring seven units during surgery, broke six ribs on each side along with his sternum, collarbone, and lower vertebra. Obviously, speed was involved there too, as was said, unfortunately. The other occupant of the vehicle, once again, was seat belted and has much less dramatic injuries.

I appreciate everybody who has approached us on this bill and I just want to remind you of a couple of the statistics. As far as, in Maine, if we had a primary seat belt law, it is approximated that 10 lives would be saved a year, 155 serious injuries, as well as \$33 million in associated costs. New Hampshire, who has no seat belt law, currently, their House of Representatives passed this with a pretty good margin. It has not become law yet, but they see it, a number of states see it in over half of the states in the country, and I hope you will support Enactment. 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. I still have questions. You cannot rewind an accident. So how is it that those who quote all of these statistics can be so sure? Why is it okay to do something a little at a time that we would never think of doing all at once? If making this seat belt law a primary offense was such a good idea, why did this body not do it when it passed the original bill, years and years ago? Is this really what we want our police officers doing? Is this what we want them spending their time on, or are there not more important things for police officers to be doing with their limited time, than worrying about whether we have our seat belt buckled or not. 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. Now, police officers stop us now just for having a taillight out. So I do not see why they would not stop us for a safety, something as important as a seat belt, when they stop you for a rear light. I will be voting for this.

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

Representative **CEBRA**: Thank you, Mr. Speaker. I have a question to pose to the members of the House through the Chair.

The SPEAKER: The Representative may pose his question.

Representative **CEBRA**: Thank you Mr. Speaker. Having read the amendment on this piece of legislation, I have a questions as to whether or not—does this amendment now mean that if a law enforcement officer were to stop someone, and they were to see an open bottle of liquor on the seat next to them, that the officer would have to allow them to proceed and leave that unanswered?

The SPEAKER: The Representative from Naples, Representative Cebra 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 am not a law enforcement officer, but my understanding is this would basically be that if they pulled them over and there was no other citation being written up. If there is probable cause, would be the legal term, to continue a search—I get a nod from my legal counsel to the right, so I am in the ballpark—a search would continue if you had a weapon on the seat, I would assume, if you were obviously intoxicated, any of those. So this is strictly around a violation, as far as a primary violation of the seat belt law.

If I may just address Representative Thomas—I would personally say that I cannot think of a more important job for the law enforcement officer then potentially saving a life. The good Representative who spoke afterwards, spoke about we pull them over for taillights, we mentioned the wipers when your lights are supposed to be on, this is truly public safety. It is not 100 percent foolproof, we acknowledge that, but statistically, time and again, it is proven to save lives. So I hope you will support Enactment.

Representative THOMAS of Ripley **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: The Chair recognizes the Representative from Bethel, Representative Carter.

Representative **CARTER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do not wear my seat belt as much as I should. I think if this law passes, I will probably wear it more. But if I vote for this law and it passes, I am going to wind up being fined sooner or later, probably. Sometimes we have to yield to those people that know more about stuff than we do. I have yet to meet an EMT or trauma doctor that does not say this is important. Thank you.

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. We have a seat belt law. We are not talking about a seat belt law. The right to be able to drive down the street and not be harassed is what we are talking about—our Fourth Amendment. If you are over 18 years old and you want to make a choice not to wear it, someone made that choice and the argument that it cost us more money does

not apply—the man died. He made a choice. He was old enough to make that choice. We take many risks. We should be allowed to take those risks. We should protect those who cannot make those choices. That is why I speak against this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Allagash, Representative Jackson.

Representative **JACKSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I agree with the previous Representative on his points. Just to bring up the fact that this body consistently has bills in it for helmet safety while riding motorcycles. It seems like no one wants to touch that issue and we all know that that would save a lot more lives per accident. I am voting against this. If you want to be out there and you do not want to wear your seat belt, I feel that is your choice.

The SPEAKER: The Chair recognizes the Representative from Eddington, Representative Pratt.

Representative **PRATT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I promise to be brief. It is my understanding that driving in this state is a privilege, it is not a right. We put limitations on it—we make sure that you are 16 years old, we make sure that you have to get a drivers license. There are some things that we do for public safety for a reason. I personally think it is not too much to ask for your public safety, for my public safety, and for the rest of the citizens of the State of Maine, that we ask you to wear your seat belt and then if you do not, we make it against the law—it is already. All I am asking for is to allow officers to do their job and go to fewer fatal car wrecks, which is part of their job, then they do now. That is what this is about. It has been shown that almost 10 percent, there is almost an increase of 10 percent in compliance with wearing your seat belt if there is a primary enforcement law.

I think we have done a good job addressing the civil liberties issues that we are talking about, that the good Representative from Camden and from Naples, have brought to the floor front here. I do not think it is too much to ask. We have already taken away that civil liberty. We have already said in this state that it is a law that you have to wear your seat belt. All we are asking is to allow these officers to do a very important job, which is do their job—enforce the law. Thank you very much. I appreciate your time and I will be voting in favor of primary enforcement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Cleary.

Representative **CLEARY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have heard from the Chair and others and have weighed the benefits and detriments of this particular legislation, and honestly, I have found the benefits to be wanting. I believe that we give up too much liberty in this particular situation. Liberty may be abstract to some, but liberty truly is within our nature.

Those that you have heard speak in favor of this bill today, say that it will save money and lives and there is only one more step. I am sure that we have all heard the analogy that one more step is the difference between admiring the view from the top of the cliff and admiring it from below. I would submit that that is something that we are faced with here today.

I remember a resolution that we passed not so long ago, a resolution regarding Real ID, and that was implementing or seeking to implement a National ID card. I have not forgotten the Resolution, or protesting Real ID, and perhaps I am naïve to believe that sentiment that we passed not so long ago, but it was only one more step—we already have a driver's license. It will save thousands of lives and money, we are told, by preventing

terrorist attacks, but I would submit that again. There is a situation where we all came together as a body, and determined that liberty was more important.

I would also submit that besides the abstract concept of liberty, roadblocks would be an enforcement mechanism to enforce this bill and that is something that we should consider as well. I want to just end my comments with a quote from former Supreme Court Justice Louis Brandeis. He said this, "Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

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. This is not a unique situation that we have in front of us. Anybody who wants to go hunting today during hunting season, you have to wear florescent colors and you can only have a certain number of bullets in your gun. So, if you are going to tell me this is a loss of my freedom and my liberties, I am glad because it is not going to kill me. Thank you very much.

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 served in this body ten years ago or so and we never would pass a seat belt law. We just felt uncomfortable about the liberty, so we put it out to referendum. The people of the State of Maine voted to have a seat belt law. It was not this body. It was not the other body. It was the people of the State of Maine. What we have done since then, is not enabled our law enforcement to enforce the law that the people of the State of Maine passed. So I am going to support this and I encourage you too. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Muse.

Representative **MUSE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In its original form, I was very much on the fence about this bill. I like it much better in its amended form, but because I had doubts about it, I asked my son who is a State Trooper how he felt about this. He is a State Trooper in New Hampshire, so he may very soon have a primary seat belt law there, himself. His immediate reaction was that he would welcome this. Our law enforcement people do want to save lives. He recognizes this as a huge, huge help in helping him to do that job and prevent tragedy, especially for children. So I will be voting for this and welcome you to join me. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Casavant.

Representative **CASAVANT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. One of the things that we are always confronted with is the cost of healthcare in Maine, and because of that, we have all sorts of devices trying to make it more affordable. To me, it seems that if the evidence suggests that wearing a seat belt helps to negate the cost of accident injuries—in other words, people that are belted in have less severe injuries and hence less cost—it would seem only proper that we as a body use a seat belt law as a piece of the puzzle, in order to reduce the cost of medical health. 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. There have been a couple statements that have been made here that I find a little

hard to swallow as gospel. One, I do not know of any Police Department that even runs road blocks or OUI enforcement, unless they have gone out and applied for a grant, a Federal grant, in order to enforce the laws against operating under the influence. If you think your neighborhood Police Department is going to take and free up \$10,000 or \$12,000, to run a road block to check to see if you are wearing your seat belt, you need to make a call to your Chief of Police and find out if and what their priorities are.

The State of Maine has gone to great lengths over the years, and rightly so, and I am very, very proud of the safety laws that we have put in to protect our children. You know, if we are patient and we want to wait long enough, we will all kill ourselves by not wearing a seat belt, but the younger generation is so engrained with putting a seat belt on, that they will use them because they know they save lives. If you are caught with a child in the car under a certain height and you do not have a booster seat, you can be fined for that and that is as it should be. We protect our children to the point that we want to put them into a cocoon and never let anything hurt them. How much do we think that child is going to be hurt, when the police officer knocks at the door and says, "I am sorry, one of your parents is dead"—it happens everyday. That is something that you never, ever want to have a law enforcement officer have to do. I have many, many retired Troopers sitting in this building right now, and they can tell you this is the hardest part of their job. If we can take that step away from them, it is a better world. It is not an infringement on your rights. We need you here to raise your children and to contribute to a society in the State of Maine.

I urge you to support this. It is time. Secondary laws are useless—I have always said that they are useless. It needs to be a primary offense and you will find that once you get used to that seat belt, you cannot start your car without it. Thank you, Mr. Speaker.

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.

**ROLL CALL NO. 37**

YEA - Adams, Babbidge, Barstow, Berry, Blanchette, Boland, Brautigam, Browne W, Bryant, Burns, Campbell, Canavan, Carter, Casavant, Connor, Conover, Craven, Crockett, Dill, Driscoll, Duchesne, Dunn, Duprey, Eaton, Eberle, Faircloth, Farrington, Finley, Fischer, Fletcher, Flood, Giles, Greeley, Grose, Harlow, Haskell, Hayes, Hill, Hogan, Koffman, Makas, Marley, Mazurek, Mills, Moore, Muse, Nass, Norton, Peoples, Percy, Perry, Pieh, Pineau, Pingree, Piotti, Pratt, Priest, Rand, Rector, Rosen, Savage, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Treat, Tuttle, Valentino, Wagner, Watson, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Cebra, Chase, Clark, Cleary, Cotta, Cray, Crosthwaite, Curtis, Edgecomb, Finch, Fitts, Gifford, Gould, Hamper, Hanley S, Hinck, Hotham, Jackson, Jacobsen, Joy, Kaenrath, Lansley, Lewin, Lundeen, MacDonald, Marean, McDonough, McFadden, McKane, McLeod, Millett, Miramant, Patrick, Pendleton, Pilon, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Samson, Saviello, Schatz, Sutherland, Sykes, Tardy, Theriault, Thibodeau, Thomas, Tibbetts, Vaughan, Walcott, Walker, Weaver.

ABSENT - Berube, Blanchard, Bliss, Cain, Cressey, Emery, Fisher, Gerzofsky, Knight, Miller, Richardson E, Rines, Trinward.

Yes, 76; No, 61; Absent, 13; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 61 voted in the negative, 1 vacancy, with 13 being absent, and accordingly the

Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry who wishes to address the House on the record.

Representative **BERRY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In reference to Roll Call No. 35 on LD 419, had I been present, I would have voted yes.

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

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On motion of Representative SILSBY of Augusta, the House adjourned at 12:05 p.m., until 10:00 a.m., Thursday, April 26, 2007 in honor and lasting tribute to Judge Courtland D. Perry II, of Augusta.