

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Fifth Legislature

State of Maine

Daily Edition

First Regular Session
December 1, 2010 to June 29, 2011

Pages 1 - 1494

READ ONCE.

Committee Amendment "A" (H-6) **READ** and **ADOPTED**, in concurrence.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Revise the Law Regarding Vehicle Turning and Signals"

H.P. 47 L.D. 54

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

COLLINS of York
THOMAS of Somerset

Representatives:

CEBRA of Naples
GILLWAY of Searsport
PARRY of Arundel
RIOUX of Winterport
ROSEN of Bucksport
WILLETTE of Mapleton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass**.

Signed:

Senator:

DIAMOND of Cumberland

Representatives:

HOGAN of Old Orchard Beach
MAZUREK of Rockland
PEOPLES of Westbrook
THERIAULT of Madawaska

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **COLLINS** of York moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Collins.

Senator **COLLINS:** Thank you Mr. President. What this bill, L.D. 54, attempted to do was to require people to put on their turning signals when entering an interstate highway. Currently that is already a law. They are supposed to be doing that anyway. That was the reason for the Majority Ought Not to Pass Report. Thank you.

On motion by Senator **COLLINS** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Senate

Ought to Pass

Senator **SHERMAN** for the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Resolve, Directing the Conveyance of Conservation Land in Rockport
S.P. 107 L.D. 394

Reported that the same **Ought to Pass**.

Report **READ** and **ACCEPTED**.

READ ONCE.

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act To Make a Violation of the Laws Governing Seat Belts a Secondary Offense"

S.P. 37 L.D. 64

Reported that the same **Ought Not to Pass**.

Signed:

Senator:

DIAMOND of Cumberland

Representatives:

GILLWAY of Searsport
HOGAN of Old Orchard Beach
MAZUREK of Rockland
PEOPLES of Westbrook
RIOUX of Winterport
ROSEN of Bucksport
THERIAULT of Madawaska

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (S-4)**.

Signed:

Senators:

COLLINS of York
THOMAS of Somerset

Representatives:

CEBRA of Naples
PARRY of Arundel
WILLETTE of Mapleton

Reports **READ**.

Senator **COLLINS** of York moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-4)** Report.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Collins.

Senator **COLLINS:** Thank you Mr. President. Men and women of the Senate, the Minority Report changes the current law on seatbelt usage from a primary offense to a secondary offense. That is what it was prior to maybe four years ago. During the recent campaign cycle last Summer and Fall I met with a lot of folks and quite a large number of folks said to me, "Why can't we revert that back to a secondary offense, the way it used to be?" That doesn't give you carte blanche to not wear your seatbelt. If this passes and changes the law, if you are not wearing a seatbelt, and by the way you have a choice if this passes not to wear your seatbelt, if you get pulled over by a police officer for another driving infraction and he notices you don't have a seatbelt on you are going to get a citation for not wearing a seatbelt. If this passes you have a choice to either buckle up or not. I too confess to you all that down deep in my core I am libertarian at heart. I like having the choice whether I want to buckle up or not. I have to say emphatically that I'm a strong supporter of wearing seatbelts. On a personal note, I wear mine all the time. It's just common sense that you would wear it, but for those instances when you forget, and I've done that, I've been guilty of that because my mind was someplace else and I forgot, the fines are pretty hefty. As a matter of fact, there is a fiscal note attached to this bill. What that fiscal note is are the fines levied against Maine citizens for not wearing a seatbelt. It's pretty high. \$488,000. You can go back home and say, "Folks, I just saved the State of Maine \$488,000 that they won't be fining you." I just want to reemphasize the fact that wearing a seatbelt is very important. I recommend it to anybody who drives an automobile, truck, or whatever. Back in my younger years, when my children were young, they teach this in school. I'm sure the young people here in the Chamber today will testify to that. They teach you to wear your seatbelts all the time. My children are always after me. Finally I said, "You know, you are right." I started wearing my seatbelt religiously and have for many years. Getting back to my libertarian position, I think it should be a choice by an individual to either wear their seatbelt or not. I thank you for your time.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I, of course, hope you will not support

the Minority Report and reject that so we can pass the Majority Report. We have a law that has been working very well, and I must add here that it is thanks to the good work of the former Senator from Knox County, Senator Savage, who spent 14 years here and this being one of her primary goals, to get this law passed as it is right now. The law is working well. It has a wonderful public relations and student awareness program that goes with the program right now. A lot of proponents have been working on this, proponents that you would recognize. The Bureau of Highway Safety, Bangor Physicians and Retired Surgeons, The Maine Driver and Traffic Safety Education, AAA, Maine Osteopathic Association, and it goes on and on. The reason they all support this is because it saves lives. Primary offense saves lives. When we passed this the federal government gave us nearly \$4 million as an incentive. Now we're maybe going to say, "We took your incentive but now we've changed our minds." As far as the libertarian view goes, and I certainly carry a great deal of respect for the Senate Chair from York, Senator Collins, when it comes to driving our vehicles we violate that libertarian trust all the time. The Secretary of State in the State of Maine can suspend anyone's license without even going to court. I want that license because I don't think you are a safe driver. The Secretary of State can say, "You can only drive 25 miles from your house and, by the way, I want you to wear glasses and I'll tell you what prescription to wear as well." If you want a vanity plate, "I'll tell you what can go on that plate and especially what can't." We have lists upon lists when it comes to driving that pertain to public safety because we have to. Because we have to. Because there are so many of us driving now we can't simply say, "Well, you have your own rights. Go ahead and do what you want to do." Driving is a privilege and we have a message to send. We've sent it well. What are we going to be saying to everybody, especially our students, when they see the legislature is now lessened this as a priority? You heard from the good Senator that the fiscal note is substantially high and it all comes from the General Fund, I might add. In fiscal year 2011-2012 it's \$578,000 plus. In fiscal year 2012-2013 it's over \$770,000. That is lost General Fund revenue. I would ask you to not unravel a good system. Let's not send a message that this isn't quite as important as it used to be. This is a matter of good government and common sense. If you do pass the Majority Report you can go back home and say that you continued to save lives. I think that is the most important thing you can say. Thank you, Mr. President and ladies and gentlemen of the Senate.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Mr. President, there are times and there are cases when you wear a seatbelt and it comes right across your Adam's Apple. If you were to modify the anchor that holds that seatbelt in place, that shoulder harness in place, you can't get your vehicle inspected any more. It happens more than you realize. The law does not require you to wear the shoulder harness. You can fold that down and you can put some kind of attachment to leave it long because there are people and there are cases where it is dangerous to wear that shoulder harness because it comes right across your Adam's Apple. You wouldn't have to get in a very severe accident to do great damage to your throat. Considering that, how does a police officer know if you are wearing your belt or not? How does a police officer know if you are wearing your belt if your car isn't

equipped with a shoulder belt? He doesn't. Do we really want our police officers paying all that attention to those kinds of things? This law does not lessen the requirement to wear a seatbelt, it just means that officers can pay attention to more important things. Are you staying on your side of the road? Are you speeding? Are you stopping at stop signs? Yes, let's make this a secondary offense and let's let people who in fact can't wear their shoulder harness drive in peace and not worry about being stopped.

On motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you Mr. President. To me this particular law has never been about wearing seatbelts nor has it been, and never should have been, a budgetary issue. To me this has always been and will always be about our rights. It's about government intruding on rights, chipping away at every single juncture about taking away our choices. For me this is an important vote because this is absolutely about our own personal choices. Most people would agree that one should wear ones seatbelt and I would hope that everybody would wear ones seatbelt, but it's about taking away that choice and slowly chipping away at those choices. I don't think government should be allowed to make those choices for us. I think that if insurance companies want to charge us more for not making a commitment to wear a seatbelt so be it, but that is a different issue. This is about our choices being taken away and I would hope that you would vote with the Minority Report. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Thank you Mr. President. Members of the Senate, I would just like to respond briefly to the good Senator from Penobscot, Senator Schneider. Driving is not about rights. Clearly it is not. We said that in this legislature, previous legislatures. We have laws that go way back to reinforce that it is not about rights. Driving is a privilege. Driving is a privilege and we, in this legislature, send a message about that all the time. This is a message that we really should send, that we are not changing. This is too important. It's one of those things that comes maybe in the core of what we do as far as people's lives in this state. We do not want to be seen as unraveling something that is working so well. Thank you, Mr. President.

Off Record Remarks

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you Mr. President. There has been a lot of talk this morning about freedom and the right to wear your seatbelt or not. I just want to be very clear and make sure that everybody understands that this report doesn't repeal the seatbelt law. There will still be a law on the books requiring that you wear your seatbelt. This purely deals with primary and secondary enforcement. If it comes down to an issue of whether you have the freedom or not that goes beyond this bill. You should be voting to repeal the law altogether. Once the law is on the books then the question is do we want primary enforcement or not. Do want to be able to allow people to be stopped for not wearing their seatbelts? That is what this is about. The reason that Senator Savage fought so hard for that is that she understood about the educational tool that it can be to let people know that this is required, it's important, and it's not just an after thought. It's not an after thought if you get pulled over for speeding, just to ratchet up the fine on you a little bit. It's about demonstrating to the people of Maine that wearing your seatbelt is of paramount importance because of its role in saving lives. It is for that reason I would urge you to reject this report.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I had the privilege less than a month ago to ride along with one of the State Troopers on a section of the Maine Turnpike. In our conversation, it was actually Leonard Bolton from Wells, he talked about two things being of utmost importance on the turnpike. He feels the best thing that has ever happened is making the seatbelt law a primary law. He said high speeds and seatbelts. He's seen too many times when he's had to investigate fatal accidents that could have been saved with that seatbelt. His other one happened to be texting. He was less concerned even with talking, but he said young people get into the car and they start texting. He said they are going much too fast on the turnpike. It's a high speed anyways and you all know that. I cannot believe that there is a person that uses that turnpike that has not boosted the speed just a little bit. Even though it's posted 65, which is still a good speed, I'm guilty of it. I have a feeling most of us are. This is from somebody who picks up the remains of someone making that choice. Every single time maybe they choose not to wear their seatbelt, but daughters and sons, mothers and fathers, husbands and wives, they have to deal with that choice that somebody made. Maybe they caused an accident with another person that was wearing a seatbelt but they went out of control and ejected and somebody else is involved in the accident. I happen to support the law. I supported it earlier. I watched Senator Savage really debate that. I see nothing wrong with saying you need to wear your seatbelt. That's personal responsibility. You have a responsibility, if not then we end up, we as a state and your family, paying the price. Forget the fiscal note. It's the price of the personal damage it has done to families. I ask you to please vote Ought Not to Pass. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Collins to Accept the Minority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#17)

YEAS: Senators: COLLINS, COURTNEY, HASTINGS, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BLISS, BRANNIGAN, CRAVEN, DIAMOND, FARNHAM, GERZOFOSKY, GOODALL, HILL, HOBBS, JACKSON, KATZ, PATRICK, ROSEN, SULLIVAN, WOODBURY

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion by Senator COLLINS of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-4)** Report, **PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-4) **READ** and **ADOPTED.**

ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.

All matters thus acted upon were ordered sent down forthwith for concurrence.

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House As Amended

Bill "An Act To Amend the Laws Governing the Maine Potato Board" (EMERGENCY)

H.P. 34 L.D. 41
(C "A" H-5)

READ A SECOND TIME and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Senate

Bill "An Act To Extend a Deadline under the Regional Economic Development Revolving Loan Program" (EMERGENCY)
S.P. 167 L.D. 575

READ A SECOND TIME and **PASSED TO BE ENGROSSED.**

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Acts

An Act Related to Family Law Magistrates
H.P. 32 L.D. 39

An Act To Allow Marriage and Family Therapists To Serve as Mental Health Professionals in the Civil Service System
H.P. 39 L.D. 46

An Act To Repeal the Sunset on the Law Relating to the Landing of Dragg Crabs
S.P. 40 L.D. 85

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (3/1/11) Assigned matter:

Bill "An Act To Assist Nonprofit Corporations Harmed by a Casino"
S.P. 249 L.D. 846

Tabled - March 1, 2011, by Senator **FARNHAM** of Penobscot