

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)

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

Resolve, Regarding Legislative Review of Portions of Chapter 316: Long-Term Contracting and Resource Adequacy, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

H.P. 5 L.D. 13
(C "A" H-6)

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

Senate

Resolve, Directing the Conveyance of Conservation Land in Rockport

S.P. 107 L.D. 394

READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act To Make a Violation of the Laws Governing Seat Belts a Secondary Offense"

S.P. 37 L.D. 64
(C "A" S-4)

READ A SECOND TIME.

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

Senator **DIAMOND:** Thank you Madame President. This is the bill, of course, that we talked about yesterday. It was a very close vote in this Body. I think there is a lot of concern, certainly, expressed on both sides. I think it is a good time today to probably run this and see if we can get a final decision. I would say that one of the things we kind of alluded to yesterday was the fact that one of the concerns was the right of the public and the driving. We certainly talked about how driving is not a right. Neither is your license. This is a safety issue. We've done some research since yesterday. It appears, as best we can find, that there has never been a state that has repealed a seatbelt requirement once they have had it to a lesser value, such as a second offense. I think what we've done across this nation in so many states is that we have discovered and really believe this is a safety issue. For us, in the state of Maine, to step back from that would send the wrong message to the very people we are trying to train as we have trained as it comes to other items, such as seatbelt use in general and OUI. It is no longer cool to be an OUI convicted person. That's because of the awareness level. I would certainly ask you today to give this another look. Do not pass it so we can pass the Majority Report and then move on from here. Thank you, Madame President, I appreciate the time.

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

Senator **COLLINS:** Thank you Madame President. Yes, this is indeed my bill, L.D. 64. If this passes muster here in the legislature and is signed by the Governor it will go back to a secondary offense. To my good colleague from Cumberland, Senator Diamond, I just want to mention that there are neighboring states to Maine, mainly the state of New Hampshire, that have no laws whatsoever pertaining to seatbelts. The state of Massachusetts, for example, has no primary law. It's a secondary. It's a secondary law because that is what is most agreeable to the people. The people of Maine have complained to me. I'm sure when we are all doing our campaigns, like last Fall, this has come up about changing it from a primary offense. Obviously there have been many, many, many e-mails and phone calls pertaining to this. All in favor of changing it back to a secondary offense. It seems to be, in my estimation, what the people of Maine want. During the public hearing at the Transportation Committee most people who were opposed to it were part of the lobby. Most people who were for it came from the rank and file of the state of Maine. They gave up a days pay or whatever and came down and testified in favor of changing this law back to a secondary offense. I would encourage you to support the Minority Report and move it on to the other Body. Thank you very much.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Lincoln, Senator Trahan.

Senator **TRAHAN:** Thank you Madame President. Ladies and gentlemen of the Senate, I'd like to weigh in just for a moment on this issue and why I am going to continue to support my previous position of repealing this mandatory stopping power for the police. When I think of police infringing upon a person's privacy or creating an inconvenience when it comes to traffic issues I expect that what that individual is doing in their automobile, because they are being stopped, might be a risk to somebody else on the road. When you don't have a taillight that is working that can cause an accident. When you have a tire that is wobbling on your automobile that's a risk to the public. This can go on and on. Not wearing a seatbelt is not a risk to the public. It's a risk to the individual who chooses not to wear it. That's called an individual's choice. That is why I support repealing this and going to the secondary violation. That means if you are stopped for another purpose they can give you a ticket for not wearing your seatbelt. It is currently a law that we have to wear our seatbelts. If a person chooses not to do that because of the risk of being fined then that is the way it should be. I don't think doing this is any risk to the public. It's just a risk to the individual. That's where I draw the line. Thank you.

Senator **DIAMOND** of Cumberland requested a Roll Call.

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

Senator **DIAMOND:** Thank you Madame President. Just a quick response. The choice truly is individual choice as to whether you want to obey the law, even if it is a secondary offense. The other thing to consider is there are more injuries, more deaths, when people do not wear seatbelts. I think we need to understand that we all pay for that through health care costs. I think it's much larger than just an individual choice. It's not about rights in this

case. It's about the safety of our people and the message we send to our young people. Thank you, Madame President.

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 PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you Madame President. Men and women of the Senate, when I rise on the other side of an issue than my colleagues the Senator from York, Senator Collins, and Senator from Lincoln, Senator Trahan, I have to question myself as to whether I'm doing the right thing. I have thought about it and I stand none the less. I think there are two things upon which we can agree about seatbelts laws. One is that seatbelts save lives. All you have to do is ask emergency room doctors, police, pathologists, and lawyers who handle these cases and they turn what could have been serious injuries into minor injuries. The second thing I think we can all agree on is that we would prefer that everybody wear seatbelts and I think most of us do. It's at that point that people diverge. The Senator from York, Senator Collins, has cast this as an issue of personal choice and the right to make our own decisions, whether good or bad, for ourselves and that the bill that passed just a couple of years ago is just another example of the State telling people how to live their lives. On the other side is the position taken by the Senator from Cumberland, Senator Diamond, and others that these do save lives and that this is a proper area for government regulation. I come down with the second camp. For most of us, I think we will wear our seatbelts no matter if there is a law against it or not. It's for the rest of us that these laws are directed. I think that is a certain proportion of the population that isn't afraid of getting caught but they will recognize the law and they will honor the law. It's at that last narrow percentage of people who are afraid of getting caught that this is directed at, people who say that they don't agree that they should wear their seatbelt, that they don't want to wear their seatbelt, and then it is a question of risk analysis about whether they are going to get caught or not. Changing this bill would decrease the chance that people would get caught for not wearing their seatbelt and, in my view, increase the chance of serious injury. I was discussing this bill yesterday with a constituent of mine who is a farmer from Vassalboro. I was the devil's advocate about the effect of the law on people and I was saying to him, "You know what, you can lead a horse to water but you can't make it drink." He paused for a few minutes and said to me, "You know, in my experience if you lead a horse to water and you stand there long enough eventually that horse is going to drink." We're down at the water right now. Let's not walk away. Thank you, Madame President.

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

Senator **SCHNEIDER:** Thank you Madame President. I hadn't anticipated speaking, Madame President, but I appreciate the opportunity. Men and women of the Senate, if we ride horses instead of driving vehicles we will probably save lives too. You just go outside your house and you are taking risks. The notion of how far do we go before we intrude on people and their freedoms, to me, that is really what this is about. It's also about civil liberties, which was something that wasn't even mentioned the

other day in this argument. Profiling is something that I don't agree with. The use of a first offense in a seatbelt is a very easy way to pull somebody over. I don't agree with that. Earlier on my colleagues said that perhaps we should just suggest to get rid of the seatbelt law. Frankly, I would be in favor of that. Not because I don't think people should wear their seatbelts. They absolutely should wear their seatbelts and we, as a government, should do everything we can to encourage that without infringing on people's right to choice to put that seatbelt on. I really believe that this is the right direction. I would, personally, like to go further because I find as we move on the government is intruding in our personal freedoms more and more. How far will we go to prevent people from having an injury to themselves? How far will we go? I just think it's getting to be like the frog in the boiling water, the water is getting hotter and hotter. We're just not realizing that we are taking freedoms away. I would hope that you would stick with your previous positions. I know I am going to. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Franklin, Senator Saviello.

Senator **SAVIELLO:** Thank you Madame President. Ladies and gentlemen of the Senate, I'm living proof of seatbelts working. As many of you know, I forgot to stop and went through and had my truck roll over three or four times. I literally walked away from the accident. However it was my choice to put on that seatbelt. Some of you remember that I had a bill in recently about smoking. If you smoked you couldn't get MaineCare benefits. I was quickly reminded that we cannot regulate behavior. As that, I cannot change my vote from yesterday because we cannot regulate behavior. It's the right thing to do. It's still a secondary offense. It's not being taken away, but we can't do that. Thank you, Madame President.

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

Senator **THOMAS:** Thank you Madame President. Ladies and gentlemen of the Senate, I would like to ask the people of the Senate to think about something I said when this bill came up in the other Body. When did we become everyone's mother? Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is Passage to be Engrossed as Amended. 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 (#18)

YEAS: Senators: COLLINS, COURTNEY, DIAMOND, HASTINGS, JACKSON, LANGLEY, MARTIN, MASON, MCCORMICK, RAYE, RECTOR, SAVIELLO, SCHNEIDER, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

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

Senator **DIAMOND** of Cumberland requested and received leave of the Senate to change his vote from NAY to YEA.

PRESIDENT PRO TEM DEBRA D. PLOWMAN of Penobscot County requested her vote be recorded as YEA.

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

Senate at Ease.

Senate called to order by President Pro Tem **DEBRA D. PLOWMAN** of Penobscot County.

Senator **DIAMOND** of Cumberland moved the Senate **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

Same Senator moved to **TABLE** until Later in Today's Session, pending the motion by same Senator to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you Madame President. May I pose a question through the Chair.

THE PRESIDENT PRO TEM: The Senator may proceed.

Senator **COURTNEY:** Thank you Madame President. Is it appropriate to describe the tabling motion prior to making it?

THE PRESIDENT PRO TEM: The motion to table is not debatable. The motion before the Body is the motion by the Senator from Cumberland, Senator Diamond, to table.

On motion by Senator **DIAMOND** of Cumberland, **TABLED** until Later in Today's Session, pending the motion by same Senator to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

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:

Act

An Act To Clarify the Method of Creating or Severing Joint Tenancy

S.P. 25 L.D. 10

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

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 (3/8/11) Assigned matter:

Bill "An Act To Extend the Time by Which Certified Plans for a Subdivision Must Be Filed"

S.P. 265 L.D. 861

Tabled - March 8, 2011, by Senator **SAVIELLO** of Franklin

Pending - **REFERENCE**

(Committee on **ENVIRONMENT AND NATURAL RESOURCES** suggested and ordered printed.)

On motion by Senator **SAVIELLO** of Franklin, Bill and accompanying papers **INDEFINITELY POSTPONED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (3/15/11) Assigned matter:

Bill "An Act To Allow a Stay of an Administrative License Suspension for Refusal To Submit to a Test"

S.P. 323 L.D. 1090

Tabled - March 15, 2011, by Senator **COLLINS** of York

Pending - **REFERENCE**

(Committee on **TRANSPORTATION** suggested and ordered printed.)

On motion by Senator **COLLINS** of York, **REFERRED** to the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY**.