

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Fourteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME IV**

**FIRST SPECIAL SESSION**  
August 21, 1989 to August 22, 1989  
Index

**FIRST CONFIRMATION SESSION**  
October 30, 1989  
Index

**SECOND CONFIRMATION SESSION**  
December 12, 1989  
Index

**SECOND REGULAR SESSION**  
January 3, 1990 to March 19, 1990

On further by Senator DUTREMBLE of York, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "B" (S-551).

On further motion by same Senator, Senate Amendment "A" (S-558) to Committee Amendment "B" (S-551) READ and ADOPTED.

Committee Amendment "B" (S-551), as Amended by Senate Amendment "A" (S-558) thereto, ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.  
Sent down for concurrence.

ENACTORS

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

An Act Concerning Geographic Isolation Grants  
H.P. 1305 L.D. 1805  
(C "A" H-806)

An Act to Clarify the Succession of Estates under the Maine Probate Code

H.P. 1353 L.D. 1870  
(C "A" H-816)

An Act to Clarify the Definition of Employer Under the Workers' Compensation Laws

S.P. 738 L.D. 1942  
(C "A" S-526)

An Act to Make Certain Housekeeping Changes to Various Punishment Sections of the Maine Criminal Code

S.P. 771 L.D. 1996  
(C "A" S-527)

An Act to Ensure that Mobile Home Park Operators are Informed of Habitability Problems

H.P. 1560 L.D. 2166

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

An Act to Ensure the Independence of the Animal Welfare Board

S.P. 691 L.D. 1830  
(C "A" S-523)

On motion by Senator PEARSON of Penobscot, Tabled 1 Legislative Day, pending ENACTMENT.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator GAUVREAU for the Committee on HUMAN RESOURCES on Bill "An Act to Increase the Capacity of the State to Provide Mental Health Services"

S.P. 861 L.D. 2210

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-557).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-557) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate at Ease

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

HELD BILL

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. Is the Senate in possession of L.D. 1950?

THE PRESIDENT: The Chair would answer in the affirmative, the Bill having been Held.

On motion by Senator BERUBE of Androscoggin, the Senate RECONSIDERED whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED.

Bill "An Act to Authorize the Annexation of Land Adjacent to the Town of East Millinocket" (Emergency)

S.P. 746 L.D. 1950  
(C "A" S-547)

(In Senate, March 6, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-547).)

On further motion by same Senator, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORT - from the Committee on LABOR on Bill "An Act Regarding Written Notice to Employees of Layoff or Termination"

H.P. 1577 L.D. 2184

REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-827).

Tabled - March 6, 1990, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE of the Report

(In House, March 5, 1990, the Report READ and ACCEPTED and the Bill FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED.)

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

Senator ESTY: Thank you Mr. President. Ladies and Gentlemen of the Senate. L.D. 2184 is not a major crisis in the State of Maine. It does address a limited concern that had been brought up by a few individuals. This Bill was a unanimous report from the Labor Committee.

My concern, and the reason I am addressing you regarding a unanimous report, is the concern I have heard repeatedly, in letters to myself and members of the Labor Committee, regarding misinformation that had been provided too many small businesses in our state in regards to what this Bill actually does. I do simply want to state for the record, that this Bill deals only with written notice, a pink slip, many of us know it as, regarding termination, being fired or being laid off.

It does not deal with written explanations, just cause, etcetera. Those concerns are current laws that were passed in the Legislature in the early 1970's. Unfortunately, the facts concerning this Bill have not been made clear. There have been many, many concerns regarding this issue, and since it isn't a major issue that needs to be dealt with during this session, even though I believe it was the right thing to do, I would like to so move that this Bill be postponed indefinitely.

On motion by Senator ESTY of Cumberland, the Bill and Accompanying Papers INDEFINITELY POSTPONED.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Protect Public Health by Prohibiting Smoking on Public Transportation Busses" (Emergency)

H.P. 1462 L.D. 2039  
(C "A" H-853)

Tabled - March 6, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED.

(In Senate, March 6, 1990, READ A SECOND TIME.)

(In House, March 2, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-817).

On motion by Senator CARPENTER of York, Senate Amendment "A" (S-555) READ.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator CARPENTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I'd like to briefly speak on this amendment and explain exactly what it does. All it is designed to do is to give a bus company the right, if they wish, to run a "smoker's special", perhaps, you might call it. If economics declare that perhaps a special bus, it might be a very small bus, it might be a very crummy bus, that they could run it, just calling it a smoker's special. It would only be for smokers. Thank you.

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

Senator COLLINS: Thank you Mr. President. Ladies and Gentlemen of the Senate. The good Senator from York, Senator Carpenter has effectively ruined the Bill! I would hope you would vote in opposition to his motion. The Bill, in its original form, prohibits, prohibits smoking in public buses, and his little gem provides for a two-way system and I suspect the bus lines would have a difficult time having a smoker's bus over here, and a non-smoker's bus over here, when they ride from Fort Kent to Augusta. Since I think the objective of the Bill was to prohibit, prohibit smoking on public conveyances, known as buses, I hope you will vote against the amendment.

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

Senator BALDACCII: Thank you Mr. President. I would like to pose a question through the Chair. If a bus is chartered by a group to go to a ball game or something like that, is that considered public transportation at that point or is it private?

THE PRESIDENT: The Senator from Penobscot, Senator Baldacci, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator COLLINS: Chartered buses are exempt from the provision in the law.

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

Senator CARPENTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. Not to carry on for many hours, but I do not see this effectively ruining the Bill. I think it's a right that a company should have if they desire. I doubt very much it would be used because probably the economics would not make it plausible. But looking into the future, perhaps at some time you will have train service. They have smoking cars. By the time we have train service, there will probably be camel cars for smokers. But I still think that private enterprise should have the right, if they so desire. It wouldn't be a scheduled competing bus, but if they want to run a bus that says for smokers only, I think they should have that right. Thank you.

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

Senator PEARSON: Thank you Mr. President. Ladies and Gentlemen of the Senate. This is worth staying for. I have not seen this in a long, long time, and I encourage further debate on this subject.

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

Senator CLARK: Thank you Mr. President. Ladies and Gentlemen of the Senate. While I concur with the brief remarks of the good Senator from Penobscot, Senator Pearson, I would pose a question, if I may, through the Chair, to the good Senator from York, Senator Carpenter.

That question is, presuming I have permission of the Chair, should his amendment be attached to the Bill, and public transportation be afforded from Sanford to Portland on two buses, one which has smoking, and one which has non-smoking, and there are more on the smoking bus than on the non-smoking bus, and the company determines that it's not economically feasible, which bus will go to Portland?

THE PRESIDENT: The Senator from Cumberland, Senator Clark, has posed a question through the Chair to the Senator from York, Senator Carpenter, to which he may respond if he so desires. The Chair recognizes the Senator from York, Senator Carpenter.

Senator CARPENTER: Thank you Mr. President. There wouldn't be two buses, I don't believe, at the same time. I'm just saying that I think the bus company has the right, if they so desire, to offer another bus. If they don't, if they can't make money, they won't have to, and I'm not trying to mix smokers with non-smokers. I realize that smokers should ride on the outside of buses, but anyway... Thank you.

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Off Record Remarks

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Senator GAUVREAU of Androscoggin was granted unanimous consent to address the Senate off the Record.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. I apologize for my late arrival in the Chamber, but the Committee was still in workshop.

The Bill before you emanated from the Human Resources Committee, and I feel an obligation to apprise the membership of the rationale of the Committee for recommending legislation without this language.

There was discussion in the Committee as to whether we should exempt chartered buses from the proposed prohibition on smoking in buses, and this elicited significant discussion among members of the Committee. Ultimately, the Committee decided that the residue of the smoke would build up and, in fact, would be a source of concern to individuals who do suffer from respiratory ailments and who have hypersensitivity to the consumption of tobacco products. Thus, what at first appeared to be a very reasonable approach to allow chartered buses, if people want to smoke on the buses, why not? The concern was that there may in fact be, over time, an accumulation of tobacco smoke which gets into the furnishings of the interior of the bus and which, in fact, would be offensive to certain individuals who would use the bus during its regular runs. For that reason the Committee reasoned that chartered buses should not be exempt from the prohibition on smoking on buses. Thank you.

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

Senator BRANNIGAN: Thank you Mr. President. Could we have a clarification? We've had conflicting bipartisan answers to questions. Before Senator Gauvreau came into the Chamber, we were told that they were exempt by Senator Collins, the Senator from Aroostook. Could we have clarification on this matter, please? Thank you.

THE PRESIDENT: The Chair would like to advise the members that the Senate Rules qualify that when speaking the Senators will address the Chair and make reference to their colleagues by the counties in which they reside, not in reference to the statement of the Senator from Cumberland, but, previous statements. The Senator from Cumberland, Senator Brannigan has posed a clarification through the Chair to any Senator who may care to respond.

The pending questions, is the Adoption of Senate Amendment "A".

A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator BRANNIGAN: Thank you Mr. President. I don't believe I could vote on this Bill until I know whether chartered buses are exempt. It seems to me if the Senator from York, Senator Carpenter, or anyone else wants to charter a bus, and it seems to me that would be a private affair and if they want to smoke, they might smoke. It just seems to be that ought to be clarified and we have conflicting information, and therefore, I would like clarification. If not, the next time I stand up I will ask it to be tabled.

Senator KANY of Kennebec moved to Table 1 Legislative Day, pending the motion of Senator CARPENTER of York to ADOPT Senate Amendment "A" (S-555). (Division Requested)

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator CARPENTER of York to ADOPT Senate Amendment "A" (S-555).

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill An Act to Promote and Assist Barrier-free Construction in Places of Public Accommodation and Places of Employment"

S.P. 733 L.D. 1932  
(C "A" S-536)

Tabled - March 5, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED  
(In Senate, March 5, 1990, READ A SECOND TIME.)

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

Senator COLLINS: Thank you Mr. President. Ladies and Gentlemen of the Senate. I am not overly conversant with this particular Bill. However, it seems to me that it deals both with new construction and existing construction in providing for access to the buildings. In the case of existing construction, I think it has a threshold of \$100,000, whereby, the barriers must be provided. My question is, since this provides for places of employment, as well as public buildings, and it includes existing buildings, in those cases where the building is of multi-stories...

[Due to technical difficulties, remarks not recorded.]

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

Senator CLARK: Thank you Mr. President. Ladies and Gentlemen of the Senate, I'm pleased to be able to respond the question framed by the good Senator

from Aroostook, Senator Collins. His question encapsulates the concern expressed...

[Due to technical difficulties, remarks not recorded.]

...His concern was expressed to me also this morning by the good Senator from Cumberland, Senator Dillenback, and I sought guidance from the genesis of this piece of legislation and was given the following response. The concern that he refers to is already Maine law and has been for over the last 10 years.

The amount of \$100,000 contained in the measure, is an amount which this Legislature determined in 1987, at that time, dropping the figure from \$150,000. I am aware, however, that there is an additional amendment being prepared which should be afforded an opportunity for presentation as a matter of courtesy, before this Body, and therefore, would request that someone table this item for one legislative day.

On motion by Senator DUTREMBLE of York, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED.

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act to Provide for Base-year Revisions for Intermediate Care Facilities for the Mentally Retarded"

H.P. 250 L.D. 362  
(C "A" H-813)

Tabled - March 5, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, March 1, 1990, READ A SECOND TIME.)

(In House, February 26, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-813).)

On motion by Senator GAUVREAU of Androscoggin, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (H-813).

On further motion by same Senator, Senate Amendment "A" (S-554) to Committee Amendment "A" (H-813) READ and ADOPTED.

Committee Amendment "A" (H-813), as Amended by Senate Amendment "A" (S-554) thereto, ADOPTED, in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

NOMINATION - of Walter H. Foster, Jr. of East Holden, for reappointment to the Maine Real Estate Commission.

Tabled - March 6, 1990, by Senator DUTREMBLE of York.

Pending - CONSIDERATION

(In Senate, March 6, 1990, Communication from the Committee on BUSINESS LEGISLATION READ and ORDERED PLACED ON FILE.)

THE PRESIDENT: The Joint Standing Committee on Business Legislation has recommended the nomination of Walter H. Foster, Jr. of East Holden be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Business Legislation be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th Legislature, the vote will be taken by the Yeas and Nays.