

MAINE STATE LEGISLATURE

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

Volume III

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House Legislative Sentiments
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Pages 1358-2163

ORDERS

On motion of Representative PERRY of Calais, the following Joint Order: (H.P. 1656)

ORDERED, the Senate concurring, that the Joint Standing Committee on Health and Human Services shall submit, to the House, a bill regarding flavored cigarettes and cigars to the Legislature.

READ.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just a little explanation of why you are seeing this, because you saw a similar Order before this body yesterday which we indefinitely postponed. We thought we could do this in the corrections bill; however, this is substantive, much more substantive than would go in the corrections bill and, in order to get it back on board, we need a new Joint Order to do that. We have the bill that we are hearing today and it will come before you, and this allows us to do it.

Subsequently, the Joint Order was PASSED.
Sent for concurrence. **ORDERED SENT FORTHWITH.**

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-890)** on Resolve, Directing the Department of Health and Human Services To Adopt Rules Governing the Use of Lakes by Licensed Child Care Facilities (EMERGENCY)

(H.P. 1417) (L.D. 2033)

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec
RAYE of Washington

Representatives:

PERRY of Calais
JONES of Mount Vernon
GROSE of Woolwich
MILLER of Somerville
BEAUDOIN of Biddeford
WALKER of Lincolnville
CAMPBELL of Newfield
LEWIN of Eliot
FINLEY of Skowhegan

Minority Report of the same Committee reporting **Ought Not to Pass** on same Resolve.

Signed:

Representative:

CONNOR of Kennebunk

READ.

Representative PERRY of Calais moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Driscoll.

Representative DRISCOLL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have not only one but two high hurdles to overcome here today. One is the fact that Representative Saviello's bill or resolve, somebody who I

have great respect for, who was actually dubbed as "the smartest man in Maine" by conservative talk radio. The other is the fact that this has come out with such a huge Majority Report out of the Committee of Health and Human Services, whom I also have great respect for because of the work that they do.

This Resolve came about because of the unfortunately and untimely death of a toddler in Westbrook, almost a year ago, and I stand here today in memory of Andrew Thurston. He was three years old, almost four; he drowned in a daycare facility in Westbrook; he resided with his mother in Cumberland. I felt obligated, as representing Westbrook, that I should look into do we have any rules in respect to daycare facilities with swimming pools, and what I found was, essentially, dealt with the cleanliness of the pools. There was not really a whole lot of guidance or direction for daycares in the State of Maine with respect to the health and safety of the children that they are taking care of, so I put in a Resolve that was passed in this House. I believe the rules were accepted last summer, so they have not even been in place a year yet. Apparently, there was some outcry around the rules and the requirement that there be a lifeguard in any open body of water that daycare facilities would take their children to outside of the daycare facility. This Resolve would actually strike the requirement that a lifeguard be provided or be at the site where the daycare facility children will be going in an open body of water, and replace that lifeguard with somebody who is called a water safety attendant.

My concern around utilizing a water safety attendant in place of a lifeguard of open bodies of waters is one, the fact that the American Red Cross actually specifically defines a water safety attendant as somebody who is not supposed to, or is not trained or certified to be in that kind of a situation around open bodies of water. I spoke with the American Red Cross headquarters in Portland a couple of weeks ago; they reiterated that same fact which you can actually find this specific notation on a number of Red Cross websites. I wanted to ensure that this was something that was defined nationally and not just at a few regional Red Cross sites. There at least 24 states that I found. We are not out on a limb, Maine is not number one in this area. There are 24 other states that feel compelled to require a lifeguard in these types of situations, so I do not think that we are out there above and beyond what every other state is doing.

You know, there are a lot of working families in Maine nowadays, a lot of folks utilize daycare facilities nowadays. You know, we have expectations for our daycare providers. We feel they should be professional, they should provide our children with appropriate development and education training in the daycare facility, and we feel that they should be providing high quality health and safety for our children while they are within their daycare setting. We actually have daycares that are looking to organize in the state; there is something before us now. I think they recognize developmental training of our children, appropriate health and safety, and just to be able to come together to share thoughts that they may have as a group is important. I think that we need to look to standards of care and best practices when we are creating rules for these daycares to protect our children. Drowning is the second leading cause of unintentional injury in the United States, and although we are not going to prevent every drowning, I think we should do what we feel is appropriate to protect our kids who are in daycare facilities.

There was a technical report by the American Academy of Pediatrics, which was written in 2003 and is still current today, and the report addresses the prevention of drowning in infants, children and adolescents, and under supervision/lifeguards, they had a brief paragraph and the American Academy of Pediatrics says: Close supervision of young children around any water is