

# MAINE STATE LEGISLATURE

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

**Volume III**

**Second Regular Session**

March 24, 2010 - April 12, 2010

**Appendix**  
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**CONSENT CALENDAR**

**First Day**

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

(S.P. 707) (L.D. 1804) Bill "An Act To Make Certain MaineCare Rules Regarding Service Provided by the Department of Health and Human Services through the Department of Education Major Substantive Rules" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-497)**

(H.P. 388) (L.D. 543) Bill "An Act Concerning the Allocation of Power Generated by GNE, LLC" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-803)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**ENACTORS**

**Emergency Measure**

An Act To Ensure Fairness in Penalties for Administrative Errors in the Long-term Care Assessment Process

(H.P. 1056) (L.D. 1507)  
(C. "A" H-782)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 134 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**Acts**

An Act To Make Maine's Laws Consistent with the Federal Family Smoking Prevention and Tobacco Control Act

(H.P. 1086) (L.D. 1542)  
(C. "A" H-776)

An Act To Amend the Laws Governing the Maine Health Data Processing Center and the Maine Health Data Organization

(H.P. 1088) (L.D. 1544)  
(C. "A" H-787)

An Act To Amend the Laws Regarding Authority over and Oversight of Certified Nursing Assistant Educational Programs

(H.P. 1205) (L.D. 1704)  
(H. "A" H-781 to C. "A" H-736)

An Act To Allow Electronic Filing of Vital Records and Closing of Records To Guard against Fraud and Make Other Changes to the Vital Records Laws

(H.P. 1271) (L.D. 1781)  
(C. "A" H-783)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Strengthen the Ballot Initiative Process

(S.P. 662) (L.D. 1730)  
(S. "B" S-481 and S. "C" S-487 to C. "A" S-443)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative BERRY of Bowdoinham, was **SET ASIDE.**

The same Representative **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 Bowdoinham, Representative Berry.

Representative **BERRY**: Thank you, Madam Speaker. I rise in support of the pending motion and as someone who, though you might not know it, to have read the headlines on this issue lately, I've been an active proponent of two citizen initiatives in my life. First, as a child in my political awakening and later as an adult. I'm proud to support LD 1730 because it strengthens our direct democracy by adding sunshine, in other words transparency, to the signature gathering process. Fraud is not partisan and laws preventing fraud are good policy no matter who is in charge. No matter which side of the issue we are on, sunshine is never a bad thing.

This bill would require paid signature gathering organizations to register with the Secretary of State. Maine circulators already have to be registered as voters, but we currently have no way of tracking those who come in from out of state, sometimes with criminal records due to ballot fraud, and attempt to influence Maine's laws. Maine laws should not be for sale to the highest bidder and Maine people deserve to know who is trying to influence their laws. By giving Maine voters more information, we can keep control firmly where it belongs: in the hands of the Maine voter.

Now there's one very important myth that I want to clear up about our ballot initiative process here in Maine, and that is that it could become harder in some way to put something on a ballot if a ballot organization had to register with the Secretary of State. Madam Speaker, as you know, Maine is already one of the easiest places to put something on the ballot. And, in fact, a January 2010 report by Citizens in Charge, a conservative ballot initiative group, ranked Maine as one of the easiest places in the nation to put something on the ballot by collecting signatures. At the same time, though, there was a report that came out last summer showing that Maine has one of the worst systems with respect to transparency. We received a D grade for our transparency criteria, and you may have received a yellow sheet earlier today reflecting the criteria on which that report card was based. So it's easy to put something on the ballot and there was very little transparency. All that this would tackle is the transparency piece.

Maine's system for direct democracy can remain easy to use as required by our Constitution, and we can still protect ourselves against fraud. As long as our petition drives, whatever side we're on, are honest, I think none of us should fear a little sunshine and a more empowered Maine voter. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Dostie.

Representative **DOSTIE**: Thank you, Madam Speaker. I rise today in support of LD 1730. First, I would like to thank the committee for their hard work on this bill. I am the lead co-sponsor of this bill, and I represent the town of Greene. Sally Hebert is the Town Clerk of Greene. Everyone in Greene is very proud of Sally's due diligence. Sally found 29 fraudulent names on a petition last summer. One signer had been dead for four years, another was her neighbor's. While researching for my testimony on this bill, I found that Maine is not the only state taking steps to change the petition process. Arizona, California,

Missouri, Nebraska, Ohio, Oregon, Wyoming, among others have already taken steps to increase the integrity of their petition process. This bill will help us bring integrity to our petition process. This bill provides measures to track petitions to prevent fraud, know whose collecting signatures, extend the challenge time and correct current law. This bill is about preventing fraud. Please follow my light and vote to Enact LD 1730. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 337**

YEA - Adams, Beaudette, Beaudoin, Beaulieu, Beck, Berry, Bickford, Blanchard, Blodgett, Boland, Bolduc, Briggs, Browne W, Bryant, Butterfield, Cain, Campbell, Carey, Casavant, Chase, Clark H, Cleary, Cohen, Connor, Cornell du Houx, Cotta, Cray, Crockett J, Crockett P, Curtis, Dill, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Fitts, Flaherty, Flemings, Fletcher, Flood, Fossel, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Johnson, Jones, Kaenrath, Knapp, Knight, Kruger, Lajoie, Langley, Legg, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Millett, Morrison, Nass, Nutting, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Pinkham, Piotti, Pratt, Priest, Rankin, Richardson D, Richardson W, Robinson, Rotundo, Russell, Sanborn, Saviello, Schatz, Shaw, Smith, Stevens, Strang Burgess, Stuckey, Sutherland, Tardy, Theriault, Thibodeau, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Burns, Celli, Clark T, Crafts, Davis, Edgecomb, Gifford, Giles, Hamper, Harvell, Joy, Lewin, McFadden, McKane, McLeod, Plummer, Prescott, Sykes, Thomas, Tilton, Weaver.

ABSENT - Cebra, Cushing, Greeley, Kent, Lovejoy, Nelson, Rosen, Sarty, Sirois.

Yes, 119; No, 23; Absent, 9; Excused, 0.

119 having voted in the affirmative and 23 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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An Act To Clarify Safety Requirements in Acadia National Park

(S.P. 666) (L.D. 1737)  
(S. "A" S-459 to C. "A" S-424)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative WAGNER of Lyman, was **SET ASIDE**.

The SPEAKER: The Chair recognizes the Representative from Lyman, Representative Wagner.

Representative **WAGNER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It's infrequent that the quiet man has something to say. On this occasion, I do. I rise in reluctant support of LD 1737 as amended because I believe the alternative, enacting nothing, would be detrimental to the general welfare of the state.

The title of the most recent series from documentary filmmaker Ken Burns is "The National Parks, America's Best Idea". The idea was to preserve portions of this great land as pristine havens. These places would serve as reminders of our elemental relationship with nature. They would be sanctuaries where one could find peace.

It was in 1994 that during a vacation herein Vacationland

Mary and I took our three young daughters for a visit to Acadia National Park. That experience, along with our impressions of this State's nurturing environment influenced us to move our family to where we could share in the way life should be.

I now have the privilege of sitting in this chamber. I have the particular privilege of sitting near Members who bring their young children here to visit, one in particular. It brings me back to the days when our girls were much younger. It also reminds me that parents will bring their children only to those locations where they know they will be safe.

If the small open carry fringe had their way, their first casualty would be the sense of safety all parents have in public places. In the years we have lived here in Maine we have taken our girls on outings to fairs and to parks. Had we seen folks, who weren't law enforcement officials, walking around with shoulder holsters, we would have left that place on the spot and we would have never returned to it.

The second target of the open carry faction is the reputation of the vast, vast majority of responsible gun owners throughout this country.

Much has been said in this chamber about Maine's "brand", its quality of place, its dependence on tourism. Examine a Bean's outdoor equipment catalog. There are photographs of young families enjoying the great outdoors. But there are no images of Mom and Dad or the kids for that matter strapped. What is depicted are scenes of peace in a natural setting.

Please consider the cynical arrogance of the open carry extremists: they have granted unto themselves a right to infect society with their own personal paranoia. In doing so, they deny the freedom of movement of all Americans, especially young families. The Creator endowed no one a right to insidiously undermine the security of others.

Now, fear, when directed at the real and not the contrived, has value. Fear of what drug abuse is doing to our social fabric, how it taxes our already strained mental health resources, that is well placed. But even here we must decide whether fear will paralyze us into indifferent acceptance or animate us to positive action.

We speak of rights. The Supreme Court last year in its ruling in *Heller* and will again likely affirm in its impending decision in *McDonald* that the Second Amendment confers an individual right to keep and bear arms. That is an indisputable given. But it is also an irrefutable premise that no right is absolute. This is in recognition of the principle that collective self-government is predicated on individual self-government. A right without the parameters of reason and decency is no longer a right - it is license without examination, it is a warrant without checks and balances.

We enjoy the First Amendment's freedom of speech. But, for the greater good of purposeful civil discussion, we temper the exercise of this right when we speak in this chamber, controlling fear and impulse so we can inform, not inflame. This same time, place and manner standard leads us as a society to declare that in certain locations, for valid public safety reasons, firearms may not be carried by private citizens: schools, courthouses, churches, this Statehouse.

Please consider other examples of rights and boundaries: If the Second Amendment was absolute, then convicted felons, even violent offenders, retain the right to keep and bear arms. We know that is not so. If assembly was an absolute right then the measure this body adopted a few short years ago regarding the proximity of protestors to funeral services, that would be invalid. We know that is not so.

Of late, for me, a particular lyric resonates and haunts: