

# 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)

**LEGISLATIVE RECORD**

OF THE

***One Hundred and Tenth  
Legislature***

OF THE

STATE OF MAINE

***Volume II***

**FIRST REGULAR SESSION**

**MAY 4, 1981 to JUNE 19, 1981**

**INDEX**

**FIRST SPECIAL SESSION**

**AUGUST 3, 1981**

**INDEX**

**FIRST CONFIRMATION SESSION**

**AUGUST 28, 1981**

**INDEX**

**SECOND SPECIAL SESSION**

**SEPTEMBER 25, 1981**

**INDEX**

**THIRD SPECIAL SESSION**

**DECEMBER 9, 1981**

**INDEX**

a Roll Call is ordered.

The pending question before the Senate is the motion by the Senator from Aroostook, Senator McBreairty, that the Senate Accept the Minority Ought to Pass, in New Draft, Report of the Committee.

A Yes vote will be in favor of the motion to Accept the Minority Ought to Pass, in New Draft, Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

#### ROLL CALL

YEA — Ault, Collins, Devoe, Emerson, Gill, Hichens, McBreairty, Minkowsky, O'Leary, Perkins, Pierce, Pray, Redmond, Sewall, C.; Sutton, Teague, Usher, Violette.

NAY — Brown, Bustin, Carpenter, Clark, Conley, Dutremble, Huber, Kerry, Najarian, Shute, Trafton, Trotzky.

ABSENT — Charette, Wood.

A Roll Call was had.

18 Senators having voted in the affirmative and 12 Senators in the negative, with 2 Senators being absent, the motion to Accept the Minority Ought to Pass, in New Draft, Report of the Committee, does prevail.

The Bill, in New Draft, Read Once and Assigned for Second Reading later in today's session.

#### Second Readers

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

##### House

Bill, "An Act to Reform the Statutes Relating to Driving under the Influence of Intoxicating Liquor or Drugs." (H. P. 1585) (L. D. 1681) Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, I'd like to make some brief remarks concerning this Bill before we hopefully Pass it to be Engrossed. The first thing this Bill does is that it introduces into the statutes for the first time the concept of excessive blood alcohol in the blood. It provides that .10 percent or greater content of alcohol in the blood is going to be a per se violation of the statutes, that is, it will be evidence of guilt of either the charge of operating under the influence, or operating with excessive blood alcohol.

Secondly, it introduces an option, gives an option to the district attorney to charge a person with either a criminal or a civil violation. If a criminal violation is charged, and the defendant is found guilty, then there is a mandatory 48 hour jail sentence that shall not be suspended.

The Bill also provides that if there is a violation of the criminal charge in this statute, then the license will be suspended for a period of 90 days. If there is a civil violation, then the suspension will be for a minimum period of 45 days.

There is, also, a provision in this Bill that upon conviction of either the criminal or civil charge, the only reason for which a temporary license may be granted is for purposes of insuring attendance at an alcoholic rehabilitation program, or at the DEEP program, which is the Driver Education and Evaluation Program.

This Bill is a diminution of many of the terms that were in the original Governor's bill. It comes out of our Committee with a very heavy Ought to Pass Report. I hope that all the Senators will vote for this Bill to be Passed to be Engrossed. Thank you very much, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate, when this Bill first came before the Committee on Judiciary, I had personally some very strong reservations as to the

earlier draft. I think the Senate should know I believe the Committee on Judiciary spent a good 12 hours or more just working on this Bill. We had district attorneys from all over the State coming in on work sessions. I, for one, had reservations originally that whenever a district attorney made the selection of either going civilly or criminally, that perhaps those who were in the higher echelon of life would be going the civil route, and those from the lower elements of life would be going the criminal route.

I am firmly convinced today that any district attorney who was caught playing games in that manner would be brought to the focus of the general public. I'm sure that he would not be very well received.

We have amended this Bill in many fashions, as the good Chairman from the Judiciary Committee, Senator Devoe of Penobscot, has explained. I think the Bill is a very worthwhile Bill. I think it spells a message loud and clear, not only in the State of Maine, but across this land, that this State is not going to sanction people drinking and driving under the influence of liquor.

One other real amendment on this Bill that I think is one that the Judiciary Committee showed in a compassionate way, was to reduce the 72 hours down to 48 hours, so that any individual who was brought to the court under the criminal sanction of the Bill, that they would be able to spend their little two day's incarceration possibly on a weekend in the Bastille, further eliminating any additional financial hardship upon a family, and therefore, to pay the penalty in that manner. Plus the fact of being once found guilty, be paying the \$350 fine, and secondly the loss of license that has been explained by the Senator from Penobscot, Senator Devoe.

Which was Passed to be Engrossed, in concurrence.

#### House — As Amended

Bill, "An Act to Amend the Workers' Compensation Second Injury Fund." (H. P. 524) (L. D. 590)

Which was Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Bill, "An Act to Amend the Workers' Compensation Law." (H. P. 685) (L. D. 799)

Which was Read a Second Time. On motion by Senator Sewall of Lincoln, Tabled until later in today's session, pending Passage to be Engrossed.

Bill, "An Act to Create an Appellate Division of the Workers' Compensation Commission." (H. P. 1252) (L. D. 1476)

Which was Read a Second Time. On motion by Senator Pierce of Kennebec, the Senate voted to Reconsider its action whereby it Adopted House Amendment "A".

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I now present Senate Amendment "A" to House Amendment "A" under filing number S-326 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, offers Senate Amendment "A" to House Amendment "A" and moves its adoption.

Senate Amendment "A" to House Amendment "A" (S-326) Read and Adopted. House Amendment "A", as amended by Senate Amendment "A", Adopted, in non-concurrence. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

#### Senate

Bill, "An Act to Continue the Maine Turnpike Authority." (S. P. 650) (L. D. 1676)

Which was Read a Second Time. On motion by Senator Pierce of Kennebec,

Tabled until later in today's session, pending Passage to be Engrossed.

There being no objections all items previously acted upon were sent forthwith.

#### Enactor

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

AN ACT to Recodify and Amend the Maine Guarantee Authority Laws. (H. P. 1563) (L. D. 1671)

Comes from the House, Pursuant to Joint Rule 4, and the Governor's Veto, the Chair ruled matter not properly before the Body.

On motion by Senator Pierce of Kennebec, Tabled until later in today's session, pending Enactment.

#### Orders of the Day

On motion by Senator Pierce of Kennebec, the Senate voted to remove from the Table: Bill, "An Act to Continue the Maine Turnpike Authority." (S. P. 650) (L. D. 1676) tabled earlier in today's session by the Senator from Kennebec, Senator Pierce, pending Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Are we dealing with I assume L. D. 1676, to continue the Maine Turnpike Authority?

The PRESIDENT: The Chair would answer in the affirmative.

Senator TROTZKY: This morning I took a hard look at this Bill, because of concerns expressed by Senators Minkowsky, Charette, and Senator Trafton yesterday. On page 7 of the Bill, it says that essentially after the bonds are paid off, revenue for access roads, and it says, priority shall be given to the construction of access roads which will promote industrial and economic development of communities adjacent to or near the Turnpike, whose present lack of access tends to discourage that development.

Essentially, monies can be used, as priority it says here, these monies shall be used to construct access roads, and that would cover Lewiston/Auburn, as I also understand the community of Biddeford. I do feel that this is a good Bill.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, Men and Women of the Senate, I'd like to respond briefly to the Senator from Penobscot, Senator Trotzky. Yes, there is language in there that would seem to give a priority to areas such as Lewiston/Auburn, and perhaps to Biddeford. One of the problems in a closed system, however, is that it costs more to construct any type of access roads in a closed system. You have to clover leaf all the roads around the Turnpike, so that they all eventually go to the same point of origin, where in fact you can construct another toll booth to monitor the traffic going in and out.

There's a great concern under both the closed system and the open system, or the barrier system, exactly how much is going to be available for any kind of access roads. The Bill before you precludes a lot of options, we feel. The proposal that we are suggesting that we adopted yesterday, the Minority Report, would have left some options open to us. There's no need to make the decision today. The bonds are not paid off. We have the time to do the study that was mandated in the original piece of legislation, or that was asked for under the Minority Report. We'd like that information to assure ourselves that indeed funds would be available for access roads, whether that deter

mination eventually came down as a closed system or an open system.

I think we're shutting off our options today, if we Pass this Bill to be Engrossed. In shutting off our options, we're shutting off a lot of options in terms of economic development, for the second largest metropolitan area in this State, Lewiston/Auburn.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: One point that wasn't brought out in the debate yesterday which I feel should be brought out is regard to the pay back to the federal government. If the toll system remains intact, either with the barrier system or with a closed system, there is a pay back to the federal government.

In the barrier system, it would cost the State about \$3 million. In the closed system, as I understand it, the pay back to the federal government would be about \$8 million. There would be quite a lot more to pay back to the federal government if the system remained closed.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President, Men and Women of the Senate, I would like to pose a question through the Chair. I'd like to have it explained why it would cost more as a pay back to the federal government if we remain in a closed system. I was just speculating whether or not it's because we'll be making a lot more money that way.

The PRESIDENT: The Senator from York, Senator Dutremble, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: Mr. President, if this could be Tabled until later in the day's session, I'd explain that.

On motion by Senator Pierce of Kennebec, Retabled until later in today's session.

The President laid before the Senate the first Tabled and specially assigned matter:

Bill, "An Act Authorizing Reasonable Fees for Nonresident Users of Public Libraries." (H. P. 548) (L. D. 624)

Tabled — June 2, 1981 by Senator COLLINS of Knox.

Pending — Motion of Senator DEVOE of Penobscot to Indefinitely Postpone.

On motion by Senator Pierce of Kennebec, Retabled for 1 Legislative Day.

The President laid before the Senate the second Tabled and specially assigned matter:

Bill, "An Act Establishing the Bonding and Excess Insurance Requirements for Self-insuring Workers' Compensation Employers." (H. P. 834) (L. D. 1001)

Tabled — June 2, 1981 by Senator COLLINS of Knox.

Pending — Motion of Senator SEWALL of Lincoln to Reconsider Adoption of Committee Amendment "A" (H-388)

On motion by Senator Pierce of Kennebec, Retabled until later in today's session.

The President laid before the Senate the third Tabled and specially assigned matter:

Bill "An Act Concerning the Suspension of a Driver's License for Operating a Motor Vehicle under the Influence of Alcohol or Refusing to Submit to a Blood or Breath Analysis." (H. P. 637) (L. D. 727)

Tabled — June 2, 1981 by Senator COLLINS of York.

Pending — Enactment.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President, I move that this Bill be Indefinitely Postponed. We have already considered and dealt with the subject matter of this Bill and the Governor's OUI Bill that was just

Passed to be Engrossed. It's for this reason that I move that we Indefinitely Postpone this Bill and all its accompanying papers.

On motion by Senator Devoe of Penobscot, the Bill and all its accompanying papers Indefinitely Postponed, in non-concurrence.

Sent down forthwith for concurrence.

The President laid before the Senate the fourth Tabled and specially assigned matter:

Bill, "An Act to Amend Provisions Concerning the Operation of the Operation after Suspension and Habitual Offender Laws and Certain Nonsentencing Provisions of the Operating under the Influence Law." (H. P. 556) (L. D. 635)

Tabled — June 2, 1981 by Senator COLLINS of Knox.

Pending — Enactment.

On motion by Senator Devoe of Penobscot, the Rules were Suspended for the purpose of Reconsideration.

On motion by Senator Devoe of Penobscot, the Senate voted to Reconsider its action whereby L. D. 635 was Passed to be Engrossed.

On motion by Senator Devoe of Penobscot, the Senate voted to Reconsider its action whereby it Adopted Committee Amendment "A".

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President, I now present Senate Amendment "A" to Committee Amendment "A" under filing number S-325 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" to Committee Amendment "A" (S-325) Read.

The PRESIDENT: The Senator has the floor.

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, this is simply a technical amendment, which makes the Bill conform to changes that have been made in the Governor's OUI Bill that we have just passed. It does away with the distinctive treatment of first and second offenders. I move its passage.

Senate Amendment "A" to Committee Amendment "A" Adopted.

Committee Amendment "A", as amended by Senate Amendment "A", Adopted, in non-concurrence.

The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down forthwith for concurrence.

The President laid before the Senate the fifth Tabled and specially assigned matter:

Bill, "An Act to Ensure the Admissibility of Results of Self-contained Breath-alcohol Testing Apparatuses." (S.P. 251) (L.D. 720)

Tabled—June 2, 1981 by Senator COLLINS of Knox.

Pending—Enactment.

This being an emergency measure and having received the affirmative votes of 26 Members of the Senate, with No Senators having voted in the negative, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the sixth Tabled and specially assigned matter:

House Report—from the Committee on Labor—Bill, "An Act Concerning Workers' Compensation Cost Containment." (H.P. 502) (L.D. 553)

Tabled—June 2, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Report.

On motion by Senator Collins of Knox, Retabled until later in today's session.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

**Paper from the House  
Joint Resolution  
State of Maine**

IN THE YEAR OF OUR LORD ONE  
THOUSAND NINE HUNDRED AND  
EIGHTY-ONE

**JOINT RESOLUTION  
MEMORIALIZING THE CONGRESS OF THE  
UNITED STATES TO ESTABLISH A  
HELICOPTER SEARCH AND RESCUE UNIT  
IN MAINE**

We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Tenth Legislative Session, now assembled, most respectfully present and petition you Honorable Body as follows:

WHEREAS, Maine has the longest coastline of any continental state, with an extensive maritime heritage, and its social and economic well-being is dependent on its 3,000 miles of coastline; and

WHEREAS, many activities take Maine citizens coastal waters, including fishing, coastal commerce and trade, recreational boating and airline traffic; and commercial fishing is the State's 3rd leading industry; and

WHEREAS, the recent enactment of the 200-mile limit, and promotion and investment by the State and private industry have expanded the fishing industry, with more vessels going further off shore for longer trips; and

WHEREAS, the waters of the North Atlantic are notoriously treacherous, with frequent fog, gales and dangerously cold waters, particularly in wintertime; and

WHEREAS, each year there are many incidents of ships, boats and planes in distress or lost at sea, imperiling many lives and because of the cold, harsh waters, making quick rescue vitally important; and

WHEREAS, while the Coast Guard has provided search and rescue services to the best of its ability, it takes more than 1½ hours for a Coast Guard helicopter to reach our mid-coast region from the nearest base at Cape Cod, Massachusetts, and it takes even longer to reach areas further Down East, and

WHEREAS, many lives might be saved and the peace and security of Maine citizens increased if helicopter assistance were available within the State of Maine, now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to establish a Coast Guard Helicopter Rescue Unit in Maine, and take any other actions that may help safeguard the safety and security of our fishermen; and be it further

Resolved: That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to the President of the Senate and the Speaker of the House of the Congress of the United States and to each Member of the Senate and House of Representatives in the Congress of the United States from this State.

(H.P. 1613)

Comes from the House, Read and Adopted. Which was Read and Adopted, in concurrence.

**Communications  
Committee on Audit and Program Review**

June 1, 1981

The Honorable Joseph Sewall  
President of the Maine Senate  
State House

Augusta, Maine 04333

Dear President Sewall:

The Committee on Audit and Program Review is pleased to report that it has completed all business placed before it by the first regular session of the 110th Maine Legislature.