

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**FIRST REGULAR SESSION**

**January 3, 1979 to May 4, 1979**

Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Senator Najarian of Cumberland presented, Bill, "An Act to Amend the Effective Date of Abolishing the Mental Health and Mental Retardation Improvement Fund." (Emergency) (S. P. 158)

Reference to the Committee on Health and Institutional Services is suggested.

On Motion by Senator Huber of Cumberland, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Senator O'Leary of Oxford presented, Bill, "An Act to Amend the Safe Drinking Water Act." (S. P. 155)

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Senator Gill of Cumberland presented, Bill, "An Act to Amend the Workers' Compensation Statute to Provide for Podiatric Services." (S. P. 151)

Senator Devoe of Penobscot presented, Bill, "An Act Relating to Self Employee Workers' Compensation Insurance Coverage." (S. P. 148)

Which were referred to the Committee on Labor and Ordered Printed.

Sent down for concurrence.

Senator Hichens of York presented, Bill, "An Act to Regulate the Number of Lobster Traps in Certain Waters of Kittery." (S. P. 159)

Which was referred to the Committee on Marine Resources and Ordered Printed.

Sent down for concurrence.

Senator Devoe of Penobscot presented, Bill, "An Act to Provide Service Charges on the Tax Exempt Property of the State of Maine." (S. P. 149)

The same Senator presented, Bill, "An Act Relating to Compensation of the Secretary of the Public Utilities Commission." (S. P. 146)

Which were referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Senator Devoe of Penobscot presented, Bill, "An Act Concerning Gas Tax Refunds." (S. P. 150)

Which was referred to the Committee on Transportation and Ordered Printed.

Sent down for concurrence.

#### Order

On motion by Senator Katz of Kennebec, ORDERED, that the Secretary of the Senate shall purchase such services, supplies and equipment as may be needed to carry on the business of the Senate.

Which was Read and Passed.

#### Committee Reports

##### House

The following Ought Not to Pass report shall be placed in the Legislative Files without further action pursuant to Rule 22 of the Joint Rules.

Bill, "An Act to Appropriate \$25,000 to Lay Advocates at Work, Inc." (H. P. 29) (L. D. 46)

##### Leave to Withdraw

The Committee on Transportation on, Bill, "An Act Relating to Auxiliary Lights on Certain Law Enforcement Vehicles under the Motor Vehicle Law." (H. P. 80) (L. D. 88)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

#### Second Readers

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

##### House

Bill, "An Act to Increase the Limitation on Contracts which the County Commissioners may Enter into for Purchases and Constructions without Competitive Bidding." (H. P. 56) (L. D. 65)

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

##### Senate

Bill, "An Act to Permit Privately-owned Snowplows to Keep Warning Lights on when on the Highways as well as Private Property." (S. P. 52) (L. D. 77)

Which was Read a Second Time.

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

Senator PRAY: Mr. President, I present Senate Amendment to (L. D. 77), under Filing No. (S-6) and speak to the motion.

The PRESIDENT: The Senator from Penobscot, Senator Pray now offers Senate Amendment "A" (S-6) to (L. D. 77) and moves its adoption.

Senate Amendment "A" (S-6) Read.

The PRESIDENT: The Senator has the floor.

Senator PRAY: Mr. President and Members of the Senate: We addressed this issue last week in accepting the Ought to Pass Report. I spoke to you at that time of a problem. This Amendment, I would hope, would take care of the problem I talked about and just to refresh your memory and briefly explain to you what the Amendment does.

A situation was brought to me by a constituent. On a Town street in one of the towns in my district, an individual had met head-on with the edge of a plow blade, because at that time in the evening he was unable to see the blade protruding out onto his side of the street. What the Amendment would do would require an individual that is plowing that has a blade that protrudes out into the oncoming traffic side, in excess of 12 inches, to have a reflector. Thus, an individual in the evening coming along headlights would hit that reflector and they would know basically where the edge of that blade was, and could adjust their driving to it.

The PRESIDENT: The Chair recognizes the Senator from Aroostook Senator Martin.

Senator MARTIN: Mr. President Ladies and Gentlemen of the Senate: With all due respect to my good friend the Senator from Penobscot, Senator Pray, in which I think he means well with the Amendment.

However, anyone that has done any plowing, or knows anything about snow plows, will agree that there's no way humanly possible to attach a reflector on a plow without it falling off, after using it once or twice. I also have a problem with the Amendment and possibly with the bill in view of the fact that we don't have an enforcement clause. Therefore, Mr. President, I would request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: To respond to the Senator from Aroostook, Senator Martin. If anybody is familiar with plowing, they'd be aware that Fisher Plows presently put a post on their 8 1/2 foot plows. There is a post with a reflector presently on them.

I would also point out that under State Law, State Vehicles plowing on public ways have to have a light attached to the roof of the plow shining down upon that edge of the blade which protrudes out into oncoming traffic.

I thought that since these individuals are plowing driveways and private roads, my concern would be that while they are traveling from one driveway to another, as we debated last week in accepting the bill, that we would address that situation, where these blades

would protrude out into the oncoming traffic.

I didn't take the liberty or the time to call several automobile dealers and ask what the average width of a pickup truck was. The average width is 79.6 inches and the restrictions which we have on plow blades is 102 inches. You would see that most 8 1/2 foot plows, would not exceed the 12 inch limit, as long as the plow blades were on the vehicle set evenly, but I have seen situations where when they retrack the blade back it comes off to the side and protrudes an additional 3 to 4 or 5 inches out into oncoming traffic. The attempt of the Legislation or the Amendment of the Legislation is a safety factor and if there are problems with it, then I would rather address that problem than just to brush the issue aside.

The PRESIDENT: Is the Senate ready for the question.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President, I move Indefinite Postponement of the Amendment and ask for a Division, and would speak briefly.

The PRESIDENT: The Senator has the floor.

Senator AULT: I move Indefinite Postponement, because I sponsored this bill, to relieve the snowplow operators of a burden and not to put an added restriction on them.

I would question the Amendment from another point of view also. It seems to me that if anyone driving down the highway can't see one of these blades, and they're usually painted yellow, then he shouldn't be driving anyway.

Another point is, if Senator Pray's intention is to have these reflectors on the front of the blade so that when you're driving at night the reflector will be visible, I'd like to point out to him that if you're heading toward a vehicle with its headlights on the reflector isn't going to reflect anyway.

The PRESIDENT: The Senator from Kennebec, Senator Ault, has moved that Senate Amendment "A" be Indefinitely Postpone, and requests a Division.

Will all those Senators in favor of the Indefinite Postponement of Senate Amendment "A", please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

22 Senators have voted in the affirmative and 7 Senators in the negative, the Motion to Indefinitely Postpone does prevail.

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

Senator CONLEY: Mr. President, can I inquire through the Chair as to what the report was on this particular bill from Committee?

The PRESIDENT: The Secretary will Read the Report.

Which Reports were Read.

On Motion by Senator Emerson of Penobscot, tabled for 1 Legislative Day, Pending Passage to be Engrossed.

#### Orders of the Day

The President laid before the Senate, the first tabled and specially assigned matter.

Bill, "An Act to Remove the Sunset Provision on the Tort Claims Act." (S. P. 119) (L. D. 228)

Tabled—February 2, 1979 by Senator Katz of Kennebec

Pending—Consideration.

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

Senator KATZ: Mr. President, I move the Senate Adhere.

The PRESIDENT: The Senator from Kennebec, Senator Katz now moves the Senate adhere to its action whereby the bill was referred to the Committee on Judiciary.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, and Members of the Senate: There has been a little confusion relevant to the assignment of this particular bill, since the word "Sunset Provi-

sion" falls into the title of this particular bill, whether it should go to Audit Program Review or Judiciary.

I've heard many different explanations as to why it should go to Judiciary over Audit and Program Review. I think basically at this particular point, I certainly would like to call upon the good Senator from Knox, Senator Collins, the Chairman of the Judiciary Committee, to inform the Senate fully exactly what his rational was that it should be referred to Judiciary over Audit Program Review.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky has posed a question through the Chair. The Senator from Knox, Senator Collins may answer if he so desires.

The Chair recognizes that Senator.

Senator COLLINS: Mr. President, Thank you for this invitation to describe this Bill, The "Tort Claims Act" was written by the Judiciary Committee, two years ago and enacted as an emergency measure, because the Courts had placed the State and Municipalities in a very difficult position with regards to Tort Liability.

We did such a rush job that at the time we said, well let's put in an expiration date, so that we will be forcing ourselves to look again at this legislation within two years, in order to see whether its working out as we hope it will. That provision did force us to review the Act. We reviewed, it last year, and we had a further report on it from the Attorney's General Department, within this past month, and the consensus of these studies was that there were no problems that would mean that we ought to abolish the Act. There may be some improvements here and there, but we certainly need the Act if cities and towns as well as the State, are to have some clear definition of what their liability is. That's the only reason that an expiration date was inserted.

We felt that the Judiciary Committee having worked on the Bill two years in a row, would be the Committee best equipped to understand what we should do with it. That would be our reason if anyone thinks otherwise, I certainly have no objection to making the same explanation before another Committee, but our Committee is the expert in this law.

The PRESIDENT: The Senator from Kennebec Senator Katz, has moved that The Senate Adhere. Is this the pleasure of the Senate?

The motion prevailed.

The PRESIDENT: The Senate laid before the Senate, the second tabled and today's assigned matter.

The Confirmation of Spencer Apollonio to the position of Commissioner of Marine Resources. (Committee on Marine Resources has recommended confirmation.)

Tabled — February 2, 1979 by Senator Pierce of Kennebec

Pending — Consideration

The PRESIDENT: The Chair recognizes the Senator from Kennebec Senator Katz.

Senator KATZ: Mr. President, because the Executive Department is still in no position, to have access to its choice for Commissioner of Marine Resources, I suspect that the best thing for the Legislature to do is to defer any action on this appointment. My purpose for rising is to make it very clear to the Members of the Press, and the Public that in the process of deferring action on this nomination, there is in no way any implications other than the fact that the Commissioner designated is in no position yet to assume the job, but probably will be by the end of this month so I would hope somebody would table it unassigned.

On Motion by Senator Pierce of Kennebec, Retabled.

The Chair would direct the Senate's attention to:

Bill, "An Act Relating to Plumbing Inspectors. (SP 153)

Tabled earlier in today's session.  
On Motion by Senator Katz of Kennebec, retabled for 1 Legislative Day.

The Chair would direct the Senate's attention to:

Bill, "An Act Relating to Certification of Plumbing Inspectors. (SP 154)

Tabled earlier in today's session.  
On Motion by Senator Katz of Kennebec, retabled for 1 Legislative Day.

On Motion by Senator Katz of Kennebec, the Senate voted to reconsider its action of earlier in today's session whereby it referred:

Bill, "An Act to Provide Service Charges on the Tax Exempt Property of the State of Maine (SP-149) to the Committee on State Government.

On Motion by Senator Katz of Kennebec, referred to the Committee on Taxation and Ordered Printed.

Sent down for concurrence.

On Motion by Senator Pierce of Kennebec, Adjourned until 10 o'clock tomorrow morning.