

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

STATE OF MAINE
One Hundred and Eleventh Legislature
First Regular Session
JOURNAL OF THE SENATE
Augusta, Maine
March 18, 1983
Senate called to order by the President.

Prayer by the Reverend Robert E. Canfield of the Free Methodist Church of Gardiner.

REVEREND CANFIELD: Let us pause in prayer.

Father, we come together once again to do Your business.

Your wisdom and guidance—nurture us by Your Spirit who is the author of that wisdom that is from above.

May all deliberations and considerations be not what we would do except as they would be within Your will.

Your wisdom, from above now we pray, in Christ we ask it. Amen.

Reading of the Journal of yesterday.

**Papers From The House
Non-concurrent Matter**

BILL, "An Act to Prevent Abuses in Certain Land Installment Contracts." (H. P. 853) (L. D. 1103)

(In House March 8, 1983, referred to the Committee on Business Legislation.)

(In Senate March 15, 1983, referred to the Committee on Judiciary in non-concurrence.)

Comes from the House, that body having Adhered.

On motion by Senator Carpenter of Aroostook, the Senate voted to Recede and Concur with the House.

Non-concurrent Matter

BILL, "An Act to Provide an Income Tax Checkoff for Voluntary Support of Nongame Wildlife Management." (S. P. 380) (L. D. 1151)

(In Senate March 15, 1983 Passed to Be Engrossed.)

Comes from the House Passed to Be Engrossed as amended by House Amendment "A" (H-74) in non-concurrence.

On motion by Senator Pray of Penobscot, the Senate voted to Recede and Concur with the House.

**Committee Reports
House**

Ought Not to Pass

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Provide for Lower Insurance Rates for Drivers Over Age 55 Who Take Defensive Driving Courses." (H. P. 648) (L. D. 817)

Leave to Withdraw

The following Leave to Withdraw reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act Affirming the Confidential Nature of Vital Statistics." (H. P. 224) (L. D. 272)

BILL, "An Act to Authorize Licensees Under the Liquor Laws to Serve as a Law Enforcement Officer." (H. P. 339) (L. D. 398)

BILL, "An Act Concerning the Selection of an Attorney to Perform a Title Search on Property Financed by a Mortgage Company." (H. P. 380) (L. D. 463)

BILL, "An Act to Require that Persons must Serve an Apprenticeship before they may be issued a Lobster Fishing License." (H. P. 447) (L. D. 540)

BILL, "An Act to Amend the Municipal Public Employees Labor Relations Law." (H. P. 556) (L. D. 707)

BILL, "An Act to Set the On-Premise Liquor License Fees in Accordance with Population." (H. P. 578) (L. D. 726)

BILL, "An Act to Permit Fraternal Organizations to have Game Machines on Premises when the Proceeds are Used for Charitable Purposes." (H. P. 651) (L. D. 819)

Ought to Pass as Amended

The Committee on Local and County Government on BILL, "An Act to Clarify Municipal Regulation of Motor Vehicles on Ice-covered Bodies of Water" (H. P. 81) (L. D. 90) Reported that the same Ought to Pass in New Draft under same title (H. P. 915) (L. D. 1168)

Comes from the House, the Report Read and Accepted and the New Draft Passed to Be Engrossed as amended by House Amendment "A" (H-68)

Which Report was Read and Accepted in concurrence.

The Bill, in New Draft, Read Once.

House Amendment "A" was Read and Adopted in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Legal Affairs on BILL, "An Act Provide a Class A Lounge Liquor License" (H. P. 614) (L. D. 762)

Reported that the same Ought to Pass.

Signed:

Sensors:

CHARETTE of Androscoggin

DANTON of York

Representatives:

PERRY of Mexico

McSWEENEY of Old Orchard Beach

HANDY of Lewiston

COTE of Auburn

COX of Brewer

SWAZEY of Bucksport

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Sensor:

SHUTE of Waldo

Representatives:

STOVER of West Bath

DILLENBACK of Cumberland

DUDLEY of Enfield

Come from the House, the Minority Report Read and Accepted.

Which Reports were Read and the Majority Ought to Pass Report of the Committee Accepted, in non-concurrence.

The Bill Read Once, and Tomorrow Assigned for Second Reading.

Senate

Leave to Withdraw

The following Leave to Withdraw report shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act Relating to a Public Service Cadet Corps." (S. P. 245) (L. D. 766)

Ought to Pass

Senator DUTREMBLE for the Committee on Labor on BILL, "An Act to Require Participation in Good Faith in Fact Finding." (S. P. 179) (L. D. 546) Reported that the same Ought to Pass.

Which Report was Read and Accepted. The Bill Read Once and Tomorrow Assigned for Second Reading.

Senator VIOLETTE for the Committee on Judiciary on BILL, "An Act Substituting the Board of Overseers of the Bar as the Keeper of the Records of Members of the Bar in Place of Administrative Assistant to the Chief Justice" (S. P. 147) (L. D. 438) Reported that the same Ought to Pass.

Which Reports were Read and Accepted. The Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Senator HAYES for the Committee on Education on BILL, "An Act to Amend the Statute Relative to the Appointment of the Commissioner of Educational and Cultural Services." (S. P. 220) (L. D. 657) Reported that the same Ought to Pass in New Draft under same title (S. P. 416) (L. D. 1263)

Which Report was Read.

On motion by Senator Pray of Penobscot, Tabled for 2 Legislative Days, pending Acceptance of the Committee Report.

**Second Readers
House**

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1983. (Emergency) (H. P. 942) (L. D. 1211)

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

BILL, "An Act to Revise the Laws Pertaining to the Prejudgment Attachment, Execution of Judgments, Disclosure of Assets and Exemptions" (H. P. 267) (L. D. 327)

Which was Read a Second Time.

On motion by Senator Trafton of Androscoggin, Tabled for 1 Legislative Day, pending Passage to Be Engrossed.

House — As Amended

BILL, "An Act to Authorize a Self-liquidating Bond Issue for Lincoln County for Renovation of and Addition to the Lincoln County Jail and Public Safety Facility." (H. P. 488) (L. D. 585)

BILL, "An Act to give Alternates the right to Vote on a School Board." (H. P. 626) (L. D. 778)

Which were Read a Second Time and Passed to Be Engrossed as Amended, in concurrence.

BILL, "An Act to Prohibit the Commercial Sale of Chain Saws and Skidders not Equipped with Spark Arresters." (H. P. 379) (L. D. 462)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreaarty.

Senator McBREAIRTY: I move Reconsideration whereby Committee Amendment "A" was Adopted and would like to speak briefly to my motion.

The PRESIDENT: The Senator from Aroostook, Senator McBreaarty, moves that the Senate Reconsider its action whereby Committee Amendment "A" was Adopted.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President, I would request a Division on the Reconsideration motion.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Aroostook, Senator McBreaarty.

Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, I would hope that you wouldn't vote against Reconsideration, and I'll give two or three of my reasons why:

This Bill is "An Act to Prohibit the Commercial Sale of Chain Saws and Skidders not Equipped with Spark Arresters."

The reason that, that Bill was presented and got this far is because, I think, the Statement of Fact states it pretty plainly, "Current Law, Title 12, section 9601, prohibits the use of any equipment for producing power in forest lands unless the equipment is fitted with a spark arrester." Now that's quite plain. The reason that this law is on the books is, because without spark arresters, there's great danger of burning down the forest lands of Maine, which is a valuable resource.

This Bill, if we take off the Committee Amendment, which I will move if we do reconsider, will require that when a dealer sells a

chain saw that it does have a spark arrester in it.

We have a few, I guess I'd call them unscrupulous dealers in the State, or cut-rate dealers who bring in chain saws, sell them at a low price, that do not have the spark arresters. Now, if a person takes that saw out, not knowing that it hasn't a spark arrester, and many of you saw purchasers today, don't know whether they have one or not. They go into the woods, and could set the woods on fire, without the spark arrester. Now, if they didn't set the woods on fire, and they were caught using that saw without a spark arrester, they could be fined fifty to seventy-five dollars just because they didn't know, and there's that fellow who sold them a saw that legally requires an arrester, but didn't have it.

A saw that comes with an arrester, it cost about three dollars more, coming from the factory with the spark arrester in it. If it doesn't have one in, most saws today you have to replace the whole muffler, and it will cost you twelve to sixteen dollars.

The purpose of this Bill as I understand it and I'm only a cosponsor, was to protect both, the woodlands from forest fire and to protect the purchaser, who might buy a saw, start using it unknowingly without an arrester and either burn his woods or camp, or both, or be fined.

I would hope you would reconsider this, so that we can take off the Committee Amendment. Pass this Bill, so saws that are sold in this State, will have an arrester in them. Most, I would say all of our regular chain saw dealers that sell saws to woodcutters do sell them with spark arresters in them. Thank you.

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

Senator CLARK: Mr. President, Men and Women of the Senate, the remarks of the good Senator from Aroostook, Senator McBreairey, have considerable merit.

The Joint Standing Committee on Business Legislation deliberated on L. D. 462 extensively. Actually, I guess, if we were going to measure it in the scheme of things it would be an item that came before us in repeated work sessions, no less than ten work sessions. Whereas you'll remember, the Joint Standing Committee on Business Legislation was holding hearings during that time, in the morning following every Legislative session, until we began to convene at 9 a.m. and then all of our hearings, because of the length of our sessions, were to be held in the afternoon — our Public Hearings.

We brought in, because there was some sentiment within the Committee to support this measure, and it was an educational experience for most of us; we brought in the Maine Forest Service who provided the Committee with ample statistics and examples as illustrated not only by the Maine Forest Service Administration, but by the Chief of the Maine Forest Service and a warden, all the statistics relating to fires.

There just was not any evidence submitted to our Committee to justify expanding this Bill to include, if you will, that segment of the Bill which deals with chain saws. There was evidence submitted by the Maine Forest Service and the fire wardens to justify the Committee's attention, which is incorporated in Committee Amendment "A" under filing number H-61, which deals with the issue of skidders, not chain saws.

As I understand it from the prime sponsor of this Bill, a member of the other Body, there is intention to amend the Bill to exempt all of those chain saws which fall into the used category; and it has been our advice, internally within the Committee by the experts who came before the Committee, that this would in fact, make the entire Bill moot, because a chain saw becomes used once it has departed the scene of the purchase from the retail store.

It, also, shifts and/or shares, places the burden, in the sharing capacity, to the small business men and women of this State, who, most of whom, I grant you, sell chain saws that do carry spark arresters.

There is in addition to all of this, another side, and that's enforcement. The Maine Forest Service deals with the issue now, and indeed, those people who use chain saws on which there are no spark arresters, are fined, as well they should be, but there is nothing to prevent citizens from removing the spark arresters, as it was alleged in testimony to increase the capacity of the chain saw. It was that enforcement problem that was brought to the attention of the Committee, in addition to the other aspects which I have addressed briefly, which lead our Committee to address the issue which was substantiated by the evidence, and that was the issue of skidders, only.

We requested the Maine Forest Service and its wardens to develop in the ensuing year evidence and/or statistics that might allow us to address this issue in an ensuing session, should it warrant it at that time. We were cautioned, and again, over and over again, that there was no evidence to justify this.

There are, indeed, what one might call, unscrupulous sellers of chain saws; they really aren't so scrupulous; they are some of our major retail outlets, who do sell a chain saw without a spark arrester. Those kinds of practices are not approved and are, in fact, illegal, but it is not to the extent that it would merit Legislative action, for it is indeed, already covered by other Legislation; it is indeed illegal.

The Committee on Business Legislation, if I may be so candid, really initiated sentiment along the line of the unanimous Ought Not to Pass Report. It was the sincerity of the prime sponsor of this measure, and his testimony which made us deter if you will, from that initial response, and work internally within Committee to address, at least, in the positive fashion, the segment of this issue dealing with skidders which was, in fact, as I've mentioned, and now this makes it three times, substantiated by evidence that there was a need for it.

Because of that action, I have resisted any attempt to amend this Bill, and would hope that we would not move to Reconsider this morning. I should have, perhaps, followed through in yesterday's session, with a Reconsideration motion, asking that you would vote against my motion, but I did, because I had talked with the prime sponsor, say, well, here we are and the Senator from Aroostook, Senator McBreairey expressed some concern that he wasn't given his chance in our Chamber and here we are today.

I would simply request that this Chamber support the unanimous Committee Report from the Joint Standing Committee on Business Legislation, and in that light defeat the pending motion of Reconsideration.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreairey.

Senator McBREAIREY: Mr. President and Honorable Members of the Senate, I guess I'm surprised that a Bill of this nature has created such a controversy.

Title 12, 9601, reads, "spark arresters, no equipment for producing power shall be operated in, through or near forest lands unless it is provided with a spark arrester approved by the director." This is the issue, really.

The Law now makes it illegal to use a chain saw anywhere near the woods, and that's where they are usually used, without a spark arrester. I'm going to guess that if everyone of us looked at a chain saw, saw the several makes here today, we wouldn't know whether that chain saw had a spark arrester or not, because it's a baffle, or a plate inside the muffler and they're not always visible. The older saws, you could take them apart and put a baffle in or take it out, but in some of the newer ones, they're constructed in such a way,

you can't take them apart.

The problem, as the sponsors of this Bill see it is people do sell these saws at cut-rates, they can sell them for a few dollars cheaper, and people who buy them don't know the law, or what the law is, so they go out in the woods and they're operating an illegal piece of equipment. I know of one person who was caught with one of these illegal pieces of equipment and he was fined seventy-five dollars.

I can't see where we're doing any damage to the dealer if we require that this saw meet the legal standards when it is sold; that eliminates any misunderstanding or any danger that anyone will get into trouble with this saw, one way or another. That's all this Bill does.

Now skidders, cost, I don't know what the costs are; I've been away from them awhile, but probably forty or fifty thousand dollars, and we're going to pass a Bill here that requires a spark arrester in a fifty thousand dollar piece of equipment. But we're going to turn down the section that would require a spark arrester in a chain saw that would cost about three bucks at the factory. A person that has to replace a muffler on a chain saw is going to have to spend quite a lot bigger percentage of his total investment, if he gets a chain saw without a spark arrester than if he got a skidder.

I hope you will reconsider and include chain saws. I don't believe it will hurt the dealer any. If he puts a spark arrester in it, he can charge the three or four bucks more for it, and this saw will leave his premises and will be legal to operate. Thank you.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by Senator McBreairey of Aroostook to Reconsider Adoption of Committee Amendment "A", please rise in their places to be counted.

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

14 Senators having voted in the affirmative, and 13 Senators having voted in the negative, the motion to Reconsider Adoption of Committee Amendment "A", Prevailed.

On motion by Senator McBreairey of Aroostook, Committee Amendment "A" was indefinitely Postponed, in non-concurrence.

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

Sent down for concurrence.

Senate — As Amended

BILL, "An Act to Conform Maine Garnishment Laws to the United States Code, Title 15, Section 1673, the Federal Consumer Credit Protection Act." (S. P. 110) (L. D. 262)

Which was Read a Second Time.

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

Senator TRAFTON: Mr. President, I present Senate Amendment "A" and move its adoption, and would speak to the amendment.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton offers Senate Amendment "A" and moves its adoption.

Senate Amendment "A" (S-32) was Read.

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

Senator TRAFTON: Mr. President and Members of the Senate, Senate Amendment "A" simply restores to the Legislative Document in consideration, the so-called "safety net," which is currently in the Garnishment Statute. Currently, there is a one hundred dollars fifty cent safety net, which means that one's salary cannot be garnished, so that one's take home or actual usable salary is less than one hundred dollars fifty cents.

I think it is important to have this "safety net" within the statute to protect families, or second families, and sometimes third families of a wage earner, who depend on that wage earners salary for their living.

Senate Amendment "A" was Adopted.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

Enactors

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

An Act to Expand the Authority of Probate Judges to Appoint Temporary Guardians. (H. P. 325) (L. D. 384)

An Act to Authorize a July 1st to June 30th Fiscal Year for Counties. (H. P. 560) (L. D. 710)

Which were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act Concerning Court Procedures Dealing with Notice in Liability Cases. (H. P. 402) (L. D. 485)

On motion by Senator Pray of Penobscot, Tabled for 2 Legislative Days, pending Enactment.

Orders of the Day

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

BILL, "An Act Authorizing the Public Utilities Commission to Expend Revenues Collected as Filing Fees or Expense Reimbursements." (S. P. 411)

Tabled—March 17, 1983 by Senator CARPENTER of Aroostook

Pending—Reference.

Which was referred to the Committee on Public Utilities and Ordered Printed.

Sent down for concurrence.

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

BILL, "An Act to Permit Compensation to be Paid to Beekeepers for Damage Done by Bears." (H. P. 914) (L. D. 1167)

Tabled—March 17, 1983 by Senator CARPENTER of Aroostook

Pending—Passage to be Engrossed.

(In House March 15, 1983 Passed to be Engrossed)

Which was Passed to be Engrossed, in concurrence.

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

BILL, "An Act Relating to Payment by an Employer when a Physician's Certification of Illness is Required." (S. P. 240) (L. D. 682)

Tabled—March 17, 1983 by Senator CARPENTER of Aroostook

Pending—Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, I offer Senate Amendment "A" (S-31) to L. D. 682 and move its Adoption.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, offers Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-31) was Read.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, this Amendment is what both the good Senator from York and myself sensed to be the sentiment of the Senate, the other day, that regardless of how many visits were necessary to clear up whatever illness the employee had, we were only concerned in getting at any visit, or any trip to the doctor's office that was required to obtain a certificate.

I think this Amendment does what it was sensed to be the desires of the Senate.

Senate Amendment "A" was Adopted.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

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

BILL, "An Act to Prohibit Skiing in Out-of-

bounds Areas." (H. P. 524) (L. D. 649)

Tabled—March 17, 1983 by Senator CARPENTER of Aroostook.

Pending—Further Consideration

(In House March 8, 1983 Passed to be Engrossed as Amended by Committee Amendment "A" H-45)

(In Senate March 8, 1983 Bill and Papers Indefinitely Postponed in non-concurrence)

(In House March 15, 1983 House Insisted)

On motion by Senator Trafton of Androscoggin, the Senate voted to Recede.

On further motion by the same Senator the Ought to Pass, as amended, Report was Accepted in concurrence.

The Bill Read Once.

Committee Amendment "A" was Read.

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

Senator TRAFTON: Mr. President, I present Senate Amendment "A" and move its Adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton offers Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-33) to Committee Amendment "A" was Read.

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

Senator TRAFTON: Mr. President, Senate Amendment "A" eliminates by objection to the original Committee Amendment "A", as drafted. I moved Indefinite Postponement of the L.D. and all its accompanying papers because it created a civil violation for any person who was to ski off a ski trail. This Amendment eliminates that civil violation and because of that elimination, I no longer object to the Bill.

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

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

The Bill, as amended, Tomorrow Assigned for Second Reading.

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

Senator BUSTIN: Mr. President, is the Senate in possession of LD 1150?

The PRESIDENT: The Chair would answer in the affirmative,

The BILL, "An Act to Amend and Supplement Certain Powers of Hospital Administrative District No. 1." (H. P. 898) (L. D. 1150) having been held at the request of the Senator.

On motion by Senator Bustin of Kennebec, the Senate voted to Reconsider its action whereby, L. D. 1150 was Passed to be Engrossed.

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

Senator BUSTIN: Mr. President, I present an Amendment and move its Adoption.

The PRESIDENT: The Senator from Kennebec, Senator Bustin, offers Senate Amendment "A" to L. D. 1150 and moves its Adoption.

Senate Amendment "A" (S-30) was Read and Adopted.

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

Sent down for concurrence.

Senator Diamond of Cumberland was granted unanimous consent to address the Senate, Off the Record.

(Off Record Remarks)

On motion by Senator Carpenter of Aroostook, Adjourned until Monday, March 21, 1983 at 9 o'clock in the morning.