

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

ONE HUNDRED AND EIGHTEENTH LEGISLATURE
FIRST REGULAR SESSION
30th Legislative Day
Thursday, March 27, 1997

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend David Clark, First Baptist Church of Nobleboro.

National Anthem by the Medomak Valley High School Band, Waldoboro.

Pledge of Allegiance.

Doctor of the day, Francis Kleeman, M.D., Kennebunk.

The Journal of yesterday was read and approved.

SENATE PAPERS

Resolve, Concerning Payments to Legislators during Special Session (S.P. 552) (L.D. 1678)

Came from the Senate, under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed as amended by Senate Amendment "A" (S-70).

(The Committee on Reference of Bills had suggested reference to the Committee on **State and Local Government**.)

Under suspension of the rules the Bill was read once without reference to a Committee. Senate Amendment "A" (S-70) was read by the Clerk and adopted. Under further suspension of the rules and without reference to the Committee on Bills in the Second Reading the Bill was read a second time.

Representative KONTOS of Windham presented House Amendment "A" (H-123) which was read by the Clerk

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Madam Speaker, Men and Women of the House. On your desk should be this amended language which adds the emergency preamble and emergency clause to the Resolve that we spoke about yesterday. Thank you.

House Amendment "A" (H-123) was adopted.

The Bill was passed to be engrossed as amended by Senate Amendment "A" (S-70) and House Amendment "A" (H-123) in non-concurrence and sent up for concurrence.

COMMUNICATIONS

The following Communication: (H.C. 115)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND FORESTRY

March 26, 1997

Honorable Mark W. Lawrence, President of the Senate

Honorable Elizabeth H. Mitchell, Speaker of the House

118th Maine Legislature

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Agriculture, Conservation and Forestry has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1277 An Act Concerning the Harvesting and Sampling of Ginseng

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Marjorie L. Kilkelly

Senate Chair

Was read and ordered placed on file.

S/Rep. George H. Bunker, Jr.

House Chair

The following Communication: (H.C. 116)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE

March 26, 1997

Honorable Mark W. Lawrence, President of the Senate

Honorable Elizabeth H. Mitchell, Speaker of the House

118th Maine Legislature

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Banking and Insurance has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1150 An Act to Prohibit Discrimination Based on Genetic Testing Information

L.D. 1185 An Act to Prohibit the Raising of Interest Rates as a Penalty for Late Payment on Debt

L.D. 1210 An Act to Prohibit Insurance Companies from Denying Health Care Coverage Based on DNA Tests

L.D. 1265 An Act to Establish a Maximum Rate of Interest on Credit Card Debt

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Lloyd P. LaFountain, III

Senate Chair

Was read and ordered placed on file.

S/Rep. Jane W. Saxl

House Chair

The following Communication: (H.C. 117)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE

March 26, 1997

Honorable Mark W. Lawrence, President of the Senate

Honorable Elizabeth H. Mitchell, Speaker of the House

118th Maine Legislature

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Inland Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 176 An Act to Reduce Snowmobile Registration Fees for Certain Nonresidents

L.D. 283 An Act to Repeal the Brake Light Requirement on Snowmobiles

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Marjorie L. Kilkelly

Senate Chair

Was read and ordered placed on file.

S/Rep. Norman R. Paul

House Chair

The following Communication: (H.C. 118)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

March 26, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 201 RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Term of the Governor
- L.D. 855 Resolve, to Convene a Legislative Employee Salary Review Committee
- L.D. 892 An Act to Require Municipalities to Purchase Insurance by Competitive Bidding
- L.D. 1242 An Act to Promote the Effective Delivery of Public Services

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John M. Nutting S/Rep. Douglas J. Ahearn
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 119)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TAXATION**

March 26, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 12 An Act to Clarify Tax-exempt Status of Rental Inventory
- L.D. 149 An Act to Amend the Laws Regarding Property Tax Reimbursement for Certain Business Property
- L.D. 220 An Act to Increase the Tax Relief in the Maine Residents Property Tax Program
- L.D. 314 An Act to Exempt Lobster Traps from the Personal Property Tax
- L.D. 343 An Act to Increase Eligibility for the Maine Residents Property Tax Program
- L.D. 569 An Act to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to the Property Tax Circuit Breaker Program
- L.D. 749 An Act to Eliminate Fraud in the Maine Residents Property Tax Program

- L.D. 761 An Act to Repeal the Reimbursement of Personal Property Taxes Paid on Business Machinery and Equipment
- L.D. 1077 An Act Rendering Land Trusts Ineligible for Property Tax Exemptions
- L.D. 1087 An Act to Authorize Municipal Taxation of the Value of Nonreimbursed Tree Growth Taxes
- L.D. 1219 An Act to Amend the Tax-exempt Status of Property Owned by Certain Nonprofit Organizations
- L.D. 1290 An Act to Clarify Laws Relating to Situs Taxation of Bulk Solid Waste Containers

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Richard P. Ruhlin S/Rep. Verdi L. Tripp
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 120)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION**

March 26, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 150 An Act Regarding the Use of Lights and Sirens on Personal Vehicles Used by Volunteer Firefighters and Emergency Medical Services Personnel
- L.D. 154 An Act to Increase the Population Threshold at Which a Town is Responsible for Maintaining Highways
- L.D. 299 An Act to Prohibit the Department of Transportation from Classifying a Road as a Town Way if 4,000 or More Vehicles Travel the Road Daily
- L.D. 750 An Act to Allow Law Enforcement Agencies to Use Red Flashing Lights on Their Vehicles
- L.D. 838 An Act to Permit Towns the Option of Winter Maintenance for Roads That are Turned Over to the Town for That Purpose
- L.D. 849 An Act to Require Reflectors on Snow Plows
- L.D. 1280 Resolve, to Provide Funds to Municipalities for Road Upkeep Based on Need

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. William B. O'Gara S/Rep. Joseph D. Driscoll
Senate Chair House Chair
Was read and ordered placed on file.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills and Resolve were received and upon the recommendation of the Committee on Reference of Bills were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Education and Cultural Affairs

Resolve, to Promote School Choice by Establishing a Voucher Program (H.P. 1189) (L.D. 1688) (Presented by Representative MACK of Standish) (Cosponsored by Senator LIBBY of York and Representatives: FOSTER of Gray, GOODWIN of Pembroke, KASPRZAK of Newport, LANE of Enfield, LAYTON of Cherryfield, MacDOUGALL of North Berwick, SNOWE-MELLO of Poland, UNDERWOOD of Oxford)

Judiciary

Bill "An Act to Provide Court-ordered Income Withholding of Spousal Support" (H.P. 1190) (L.D. 1689) (Presented by Representative TOWNSEND of Portland) (Cosponsored by Senator BENOIT of Franklin and Representatives: POWERS of Rockport, SAXL of Bangor) (Submitted by the Judicial Department pursuant to Joint Rule 204.)

Transportation

Bill "An Act to Allow Law Enforcement Agencies Access to Motor Vehicle Insurance Information" (H.P. 1191) (L.D. 1690) (Presented by Representative LABRECQUE of Gorham) (Cosponsored by Representatives: BIGL of Bucksport, BOUFFARD of Lewiston, MAYO of Bath, Senator: TREAT of Kennebec and Representatives: BRAGDON of Bangor, McALEVEY of Waterboro, SAVAGE of Union)

Bill "An Act to Significantly Reduce Smoking and Tobacco Use among the Young People of Maine" (H.P. 1192) (L.D. 1691) (Presented by Representative MITCHELL of Portland) (Cosponsored by Representatives: DEXTER of Kingfield, GAGNON of Waterville, MAYO of Bath, ROWE of Portland, Senators: PARADIS of Aroostook, RAND of Cumberland)

Committee on **Health and Human Services** suggested.

On motion of Representative MITCHELL of Portland, tabled pending reference and later today assigned.

Bill "An Act to Permit the Retail Sale of Smoked Alewives" (H.P. 1187) (L.D. 1686) (Presented by Representative PERKINS of Penobscot) (Cosponsored by Representatives: BUNKER of Kossuth Township, CROSS of Dover-Foxcroft, GOODWIN of Pembroke, JONES of Bar Harbor)

Committee on **Health and Human Services** suggested.

On motion of Representative MITCHELL of Portland, tabled pending reference and later today assigned.

Resolve, to Provide for Legislative Review of Certain Agency Rules (EMERGENCY) (H.P. 1194) (L.D. 1694) (Presented by Representative CAMPBELL of Holden) (Cosponsored by Senator

KIEFFER of Aroostook and Representatives: DONNELLY of Presque Isle, KONTOS of Windham, MITCHELL of Vassalboro, SAXL of Portland, Senators: AMERO of Cumberland, PINGREE of Knox, RAND of Cumberland) (Governor's Bill)

Reference to the Committee on **State and Local Government** suggested and ordered printed.

Under suspension of the rules and without reference to Committee the Resolve was read twice and passed to be Engrossed, sent up for concurrence and ordered sent forthwith.

Bill "An Act to Regulate the Use of Tow Trucks" (H.P. 1188) (L.D. 1687) (Presented by Representative MACK of Standish) (Cosponsored by Senator KILKELLY of Lincoln and Representatives: FOSTER of Gray, LAYTON of Cherryfield, MacDOUGALL of North Berwick, TUTTLE of Sanford, UNDERWOOD of Oxford, WINN of Glenburn, Senators: MacKINNON of York, MILLS of Somerset)

Committee on **Transportation** suggested.

On motion of Representative DRISCOLL of Calais, tabled pending reference and later today assigned.

Reported Pursuant to Statutes

Representative TRIPP for the Administrator of the Unorganized Territory pursuant to the Maine Revised Statutes, Title 36, section 1604 asks leave to submit its findings and to report that the accompanying Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 1997-98" (EMERGENCY) (H.P. 1193) (L.D. 1692) be referred to the Joint Standing Committee on **Taxation** for Public Hearing and printed pursuant to Joint Rule 218.

Report was read and accepted, and the Bill referred to the Committee on **Taxation**, ordered printed and sent up for concurrence.

By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were ordered sent forthwith.

ORDERS

On motion of Representative GAMACHE of Lewiston, the following Order: (H.O. 19)

ORDERED, that Representative Alvin L. Barth, Jr., of Bethel be excused March 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joseph Bruno of Raymond be excused March 18 through 26 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Peter E. Cianchette of South Portland be excused March 18 for health reasons.

AND BE IT FURTHER ORDERED, that Representative David Etnier of Harpswell be excused March 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Richard R. Farnsworth of Portland be excused March 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Elaine Fuller of Manchester be excused March 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jeffrey G. Joyner of Hollis be excused March 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Thomas J. Kane of Saco be excused March 21 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Robert E. Pendleton, Jr., of Scarborough be excused March 25 for the duration of a family member's illness.

AND BE IT FURTHER ORDERED, that Representative Shirley K. Richard of Madison be excused March 20 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Laura Sanborn of Alton be excused March 20 for personal reasons.

Was read and passed.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

the Forest Hills Consolidated School "Lady Tigers," of Jackman, upon winning the 1997 State Class D Girls Basketball Championship. It is the school's first Class D championship and we extend our congratulations and best wishes to them on this achievement; (HLS 213) by Representative DEXTER of Kingfield. (Cosponsor: Senator MILLS of Somerset)

On objection of Representative DEXTER of Kingfield, was removed from the Special Sentiment Calendar

On further motion of the same Representative, tabled pending passage and later today assigned.

Jeffrey Andrew Fortin, of Boy Scout Troop #228 in Bristol, who has attained the high rank and distinction of Eagle Scout. He is the first Eagle Scout in his troop and in the town of Bristol. We extend our congratulations and best wishes to him; (HLS 220) by Representative PIEH of Bremen. (Cosponsor: Senator KILKELLY of Lincoln)

On objection of Representative PIEH of Bremen, was removed from the Special Sentiment Calendar

Was read and passed and sent up for concurrence.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Marine Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Amend the Laws Pertaining to Sea Urchin Licenses" (H.P. 622) (L.D. 847)

Signed:

Senators: GOLDTHWAIT of Hancock
PENDLETON of Cumberland
MacKINNON of York

Representatives: ETNIER of Harpswell
PERKINS of Penobscot
BAGLEY of Machias
PIEH of Bremen
PINKHAM of Lamoine
VOLENIK of Brooklin
HONEY of Boothbay
PINKHAM of Brunswick

Minority Report of the same Committee reporting "**Ought to Pass**" on same Bill.

Signed:

Representative: GOODWIN of Pembroke
Was read.

On motion of Representative ETNIER of Harpswell, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 63) (L.D. 88) Bill "An Act to Clarify That a Town's Mooring Ordinance May Grandfather Existing Commercial or Noncommercial Moorings" Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-119)

(H.P. 289) (L.D. 353) Bill "An Act to Improve Management in the Elver Fishery" Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-114)

(H.P. 342) (L.D. 464) Bill "An Act Regarding Potato Bin Pilers and Refund of Sales Tax" Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-116)

(H.P. 873) (L.D. 1190) Resolve, Regarding Legislative Review of Chapter 840: Private Purchasing Alliances, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance (EMERGENCY) Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-121)

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

There being no objections, the bill was Passed to be Engrossed and sent up for concurrence. Ordered sent forthwith.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Decrease the Time Period Allowed for the Rescission of a Time-share Contract" (S.P. 65) (L.D. 184) (C. "A" S-60)

Was reported by the Committee on **Bills in the Second Reading**, read the second time and Passed to be Engrossed as Amended in concurrence.

Bill "An Act to Include Slide-in Truck Campers in Property That May Be Included in the Trade-in Allowance Credit" (H.P. 62) (L.D. 87) (C. "A" H-68)

Was reported by the Committee on **Bills in the Second Reading** and read the second time.

On motion of Representative KONTOS of Windham, tabled pending Passage to be Engrossed and later today assigned.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "A" (H-95) - Committee on **Natural Resources** on Bill "An Act to Establish Cost-benefit Analysis for Environmental Rules" (H.P. 433) (L.D. 583)

TABLED - March 26, 1997 (Till Later Today) by Representative ROWE of Portland.

PENDING - Motion of same Representative to accept the Majority "**Ought Not to Pass**" Report.

On motion of Representative KONTOS of Windham, tabled pending acceptance of the Majority "**Ought Not to Pass**" Report and later today assigned.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were tabled and today assigned:

HOUSE DIVIDED REPORT - Majority (10) "**Ought to Pass**" as amended by Committee Amendment "A" (H-46) - Minority (3) "**Ought Not to Pass**" - Committee on **Legal and Veterans Affairs** on Bill "An Act to Open a Discount State Liquor Store in Calais" (H.P. 277) (L.D. 341)

TABLED - March 25, 1997 by Representative TUTTLE of Sanford.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" as amended Report.

On motion of Representative KONTOS of Windham, tabled unassigned.

Bill "An Act to Allow Field Testing of Unregistered Snowmobiles Repaired by Licensed Snowmobile Repair Shops" (H.P. 57) (L.D. 82) (C. "A" H-99)

TABLED - March 26, 1997 by Representative PAUL of Sanford.

PENDING - Passage to be Engrossed.

On motion of Representative PAUL of Sanford, tabled pending Passage to be Engrossed and later today assigned.

The following items were taken up out of order by unanimous consent:

ENACTORS
Emergency Measure

Resolve, to Provide for Legislative Review of Certain Agency Rules (H.P. 1194) (L.D. 1694) (Governor's Bill)

Was 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. 113 voted in favor of the same and 0 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

ENACTORS
Emergency Measure

Resolve, Concerning Payments to Legislators during Special Session (S.P. 552) (L.D. 1678) (H. "A" H-123; S. "A" S-70)

Was 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. 128 voted in favor of the same and 0 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were tabled and today assigned:

SENATE DIVIDED REPORT - Majority (7) "**Ought to Pass**" as amended by Committee Amendment "A" (S-20) - Minority (5) "**Ought Not to Pass**" - Committee on **State and Local Government** on Bill "An Act to Require That a Vacancy in the Office of Sheriff Be Filled by an Appointee from the Same Political Party" (S.P. 33) (L.D. 31)

- In Senate, Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-20).

TABLED - March 26, 1997 by Representative AHEARNE of Madawaska.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" as amended Report.

Subsequently, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-20) was read by the Clerk and adopted. Under suspension of the rules the bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the bill was passed to be engrossed as amended and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (8) "**Ought Not to Pass**" - Minority (5) "**Ought to Pass**" - Committee on **Legal and Veterans Affairs** on Bill "An Act to Prohibit Liquor Licensing of an Establishment Managed by a Person with a Criminal Record" (H.P. 367) (L.D. 512)

TABLED - March 26, 1997 by Representative TUTTLE of Sanford.

PENDING - Motion of same Representative to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative LABRECQUE: Madam Speaker, Ladies and Gentlemen of the House. I rise and ask your support in defeating this present motion so that we can go on to pass the "Ought to Pass" Report. This particular bill closes what I feel is a loophole in one of the liquor licensing laws and I feel that we should have the same standards for the licensee and the manager or the person left in charge of an establishment that is selling liquor for consumption on the premises. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Madam Speaker, Men and Women of the House. Current law prohibits a person licensed to sell liquor from pulling as a manager or leaving the premises in charge of a person who has been convicted for a violation of any liquor laws or who's license to sell liquor and has been revoked in the previous five years. The present bill prohibits the employment as a manager or person in charge of any person who has been convicted of a Class A, B or C crime or in violation of any liquor laws or whose license to sell liquor has been revoked.

As has been mentioned, the proponents of the bill want to ensure that alcohol will not be distributed inappropriately. The bill may increase prosecutions for Class E crimes if a jail sentence is imposed. The additional cost to the counties would be estimated to be about \$83.73 per prisoner. Unfortunately these costs would not be reimbursed by the state. Presently there are present provisions in the law already to address this situation under Title 28A, Section 654. It mentions additional

considerations for licensers by municipalities. It says, In issuing or renewing licenses, the commission, the municipal officers or the county commissioners, as the case may be, shall give consideration to the character of the applicants, the location and place of the business, in a manner in which it has been operated, where the operation has endangered the safety of persons in or around the surrounding areas of the place of business.

Essentially, the majority of the committee feel that the present law is adequate. We understand the problem in the municipality of Gorham and a problem as mentioned by Representative Labrecque. It is our opinion in the majority that to pass a law because there is a problem in one town is bad public policy.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative LABRECQUE: Madam Speaker, Ladies and Gentlemen of the House. I would like to further clarify my comments. Presently, if you want a liquor license to sell liquor for consumption in your establishment, you cannot have any kind of a criminal record. None whatsoever. If, however, you leave somebody in charge of your establishment, a manager or a lead person, that person can have a criminal record that might consist of forgery, theft or what have you. He can only have a criminal record that includes violations of the liquor laws. This bill, if it were passed, would establish that the criminal record that you would achieve for a Class A, B or C crime would also be considered and reviewed before you were allowed to have that person in your establishment in a lead capacity. It does not preclude you, as a licensee, from hiring such a person. You just may not leave your establishment in his or her control. This is not a Gorham bill. This is something that can occur anywhere in the State of Maine where you have a restaurant with a liquor license. Thank you.

Representative TUTTLE of Sanford requested a roll call on the motion to accept the Majority "**Ought Not to Pass**" Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 65

YEA - Bagley, Baker CL, Belanger IG, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Chartrand, Clark, Colwell, Cowger, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Jabar, Jones KW, Joyce, Joyner, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perkins, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Thompson, Townsend, Tripp, Tuttle, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Ahearne, Baker JL, Barth, Belanger DJ, Berry DP, Bigl, Bragdon, Buck, Bumps, Campbell, Carleton, Chick, Chizmar, Cianchette, Clukey, Cross, Dexter, Donnelly, Foster, Gerry, Gieringer, Gooley, Honey, Jones SL, Jones SA, Joy, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Bodwell, Davidson, Hatch, Lemke, Lindahl, Pendleton, Perry, Saxl MV, Tessier, Usher.

Yes, 76; No, 65; Absent, 10; Excused, 0.

76 having voted in the affirmative and 65 voted in the negative, with 10 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence. Ordered sent forthwith.

The Chair laid before the House the following items which were tabled earlier in today's session:

Bill "An Act to Permit the Retail Sale of Smoked Alewives" (H.P. 1187) (L.D. 1686) which was tabled by Representative MITCHELL of Portland pending reference to the Committee on **Health and Human Services**.

On motion of Representative MITCHELL of Portland, the Bill was referred to the Committee on **Agriculture, Conservation and Forestry**, ordered printed and sent up for concurrence.

Bill "An Act to Significantly Reduce Smoking and Tobacco Use among the Young People of Maine" (H.P. 1192) (L.D. 1691) which was tabled by Representative MITCHELL of Portland pending reference to the Committee on **Health and Human Services**.

Subsequently, the Bill was referred to the Committee on **Health and Human Services**, ordered printed and sent up for concurrence.

By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were ordered sent forthwith.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were tabled and today assigned:

HOUSE DIVIDED REPORT - Majority (12) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" as amended by Committee Amendment "A" (H-92) - Committee on **Banking and Insurance** on Bill "An Act to Prohibit Rebates and Other Incentives Pertaining to Insurance Claims" (H.P. 407) (L.D. 552) TABLED - March 26, 1997 by Representative KONTOS of Windham.

PENDING - Motion of Representative SAXL of Bangor to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative JONES: Madam Speaker, Men and Women of the House. I rise today to ask you to oppose the pending motion and then vote in favor of the Minority Report. There is a good reason why the Majority Report on the original bill, L.D. 552, was a 12-to-1 "Ought Not to Pass." This bill went into the Revisor's Office on the last day before cloture and prohibited rebates on all insurance claims. The committee rightfully felt this was too broad and I agree. Amendment (H-92) limits the bill to auto glass claims only. Let me explain. I call your attention to the handout on the desk from yesterday and remind you that it is quite different than most others we receive due to the fact that it is worth real money to you, \$50 to \$100, in the event you have a broken windshield. A few days ago many of us attended a breakfast with the pulp and paper companies and heard an excellent speaker on the subject of ethics. My amendment definitely pertains to this same subject. Eleven or 12 other states presently have similar legislation in place and it is pending in others. An active glass repair shop here in Augusta informs

me that more than 50 percent of broken windshields can be repaired with guaranteed results.

Consider well the following: How come these coupons only apply if you have insurance? How come there is one price if you have insurance and another if you do not? How come more and more folks are paying \$300 to \$500 to have a job done when the same could be done for \$30 to \$50? We, in this body, are elected to do what is best for our constituents, to the best of our ability. This amendment, in my opinion, could very well discourage a practice that might be considered unethical. Again, I ask for your support and I thank you very much and when the vote is taken, I request a division.

Representative JONES of Pittsfield requested a division on the motion to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Madam Speaker, Men and Women of the House. I rise to support the Majority "Ought Not to Pass" provision. The bill as stated allows for discount coupons or premiums when one has auto glass repair. We heard not a word from any of the insurance companies, if there were any problem in the bill, when it came before committee. In addition, we feel there is enough law on the books, currently, to handle any fraudulent matter that might come before us. Rather than in favor of doing away with coupons, we feel that it is good business practice to try to attract business to the company by offering these discounts.

I have a letter here from the owner of Viking Glass and he says, "What we offer our customers is a \$50 coupon payable toward their insurance deductible on windshield replacement. Everyone wants to save money. Customers are happy saving \$50 and we are happy getting new customers. I cannot vouch for other glass companies, but I can tell you the following about Viking Glass. We have never and will never pass the additional \$50 that the customer saved with our coupon onto any insurance company. Our prices to the insurance companies remain constant. We use certain multipliers on the national auto glass specifications list price which do not change whether a customer uses a coupon or not. Our books are honest and open. We do not consider coupons to be unfair trade practice. They are a marketing tool, which is widely used by all manners of business to bring in new customers. If a new customer comes to Viking Glass because of our coupons, is that unfair? I think it is part of trade. Free enterprise economics, which is the foundation of doing business in the United States. I would like to also point out that we do not steal customers away. They come to us on our own volition. That is their right. The idea of stealing a customer is ridiculous. Customers have a right to go to the stores they choose and I have the right and obligation to attract them. Let me remind you that this was a 12-to-1 vote "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative JONES: Madam Speaker, Ladies and Gentlemen of the House. I, too, received this very same letter. I followed it up the very same day I received it. The very same day I received it, I called this Ellsworth glass repair shop and had a long, very interesting conversation with the lady. She said they have a small shop, her husband and her run it. I can't for the life of me figure how you can give a \$50 discount, a small operation like yours. She said, "Well, I have got to tell you Mr. Jones, that we do charge a little bit more to the insurance companies." I questioned her a little bit on that. The main reason was that they are so slow on paying their bills. I don't think this is quite true. Most of them, particularly on small claims, such as windshields, they do pay.

My good Chair on our committee is right. It troubled me that the insurance companies were not present at the hearing. They did have one very impressive lobbyist who spoke. He said, "I wear today two hats. My first hat is representing the Auto Dealers Association." I fail to see why that is relative. Then he said, "My next hat is the insurance companies in the state and also their agents. This is a good bill. It is not proper, the way it is and it is probably in the wrong place, but we could support if it was limited and so forth." I have checked with the insurance companies since and I can assure you that, generally speaking, they do favor this bill. They cannot go out and fleece every broken windshield and whether there is any cheating or whatever going on, but they can help alleviate the situation by merely upping our insurance premiums. This I am convinced would stabilize our auto insurance premiums. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative CHIZMAR: Madam Speaker, Colleagues of the House. In reading the Minority Report it appears to me that it is anti-small business and anti-consumer. I urge you to vote no and when the vote is taken Madam Speaker, I request a roll call.

Representative CHIZMAR of Lisbon requested a roll call on the motion to accept the Majority "**Ought Not to Pass**" Report.

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 Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. The auto glass industry is not an uncomplicated industry. Each insurance company is given a modifier. There is a modifier that is assigned to each company and each company negotiates separately. Each insurance company negotiates separately with each glass shop. All windshields are not bought at the same price. All windshields are not paid for at the same price. What happens is a company that bids really tight or puts in a tight modifier to the insurance company, when presented with a \$50 coupon, cannot pass that on to the insurance company. Therefore, if they take the job they are making so little money or no money because they can only bill at a certain modifier rate to that insurance company.

Someone who puts out the coupon amends their modifier rate so that they know when a \$50 coupon comes in that their modifier will cover the \$50 or \$100. The last time I checked there was a reason for a deductible and that was one, to make sure that you knew you had to buy in to the repairs that you were asking for and that you would use good discretion as to how much work you really needed. If you have a blemish on your windshield and it is only going to cost you \$50 or maybe none, then you might just have the whole thing replaced. Please keep in mind that each insurance company deals separately with each glass company. It is really hard to change all your modifiers so you can take competitive coupons in order to keep business. They are doing it and they are losing their shirts. I would ask you to vote against this motion and to go on to accept the amendment that will be offered. Keep in mind that it is not as simple as it sounds. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Madam Speaker, Men and Women of the House. In listening to testimony in the Banking and Insurance Committee for this bill, I don't think any of us did not see that it was a compelling argument that there was a little bit of hanky panky going on between the glass shops and the customers. Any one of us could look into our phone books and find a half a dozen of these coupons that will give anywhere from \$50 to \$100. Some of the testimony that we heard spoke about

a glass dealer that would feel the call requesting a quotation for a new windshield and the first question the glass dealer would ask of the customer was, are you planning to pay for this windshield with insurance or out of your own pocket? The implication being that I have two prices. As I said, none of us on the committee liked the idea of the practice happening, yet the majority 12-to-1 "Ought Not to Pass" vote is indicative of our feelings that this bill is not the right way to go about taking care of the problem. We saw danger in insurance rates going up, unjustifiably, as a result of this practice occurring. However, if we can find a way to enforce a law that would prevent this adverse action from happening, I think we would and I think we will if we ever get the chance again. However, this bill as amended or left alone is not the way to do it. I ask that you support the Majority "Ought Not to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Jones. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative JONES: Madam Speaker, Men and Women of the House. I do apologize for standing up here once more, but just very briefly, it has been mentioned about this anti-business. It is really not true folks. At the hearing there were seven or eight small glass repair shops not giving coupons. Their idea was that they just cannot compete and if it goes through they would go home and start giving coupons and charging more than they should. It is definitely for the small businesses, man and wife, one employee and it lines right up, in my opinion, to support the small businessman and might even save a job or two.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 66

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger IG, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Carleton, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Green, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, Marvin, Mayo, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, O'Neal, O'Neil, Ott, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Shannon, Shiah, Sirois, Skoglund, Stevens, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Wright, Madam Speaker.

NAY - Barth, Berry DP, Bigl, Bragdon, Buck, Bumps, Campbell, Cianchette, Clukey, Cross, Dexter, Fisk, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lovett, MacDougall, Mack, Madore, McAlevey, McElroy, Nass, Nickerson, O'Brien, Peavey, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Winn.

ABSENT - Belanger DJ, Bodwell, Davidson, Foster, Hatch, Lemke, Lindahl, Pendleton, Saxl MV, Tessier, Vigue, Winsor.

Yes, 86; No, 53; Absent, 12; Excused, 0.

86 having voted in the affirmative and 53 voted in the negative, with 12 being absent, the Majority "**Ought Not to Pass**" Report was accepted. Ordered sent forthwith.

The Chair laid before the House the following item which was tabled earlier in today's session:

Bill "An Act to Allow Field Testing of Unregistered Snowmobiles Repaired by Licensed Snowmobile Repair Shops" (H.P. 57) (L.D. 82) (C. "A" H-99) which was tabled by Representative PAUL of Sanford pending Passage to be Engrossed.

On motion of Representative PAUL of Sanford, the Bill was recommitted to the Committee on **Inland Fisheries and Wildlife** and sent up for concurrence. Ordered sent forthwith.

The Speaker appointed Representative KONTOS of Windham on the part of the House to inform the Senate that the House had transacted all business before it and is ready to adjourn without day.

Subsequently, Representative KONTOS reported that she had delivered the message with which she was charged.

The Chair appointed the following members on the part of the House to wait upon his Excellency, Governor Angus S. King, Jr., and inform him that the House has transacted all business before it, is ready to adjourn without day and is ready to receive any communication that he may be pleased to make.

Representative KERR of Old Orchard Beach
 Representative POULIN of Oakland
 Representative TOWNSEND of Portland
 Representative STEVENS of Orono
 Representative BERRY of Livermore
 Representative LEMAIRE of Lewiston
 Representative OTT of York
 Representative KNEELAND of Easton
 Representative MARVIN of Cape Elizabeth
 Representative WINSOR of Norway

Subsequently, the Committee reported that they had delivered the message with which they were charged.

At this point, a message came from the Senate borne by Senator RAND informing the House that the Senate had transacted all business before it and is ready to adjourn without day.

On motion of Representative GAMACHE of Lewiston, the House adjourned without day at 12:25 p.m.