

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

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**Senate Confirmation Session**

June 14, 1978

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**First Special Session**

September 6, 1978 — September 15, 1978

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December 6, 1978

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APPENDIX

**SENATE**

March 10, 1978

Senate called to Order by the President.  
Prayer by the Honorable Andrew J. Redmond of North Anson.

Mr. REDMOND: God: We rejoice in the beauty of all Thou hast created for us and the heritage, handed down by our predecessors.

We thank Thee that we can gather, at this Capital and continue the process of Constitutional Law, inspire us with the same ideals of love and freedom based on respect for each individual person.

Visit us O God for we need Thee:

To quiet our fears, to smooth our frustrations, to smother our griefs, to heighten our ideals, to energize our daily toil, and to expand our compassion. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

**Papers from the House  
Non-concurrent Matter**

Bill, "An Act to Establish a Uniform Confidentiality Statute for Tax Information and to Update the Maine Income Tax Law with Respect to the Internal Revenue Code." (H. P. 1952) (L. D. 2031)

In the House, March 6, 1978, Passed to be Engrossed as amended by Committee Amendment "A" (H-1111).

In the Senate, March 9, 1978, Passed to be Engrossed as amended by Committee Amendment "A" and Senate Amendment "A" (S-526, in non-concurrence).

Comes from the House, that Body having Adhered.

On Motion of Mr. Jackson of Cumberland, the Senate voted to Recede and Concur.

**Committee Reports**

**House**

**Leave to Withdraw**

The Committee on Appropriations and Financial Affairs on,

Bill, "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine State Troopers Association." (Emergency) (H. P. 2138) (L. D. 2165)

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.

**Ought to Pass**

The Committee on Appropriations and Financial Affairs on,

Bill, "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine State Troopers Association." (Emergency) (H. P. 2200) (L. D. 2179)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Report was Read and Accepted in concurrence, and the Bill Read Once and Tomorrow Assigned for Second Reading.

**Ought to Pass — As Amended**

The Committee on State Government on, Bill, "An Act to Clarify the Status of Intermittent State Employees." (H. P. 2064) (L. D. 2122)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1131).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Transportation on, Bill, "An Act to Revise Maine's Aeronautics Laws." (H. P. 2055) (L. D. 2119)

Reported that the same Ought to Pass as

amended by Committee Amendment "A" (H-1132).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read and Accepted in concurrence, and the Bill Read Once. Committee Amendments "A" were Read and Adopted in concurrence, and the Bills, as amended, Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Taxation on, Bill, "An Act to Reduce the Current Maine Individual Income Tax Rates." (H. P. 2035) (L. D. 2099)

Reported that the same Ought Not to Pass. Signed:

**Senators:**

WYMAN of Washington  
MARTIN of Aroostook

**Representatives:**

COX of Brewer  
CAREY of Waterville  
MAXWELL of Jay  
CHONKO of Topsham  
POST of Owls Head  
TEAGUE of Fairfield

The Minority of the same Committee on the same Subject matter reported that the same Ought to Pass.

Signed:

**Senator:**

JACKSON of Cumberland

**Representatives:**

CARTER of Bangor  
IMMONEN of West Paris  
MACKEL of Wells  
TWITCHELL of Norway

Comes from the House, the Majority Report Accepted.

Which Reports were Read.

On Motion of Mr. Speers of Kennebec

Tabled pending Acceptance of either Committee Report.

**Senate**

**Ought to Pass — As Amended**

Mr. Chapman for the Committee on Business Legislation on, Bill, "An Act to Establish the Maine Corporation Takeover Bid Disclosure Law." (S. P. 665) (L. D. 2056)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-527).

Which Report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as amended, Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Marine Resources on, RESOLVE, Directing the Commission of Marine Resources to Notify Municipalities of the Minimum Size Limitation Provision of the Municipal Shellfish Conservation Program. (Emergency) (S. P. 736) (L. D. 2186)

Reported that the same Ought to Pass — pursuant to Joint Order (S. P. 700).

Signed:

**Senators:**

CHAPMAN of Sagadahoc  
HEWES of Cumberland  
LEVINE of Kennebec,

**Representatives:**

JACKSON of Yarmouth  
NELSON of Roque Bluffs  
FOWLIE of Rockland  
BUNKER of Gouldsboro  
POST of Owls Head  
BLODGETT of Waldoboro

The Minority of the same Committee on the same subject matter Reported that Bill, "An Act to Establish a Two-inch Minimum Size for Soft-shell Clams," (S. P. 737) (L. D. 2187) Ought to Pass — pursuant to Joint Order (S. P.

700).

Signed:

**Representatives:**

CONNERS of Franklin  
GREENLAW of Stonington

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President, it is with pleasure that I bring before you the two inch minimum size clam Bill which on several earlier occasions, I promised to do so. You will note, however, that I am not one of the signers of the Report that establishes the two inch minimum size for the entire coast of Maine.

Like just about everything in the area of Marine Resources there is considerable difference of opinion on this issue. Some of it stems perhaps from the lack of knowledge on the biology involved with the soft shell clam. Some of it stems, I am sure from the differing local and regional conditions that prevail not only biological conditions but economic and regulatory conditions as well, and in other instances, I think you will find a difference of opinion just because that is the way it is in the fisheries.

The Marine Resources Committee has attempted to find out as much as possible on this matter, in addressing it in a relatively short time that we have had. Most of the available information is fairly old, however, and not that it is necessarily therefore, not valid but it would be comforting to have some more current data at least to varyify some of the older statistics but we do not.

Maine used to have a two inch state wide clam size law, it was put on in 1934 and it was removed in 1960. It originally set up so that the law was repealed for a period of four years in 1960 and it was subsequently made permanent. The Department of Marine Resources Director of Research and in response to our request furnished us with some information that I found rather helpful, and I would like to read excerpts from this information. "Most of the clam research provided by the Marine Resources was conducted in 1940's and 50's with little growth rate information available in recent years. Current clam research has been limited to surveying flats to estimate potential production and to assist towns in there management programs. Clam growth rate varies along the Maine Coast with clams generally growing faster in the Western Part of Maine then in the Eastern Parts of Maine. The poorest growth is from Eastport to Cutler, the best growth is from Small Point to Kittery. The time to reach two inches in length varies from four years to eight years depending on where you are on the coast. It is estimated that a digger removes 60 percent on the average of clams in his path while killing half the clams left behind due to shell breakage and burial. If a two inch clam law were in effect and digging continued to harvest clams larger then two inches, the mortality on small clams would be quite severe. If flats were dug completely twice up to 75 percent of the clams less then two inches would die due to incidental digger mortality. If digger mortality is not excessive in western Maine, a two inch clam law would be suitable under the conditions of fast growth. In the rest of the State, however, the incidental digger mortality must be less then 10 percent year, for the two inch clam law to be suitable. We have little information on actual mortalities in the flats at present. But indications are that harvest mortality is large and, therefore, the incidental, digger mortality is also large. Ideally for maximum biological yield clams should be managed on a flat by flat basis with digging restricted in those areas containing clams of an average size of less then two inches.

By closing the flats until the average size is greater then two inches the yield is increased in all areas. Long term loss in yield could be significant from the two inch clam law if inci-

dental digger mortality is large.

Therefore, although short term loss may be small, a two inch Law would not be suitable in Eastern Maine under either biological or economic conditions. There is no single length measurement suitable for the entire coast."

For these reasons, I feel that the clam management should be conducted through the towns on a community basis following local objectives. In my opinion and in the opinion of the majority of the Committee there was not presented to us enough support of data at this time to justify recommending reinstatement of a State wide two inch minimum size law. We are, therefore, instead recommending that the Commissioner of Marine Resources be directed to notify each and every coastal community of their presently existing authority to enact municipal shell fish conservation programs, and such programs may include a provision limiting the size of soft shell clams.

I guess that you would have to say that what we are recommending is that we leave it to local control. But where a State wide minimum size could appear to be detrimental to the clamming industry and to some good conservation practices and where there already exists a means for the municipalities to establish locally a minimum size of clam that may be taken which means apparently some of the municipalities have been unaware of and have not implemented, and I feel and the majority of the Committee feels that the best resolution of the current question at this time would be accomplished by the acceptance of the Majority Report. Mr. President, I move acceptance of the Majority Report.

The Majority Report Accepted.

The Resolve Read Once and Tomorrow Assigned for Second Reading.

#### Second Readers

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

##### House

Bill, "An Act Relating to the Installation of Smoke and Head Detection Systems in Certain Hotels." (H. P. 2195) (L. D. 2178)

Which was Read a Second Time.

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

Mr. DANTON: Mr. President and Members of the Senate: I have no objection to this Bill. I think that it is a good Bill but it is a very open ended Bill and I think that we should take and sit down and prepare an amendment.

I made some calls and where it says, installation of sprinkler systems and smoke and heat detection systems, when you call most of these systems do not say heat they say fire, and then the Bill also does not allow for battery operated systems. So it does not really say whether they should be run by battery or wired to the electrical panel. I think that it is a good Bill, I think it is a needed Bill, I think that we can make it a very workable Bill and I would hope that someone would table this for two legislative days.

On Motion of Mr. Pierce of Kennebec, Tabled for Two Legislative Days, pending Passage to be Engrossed.

##### House — As Amended

Bill, "An Act to Empower the Oil Burner Men's Licensing Board to Inspect and Approve Coal and Wood Fuel Central Heating Equipment." (H. P. 2184) (L. D. 2176)

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

Bill, "An Act to Facilitate Central Licensing and Concerning Membership of the Maine Athletic Commission." (Emergency) (H. P. 1908) (L. D. 1969)

Which was Read a Second Time.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I was not too concerned

originally when I saw this Bill before us, but it slipped through so quickly I really did not get an explanation from the Business Legislation Committee as to how they arrived at this particular decision so far as putting on two extra people under personnel services and also put on an extra one on the Board of Commissioners. But a point and also was not clarified at least from what information I was able to obtain, relevant to that if the local promoter who must charge the additional fee on the ticket, would be compelled to pay this cost and still have the Commission regulate the entire concept of that particular ticket. It seems like there is an infringement upon the local motor and we have quite a few fight promoters in the City of Lewiston.

Another point which I think is of significant value is under the Amendment, House Amendment 1128, Sub-Section 2955, refusal and revocation. The Commissioner shall have the right to refuse or revoke a license permit pursuant to title five when the applicant or licensee has been convicted of a crime for which the maximum term imprisonment which may be imposed is one year or more when the applicant to licensee has been convicted of a fraudulent deceptive practice. I can assure you that many of these people who are involved in these various Boards and Commissions may have not been convicted by a court of deceptive practices, but I can assure you many men who are involved at the present time have gone through the process of many deceptive practices and yet on the other hand, they are willing to discriminate against other people who might be local promoters. It is absolutely amazing at times when you come across people or least in the penal system we have in the State of Maine that we provide educational benefits for them to go in to various areas whether it is law or business under the guise of rehabilitation, yet a local little fellow cannot promote fighting in the municipality because he might have been convicted or had been sent to prison for one year.

The analogy between those two examples in my particular conviction is not to palatable. But I guess that this is really what we call one of these sleeper bills that nobody pays much attention to when I certainly would appreciate before I make any further moves on this particular Bill, Mr. President, is to ask Senator Pierce from Kennebec, for a reasonable explanation of exactly how they arrived at this particular amendment.

The SPEAKER: The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate: Last year the Business Legislation Committee faced a bill concerning the Maine Boxing Commission and under the Maine Boxing Commission we placed wrestling for the first time. Before we the State had only regulated boxing and we felt that many people felt, in fact I believe that there was no opposition at the hearing that wrestling also should come under this. We then formed the new Maine Athletic Commission. In doing so, we left three members on there really not realizing how much more we were going to be involved when you regulate both boxing and wrestling. Therefore, it was felt that with the blessing of the Commissioner and the Governor that two more people should be added onto the Maine Athletic Commission and that is one of the things that this Amendment does.

While there is a cost to do that, it is more then offset by increased revenues from having the wrestling promoters under it. We also realize that as you all know by law every board and commission has to have a public member on it but this Commission did not have a public member and does not at this time. So we made provisions under this Amendment for what we

considered a true public member and we defined the public member as someone not having a direct or indirect financial interest in promotion of either boxing or wrestling events. Much of the other Bill, portions of the Bill, concern central licensing and several other house keeping amendments to central licensing.

I hope that this answers the question of the good Senator and if he has any further, I would be glad to answer them.

The SPEAKER: The Chair recognizes the gentleman from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, just to pursue one area. Would the good Senator from Kennebec, Senator Pierce, explain the rationale under section 2955 on refusal and revocation as to how they arrived at that particular portion of the Bill?

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed an additional question through the Chair to the Senator from Kennebec, Senator Pierce, who may answer if he so desires.

The Chair recognizes that Senator.

Mr. PIERCE: Mr. President and Members of the Senate: I think that the Committee arrived at this section of the Bill because we did have some concern over especially in boxing and wrestling there always seems to be at least the appearance of some deceptive practices, and we wanted the Commissioner and this only gives him the right to refuse or revoke a license pursuant to this chapter, if in his discretion he feels that it is not a proper person to be involved in these two sports and try to I think better the image of both the men, certainly the Athletic Commission.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: Assuming from that explanation that the superintendent does not like a local fight promoter in a municipality that the commissioner will take the superintendents word based upon what he alleges the facts might be and this individual will not stand a chance beyond that particular point to become a licensed fight promoter in a municipality again I would assume that is what the intent is and I think that this is very wrong Mr. President.

Mr. President I wish that someone would table this bill for at least one Legislative Day for further research.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, pending passage to be Engrossed.

#### Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: "An Act to Require the Judicial Department to Reimburse Counties Quarterly for the Expenses of Bailiffs and Other Court and Jury Officers." (H. P. 2110) (L. D. 2143)

On Motion of Mr. Huber of Cumberland, placed on the Special Appropriations Table.

"An Act to Amend the Charitable Solicitations Act to Change the Responsibilities of Religious and Small Organizations." (H. P. 2015) (L. D. 2090)

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

#### Orders of the Day

The President laid before the Senate: House Reports — From the Committee on State Government — Bill, "An Act to Transfer the Division of Motor Vehicles to the Department of Transportation." (H. P. 2079) (L. D. 2133) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-1133) Minority Report - Ought Not to Pass

Tabled — March 9, 1978 by Senator Collins of Aroostook.

Pending — Acceptance of Either Report

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

Mr. COLLINS: Mr. President and Members of the Senate: This proposal provides the transfer of Motor Vehicle Division from the Secretary of State's Office to the Department of Transportation, has been a matter of some discussion for at least six or eight years that I am aware of.

The last legislature directed a study to determine the feasibility of such a transfer and instructed the Secretary of State and the Commissioner of the Department of Transportation, to conduct such a study.

The Bill is a result of that study and very briefly the findings of the study indicated that the transfer was feasible, the transfer would result in potential long range costs benefits to the State, and service to Maine citizens would not deteriorate and could possibly be expanded. The report which I am sure you all have a copy of suggests that there is a possible saving of from \$75,000 to \$100,000 on an annual basis. The Committee has adopted this Report, the Majority of the Committee with only one dissenting vote. It comes to you in the form of only one Amendment which perhaps I should read to you, and that amendment provides a person who on December 31, 1978 is incumbent in the Deputy Secretary of State's position shall be considered appointed under the personnel law to the position on January 1, 1979 without having to satisfy any other requirement. He may retain his appointment subject to the personnel laws until January 1, 1983. Mr. Chairman, the Bill makes a great deal of sense, if we are interested in a proper structure in state government it represents an efficient proposal that would result in costs savings to the State of Maine.

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

Mr. MARTIN: Mr. President and Ladies and Gentlemen of the Senate: I am a strong believer in an old saying which says, "when something works within a system, leave it alone. I see no need for this Bill and I think that we can save time by taking care of this Bill today. I would request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Accepting the Majority Ought to Pass as Amended Report of the Committee please rise in their places to be counted.

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

17 Senators having voted in the affirmative and 12 Senators in the negative, the Majority Ought to Pass Report is accepted in non-concurrence.

The Bill Read Once.

Committee Amendment "A" Read and Adopted.

This Bill, as Amended, Tomorrow Assigned for Second Reading.

On Motion of Mr. Huber of Cumberland,  
Adjourned until 10:30 in the morning,  
Monday, March 15, 1978.