

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-First Legislature**  
**State of Maine**

**Volume II**

**First Regular Session**

May 27, 2003 – June 14, 2003

**First Special Session**

August 21, 2003 – August 23, 2003

**Second Regular Session**

January 7, 2004 - January 30, 2004

**Second Special Session**

February 3, 2004 - April 7, 2004

Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
SECOND REGULAR SESSION  
4th Legislative Day  
Wednesday, January 14, 2004

Representative RICHARDSON of Brunswick assumed the Chair.

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

Prayer by Reverend Paul D. Basham, Interim Minister, Penney Memorial United Baptist Church, Augusta.

National Anthem by Torrey Gimpel, Waterville.

Pledge of Allegiance.

Doctor of the day, Kathleen Thibault, D.O., Milo .

The Journal of yesterday was read and approved.

**SENATE PAPERS**

**Non-Concurrent Matter**

An Act To Support Harness Horse Racing in Maine, Equine Agriculture in Maine, Maine Agricultural Fairs and the General Fund of the State

(S.P. 449) (L.D. 1361)

(C. "A" S-256)

- In House, **PASSED TO BE ENACTED** on June 11, 2003.

- In Senate, **PASSED TO BE ENACTED** on June 11, 2003, in concurrence.

- **RECALLED** from the Governor's Desk pursuant to Joint Order 2003, S.P. 672.

Came from the Senate with the Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

**COMMUNICATIONS**

The Following Communication: (H.C. 290)

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
SPEAKER'S OFFICE  
AUGUSTA, MAINE 04333-0002**

January 13, 2004

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

Pursuant to Executive Order 9 FY 04/05, I am pleased to appoint Representative Theodore Koffman of Bar Harbor to serve as a member of the Governor's Advisory Council on the Sustainability of Forest Products Industry in Maine.

Should you have any questions regarding this appointment please feel free to contact me.

Sincerely,

S/Patrick Colwell

Speaker of the House

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 291)

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
SPEAKER'S OFFICE  
AUGUSTA, MAINE 04333-0002**

January 13, 2004

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

Pursuant to my authority under House Rule 401.1, I assign Representative Stanley A. Moody of Manchester to seat 27, Representative Edward R. Dugay of Cherryfield to seat 30, Representative Theodore Koffman of Bar Harbor to seat 141 and Representative Roger L. Sherman of Hodgdon to seat 127. This is effective January 13, 2004.

Sincerely,

S/Patrick Colwell

Speaker of the House

**READ and ORDERED PLACED ON FILE.**

**REPORTS OF COMMITTEE**

**Change of Committee**

Representative McKEE from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Promote Responsible Pet Ownership"

(H.P. 1285) (L.D. 1763)

Reporting that it be **REFERRED** to the Committee on **TAXATION**.

Report was **READ and ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION**.

Sent for concurrence.

Representative SULLIVAN from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Reduce Contamination of Breast Milk and the Environment from the Release of Brominated Chemicals in Consumer Products"

(H.P. 1312) (L.D. 1790)

Reporting that it be **REFERRED** to the Committee on **NATURAL RESOURCES**.

Report was **READ and ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES**.

Sent for concurrence.

**Divided Report**

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass** on Bill "An Act Regarding the Sale of Weapons at Gun Shows"

(H.P. 674) (L.D. 917)

Signed:

Senators:

STRIMLING of Cumberland  
CARPENTER of York

Representatives:

BLANCHETTE of Bangor  
GERZOFKY of Brunswick  
GROSE of Woolwich  
GREELEY of Levant  
MAIETTA of South Portland

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

HATCH of Somerset

Representatives:

SNOWE-MELLO of Poland  
 SYKES of Harrison  
 CHURCHILL of Washburn

**READ.**

Representative BLANCHETTE of Bangor moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I stand here in opposition to LD 917. Let me give you some very good reasons why. In recent years the media and the anti-gun groups have attempted to portray gun shows as forums for illegal activity and shopping malls for criminals. This characterization is completely inaccurate. Gun shows are operated by law-abiding citizens and provide selling primarily or exclusively to federally licensed gun dealers. In addition, all federal, state and local firearm laws apply to firearm dealers at gun shows. The proponents of LD 17 would have you believe that because of a loophole in the federal firearm laws that private firearm sales and gun shows are a major source where criminals are purchasing firearms. In truth, every one of the charges against private sales is false.

Federal law requires all firearm sales at a gun show be purchased through a licensed dealer except in cases where a private individual sells firearms on an occasional basis to enhance or sell off his or her private collection. Federal law clearly defines the business of dealing in firearms as any individual who devotes time, attention and labor to dealing with firearms as a regular course of trade or business with a principle of objectivity of livelihood and profits through the repetitive purchase and resale of firearms. Federal law also requires any individuals engaged in the business of selling firearms to possess a valid federal firearms license.

Individuals who are found guilty of dealing in firearm sales without a license are guilty of federal felony, punishment by a five-year prison term, a \$5,000 fine or both. In fact, each separate gun sale would constitute a separate felony offense. So be sure, there is no loophole in the law as it relates to the private sale of firearms.

It also has been said that this is a business bill. In fact, it would close a business and not keep a business open. I am going to go on a little bit and just tell you also why this is not a good bill. This bill sets up an absurd situation in Maine, unless, of course, your ultimate goal is to stop all private sales of guns in Maine. This is your first step in doing that. If this passes, it would be legal to sell your guns in a parking lot, but illegal to set up your card table inside a gun show. You can list your guns in *Uncle Henrys*, but not at the gun show.

Finally, to show how poorly this bill is thought out, there is absolutely no definition of gun show. We can go on with a legitimate activity in daylight. I ask you please to vote this report **Ought Not to Pass**. Thank you.

When the vote is taken, I would like to ask for a roll call. Thank you.

Representative SNOWE-MELLO of Poland **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass** Report.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. I serve on the Criminal Justice Committee also. I was not able to vote in the workshop following

the public hearing that we had. At the public hearing, there was discussion in regards to many things dealing with ownership, sale and the gun dealers themselves. I did not hear any compelling reason to change anything we are doing now. There was no compelling reason at all and the statistics will prove that in the State of Maine. I will not vote for this bill. Thank you.

On motion of Representative BLANCHETTE of Bangor, **TABLED** pending her motion to **ACCEPT** the Majority **Ought to Pass** Report and later today assigned. (Roll Call Ordered)

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Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Assist Maine's Infertile Citizens"

(H.P. 172) (L.D. 213)

Signed:

Senator:

LaFOUNTAIN of York

Representatives:

O'NEIL of Saco

CANAVAN of Waterville

PERRY of Calais

GLYNN of South Portland

YOUNG of Limestone

SNOWE-MELLO of Poland

VAUGHAN of Durham

WOODBURY of Yarmouth

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-629)** on same Bill.

Signed:

Senators:

DOUGLASS of Androscoggin

MAYO of Sagadahoc

Representatives:

PERRY of Bangor

BREAULT of Buxton

**READ.**

Representative O'NEIL of Saco moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

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**ENACTORS**

**Emergency Measure**

Resolve, Extending the Reporting Deadline for the Commission To Study Public Health

(H.P. 1346) (L.D. 1823)

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. 76 voted in favor of the same and 57 against, and accordingly the Resolve **FAILED FINAL PASSAGE**.

On motion of Representative DUNLAP of Old Town, the House **RECONSIDERED** its action whereby the Resolve **FAILED FINAL PASSAGE**.

On further motion of the same Representative, **TABLED** pending **FINAL PASSAGE** and later today assigned.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker Pro Tem.

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-629)** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Assist Maine's Infertile Citizens"

(H.P. 172) (L.D. 213)

Which was **TABLED** by Representative O'NEIL of Saco pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative SHIELDS of Auburn **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 Waterville, Representative Marraché.

Representative **MARRACHE**: Mr. Speaker, Men and Women of the House. I would like to speak in opposition to the Majority Report and would ask that you vote for the Minority Report.

I sponsored this bill after considering not doing so in the very beginning. Initially I was concerned of the cost that it was going to bring to insurance premiums. I had the same idea as quite a few of you probably do in your mind. If you can't have a child, you can always adopt. That was the issue at that time in my mind. The more I thought about it and the more patients I have had to treat for infertility in the past, I realized that this bill will allow people to have access to treatment that only the rich can get because they can pay for it on their own or if they are very lucky enough to have this included on their insurance that they get through their employer or are able to purchase on their own.

I see this bill not as a mandate only, but as a pro-life bill and a choice bill. This is a bill that allows people who are unable to have a child of their own the opportunity to give life into the world. It would be their own child. Anybody who has a child knows what it is like to go through nine months of pregnancy in anticipation of the day of the birth and then to look at that child and notice that it has my mom's eyes or my husband's ears and know that they are going to act a certain way. When you see those little quirks that they come up with as they are growing up, you say, that is that stubborn streak that runs through his side of the family. Those are all the kinds of things that you look forward to when you have a child. It is denied to some people.

It is also a choice bill. If you do not allow people to have a choice in the fact that they could have a child or not, you are taking away that. You can't simply say that there are many children out there without parents, you can go get one of them. You are denying them the ability to have a choice of whether they

want to have a child of their own or not. This bill does not allow people to have, when we were debating downstairs, the ability to have somebody give you an egg and let it be fertilized in uterus in the very beginning. It allows you to continue on the working process of infertility treatment like everybody else, but the very small few that have gone through every other procedure to have a child, who cannot. It allows them the ability to have the more expensive one done.

The Minority Report actually has a limit of \$20,000. It is not as expensive. The premiums will not be increased. I think you would find that people that have denied access will be able to do their greatest dream, to have a child of their own. I ask that you vote no and let the Minority Report come up. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the Majority Ought Not to Pass Report. I would like to state a few reasons why. First of all, I am a member of the Insurance and Financial Services Committee. I also was a member of the subcommittee that worked on the amendment for the fertility bill, LD 213. Going through that process I learned that, in fact, this is a very expensive mandate. Right now in Maine if you take a look at the premiums for groups that are larger than 20, health insurance premiums, 10.29 percent of premiums that you pay for health insurance are mandates. Those are provisions that the State of Maine requires, being in policies. We are looking at adding another mandate on top of that. Although this is a very emotionally compelling debate, the reality is that Maine people simply cannot afford to have the Legislature mandate higher insurance costs.

The Chamber of Commerce, the NFIB and many Maine businesses confirmed to the committee that, which we already know, that the businesses in Maine are already struggling to pay for insurance for their employees and they can ill afford to have new costs added to that which they are already paying.

What happens when health insurance costs become too high because the State Legislature enacts mandates, well-intentioned mandates? Companies drop benefits. They stop giving benefits to their employees or employees have to start paying for it out of their pocket. When we want to do good by requiring something be put into a health insurance product, what we are doing is we are forcing many Mainers to lose their health insurance costs.

Last session we had a debate on the Dirigo Health Plan. As many of you knew, I was on the Dirigo Committee and spoke in favor of Dirigo and urged you to pass it. The Dirigo health premium products are also going to be impacted by these mandates, specifically this mandate that we are looking at in front of us. If you enact this mandate, the cost of Dirigo Health Plan is going to go up and it is going to be less affordable for Mainers. That is a competing interest to what we have been looking at.

Additionally there are some other things about the way that this mandate is worded that give me some reason for pause. When we have looked at fertility treatments and mandates in the past, I have always gone under the assumption that we are looking at treatments that are going to be restricted to married couples. In fact, the way that this mandate is worded, it does not. I sent an e-mail to our committee analyst and received a reply after we had looked at this. I will just read an excerpt from it. "If LD 213 were enacted, carriers would be required to provide coverage to unmarried policy holders on the same basis as married policy holders." We are extending fertility treatments now to unmarried people and we are extending them to domestic partners. Again, if we are going to be looking at what we are really asking is we are asking for fertility treatments, in my opinion, be extended based solely on a disease. Instead we are

getting into all these other areas, talking about invitro fertilization. If a domestic partner couple wants to have a child, there are other options, just as a standard or a traditional couple, there are other options.

The last thing I wanted to bring to your attention is the cost of this mandate. The cost of this mandate is very expensive. It is .57 percent of the premium. Realize that when you are casting your vote on this that you are enacting an increase on everyone's health insurance products. I urge you to follow the recommendation of the committee and not raise the cost of health insurance, not raise the cost of the Dirigo Health Plan and join us in defeating this report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Ladies and Gentlemen of the House. Just very briefly, I do support the Minority Report on this. My good friend, the good doctor from Waterville has really laid out the case for this very beautifully. I do agree that it is a pro-choice bill and it is a pro-life bill. It is both combined and choose life in this case and you know the countries with universal health care, Canada, France, they all include this. What's wrong with us? We can do as much. Vote against the proposal on the board. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I ask support of the Majority Ought Not to Pass Report. I would like to explain why I am looking at this.

We looked at, on the Insurance and Financial Services Committee, a number of mandate bills. One very significant bill that got passed last session was the mental health parity, as well as prosthesis for amputees.

As we looked at this bill along with some other bills that are coming out of committee with divided Ought Not to Pass reports included hearing aids, coverage of hearing aids and also extension of the women's health mandates to the certificate of insurances.

When I look at all of this and the amount we are affecting, because we are only affecting the large group policies with this and the issues that we have about the cost of health care and also making insurance affordable for those who cannot right now get coverage, I had to look at, who are we going to affect most? What is going to be the best prevention to meet the largest needs? Quite honestly, I supported the hearing aid bill even with the decrease in age. I have felt that that is the best prevention that we can do and in the end it will cost us less. If we are going to look at all of this, we have to look at what it is going to mean, not only for insurance, but for the cost of health care and the cost of insurance and the availability of health care for all Maine citizens.

I ask you to support the Ought Not to Pass Majority Report. Thank you.

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

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. I am on the Majority Ought Not to Pass Report. While we just discussed this a few minutes ago in the caucus, I understand there were a handful of people who were not there. I don't want to belabor the debate, but I will do so. I am not sure exactly how it was covered in the Minority caucus, but there are a few points that people have asked about. I figured I would throw them out there so people know.

The good Representative from South Portland pointed out some of the economic statistics about the state of health care and health insurance in Maine. Those are all true. They have all

been focused upon with acuity over the past year or two as being a huge issue in Maine. We took steps last year to try to get our hands around that with the Dirigo health proposal. There is much more to be done. The fact of the matter is, depending on who you talk to, we have the fourth or fifth highest premiums in the country and our per capita income is about 37th or 38th. That is a recipe or an equation for a very regressive commodity, health insurance. We can argue over how much a premium will be increased when we institute a mandate, but the fact of the matter is, the market has been screaming at us for quite some time not to add any costs at all.

I traditionally have supported most mandates because they are compelling. They are easy to justify and we figure that all people ought to have as much as they can.

What moved me here wasn't so much the talk about cost. It wasn't so much the talk about the burden on health insurance insurers. It wasn't so much the competitive disadvantages that it would throw upon Maine businesses. I think that, in many regards, is the flat earth debate. I think it is way behind us. We ought to stop debating it. I look at our current situation as one where we have painted ourselves into the corner of doing benefit design by statute. That leaves a group of insurers who will not innovate, have no incentive to innovate, because they just sit back and wait for us to tell them what to do. We have businesses that are paying 15 to 20 percent of payroll towards health insurance costs and they are diminishing. In 1997, seventy-seven percent of Maine small businesses covered health insurance. Now it is down below 40 percent and it is a problem. I don't believe that businesses should be a part of the equation in providing health care, but until we have a better model, we shouldn't do any more damage to it. Those are some of the issues.

This bill came to us. It was given fair consideration for the third time in my tenure here. I just could not see fit to support it. Thank you.

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. 261

YEA - Adams, Andrews, Annis, Ash, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Brannigan, Brown R, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dugay, Dunlap, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Ketterer, Ledwin, Lerman, Lessard, Lewin, Lundeen, Mailhot, McCormick, McGlocklin, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Muse, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Pineau, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Usher, Vaughan, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Barstow, Blanchette, Bliss, Breault, Bull, Clark, Grose, Hutton, Jackson, Koffman, Landry, Lemoine, Makas, Marraché, McGowan, McKee, Norbert, Paradis, Perry J, Pingree, Smith N, Smith W, Thomas, Twomey, Walcott.

ABSENT - Duplessie, Goodwin, Hatch, Jennings, Kaelin, Kane, Maietta, Marley, McKenney, Murphy, Tardy, Young.

Yes, 113; No, 25; Absent, 12; Excused, 0.

113 having voted in the affirmative and 25 voted in the negative, with 12 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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On motion of Representative ADAMS of Portland, the House adjourned at 12:37 p.m., until 10:00 a.m., Thursday, January 15, 2004.