

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

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

**Daily Edition**

**First Regular Session**

December 1, 2010 – June 29, 2011

pages 1 - 1067

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE  
 FIRST REGULAR SESSION  
 47th Legislative Day  
 Thursday, May 19, 2011

The House met according to adjournment and was called to order by the Speaker.  
 Prayer by Pastor Steven C. DeGroft, Lisbon Falls Baptist Church.  
 National Anthem by Michelle Fraser, Wales.  
 Pledge of Allegiance.  
 Doctor of the day, Howard Jones, M.D., Hampden.  
 The Journal of yesterday was read and approved.

**COMMUNICATIONS**

The Following Communication: (H.C. 171)

**STATE OF MAINE  
 OFFICE OF THE GOVERNOR  
 1 STATE HOUSE STATION  
 AUGUSTA, MAINE 04333-0001**

May 17, 2011

The Honorable Robert W. Nutting  
 Speaker of the House  
 2 State House Station  
 Augusta, Maine 04333

Dear Speaker Nutting:

This is to inform you that I am today nominating the Honorable W. Tom Sawyer, Jr. of Dedham for appointment to the Board of Trustees, Maine Maritime Academy.  
 Pursuant to P&SL 1975, Chapter 771, §428, this appointment is contingent on the Maine Senate confirmation after review by the Joint Standing Committee on Education and Cultural Affairs.

Sincerely,  
 S/Paul R. LePage  
 Governor

**READ and ORDERED PLACED ON FILE.**

The Following Communication: (H.C. 172)

**STATE OF MAINE  
 CLERK'S OFFICE  
 2 STATE HOUSE STATION  
 AUGUSTA, MAINE 04333-0002**

May 19, 2011

The Honorable Robert W. Nutting  
 Speaker of the House  
 2 State House Station  
 Augusta, Maine 04333

Dear Speaker Nutting:

Pursuant to Joint Rule 310, the following Joint Standing Committees have voted unanimously to report the following bills out "Ought Not to Pass":

Agriculture, Conservation and Forestry

L.D. 1568 An Act To Ensure Fair Business Competition in Agriculture

Appropriations and Financial Affairs

L.D. 853 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish the Maine State Endowment Trust

Criminal Justice and Public Safety

L.D. 1404 An Act To Enhance Public Safety Response to High-risk Events

Education and Cultural Affairs

- L.D. 959 Resolve, Directing the Department of Education To Provide Curriculum Consistency in Maine Public Schools
- L.D. 1188 An Act To Achieve Maine's High School Graduation Goal (EMERGENCY)
- L.D. 1269 An Act To Require That the Taking of a Statewide Assessment Test for High School Seniors Be Voluntary
- L.D. 1430 Resolve, To Conduct a Review of the Roles and Functions of the Department of Education and of Certain Mandates (EMERGENCY)
- Environment and Natural Resources
- L.D. 733 An Act To Allow a Person Who Has Lost a Home in a Shoreland Zone To Obtain a Building Permit
- Health and Human Services
- L.D. 1487 An Act To Assist Maine Pharmacies
- Inland Fisheries and Wildlife
- L.D. 1020 An Act To Allow a Spring Bear Hunting Season
- Inland Fisheries and Wildlife and Agriculture, Conservation and Forestry
- L.D. 913 Resolve, To Consolidate the State's Boat Launch Programs
- Insurance and Financial Services
- L.D. 844 An Act To Provide Affordable Health Insurance for Municipal and School Employees through Competition
- L.D. 1452 An Act To Create the Maine Street Economic Development Bank
- L.D. 1555 An Act To Eliminate the Waiting Period before Insurance Adjusters May Offer Adjustment Services
- Judiciary
- L.D. 621 An Act To Clarify Adverse Possession
- L.D. 824 An Act To Amend Certain Provisions Regarding Evidence under the Law Concerning Post-judgment DNA Analysis
- L.D. 917 An Act To Protect Licensing Information Provided to the Department of Inland Fisheries and Wildlife and To Require a Review of Public Access to Other Personal Information
- L.D. 1070 An Act To Expedite the Eviction Process and Lower the Eviction Workload of the Courts
- L.D. 1199 An Act To Expedite the Eviction Process in Certain Types of Cases
- L.D. 1426 An Act Concerning Notification to an Employer of Misrepresented Medical Information under the Maine Human Rights Act
- L.D. 1496 An Act To Enforce Immigration Laws and Restrict Benefits to Legal Citizens
- Labor, Commerce, Research and Economic Development
- L.D. 1285 An Act To Amend the Assessment Process and Funding of the Maine Workers' Compensation Board
- L.D. 1566 An Act To Require Disclosures by 3rd-party Vendors Contracted To Perform Fund-raising (EMERGENCY)
- Transportation
- L.D. 208 Resolve, To Establish a Study Commission To Examine the Maine Turnpike
- L.D. 383 An Act To Eliminate the Annual Indexing of Fuel Tax Rates (EMERGENCY)
- L.D. 845 An Act To Hold the Maine Turnpike Authority Accountable for its Obligation under Maine Law To Transfer Annual Surplus Revenue to the

Department of Transportation for Road and Bridge Projects around the State  
Veterans and Legal Affairs  
L.D. 1245 An Act To Modify the Responsibilities of the Commission on Governmental Ethics and Election Practices  
L.D. 1355 An Act To Encourage Transparency in Certain Organizations Involved in Political Campaigns  
The sponsors and cosponsors have been notified of the Committee's action.

Sincerely,  
S/Heather J.R. Priest  
Clerk of the House

**READ** and with accompanying papers **ORDERED PLACED ON FILE.**

---

### ORDERS

On motion of Representative RICHARDSON of Warren, the following Joint Order: (H.P. 1162)

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Insurance and Financial Services shall report out, to the House, a bill establishing an advisory committee to plan for a health benefit exchange pursuant to the federal Patient Protection and Affordable Care Act.

**READ** and **PASSED.**  
Sent for concurrence.

---

On motion of Representative HAMPER of Oxford, the following House Order: (H.O. 23)

**ORDERED**, that Representative Kerri L. Prescott of Topsham be excused March 31, April 7 and May 16 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Madonna M. Soctomah of the Passamaquoddy Tribe be excused May 12 for legislative business.

**READ** and **PASSED.**

---

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

### SENATE PAPERS

The following Joint Order: (S.P. 508)

Ordered, the House concurring, that when the House and Senate adjourn, they do so until Monday, May 23, 2011, at 10:00 in the morning.

Came from the Senate, **READ** and **PASSED.**  
**READ** and **PASSED** in concurrence.

---

### UNFINISHED BUSINESS

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

Expression of Legislative Sentiment Recognizing Michael Cyr, a student at Scarborough High School, who won the 2011 Class A State Wrestling Championship in the 215-pound weight class

(HLS 247)

**TABLED** - April 13, 2011 (Till Later Today) by Representative VOLK of Scarborough.

**PENDING - PASSAGE.**

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Volk.

Representative **VOLK**: Thank you, Mr. Speaker. I believe that our Clerk read the Sentiment and I am happy to welcome Michael Cyr and his mother Janice.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

---

### REPORTS OF COMMITTEE

#### Divided Reports

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act Regarding Timber Harvesting on State Land"

(S.P. 102) (L.D. 340)

Signed:

Senators:

RECTOR of Knox

MARTIN of Kennebec

Representatives:

PRESCOTT of Topsham

DOW of Waldoboro

NEWENDYKE of Litchfield

VOLK of Scarborough

WINTLE of Garland

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

Signed:

Senator:

JACKSON of Aroostook

Representatives:

DRISCOLL of Westbrook

GILBERT of Jay

HERBIG of Belfast

HUNT of Buxton

TUTTLE of Sanford

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

**READ.**

Representative PRESCOTT of Topsham moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On motion of Representative CURTIS of Madison, **TABLED** pending the motion of Representative PRESCOTT of Topsham to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

---

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-271)** on Bill "An Act To Promote the Hiring of Seasonal Workers"

(H.P. 829) (L.D. 1117)

Signed:

Senator:

RECTOR of Knox

Representatives:

DOW of Waldoboro

DRISCOLL of Westbrook

GILBERT of Jay

HERBIG of Belfast

HUNT of Buxton  
TUTTLE of Sanford  
WINTLE of Garland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-272)** on same Bill.

Signed:  
Senators:  
    JACKSON of Aroostook  
    MARTIN of Kennebec

Representatives:  
    PRESCOTT of Topsham  
    NEWENDYKE of Litchfield  
    VOLK of Scarborough

**READ.**

Representative PRESCOTT of Topsham moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report and later today assigned.

---

Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-268)** on Bill "An Act To Amend the Labor Laws Relating to Certain Agricultural Employees"

(H.P. 898) (L.D. 1207)

Signed:  
Senators:  
    RECTOR of Knox  
    MARTIN of Kennebec

Representatives:  
    PRESCOTT of Topsham  
    DOW of Waldoboro  
    NEWENDYKE of Litchfield  
    VOLK of Scarborough  
    WINTLE of Garland

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

Signed:  
Senator:  
    JACKSON of Aroostook

Representatives:  
    DRISCOLL of Westbrook  
    GILBERT of Jay  
    HERBIG of Belfast  
    HUNT of Buxton  
    TUTTLE of Sanford

**READ.**

Representative PRESCOTT of Topsham moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Majority Report of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought Not to Pass** on Resolve, To Study Motor Fuel and Fuel Additives and To Explore Alternatives to Ethanol Motor Fuel

(H.P. 636) (L.D. 839)

Signed:  
Senators:  
    SAVIELLO of Franklin  
    GOODALL of Sagadahoc  
    SHERMAN of Aroostook

Representatives:  
    HAMPER of Oxford  
    DUCHESNE of Hudson  
    HARLOW of Portland  
    INNES of Yarmouth  
    KNAPP of Gorham  
    NASS of Acton  
    PARKER of Veazie  
    WELSH of Rockport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-277)** on same Resolve.

Signed:  
Representatives:  
    AYOTTE of Caswell  
    LONG of Sherman

**READ.**

Representative HAMPER of Oxford 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.

---

Majority Report of the Committee on **ENVIRONMENT AND NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-281)** on Bill "An Act To Amend the Laws Governing Significant Wildlife Habitat"

(H.P. 765) (L.D. 1031)

Signed:  
Senators:  
    SAVIELLO of Franklin  
    GOODALL of Sagadahoc

Representatives:  
    HAMPER of Oxford  
    DUCHESNE of Hudson  
    HARLOW of Portland  
    INNES of Yarmouth  
    KNAPP of Gorham  
    LONG of Sherman  
    NASS of Acton  
    PARKER of Veazie  
    WELSH of Rockport

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-282)** on same Bill.

Signed:

Senator:  
SHERMAN of Aroostook

Representative:  
AYOTTE of Caswell

**READ.**

Representative HAMPER of Oxford moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

---

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-283)** on Bill "An Act To Prevent HIV Transmission from a Pregnant Mother to a Child"

(H.P. 532) (L.D. 702)

Signed:

Senators:

McCORMICK of Kennebec  
CRAVEN of Androscoggin  
FARNHAM of Penobscot

Representatives:

STRANG BURGESS of Cumberland  
EVES of North Berwick  
FOSSEL of Alna  
MALABY of Hancock  
O'CONNOR of Berwick  
PETERSON of Rumford  
SANBORN of Gorham  
SANDERSON of Chelsea  
SIROCKI of Scarborough

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

Signed:

Representative:

STUCKEY of Portland

**READ.**

On motion of Representative STRANG BURGESS of Cumberland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-283)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, May 23, 2011.

---

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Require Full Disclosure by Insurance Carriers Using Credit Ratings"

(H.P. 294) (L.D. 368)

Signed:

Senators:

WHITTEMORE of Somerset  
BRANNIGAN of Cumberland  
SNOWE-MELLO of Androscoggin

Representatives:

RICHARDSON of Warren  
FITZPATRICK of Houlton  
GOODE of Bangor

McKANE of Newcastle  
MORRISON of South Portland  
PICCHIOTTI of Fairfield  
TREAT of Hallowell

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

Signed:

Representative:

BEAUDOIN of Biddeford

**READ.**

On motion of Representative RICHARDSON of Warren, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent 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. 70) (L.D. 82) Bill "An Act To Amend the Laws Governing County Jail Budgeting for York County" (EMERGENCY) Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-289)**

(H.P. 399) (L.D. 506) Bill "An Act To Prevent the Disclosure of Student Social Security Numbers" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-292)**

(H.P. 673) (L.D. 914) Bill "An Act To Make Certain Synthetic Cannabinoids Illegal" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-293)**

(H.P. 835) (L.D. 1123) Bill "An Act To Amend the Motor Vehicle Laws" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-291)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

---

**CONSENT CALENDAR**

**Second Day**

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

(S.P. 263) (L.D. 859) Resolve, To Convene a Task Force To Study Cost-effective Ways of Dealing with an Increased Population of Those Affected by Alzheimer's Disease

(S.P. 351) (L.D. 1151) Bill "An Act Regarding Reporting Procedures of Lobbyists"

(S.P. 151) (L.D. 518) Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (C. "A" S-108)

(S.P. 312) (L.D. 992) Bill "An Act To Amend the Depuration Laws" (C. "A" S-105)

(S.P. 367) (L.D. 1246) Resolve, Concerning Access to the Eastern Road in Scarborough (C. "A" S-111)

(H.P. 961) (L.D. 1315) Bill "An Act To Establish an Integrated Statewide System To Manage and Enforce Electronic Warrants"

(H.P. 964) (L.D. 1318) Bill "An Act To Repeal the Law Regarding DNA Collection"

(H.P. 1041) (L.D. 1415) Bill "An Act To Update the Bankruptcy Laws To Incorporate Federal Changes Relating to Exemptions" (EMERGENCY)

(H.P. 1056) (L.D. 1435) Bill "An Act To Adopt the Interstate Prescription Monitoring Program Compact"

(H.P. 159) (L.D. 182) Bill "An Act To Prohibit the Sale of Russian Olive and Other Invasive Terrestrial Plants" (C. "A" H-259)

(H.P. 299) (L.D. 373) Bill "An Act To Provide for Equal Rights of Appeal for the State and Defendants Concerning Post-judgment DNA Analysis" (C. "A" H-269)

(H.P. 364) (L.D. 471) Bill "An Act To Reduce Certain Highway Fund Obligations" (C. "A" H-280)

(H.P. 482) (L.D. 652) Bill "An Act To Amend Animal Welfare Laws" (C. "A" H-260)

(H.P. 693) (L.D. 933) Resolve, Requiring the Department of Health and Human Services To Conduct a Review of Medicaid "Any Willing Provider" Requirements (C. "A" H-284)

(H.P. 759) (L.D. 1023) Bill "An Act To Authorize the Board of Licensure of Podiatric Medicine and the State Board of Veterinary Medicine To Establish a Podiatrist Health Program and a Veterinarian Health Program" (C. "A" H-285)

(H.P. 792) (L.D. 1057) Bill "An Act To Limit Increases in the Unemployment Contribution Rate" (C. "A" H-286)

(H.P. 802) (L.D. 1067) Bill "An Act To Improve Awareness of Smoking Policies in Maine Rental Housing and Condominiums" (C. "A" H-276)

(H.P. 932) (L.D. 1241) Bill "An Act To Remove the Requirement That Employers Offer Substance Abuse Services to Employees Who Fail Drug Tests" (C. "A" H-287)

(H.P. 1074) (L.D. 1459) Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2011-12" (EMERGENCY) (C. "A" H-266)

(H.P. 1124) (L.D. 1532) Resolve, Directing the Commissioner of Marine Resources To Contract for an Independent Analysis of the Limited Entry Lobster License System (C. "A" H-278)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

---

(S.P. 173) (L.D. 581) Bill "An Act To Repeal the Laws Governing the Capital Investment Fund"

On motion of Representative RICHARDSON of Carmel, was **REMOVED** from the Second Day Consent Calendar.

The Unanimous Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

---

(H.P. 501) (L.D. 671) Bill "An Act To Amend the Laws Governing the Ground Water Oil Clean-up Fund" (C. "A" H-274)

On motion of Representative HAMPER of Oxford, was **REMOVED** from the Second Day Consent Calendar.

The Unanimous Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

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

---

The House recessed until 2:00 p.m.

---

(After Recess)

---

The House was called to order by the Speaker.

---

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

SENATE REPORT - **Ought to Pass** - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Repeal the Laws Governing the Capital Investment Fund"

(S.P. 173) (L.D. 581)

Which was **TABLED** by Representative RICHARDSON of Carmel pending **ACCEPTANCE** of the Committee Report.

Subsequently, the Unanimous Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**.

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Representative RICHARDSON of Carmel **PRESENTED House Amendment "A" (H-295)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Richardson.

Representative RICHARDSON: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. This is simply a technical amendment being offered on behalf of the Committee on Bills in the Second Reading and is being presented to prevent a conflict in the wording of the bill.

Subsequently, **House Amendment "A" (H-295)** was **ADOPTED**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-295)** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

---

Under suspension of the rules, members were allowed to remove their jackets.

---

**BILLS IN THE SECOND READING**  
**Senate**

Bill "An Act To Allow the Town of Surry To Join School Union No. 93" (EMERGENCY)

(S.P. 244) (L.D. 800)

**Senate as Amended**

Bill "An Act To Provide Funding for the Fish Stocking Program"

(S.P. 64) (L.D. 213)

(C. "A" S-110)

Bill "An Act To Amend Maine Law To Conform with Federal Law Regarding Employment Practices for Certain Minors"

(S.P. 149) (L.D. 516)

(S. "C" S-97 to C. "A" S-79)

Bill "An Act To Exempt Health Care Sharing Ministries from Insurance Requirements"

(S.P. 296) (L.D. 950)  
(C. "A" S-77)  
Bill "An Act Concerning Independent Contractors in the  
Trucking and Messenger Courier Industries"  
(S.P. 332) (L.D. 1099)  
(C. "A" S-102)

**House as Amended**

Bill "An Act To Eliminate the Restriction on Net Operating  
Loss Carry-forwards"  
(H.P. 123) (L.D. 140)  
(C. "A" H-255)

Bill "An Act To Assist School Administrative Units in Providing  
Health Insurance to Their Employees"  
(H.P. 322) (L.D. 404)  
(C. "A" H-262)

Bill "An Act To Repeal the Alternative Minimum Tax"  
(H.P. 633) (L.D. 836)  
(C. "A" H-154)

Bill "An Act To Change the Coyote Night Hunting Law"  
(H.P. 687) (L.D. 927)  
(H. "A" H-290 to C. "A" H-246)

Bill "An Act To Modify the Requirement To Replace Trees Cut  
Down in Violation of Local Laws"  
(H.P. 820) (L.D. 1108)  
(C. "A" H-275)

Bill "An Act To Help Maine's Employers To Recruit Skilled  
Workers by Expanding the Availability of the Educational  
Opportunity Tax Credit"  
(H.P. 872) (L.D. 1174)  
(C. "A" H-267)

Reported by the Committee on **Bills in the Second Reading**,  
read the second time, the Senate Papers were **PASSED TO BE  
ENGROSSED** or **PASSED TO BE ENGROSSED as Amended**  
in concurrence and the House Papers were **PASSED TO BE  
ENGROSSED as Amended** and sent for concurrence.

---

**ENACTORS**

**Emergency Measure**

An Act To Refund the Sales Tax Paid on Fuel Used in  
Commercial Fishing Vessels  
(H.P. 162) (L.D. 185)  
(H. "A" H-87 to C. "A" H-53)

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. 121 voted in favor of the same and  
0 against, and accordingly the Bill was **PASSED TO BE  
ENACTED**, signed by the Speaker and sent to the Senate.

---

**Emergency Measure**

An Act to Allow the Operation of Crematoriums at Oak Grove  
Cemetery and the Kelly Family Cemetery  
(H.P. 230) (L.D. 286)  
(C. "A" H-142; S. "A" S-86)

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. 134 voted in favor of the same and  
1 against, and accordingly the Bill was **PASSED TO BE  
ENACTED**, signed by the Speaker and sent to the Senate.

---

**Acts**

An Act To Exempt from the Sales Tax Meals Provided at  
Retirement Facilities

(H.P. 13) (L.D. 21)  
(C. "A" H-166; S. "A" S-80)

An Act To Promote the Financial Literacy of High School  
Students

(H.P. 161) (L.D. 184)  
(C. "A" H-206)

Reported by the Committee on **Engrossed Bills** as truly and  
strictly engrossed, **PASSED TO BE ENACTED**, signed by the  
Speaker and sent to the Senate.

---

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

---

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

**UNFINISHED BUSINESS**

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

HOUSE DIVIDED REPORT - Majority (9) **Ought to Pass as  
Amended by Committee Amendment "A" (H-244)** - Minority (4)  
**Ought Not to Pass** - Committee on **AGRICULTURE,  
CONSERVATION AND FORESTRY** on Bill "An Act To Revise  
Notification Requirements for Pesticide Application"  
(H.P. 181) (L.D. 228)

TABLED - May 17, 2011 (Till Later Today) by Representative  
EDGEComb of Caribou.

PENDING - Motion of same Representative to **ACCEPT** the  
Majority **OUGHT TO PASS AS AMENDED** Report.

Representative CAIN of Orono **REQUESTED** a roll call on the  
motion to **ACCEPT** the Majority **Ought to Pass as Amended**  
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 Caribou, Representative Edgecomb.

Representative **EDGEComb**: Thank you, Mr. Speaker. Mr.  
Speaker, Ladies and Gentlemen of the House. I would like to  
disclose to you that I am a member of MOFGA and I think I need  
to tell you that up front, but I will be supporting LD 228.

As a member of this body Representative Dr. Dill is an  
integrated pest management professional from the University of  
Maine, who probably has more expertise in this topic than  
anyone in this House, and he is the author of the amendment that  
is added to this motion. I think we need to note carefully how he  
votes. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative  
from Lincolnville, Representative O'Brien.

Representative **O'BRIEN**: Thank you, Mr. Speaker. Mr.  
Speaker, Ladies and Gentlemen of the House. I stand before  
you in strong opposition to the motion on the floor. I'd like to  
make this as easy as possible for folks to understand. I know  
that pesticide policy is not the most easiest thing to explain  
sometimes, but I have been working on this issue for the past  
couple of years, since I came here in 2009. I was the one on the  
committee who agreed to take it on because I come from  
blueberry country and I've been working in the blueberry industry  
from a very young age, and I knew most of the growers in my  
area who are affected and I knew my neighbors. I wanted to  
work together with everybody and come to a good compromise



so that we could really work together and find a streamlined method of notification.

We held stakeholder meetings, we worked together on this, and we reached some compromises and we passed the original notification bill unanimously from committee with everybody on board, including the sponsor of this bill. Then last year, after some problems that came up with the regulated community on the notification registry, we made some changes. We went a little bit further than I would have liked to, but in the end I presented an amendment and we got unanimous approval to move forward on pesticide notification.

Now folks who are at your desks and have your computers in front of you, I would encourage you to go to [www.thinkfirstspraylast.com](http://www.thinkfirstspraylast.com). That is the Board of Pesticides Control website and that's where you can sign up to get notified of aerial pesticide applications or air carrier assisted pesticide applications.

You can also see that we've just put up yesterday, the Board of Pesticides Control has added another component, which is something that we directed them to do last year in our amendment, which is to look into geographic information system technology mapping system where if you are a pesticide applicator you can just click where your property is, draw a little line, and then if you're using aerial or if you're using air carrier you click on it, boom, all of the names come up that you need to notify. This is a very streamlined, simple way to notify folks and it really disappoints me that this is coming up now. We've directed them to streamline this registry. We've directed the Board of Pesticides Control to move forward and now we've got this repeal in front of us. So the Board of Pesticides Control wasn't even able to finish the job with which they were charged with and now we're repealing this registry.

This is about, folks, right to know. And some people will say that there was already a law in place for a number of years, which is the by request option, which says that if somebody contacts a pesticide applicator and wants to be notified of pesticides being sprayed in their neighborhood, the pesticide applicator is required to notify them. Well, I will give you an example of an area in my neck of the woods, of the blueberry field, where folks didn't even know who owned the field because a lot these fields are owned by folks from out of state and they hire different land managers to come in to manage the fields. People were calling me and saying "Who owns this field?" Well, it turned out it was sold to a land trust and it was actually part of the state and it was part of the state parks. So I had to go in and say "Who is managing this field?" because once the previous land manager left, the people who had requested him to get notified weren't going to get notified anymore. So we found out that on the contract pesticides were allowed to be used on the property and I got the last name of the fellow who was there, it took some sloughing around and I found that person.

Well, you know, that was a State Representative that stepped in and found out who owned this property, and we're not asking all the burden to be put on the pesticide applicator or all the burden to be put on the neighbor. We balanced it with this online registry, which is very simple, and we have a list of over 1,800 people who have signed up for this registry in the State of Maine since 2009. If we pass this bill today, it will get rid of this registry. All the people who have signed up who are in all of your districts – and 70 percent of them are in rural districts – they will not get the notification that they have signed up for that the state has told them that they will get. It will do away with that, it will throw out all the names, and I would strongly suggest that you allow the committee and the Board of Pesticides Control to work on this issue and bring everybody together and encourage

communication rather than divisiveness. This bill creates divisiveness in the community between pesticide applicators and everybody else. I think that we can work more on this and we shouldn't repeal it now, so I encourage you to vote down the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative McCABE: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today in opposition to the pending motion. It's very interesting that I rise today. I think about the past few days, I think of the celebration that we had in this chamber the other day over LD 1, and I am envious, even jealous, of the work that that committee did.

I think of the good work that we did last session. I think of when the good Representative from Madison, Representative Curtis, came to me with one of his constituents, an apple grower, who I know and I often go up and bring the children up to pick apples at that farm. Representative Curtis brought this constituent to me and said "Can you fix the registry? They have some concerns." At this point in time, it wasn't even a bill that I may have cosponsored, but it wasn't even my bill. So I worked to broker a compromise and it was a bipartisan compromise because this really isn't a partisan issue. This is really an issue about trying to notify concerned citizens about pesticide applications. It's specific to two types of pesticide application: aerial spraying and air blast.

My interest in the bill was to make sure that it wasn't burdensome for the farmer. I am not a farmer. I describe myself as an agricultural sympathizer and I like local food and I promote local food and I continue to eat local food and serve local food to my family. But there has been a lot of misinformation about this bill, and I hope that we can vote this bill down so that the committee can actually do good work and have process like we did last session. This bill had one public hearing and an abbreviated work session. Many of you heard about both and there were some fireworks at both of them.

I just think of the good work that we did last session to promote compromise and promote what we felt was a good system, not a perfect system, but a system that 1,800 plus locations are part of that system. And by location I mean homes and properties. So bear with me while I read through some of these places like the Town of Bath, where there are 15 people on the registry. Caribou, five. Exeter, six.

As I read through these names, you know a lot of the information that has been out there has talked about this is an urban/rural issue and that people on this registry are only from urban areas. That's not the case. I think of Exeter and I don't believe that to be an urban area. Damariscotta, four folks. Detroit, one person. The Town of Hampden, nine people. Down in Kittery, we have 16 over at Kittery. Then we have 12 folks at Kittery Point. I've never heard of Kittery Point until recently, so that was quite an honor. Montville. Look at that, 18 folks in Montville. Over in the Town of Penobscot, we have 20 folks. Up in Ripley, one person. Down in Saco, 14 people on this list. Skowhegan, 13 people.

I actually got an email from a person last night in Skowhegan, so it's pretty easy for me to track where they live and they live in that urban/rural interface, that area where people build homes so they can have a view of a farm and often they might have concerns. Also, there is someone in Skowhegan that is a beekeeper. They frequently contact me about these pesticide issues because they have some concerns, and their concerns are around those bees and keeping those bees safe.

I'm not anti pesticide and I'm not anti farming. I think if you see some of the pesticide bills that come out of the committee,

I've been known to go both ways on those bills so I just want to address some of the information that came out today. There was a handout that went out on the floor that described this as an environmental activist bill, the original bill, and while you may have started off from the Environmental Priorities Coalition, I think the good Representative from Lincolnville, Representative O'Brien, would actually question that because when he presented the bill to the committee, we worked the bill as a committee and the bill took on a new life you could say. When we actually voted that bill out of the bill, it did not include Representative O'Brien's name. The bill had evolved. We had sat down with stakeholders, we had sat down with folks from these commodity groups and we had worked towards a solution. Was it perfect? No. Can we fix it? Yes. But give us that opportunity to fix that bill.

There are also some references in this bill, or in this handout here, to this only being about five or 10 percent of the people that will actually be notified out of the 1,800 based on where they live. That's not such a bad thing. If 1,800 people are actually concerned and signed up for the list and only five or 10 percent of them will actually be notified, why would we actually get rid of this list? Right there, those people will be notified and they have a right to do that. So the other question here, there is a lot of talk here. It's a small minority, it's a population. I looked through this list of towns and sure it might be one or two people in a certain town, it might be six or seven in another town, but it's still people who are concerned enough to sign up for the registry.

The other issue I will just reiterate again, that this really is talking about two types of application. We are talking about aerial spraying and we were talking about air blast. So while I agree with some of these quotes on these handouts today, like the specific one that says "the process for notification is not one size fits all." That's true. There was another bill in this session that was trying to address a one-size-fits-all model. It didn't work. We could not make it work with the time constraints of this session and because of the lack of involvement from the Board of Pesticides Control, so we decided to kill that bill. Right now we have multiple registries and are they broken? I don't think so. Could they use some tweaks and adjustments? I think so. I say vote this down, let the committee go back and do some work and we'll fix that.

The other thing to recognize is that if we pass this bill today, the growers in the State of Maine will still be responsible for this growing season for notification. There is no rush to pass this bill. We pass this bill today, it will not take place, it's not an emergency so people will still be responsible for following this notification list. So I say vote this down, let us come back next year and we will work on some actual fixes. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Kent.

Representative KENT: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Whenever legislation comes before us, the first thing I try to ascertain and look for is what sort of history it has, because I believe if legislation has a history it tells me that it's been borne out of many Legislatures and it has been a process. I am often suspicious of legislation that grows out of one legislative session, full-blown, and tries to meet its goal in just one vote. To me, this is a piece of legislation that has history. In Maine, it has at least a 10-year history and it started back in 2001 when the Board of Pesticides Control determined and confirmed that aerial spraying did actually affect areas up to a quarter mile away.

But the history of this issue goes back even further because I remember 50 years ago, in the late '50s and earlier '60s,

following the DDT tanker truck up the street of my town, it was like a twice a summer ritual, while it sprayed trees. It wasn't long after that they determined that DDT should not be sprayed in neighborhoods with kids following the truck.

It has taken this long for legislation to get to this point. It's not moving quickly, and they are still determining that what we all really know and that's that pesticides do affect people and we need to meet in a common ground between those people that use pesticides and those who are affected by it. Maine has been working at that for 10 years now. We shouldn't take lightly where we've arrived and we have to consider that. We should not disrespect the last four or five Legislatures, not only the political body, but we've moved forward to this day with input from stakeholders, from business stakeholders and stakeholders from our constituency.

Last session, we directed the Board of Pesticides Control and we had reached consensus with stakeholders that they would create a technological way to determine homes and distances from homes via computer. We had a demonstration in committee that showed that they had done a phenomenal job at doing that. We've arrived at a threshold where we've created a streamlined and efficient and where we're moving towards one, and we cannot simply roll back where we've arrived at. What I define as rolling back is that we may vote for 228, but we will be back here again. We will be moving away from where we are, were yesterday, and we may sit there for a year or two, but we will be back exactly here trying to figure out a notification system that works for everybody and we will simply be slowing time down and trying to stop history.

At the working end of this legislation are those people, those growers who are trying to fit into a system that we keep changing. It's never easy to adapt, but they do, and one of the complaints I hear from growers is they simply want a system that is going to remain in place so they don't have to take three steps forward and then two back. Every time we do that to them, they have to make adjustments and that is terrible policy. That is terrible for those of us who like to think of government as business, that is a terrible business practice to subject your constituency to inconsistency so they don't know how to move, what to count on, that they can count on anything. So I ask you before you vote to consider the history of this legislation, consider that it does have a history, and I agree with Representative McCabe that we did not work this responsibly. It moved quickly and it was not a thoughtful, forward, productive movement. It was simply a roll back to a future year and we will be back here again with the same issue, and the working end, the growers at the working end of this will be back here with us wondering what we're up to. Thank you.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Timberlake.

Representative TIMBERLAKE: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. For full disclosure myself, I will announce that my family farm is a member of MOFGA. Our family farm has been in business since 1803. We are one of the older family farms in the State of Maine. I hope that I can continue farming on my family farm. But at the way the regulations come out of this capitol, it is getting harder and harder every year. We used to farm around 1,000 acres of apples. We're down to now 600 acres of apples. We've been taking orchards out every year. So far I haven't planted a house, but the possibility exists.

This bill, LD 228, is for the farmers of the State of Maine, the people who helped start this state, who homesteaded on this state, who started it and worked, the sweat and blood. This is to put them back in charge of their lands. We're not taking the

rights away from any citizen of the State of Maine who asks to be notified. He makes a telephone call to me and all my neighbors and I are friends and I don't know of any cases in talking to Henry Jennings where there aren't. But he makes one telephone call to me and I will call him anytime. And I don't have to call him at one o'clock in the morning or midnight, the stories that you're going to hear, it's not true. I always try to call at a courtesy hour and tell them that we'll be spraying within the next 12 to 24 hours, weather permitting, that we can get our job done.

We are an organic grower. We have organic apples amongst our conventional. Off spray drift is not allowed. If you spray off your property, you should be penalized, you should be fined. It is against the law in the State of Maine under Title 28. I'm telling you today, folks, you need to support the farmers of the State of Maine. They are who feed us. They are what this state is built on. We are losing them, one right after the other. There was like 3,000 dairy farmers in the State of Maine 20 years ago. There are 300 today. I can tell you right now, if you don't support this bill and start supporting the farmers of the State of Maine, the last house, the last thing you're going to see on my lot planted is a house. And that is permanent crop, it doesn't go away. Please support us.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Blodgett.

Representative **BLODGETT**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I rise in opposition to LD 228. I rose in opposition to the amendment that was made to it last session also that weakened this. Now we want to eliminate this law?

I speak from a health issue. My father was also a farmer. We were all raised with blueberry farmers and we used to love to run out and watch the airplane come and spray and all the other sprays that we used. I have two sisters who have MS and it is an environmental disease. We all have autoimmune system diseases. Hancock County has the highest instance of MS in the state.

This is about health. This isn't about farms surviving. Their pesticides are used in many instances. But every time we weaken these laws we are affecting the health of somebody. I used to be in charge of all the pesticide spraying for the City of Augusta for Parks and Cemeteries. I used to have to notify people because there were some people that if they came within 48 hours of when I had sprayed, they would die. They were that allergic to some of the sprays that we used, and that was not aerial spraying.

So that is the side I come from and I hope you will follow my light and vote against this and at least keep what we have now in place and work on some other things that might work better another time. But to eliminate this where we've come only one session ago, I don't think it is fair to anybody. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I, too, believe it or not, come from a community that has a number of farms and I also, because it is a coastal community, have had the misfortune of being impacted by what's known as a browntail moth.

If any of you have ever encountered the browntail moth, you know that it's a small moth that in its larva stage has poisonous hairs. When the browntail moths attacked the woods and the trees of Freeport, a number of people got ill. But in addition, there was a decision made to spray. It was aerial spraying and because I live right across from a small pond, the spray plane did not spray our street, our road. So a number of neighbors came to me and said why don't we get air spraying done of our trees,

because more of the trees, the oaks were stripped. I mean my deck looked like a carpet because of the browntail moths. It was a pretty intense infestation.

So my wife and I agreed to the spraying. Well, before the company came to spray, they contacted us the day before and they said, "Okay, so what you need to do is make sure in the morning, because we'll start about five o'clock in the morning, please close all your windows, make sure your animals are in, and don't let your children go out and play in the yard until after it's dry. It will take about half a day." I asked him "Well, we had aerial spraying. I was over at my neighbors standing in the yard at his farm when the plane went over and pretty much sprayed us and his children were out at the time. Why are you telling us this when they didn't?" They said, "I don't know, but you should close your windows, have your children inside and bring your animals inside and don't have them go out in the yard until after it has dried."

Mr. Speaker, I don't know how many people were exposed that day, that that airplane flew, and although it is a slightly different circumstance from spraying at a farm, I think I would like to have known and I think my neighbor would like to have known before that spraying took place so that they could have perhaps had the choice of being more careful. I think that's what this is about.

Representative McCabe mentioned a number of people in different towns who have signed up. I believe that soon after that aerial spraying, I know there are now 27 people in Freeport that are signed up, in fact 28. So it seems to me if there are problems, we should try to fix them. But to eliminate something in its early stages rather than assuming it's a prototype and can be improved upon seems to be a shame. People want to know. I don't think this is anti pesticide. I don't think it is anti farm. It makes good sense for people to have the option to be notified. So I would encourage you to oppose this and allow perhaps the committee to go back to work, to find a solution that's going to work for everyone. Thank you, Mr. Speaker.

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

Representative **CRAFTS**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **CRAFTS**: Are all chemicals that are applied EPA approved? Thank you, Mr. Speaker.

The SPEAKER: The Representative from Lisbon, Representative Crafts, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Palmyra, Representative Cray.

Representative **CRAY**: Thank you, Mr. Speaker. To answer that question, yes they are. They all have an EPA registration number.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I'm really enjoying this discussion today. I think it is important that we're having it. I know there were a lot of folks that had not made up their mind as of even 10 minutes ago, so I hope that we're moving forward towards that goal of making up our minds how we'll vote. I just keep thinking of these 1,800 plus registrants and trying to think why they are on this list. There is obviously a reason that these folks are on this list. You know we can assume, we can you know some of us even told us, some of us have gotten emails why they are on this list. I think of the bee person, but there is a reason here.

I think the good Representative from Freeport, Representative Webster, raised some wonderful points. You know some people have talked about this registry and said it is as simple as them wanting to take their laundry in before their neighbor sprays. Something as simple as taking their laundry in. I also think of the other person that came before the committee and said "I have no problem with my neighbor spraying. I just would like to know so that I can take the children in off the backyard while they are having a picnic and bring them inside." I often think when I go to some of these locations, people will often put their backyard furniture next to their neighbor's property because it is the best view. So I don't question why people are on this list, I just want to be supportive that they are on this list.

In the interest of full disclosure I too have been a MOFGA member in the past. I actually, in the interest of full disclosure, should say that I haven't paid my dues in quite some time. It just hasn't been in the budget. I also am a Rotarian, in interest of full disclosure, as well. So I stand today and I think of these people on this list and I think of how we've gotten here today and I think of how we can move forward to improve what we have instead of undoing it.

I just also wanted to point out that there are 27 people on the list in Freeport. Over in Lisbon there are two folks, Lisbon Falls, three, and the list goes on. So without this registry, if this bill passes, these people will not be notified. They will just fall by the wayside. I have yet to hear how we will notify these people and what will happen with these names. This will go away and after this season, actually probably about half of this season, these people will be notified, and then, poof, this is gone. At that point in time, I don't know if these people will call us, the one person in Abbot, the one person in Alton, the 10 people over in Alna, the eight people over in South Berwick, or even two people in South Freeport. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Alna, Representative Fossel.

Representative **FOSSSEL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Until five second ago, I didn't know I had 10 people in Alna on the list, however I do know that I had something like 100 contacts from my district who do not like this piece of legislation. The interesting thing is, particularly over in Dresden, a lot of them are farmers, and I have to confess that I am not a member either of MOFGA or of the Farm Bureau. However, my wife is a member of the Farm Bureau and we generally go to their things because it is good food.

I'm a partisan Republican, proudly partisan. It is very difficult for me to say to my caucus that I can't support something they can't support, and yet I can't because I must represent my district, first of all, and when we get to something like this and have not been able to find a compromise, it saddens me. It saddens me as a Republican, it saddens me as chair of the Moderate Caucus, and I wish still, I think there is room that reasonable minds can get together on this bill. I don't think this is one that we have to fight about and I wish we would find common ground. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise also in opposition to the pending motion just across the river from the good Representative from Alna, having grown up in the Bowdoinham area on a farm and in farm country. I rise also in opposition to the motion as a father of two young children, as a teacher for 20 years who is concerned about the developmental delays that many children experience and I wish to speak briefly to wearing

each of those hats.

Bowdoinham is proud to hold within its acres the greatest number of organically farmed acres in the state, and it is a common misconception, I believe, that organic farms and organic farmers are not spraying or somehow exempted from the notification requirements that the state currently has. Organic farmers do spray and they are subject to the exact same notification requirements. The farmers that I talked to in my community, both organic and conventional, strongly favor the notification requirements that we currently have – in fact, they strongly favored the much more involved, much more proactive notification requirements that we had before last session.

It gave even more deference to the rights of pregnant mothers to know when the air that they breathe in their own homes might contain pesticides, the rights of the fellow that wants to bring in his laundry before it gets sprayed. They favored those more restrictive rights and they certainly favor the rights that we currently afford our children, to grow up healthy and our citizens, both those on the registry and those who might sign up on the registry if they knew about it, to be notified.

My farmers are concerned about the pollinators. They are concerned about the bees. And they are aware that three European countries have banned neonicotinoids altogether, and have found that the bee colonies are coming back as a result.

My farmers are concerned about the growing body of scientific evidence that certain pesticides really are unhealthy and that people should be able to know what the air that they are breathing may contain. They like the current system. They appreciate that they can go to one place, [thinkfirstspraylast.org](http://thinkfirstspraylast.org), and find out who would like to be given that phone call and who would not. And as good neighbors, they appreciate that the citizen doesn't have to track them down. They appreciate knowing that the person who wants to be notified can simply go to one place and so can they.

We are actually moving forward with a great new system based on GIS mapping that will allow farmers and residents to interact even more easily, that will allow the farmer to go, using GSI maps, to a certain spot on the map, draw a polygon, and whiz bang, automatically everyone who has asked to be notified is notified.

But if we accept the pending motion, Mr. Speaker, we will find ourselves throwing those 1,800 citizens and all who might wish, if they learn about it, to be on the registry, into the very difficult position that we used to be in several years ago where people have to track down every last person who might spray.

Someone who wants to spray for agricultural reasons in my area, how am I going to figure out all the people who might spray for agricultural reasons? And it isn't just the owners. It is the pesticide applicators, the land managers, the professionals. How am I as a citizen of the State of Maine, the average citizen of the State of Maine, going to figure out who that is? How about forest sprayers, forest applicators? How do I begin to figure out who might be spraying the forest near my home? If we accept the pending motion, I am left to my own devices.

How am I going to find out who might be applying pesticides for landscaping, for ornamental plants, for right of way purposes, for biting fly, for black browntail moth, for public health? How on earth is the citizen of the State of Maine going to figure out all of that? We will be back to square one.

Simply put, if you know, if you happen to know, if you are lucky enough to know, maybe you can find out what the air your children are breathing or you are breathing contains. The system that we have in place and the system that we're moving towards balance the right to know and the right to grow up healthy with the right of the farmer. My farmers appreciate that balance and

they are ready to move forward into a system that can work for all farmers and for everyone that breathes Maine air. So I hope that we can move forward in that respect and not throw the 1,800 Mainers who wish to be notified under the bus, leaving them to their own devices.

It is not that hard and if you go to the website you can see it, as a farmer, to know who needs to be notified. It's certainly no harder than taking those 12 calls on the phone. I can make one visit to the website if I am a farmer in Skowhegan or I can accept 12 calls over the phone. I personally think the website is easier and so do the farmers that I represent, so I hope that we can focus on reality and not on perception or myth.

There is plenty of good reason, and we've seen a couple handouts come across our desks, to be concerned about health and pesticides, and I think certainly if we have any doubt in our minds we should be erring on the side of protecting the right to know and the right to be healthy of our citizens. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Carey.

Representative CAREY: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative CAREY: Should this bill pass, will all farmers be treated, have the same responsibilities under this bill?

The SPEAKER: The Representative from Lewiston, Representative Carey, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative McCABE: Thank you, Mr. Speaker. To answer that question, I will respond by saying that currently we are talking about two types of pesticide application. We are talking about aerial application, as you can imagine, which is done with a fixed wing aircraft, like a plane or a helicopter, or an air blast which is done, the easiest way to explain that, is with a fan. So in regards to an earlier comment about farms in a certain area being affected, it would not affect those folks unless they were using an air blast or aerial application. So air carrier. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from North Yarmouth, Representative Graham.

Representative GRAHAM: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do know I talked about this several times. I have worked for six years in pediatric neurology and one of the most painful parts of that job was when I would meet a new family coming in with their child who had developmental delay or a new diagnosis of autism, a new diagnosis of epilepsy, and they would say "Why? Why does my child have this?" My response was "I don't know. I don't know. I wish I did." But then they'd ask "Is it something in the environment?" and my answer, again, was "I don't know." But then I would say "Maybe."

You've seen come across your desks a list of articles, research that has been done by very reputable organizations. I'm not swayed by studies from kind of fringe groups, but I am swayed by John Hopkins University, the Archives of Neurology, Harvard University, Columbia, the National Institutes of Health, all stating that pesticides may have an affect on our health.

I come down on the side of prevention, preventing illness. It is cost effective and it makes an enormous amount of sense. I rise in opposition to this motion. I think it's important that people know that their land may be sprayed with pesticides. It is as simple as that. So I ask that you vote this motion down and support the public's right to know that their land may be sprayed

and their children and their own health may be at risk. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Walsh Innes.

Representative WALSH INNES: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I don't get up to speak very often, really not at all. One of the reasons is that my committee, Environment and Natural Resources, we have worked very hard on every bill that has come before us this session, finding common ground together on many potentially divisive issues that come to us each session. Thankfully that saves a lot of floor debate. We work together to fix issues of concern and we make many compromises along the way, and I would like to believe that all of the other committees strive to do the same.

If this notification law, which was the result of so much compromise last year, and weakening, in my opinion, still needs work, then let the committee continue to do the work and bring it back to us next session, without repealing the law today.

I do not support LD 228, but I might in the future if I felt that the committee finished their work in finding the best solution for everyone involved. Until then, please follow my light and vote red. Let the committee keep working on this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dill.

Representative DILL: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak in support of this motion and I am certainly glad there is no pressure put on anybody in this chamber. I would like to say to Representative McCabe, I think one of us needs to get our money back from our speech writer because I think we got the same speech but on opposite sides. So let me continue.

Probably many of you know that I work at the University of Maine and I am probably known recently best for as the bedbug guy, unfortunately. But I have been doing this for about 30 years now and one of my many jobs as a pest management specialist is to do outreach education on pesticide safety throughout the state. I work with environmental groups, I work with organic growers, I work with private applicators and farmers, and I work with commercial applicators.

Pesticide use and safety is a major concern for everyone. Pesticides, by their very nature, are toxic and expensive. Therefore, I don't believe that any applicator, whether they are private as a farmer or a commercial applicator, put out more pesticides than they need to use or put them out improperly.

I also firmly believe that anyone living near an application site has the right to know what is being applied near them, at any time that they need to be notified. However, at this time there is a lot of confusion around this whole issue. There is a free online site that you've heard so much about. That's where we are at this moment. Anyone can go on and sign up on that site. Once they are on that site, basically they are on there for life. If I had the desire to do so, I could go on that site and sign up everybody here in the chamber, and then you'd be on there for life too for whatever nefarious reason I may or may not have.

There are over 1,800 addresses on this site, as you have heard, but not all of them are there under their own volition. As you have heard, if LD 228 passes, the list will be eliminated at the end of this growing season. And also as you have heard, there is a very nice new website, GIS program, that the Board of Pesticides Control has been working on. They just put it on this week. You can go on there and find out who is near you on this list. The unfortunate thing is, with that, not all towns are represented on there yet, and certainly in rural areas, it is very

difficult to go on there and find the information that is needed. But they are working there and I will say that they are moving forward.

There is also a notification list for any non-agricultural pesticide applications which must be updated annually and pay a \$24 fee for this privilege. This allows anyone within a 200 foot radius of a non-agricultural application of pesticides to be notified of what and when. The board sends this list to commercial companies that may be making the application or an applicator can actually go on the website and look up and see who is on this list.

There is also a third group of outdoor aerial applications that are within 500 feet of a sensitive area that you can go in and be notified or you can find a grower that is near you. We added an amendment this time around, or this bill adds 1,000 feet for aerial applications. Confused yet? Well, let me continue. Some parts of the registry bill will be sunsetted in February 2012. Those are mostly distances.

Right now Christmas tree growers and anyone else using air assisted pesticide equipment has 500 feet and it will go in February to 1,320 feet. It will also put back in non-agricultural air assisted equipment and mist blowers that are used in trees, like we've heard on a browntail moth, and especially for tree fruit growers and sweet corn growers. So basically in 2012, all agricultural air assisted pesticide applications, one of which is an air blast sprayer, and other non-agricultural air assisted applications and all aerial applications, most of which are Downeast on blueberries and there are about 4,000 acres of broccoli in Aroostook County, they would have to notify anybody within 1,320 feet, which is a quarter of a mile.

Now this may or may not provide a major headache for some growers or applicators. Remember there is currently a list of 1,800 plus addresses registered, however according to the Board of Pesticides Control about 90 percent of them would probably never be notified because they aren't within the distance of either an aerial application or an air assisted pesticide application, unless it happens to be browntail moth or mosquitoes.

So at this point my question really becomes is why bother to have such a registry, and I agree with almost what everyone else has said. It needs to be fixed. We need to have a legitimate registry, just one, not scattered throughout two or three places, that includes people who want or need to be notified. Those 90 percent should probably already be on that list that would have to pay a \$20 fee. I'm not in favor of that \$20 fee either, and as everyone else has stood up here and said, we need to work this.

I think the best way to work this is to do away with what we have and start over. This bill was a compromise. Now admittedly I wasn't in the Legislature when the bill went through, but I can tell you I spent many hours on the other side of the table while it was being discussed. To me, a lot of the compromise was because there was actually a bill to ban aerial application in the State of Maine, and so this helped to reach a compromise to keep aerial application in place and that we would have to notify within a quarter of a mile.

So as I said, this needs a lot of work. I think the best way to do it is by passing this bill today and let us, as everybody has said, get back and come back with one registry that works, works for everybody. Please follow my vote. Thank you.

The SPEAKER: The Chair recognizes the Representative from Garland, Representative Wintle.

Representative WINTLE: Thank you, Mr. Speaker. I rise in strong support of my Representative friend from Skowhegan across the aisle. I reach across through bipartisanship to do what's right, in my opinion. I'm a little bit confused about someone on the floor saying that they were going both ways.

That always scares me. I'm not a member of MOFGA either, but I remember Black Flag spray in an aerosol can and this will make more sense in a second.

Something else that confused me, this is really redundant, but I heard somebody keep saying "I'd like to reiterate again." I don't know if that was – that just confused me. And then we were talking about bees. In my district, which I'm happy to greet in Ripley, they are on that list, and a couple of personal friends of mine in Atkinson, Pat and Dan Jussca, they sit in the middle of a potato field, 100 acres in Atkinson, and both of them said "Well, you don't really represent me, Fred, but I know you will." So I was over there poaching in Paul Davis's, I mean the Representative from Sangerville's territory, and Pat and Dan really wanted to make sure that somebody spoke for them and Representative Davis absolutely would.

Then I like the idea of anything voluntary and what this really is about is a voluntary clearinghouse where people who want to make sure that they communicate with each other have an opportunity to do that. I don't see anything wrong with that. I think the whole idea of freedom, liberty and such right here in this country is alright with me.

And I recall something about a *Silent Spring* and all of that DDT horror show when I was a young person, and I woke up this morning and I heard birds. Fifty years later I'm hearing birds, a certain sparrow that I still love has a certain tune (*whistled tune*). And then the bees, I'm not really sure how to buzz or I'd do that. But trust me, it was not a *Silent Spring*. Thank you, Mr. Speaker.

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

Representative SANBORN: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I really wasn't planning on speaking today, but I know the question came up about whether all of these pesticides are EPA approved. I have been trying to research the topic of pesticides, both for the schoolyard pesticide bill and this one, and so I was reading this morning some information from Purdue University.

What they said is there exists a common misperception that pesticides can be classified as safe or not safe, but no chemical, either natural that is produced by plants or other organisms, or a synthetic produced by man, can be determined completely safe. They went on to talk a lot about the dose response, which I'm sure our Speaker knows a lot more about than the majority of us here.

It also said pesticides can have cumulative effects on the body, even at doses so low that no immediate or short-term effects are apparent. So I thought those were just important to understand when you are considering the safety of these. I also had an article passed out about prenatal pesticide exposure lowering the IQ in children and many other topics.

I would also say that last session I was actually against Representative O'Brien's bill because I did think that it went too far. I have, actually in Representative Knapp's district, a Gorham nursery, and the fellow that runs that nursery was very concerned about Representative O'Brien's bill last session and how difficult that would be to comply with. I got a lot of education about IPM and how that works. And when this bill passed instead, he was very happy with that compromise, and it seems to me that at least this is something to work with and, as many have said, we can go further. So I would oppose the motion on the floor. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Peoples.

Representative PEOPLES: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wasn't going to rise and speak. Of course, that's what they all say. But I just

keep hearing different points of view, but what it keeps coming down to me is this was a compromise made last year, brought on by the threat of completely banning aerial pesticide spray. It had been enforced for about a year. It is easy access. It is user friendly. It does not seem to me to be horribly onerous on either farmers or applicators. We don't have a long history of using it yet.

It seems to me it's not broken and I've always been a big believer in if it isn't broken, don't fix it. What we've got now, maybe there are parts of it in its application that are broken, but we would be throwing the baby out with the bathwater, in my opinion, if we were to do away with this registry. Let's give it a chance to work for another season. Do people really want to come back and have a bill threatening to ban aerial spraying again, so that we come back to a compromise? I just wish everybody would think about that and think about the fact that things are built one on top of another. If you've got a building block on the bottom, it doesn't make a whole lot of sense to haul it off and start over from scratch, from ground level. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Lincolnville, Representative O'Brien.

Representative O'BRIEN: Thank you, Mr. Speaker. I just wanted to respond to some things that were raised and some of these floor sheets that were passed out. It's a myth that is being spread about what this bill does. It says it does not abolish the registry. It does abolish the registry. It does away with the names and starts all over at Chapter 28, which basically says that the person has to go out and find the person who is spraying the pesticide and ask them to spray. So it does do away with this registry. There is not another registry except for the urban registry and that's for people spraying for browntail moth and that kind of thing, the so-called urban registry that they charge you \$20 to get on. The BPC has said repeatedly since I have been on the committee that they do not like using this registry, they would like to do away with it, and it is just a burden for them to operate.

It has also been said that Maine has the most restrictive and cumbersome laws around pesticides in the country. I have a long list of pesticide notification laws by state in the country. You know it varies by state, but I will give you New Hampshire as an example. In New Hampshire, you are required to give notice to everyone within 1,320 feet if you are spraying aerially, and you have to give written notice to everyone within 200 feet of a right of way. I have spoken to some people who do aerial pesticide applications and they say it is very, very difficult to do aerial spraying in New Hampshire. So we talked a lot about our neighboring state and the so-called lack of regulations in comparison to Maine. Well, in that regard, they are most restrictive and all we're saying here is to give people the right to know, to notify people if they want to be told.

Just to give you a little bit of background and I want to give you a little bit more background of where we came. In the year 2000, the BPC found that an aerial pesticide can drift up to 1,500 feet. So that is where our distances came from. After that, we also had a number of instances in Maine where there was drifting on homes and people through aerial pesticide spraying. There was a lawsuit. There was a report of children getting sprayed by an aerial pesticide applicator at a bus stop, and so after that there was a citizen referendum to ban aerial spraying and another citizen petition to ban organophosphates. This has been going on for a number of years and it is really not going to go away. If we decide in this body to repeal this notification, it is going to come back and it is going to come back to us hard. The pendulum always shifts.

Also, I would like to say the Blueberry Commission was neither for nor against. They took a neutral position on this. Why, because there were a lot of blueberry growers who actually would like some consistency, and some blueberry growers from my area came and testified against this bill because they felt that after 25/30 years, they have been coming back to Augusta every year and they want some consistency. They don't want to upset the applicator. They want to move forward and they want to have some input into the process, but an outright repeal just goes too far. They said two years ago we went too far on our end and now we're going too far the other way. So that's sort of where they are coming from. There are people on both sides of that issue in the Blueberry Commission, so they didn't take a strong stance either way.

Also, I'd like to say I am not nor have I ever been a member of MOFGA. I just wanted to say that on the record. But I do support organic farms and this is not about MOFGA and it is not even about organic farms. But I'd like to remind people that when we talk about farms, we're talking about all farmers – big and small, organic and conventional – and I don't like the implication that there is only one kind of farmer in the State of Maine. Also, to remind people that we have the fastest rate of organic farms growing, starting here in the State of Maine, so we want to encourage that.

Also on this floor sheet that went around in support of LD 228, it said that Maine does have a buffer zone law that allows for the protection of organic crops. That buffer zone is for the organic crops to protect themselves on their own land. So there is no buffer zone for the sprayers. It is the organic farmers that need to protect their crops for certification so they have the buffer there. So I would just like to point that out.

Also, in respect my good friend on the committee, the Representative from Old Town, looking at some of his points, he says that we need to start over and move forward. Well, if we repeal this registry, that's it, it's gone. We can't build from anything. It would be very difficult to start all over. We have invested money from the Board of Pesticides Control that comes through fees. We even expended money to advertise the pesticide registry, which everybody on the committee voted unanimously and this body voted unanimously to support, and now we are repealing it. So we advertised it last summer, in the newspapers and everywhere, and now we're repealing it. So we are telling everybody, oops, sorry, we're taking it away, we changed our minds. So I'd like to remind people of that.

I would like to go back to the committee and work forward and move forward on this. I think it went too fast. There was a lot of pushback from some interests to get rid of this, but it will come back, and I would like to work together on it and not have an adversarial relationship between the different groups. So that's all I would like to say. Please vote down this bill so we can come to a better compromise. Thank you.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Maloney.

Representative MALONEY: Thank you, Mr. Speaker. I rise to say that I will be voting red on the current motion because I believe that a good neighbor policy starts by reaching out and informing the people next to you about what's going to be happening beside their homes, their gardens, and their yards. I don't think that that's too much to ask.

We've heard a lot about this law not being perfect, but it's what we have and until we have something else to offer, I don't think that we should be doing away with something just because there may be some parts of it that aren't perfect. Let's find the perfect before we do away with, at least put something in place. So I do support letting people know. We're not trying to ban

pesticides. We just want to be able to let people know when the spray is happening and there are a lot of people in Maine on that registry and I don't think that's too much to ask. Thank you.

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

Representative **BOLAND**: Thank you, Mr. Speaker. I don't usually speak on agricultural issues, but the kind of thing that I do speak about is prevention and wellness and I always feel that if there is any way that we can avoid a problem, that that's really a whole lot better than trying to figure out how to fix it later. So it seems reasonable to continue with a user friendly way letting people know and letting them sign up.

I also think there is so much conversation now about what is safe and what isn't safe, what causes problems, what doesn't cause problems, and people are concerned because they are seeing more illness in children with ADD and ADHD and behavior and weight issues. Everyone is trying to figure out what the answer is.

But as many people here know, I do work with nutritional supplements for helping people and it has sort of gotten me into a whole community of people who are working on prevention and natural ways of taking care of their families. More and more people are trying to be educated about the best practices they can use, so if they can guarantee themselves that if they feel that strongly that they should get some guidance of when to be outside in their yard and when not to, this seems like really little enough.

I mean we see so much that in some of these alternative methods, often times, of cleansing people, and they get rid of a lot of chemicals and start to feel better. We don't know where all the chemicals are coming from, but we know this from our cleaning products and other things, there are lots of chemicals everywhere and you get warning labels on things. So we can't really have our air come with warning labels, but we really can have people be notified fairly and, if they want to be, take certain precautions. I really think we've got to encourage that because otherwise we can really have more health issues, more disease issues than we really need. I've got growers in my area and I trust them to be very conscientious.

Just to summarize, I just think we're living in an environment now where we're seeing more illness and more questioning on where it's coming from and people want to take precautions, and this is a way that they can do it. And again, I have growers in my area that I think are very conscientious and it may not even be really necessary for this to be available. But if people are concerned and they are trying to be proactive in protecting their health and avoiding disease or any problems, I think this is a good way to do it.

I also think it encourages good agriculture too because we need more and more of the local farms, and we need them to be loved and trusted and supported, and I think this just says to all of them and to our communities and to our people, we're trying to make it as easy for you to be as informed as you need to be and go on supporting our local farmers. Thank you very much.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 61**

YEA - Ayotte, Beaudoin, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark H, Clark T, Clarke, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harvell, Haskell, Johnson D, Johnson P, Keschl, Knapp, Knight,

Lajoie, Libby, Long, Maker, Malaby, Martin, McClellan, McFadden, Morissette, Moulton, Nass, Newendyke, O'Connor, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sarty, Sirocki, Strang Burgess, Theriault, Tilton, Timberlake, Turner, Valentino, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Cornell du Houx, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Flood, Fossel, Gilbert, Goode, Graham, Harlow, Harmon, Hayes, Herbig, Hinck, Hunt, Innes Walsh, Kaenrath, Kent, Kruger, Kumiega, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Mazurek, McCabe, McKane, Morrison, Nelson, O'Brien, Olsen, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Sanderson, Shaw, Stevens, Stuckey, Treat, Tuttle, Wagner R, Webster, Welsh, Wintle.

ABSENT - Hogan.

Yes, 81; No, 68; Absent, 1; Vacant, 1; Excused, 0.

81 having voted in the affirmative and 68 voted in the negative, 1 vacancy with 1 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-244) 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 by Committee Amendment "A" (H-244)** and sent for concurrence.

---

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

---

**HOUSE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (H-160) - Minority (2) Ought Not to Pass - Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles Operating on Private Property"**

(H.P. 207) (L.D. 254)

TABLED - May 5, 2011 (Till Later Today) by Representative DAVIS of Sangerville.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

Representative CURTIS of Madison moved that the House **ACCEPT** the Majority **Ought to Pass as Amended Report.**

The SPEAKER: The Chair recognizes the Representative from Denmark, Representative Sarty.

Representative **SARTY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. ATVs and landowners. The bill probably should be titled "A Landowner Relations Bill." Several years ago, or two or three years ago, LD 308 was passed which required reasonable articulable suspicion for a law enforcement officer to stop an all-terrain vehicle. At the same time the bill was put in, there were two cases before the Maine Supreme Judicial Court that were in reference to that very same issue: Routine stops of all-terrain vehicles.

Had the bill not been put in at the time, three weeks after it was passed the Maine Supreme Judicial Court ruled that the routine stops of all-terrain vehicles was not a Fourth Amendment violation. Whether or not that would have changed the implementation of LD 308, I don't know. However, the decision came after the bill was passed by the Legislature.



Since then, the landowner reaction to reasonable articulable suspicion requirement on their property has been very upsetting to them. They have reacted in significant numbers. This session, in the legislative committee IF and W, there was significant presence in the presentation and support of LD 251, which would repeal the requirement of reasonable articulable suspicion. In the entire public hearing, multiple testimony from landowners and you can see on some of the handouts that you've received – the Maine Farm Bureau, Small Woodlot Owners of Maine, North Maine Woods, Huber Corporation, Forest Products Council of Maine, and the list goes on and on – of significant landowners in the State of Maine that want to have reasonable articulable suspicion repealed. Along with that support was continuation of support from sportsman's groups: Audubon Society, the Maine Guides Association, the Maine Trappers Association, the Maine Snowmobile Association. ATV Maine supports this bill. They feel that by supporting the bill, they are trying to assure landowners of appreciation of their concerns and cooperation.

I think what is important to remember in the State of Maine 90 percent of our state is private property. It belongs to all of us, to farmers, to people in the forest products industry. Only 10 percent of our state is public land.

Over the past 200 years, we've built a tradition of outdoor heritage in the State of Maine that's become very dependent, if not totally dependent, on access and reasonable use of private property. This relationship between people who enjoy the outdoor activities offered in our state and the landowners has worked very well for almost 150 years. But one of the things that did start to make some concerns come to the surface from our landowners, when we started to transition into mechanized recreation. It wasn't just the trapper, the hunter, the hiker, the bird watcher, very minor intrusive activities on private property. It became mechanized with snow machines and later all-terrain vehicles.

The Maine snow machine situation started back in the 1960s. Landowners were very concerned, but what happened was clubs were formed. There was a statewide organization formed, the Maine Snowmobile Association. Almost all of their efforts are to work in collaboration with landowners to be offered the continuation of the privilege of accessing private land. No one here in this state has any right on my property that I am not willing to extend to them, and we must realize that a state that is so dependent on our outdoor recreational resources and what that represents to this state's economy are extremely dependent on the cooperation and the willingness of our private landowners to allow reasonable public use and access to their properties.

I noticed in the handout from the Maine Civil Liberties Union, they suggest that Maine landowners do not get to use state law enforcement as their private security force. No one would deny that. But we as a state have built an economy and a tradition around the willingness of private landowners to allow reasonable use of their property. These things have changed and been added to many times over the years since this concept began.

One of the most controversial uses of private land today happens to be represented in all-terrain vehicle use. I think it is easy to understand. All-terrain vehicles are just what their title says they are. They are a vehicle designed to travel on all terrain. They have studded tires. They are not operated at a moderate speed. They go up and down, side to side, and they have a purpose. But they also, in the process of being used on land, can create extensive damage if used imprudently and without the respect that the landowner is due if an ATV is operating on their land.

In 2003, the State Legislature passed the laws that regulate

the use and the registration of all-terrain vehicles in the State of Maine. During the time that these rules and regulations were being developed, Maine's landowners were very proactive in insisting that two conditions be placed in these laws that were passed in 2003. One is that if I operate or anyone operates an ATV on private property, they cannot do so without verbal permission of the landowner. If you are operating an all-terrain vehicle on farmland, cropland or orchards, the law is very clear. You have to have written permission from the landowner. Those laws came into effect in 2003 and worked very well with no controversies whatsoever.

When reasonable articulable suspicion was thrown in to the equation, landowners felt betrayed because now the law enforcement community could no longer stop to ascertain if the people operating ATVs on private land or farmland have the required written permission for farmlands or verbal permission on private land. It didn't make sense. So I think what the issue is here today is the landowners of Maine have sent a clear message: There has been no intimidation and no threats.

The Maine Farm Bureau is especially concerned about this and aggressively supports the repeal of LD 308 and the support of LD 254 to the point where they did put a bill in before the legislative Fish and Wildlife Committee this session, which in effect would be a reversed posting bill. When they put the bill in, I talked to their executive director because I do not support reverse posting. We've worked very hard in the State of Maine to maintain good landowner relations and I think that's what we should continue to do. However, reverse posting, if passed, means that that property automatically is to be considered no trespassing, no public access, and to gain access one must have permission, and it does not require the property be posted.

Reverse posting is what is in fact is the case in most states in the United States. You do not go to Pennsylvania, you do not go to Maryland, you do not go to the Midwestern states and just walk on people's property, never mind to hunt and fish and ride an ATV or a snow sled. You have to have permission in those states to enter on to those private lands, and, in most cases, you will find that there is a fee or a lease requirement to do so. The difference between those states and Maine, they have vast holdings of public land so you still have the opportunity to have the freedom of access to recreational properties that are public and not private.

Unfortunately, in the State of Maine, our public lands are very limited. We have very little for a state of this size. If you look at our largest parcel of public land, which would be Baxter Park, when that was handed over to the people of Maine by Governor Baxter, it was a gift of over 150,000 acres of property, a gift to the people of the State of Maine, and yet Baxter was smart enough to recognize that he should put some provisions in that gift and not give the management of it to the State Legislature. His gift and the provisions that came with it have worked very well, and it is public land by a legal definition now, but it has serious restrictions. You can't hunt in the entire park. There are only two zones in which you can hunt. You can't take a snow machine through Baxter Park with the exception of the North South Road and no other location. So there came some severe restrictions that were in this gift and the conditions of it that we've adhered to, to this day.

So why doesn't a private landowner have the same right to expect some conditions? The private landowners of Maine, the majority of them have made it very clear to the Fish and Wildlife Committee in their presentations and opinions that they expect if Maine is going to offer the outdoor recreational opportunities that are dependent on access to their lands, they are willing to do that, but they are also legitimately standing up saying we have

the right to expect that you as a state will assure us that someone will occasionally be out there, seeing to it that the people we allowed to access our property are obeying the law and not abusing our land. That's what this bill is about.

The Maine Supreme Judicial Court has ruled that the routine stop of an all-terrain vehicle is not a Fourth Amendment violation and the tradition of public access to private lands in this state will not continue if this body does not take some responsibility in acknowledging its responsibility to the landowners that are extending the privilege of use of their lands for the people of Maine and for millions of others who come to Maine to enjoy the outdoor recreational activities we offer. That is what this bill is about. Thank you.

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

Representative **EBERLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I, too, rise in support of this motion and I want to just read a quick couple of paragraphs to you from the Maine Warden Service website: "The men and women of the Maine Warden Service have a long standing proud tradition of commitment to the citizens and visitors of the great State of Maine. An estimated 2.4 billion dollars of the State's economy depends on the diversity and availability of Maine's fish and wildlife resources and the safety of all those that enjoy our many outdoor recreational opportunities. The Maine Warden Service was established in 1880, and still today, nearly 130 years later, through education, community involvement, professional law enforcement, and search and rescue practices Maine Game Wardens are committed to protecting and preserving Maine's quality of life and outdoor activities."

One of the first established and oldest conservation law enforcement agencies in the country, we enjoy unmatched recreational opportunities in this state, mostly due to the generosity of landowners who allow access to their property. This bill will allow continued access and assure Maine's heritage and history of hunting, fishing, and trapping will continue. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Garland, Representative Wintle.

Representative **WINTLE**: Thank you, Mr. Speaker. I rise proudly to support the Constitution of the United States of America. I would like to say what this bill suggests. It is something important because it is important that we have security in our properties, but I would tell you something that is also a matter of fact. When you are talking about 130 years, let's talk about two centuries and the beginning of the State of Maine nearly 200 years ago. I would say that the enforcers that I've watched here in the State of Maine don't have a passing acquaintance with the Fourth Amendment of the Constitution, not only federally but here in the State of Maine, which we all love.

As far as ATVs go and I don't care what kind of tires they have on it or snowmobiles and what kind of breathers they might have on it. I would tell you that the executive branch is the executive branch. We happen to be a body of legislators and, again, our own arbiters. I would tell you that the game wardens in the State of Maine and the State Police in the State of Maine work for the executive. Private property, they don't respect private property. I don't need their protection. I don't want their protection.

I will invite in this House, I have between my neighbors and myself 200 acres. You are welcome. You are welcome with your snowmobiles. You will be secure. I'd rather you don't tear the property up. I'd encourage you not to, but I would do it on my own. I don't need any executor to execute anything. Those of you that want to come and hunt, come. Shoot anything you want

to. Try not to shoot me. I'd probably feel bad about that. Private property was mentioned strongly in the Preamble to the Constitution. It once said life, liberty, and the pursuit of property. It was changed to happiness. I hope none of us are against happiness. I'm happy. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Harvell.

Representative **HARVELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Life, liberty, and property was the copyright of John Locke. Oliver Wendell Holmes once said that your freedom stops an inch shy of my nose. There is not a single amendment to the Constitution that is absolute. When you walk into a theater, you have given up the right to yell "fire." There has been an understanding with the landowners of this state that when you traverse their property, that they are asking for something in return, and that something in return is the right that you give up. If you don't want to be searched, if you don't want to be asked if you have permission to be there, don't go. If you want to yell "fire," stay out of a theater. There is a vast difference between public rights and private rights and that has been understood since the inception of the Constitution of the United States and that has worked out accordingly thus far.

The reality is a snowmobile drives in the winter, hence the word snow. One half of all the wood that we take out of our woodlands, over half comes in the winter. Why, because the ground is frozen, because you move it well and do less damage than you can without it. Any logger knows that there is a season called mud season. It is when you stay out. An ATV does damage to land in ways that a snowmobile can't even envision doing.

Across the road from my house there was a 60 acre field, and at the bottom of it there was a place for ATVs to go. I was down in the field while the farmer was haying it one year and watched that he had his tractor stopped. Why, because he went over one of these bumps and the mowing machine behind him now needed a new blade. The recognition from that farmer was that he didn't mind if people went there, but he doesn't have time to police it himself. He can't stand there. He's got a farm to run. It's just saying that if you want to use this land, there are some conditions that go with it and it is the recognition that there are conditions that go with it.

Property rights remain supreme. We do not surrender them when we say you can use my land. In fact, if you are a hunter in the State of Maine, during hunting season, a warden has a right to stop you and ask at any point "Can I see your hunting license?" Whether you are doing anything wrong or not, it is a routine stop. If you don't want that right, don't hunt. It is as simple as that. The reason that this existed is because landowners are asking for something in return. Maine has retained and withheld a commons approach to land since the King's Charter in the 17th century, and we, if we do not acquiesce to landowners' rights, threaten not 220 years of history but 400.

Representative **CUSHING** of Hampden **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought to Pass as **Amended** 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 Eagle Lake, Representative Martin.

Representative **MARTIN**: Thank you, Mr. Speaker. Mr. Speaker, Members of the House. I'm not sure where to begin and perhaps I should begin with where we get our rights. As I was thinking about access on people's land, some people in this

room may not realize that everyone in this room has the right to cross my land or anyone's land to fish or fowl based on the king's method and passed down through us, provided you do not cross "cultivated land." Subsequently, it has been drafted into Maine statute as a result of a Supreme Court decision that arose against Great Northern in Piscataquis County.

As you look at the history basically of where we are with boats, snowmobiles, and four-wheelers, there has not been much difference. When snowmobiles began it was not unusual to see them cut through fields that had just been planted with young trees. It happened to us in my family where entire acres were run over by snowmobiles, destroying a tremendous amount of seedlings. Then as we evolved into greater control and ability to form organizations, that tended to cease. Then four-wheelers came along and they tend to have a different problem in some ways because they don't go on frozen ground, because many of the people who use four-wheelers like to be in the mud, and so they cause tremendous damage. We've had that problem as well and so we've had to restrict them.

I want to say to some of the groups that are mentioned on this sheet, I am a member of the Maine Sportsman's Association. I am a member of the Maine Snowmobile Association. I am a member of the Sporting Camp Association. I am a member of the Maine Guide Association. I am a member of the Maine Tourism Association. And the fact that they all have gone one way doesn't press me at all, simply because they have gotten to this philosophy believing that, oh, if we give in to the landowners that want all of this – and, by the way, I am a landowner as well – then they will give us access on their land. If that be true, that those of us who live in northern Maine would have access with four-wheelers on the land that is behind the gates of the North Maine Woods, and we would have access of the land of Seven Islands Land Company and the Huber Corporation and others that I can continue to name. That is a game that you've been told that, oh, this will happen. I agree that there is some concern for the small landowner, but the law is clear. Pointed out already, ATV operators need to get permission to all the people's land if they are going to use it.

So why should law enforcement officers enforce the law for private landowners? What is the role of government in that regard? Is that to be their job? I don't think so. If I don't want someone on my land, I have the right to tell them I don't want them. We have that ability now and some people use it. Will it spread? I don't believe that at all. What I do know, quite frankly, it is this. And I will say, by the way, that I have respect for the wardens of the Maine Inland Fish and Wildlife Department. That is not the issue here. We got into this situation a number of years ago, quite frankly, because there were abuses by some individual wardens and if they had followed the rules and the regulations that had been suggested and were in fact on the books, we would not even be here now. But we are. So if we are going to be here, let's make sure that what we do is lay out the law and understand clearly what it is. I simply put it this way: Two things I want to leave with you. One, I believe that wardens should have the same powers as the Maine State Police, municipal officers, and deputy sheriffs and the sheriff's officers. Second point I will leave with you is that I am sitting in my driveway in a four-wheeler – and I don't own one – if I were, a state trooper could not enter my land and say "I want whatever it is and I am going to search you" without having a reason to do so. But if this goes through, a game warden will be able to do it. That is as simple as this bill is and I don't believe that we ought to be extending that power.

Now in the long run, until we reach an agreement, this issue will be here year after year after year. There was no attempt to

reach a compromise because the compromise is dictated in part by a friend of mine, the former commissioner of the Department of Inland Fisheries and Wildlife, and not a relative I might point out. I want to make that clear. So I think that we need to understand what it is we're talking about. We talk about the Fourth Amendment, we are talking about rights, we are talking about individual liberties, we are talking about those things, and I am amazed to some degree to watch some of my friends on the other side who have true belief in the freedom of people, suggesting themselves to letting be led into taking away the rights of citizens.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Shaw.

Representative SHAW: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the current motion. We've heard a lot of talk today about landowner rights and the Fourth Amendment and specific rights of game wardens and a bunch of other stuff. Well, I can tell you right now, all officers of the law in the state can enforce most of Title 12, which is what we're trying to do here, Title 12, Section 10402, paragraph four: "All-terrain vehicle laws. All law enforcement personnel of the State, including those of the Bureau of Forestry, have the powers and duties to enforce chapter 939 and any other provision of this Part regulating ATVs." This law does not grant any special powers to game wardens.

This is a landowner rights bill basically. If you take a look at the map of the ATV trail system and underneath you put all the land of all the people that support this bill, you would find that just about every single trail would be on the land of the Maine Farm Bureau, the Small Woodlot Owners Association of Maine, and all the other people that support this bill. ATV Maine supports this bill. Now Mr. Speaker, when we vote on this bill, I would ask that you follow my light and push your green button. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Sangerville, Representative Davis.

Representative DAVIS: Thank you, Mr. Speaker. Mr. Speaker, Colleagues in the Maine House of Representatives. The history of this bill is long and painful amongst other things. My good friend from Eagle Lake, Representative Martin, is correct when he said that it will be here year after year after year because we've been here and it has been here year after year after year. I can assure you that as long as there is a Maine Legislature, I believe there will be a Representative Martin, and it will be here year after year after year.

My good friend from Denmark is correct in his description of the history of much of what has happened. A gentleman was arrested, they went to court. The Superior Court said you can't do that, and then in awhile the Maine State Supreme Court said yes you can. The Maine State Supreme Court said that it is not unconstitutional for police officers to stop someone without articulable and reasonable suspicion if they are on an ATV. However, the Maine State Supreme Court did not say that the Maine State Legislature had to grant that power. We do not have to expand the power of police officers. There is no need to.

The current law, as my good friend from Eagle Lake said, a police officer driving into Eagle Lake and sees my good friend – not that we would think he would ever do anything wrong – sitting in his yard on his neighbor's four-wheeler because you heard him say he doesn't own one, doing nothing but sitting there, under current law that police officer could not bother him. But if we repeal the requirement for articulable and reasonable suspicion, that police officer can go bother him. That is hard to imagine. But anyone that has been in law enforcement, for any amount of time at all, Mr. Speaker, and I apologize for not addressing you.

Anyone that has been in law enforcement for any amount of time has seen the extreme happen, and it does happen.

I know you've all been lobbied real hard about this and all the lobbyists have been in the halls and they've been twisting arms, and they have been telling about an agreement that people came to a few years ago, an agreement between the landowners and some interested parties. My question about that particular thing is who gave anyone the right to give others' rights away? I would submit to you that no one has that right, including the individuals themselves.

Now we're told the land is going to be posted and there is going to be all kinds of problems. Well, I live in the heart of ATV country. There is thousands and thousands of acres of land near me and ATVs come up Route 23 in Sangerville and go up Route 15 to Greenville and points beyond and points to the east and west every day of the week, and to this day, since the law was changed, I have not had one single complaint from a landowner, not one.

Now I told a group earlier that it would be a whole lot easier if this cup was passed for me. It's not easy to stand up here and try to encourage people to go against people that I have great affectionate feelings and great love and great respect for. My good friend from Whiting. My good friend from Denmark. Others who have been in law enforcement, the former sheriff of Cumberland County, and others. I would rather not have to do that, but I have an awful lot more affection and love for the freedoms that we cherish and the freedoms that we have.

Law enforcement is a very difficult task and it is messy. It is hard to gather evidence. It is hard to put a case together. It is difficult to go to court, especially when the Constitution gets in the way. But Mr. Speaker, it was meant that way, to be that way so that we could cherish and keep the very freedoms that law enforcement, that all of us raise our right hand to protect. Mr. Speaker, I thank you very much for your time and your indulgence, and I urge everyone to vote and follow my light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I really will try to be brief on this. You've heard a lot of very succinct and important testimony about this issue.

I do want to say that I've worked with game wardens, Maine game wardens, and Maine state troopers and other states all of my adult life, and there is no group that is any better than the ones we have right here in the State of Maine, whether it's the game wardens or it's the state troopers. But that's not the issue here. The issue is something more important than how good these law enforcement agencies are.

These law enforcement agencies will continue to enforce the law the way it is enacted and the way the courts uphold it. I am not concerned about that. I am concerned about the law. This is a very difficult issue because it deals with property owners' rights and it deals with our Constitution, so you have to come down on one side or the other. You can't split the difference. You have to make a decision.

I am not sure of any provision that gives me access to somebody else's property, as I heard mentioned here a few minutes ago. I wish there was, but there isn't that I am aware of. And I do have some stake in this game. I own boats. I own snowmobiles. I own ATVs, UTVs and SUVs, and I use them all. But I know when I use them I have to obey the law, and I also know that I am subject to certain things.

I don't think that we can give up our rights to unreasonable search and seizure or due process to the law because we are

getting pressure, and that is what I perceive this as, we are getting pressure from certain groups to do so. I think it comes right down to that simple issue. I preserve those rights no matter where I am in this state, whether I am in this facility here, I am in my backyard, or I am out on the highway. I still enjoy those rights that the Constitution gives us. When I was sworn in as a law enforcement officer and Maine state trooper in 1970, I took an oath to uphold the Constitution of the State of Maine and the United States of America. I tried to do that for a quarter of a century. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Denmark, Representative Sarty.

Representative **SARTY**: Thank you, Mr. Speaker. Just to clarify a couple comments that have been made. Game wardens, state troopers, deputy sheriffs, and local police officers, by statute, all have equal authority. There is no difference. Whatever authority a game warden has is also the authority of other law enforcement agencies in this state. That is clearly stated in statute.

The only other comment I would like to make is the reference to the Constitution. There is nothing more precious than the Constitution. We all take an oath as we go into law enforcement. No matter what part we go into that is part of the oath. We take that same oath here. I have never perceived in 34 years in law enforcement, that it got in the way of me exercising my responsibilities. In fact, just the opposite, it was the guideline. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I spoke several years ago regarding this and I will be brief and speak this year again. I believe that we need to be very careful about anything that infringes on our constitutional rights and I will read from a guide regarding this bill. It says, this bill allows a game warden to stop an all-terrain vehicle without a reasonable and articulable suspicion. If I am sitting at the end of my driveway in an ATV, a game warden, if this is passed, can come and search my vehicle and me, even if I am doing nothing and have done nothing wrong. That's wrong. We are here to defend the Constitution and I urge you to not weaken our Constitution. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Dion.

Representative **DION**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Last night I took the time to read the law court decision and, much like the Legislature, they returned a divided report. No surprise. Even those who believe themselves to be smarter were not able to draw a conclusion of consensus. But I have to say in reading that decision, I fell in with the minority, that the preservation of what the Fourth Amendment is about, which is about government restraint. It's not about personal rights. It's not about property rights. It's about insuring that the government never overreaches, never oversteps its bounds, and that when it chooses to act against a citizen, it does so with cause and with focus and with process. That's the Fourth Amendment. I read our Maine Constitution and our founders of the state had a similar intent, that no government agent would act without process due its citizen.

I've come late to this battle over property rights. As a city dweller it seems far away. As a sheriff I've seen my deputies chase ATVs and how frustrating it is. But I do understand that we are here to protect all of us from ourselves, so I don't read this Constitution as a liberal. I tend to read it more as a conservative, that we should be cautious about granting the government and its

agents – and I was one of them for 33 years – more authority than what we're due. If we see it right to give wardens this authority to act without suspicion, then grant it to all of us, because I've got drug detectives that would like to clear out a few neighborhoods or good state troopers that could get a lot done if they could just randomly pull people over and run their papers. We've got good officers out there, but our ethic has to be clear. We shall not act without reasonable suspicion or probable cause. That is the language of the document.

Now in fairness to my peers in this body who shared a similar responsibility in a prior life, it doesn't take a whole lot to get reasonable suspicion to begin with, all right? We make it sound like it is an incredible hurdle and we need to move it out of the way so wardens can get their job done, and I declare that any warden, trooper or sheriff or police officer, worth her salt or his, can get the job done today without an assault on the Constitution. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Hinck.

Representative **HINCK**: Thank you, Mr. Speaker. I seek permission to ask a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative **HINCK**: I don't want to prolong the debate but reading the bill, the amendment to the bill, leads me to the question of whether the bill matches its summary, and perhaps someone here can tell me if the summary and the bill are both correct?

As I read the bill, as I read the amendment, language would be removed that required that a warden has reasonable and articulable suspicion to believe that a violation of law has taken place or is taking place, and yet the summary says that the amendment does not expand or otherwise restrict the current authority of game wardens or other law enforcement officers. I can't square those two provisions. I was wondering if anyone here could?

The SPEAKER: The Representative from Portland, Representative Hinck, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Standish, Representative Shaw.

Representative **SHAW**: Thank you very much, Mr. Speaker. Mr. Speaker, Men and Women of the House. We've heard about the Fourth Amendment a lot tonight. I just wanted to make a couple points on that.

The Maine Supreme Judicial Court did make their ruling on that. That was what they were there to do and they ruled that it was not a violation of the Fourth Amendment of the person that got pulled over on the ATV. If we were talking about operating your ATV on public ways, I think a lot of the people that are arguing for this bill would probably be against it. But we're not. We're talking about operating your ATV on somebody else's private property and that's where the difference comes in.

In my thinking, if you are operating your ATV on private property, current law says that you have to have that person's permission. If it is cropland or orchard, then you would have to have written permission. The articulable suspicion law was put in, in the last session of the Legislature, and it was passed. Previous to that, the law was that they did not need the articulable suspicion and they did not get one single complaint about law enforcement pulling over an ATV in their own driveway and hassling the people, not one.

We just can't stress enough folks, this is about private property. If this were public ways, I'd have a problem with it based on the Fourth Amendment. But it's not about public ways or public property. This is about private property and ATVs riding

over somebody else's private property mainly. Thank you, Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 62**

YEA - Beaudoin, Beaulieu, Beavers, Beck, Bennett, Berry, Bickford, Black, Bolduc, Briggs, Burns DR, Cain, Casavant, Cebra, Chase, Clark H, Clark T, Clarke, Cotta, Crockett, Cushing, Dow, Driscoll, Duchesne, Eberle, Edgecomb, Espling, Flood, Fossel, Foster, Gilbert, Gillway, Goode, Hamper, Harmon, Harvell, Hayes, Hunt, Innes Walsh, Kaenrath, Kent, Keschl, Knapp, Knight, Kumiega, Lajoie, Luchini, MacDonald, Maker, Malaby, Maloney, McCabe, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Nelson, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Pilon, Prescott, Rankin, Richardson D, Richardson W, Rochelo, Rosen, Sanborn, Sanderson, Sarty, Shaw, Sirocki, Theriault, Tilton, Tuttle, Valentino, Volk, Wagner R, Waterhouse, Weaver, Welsh, Willette A, Willette M, Wood, Mr. Speaker.

NAY - Ayotte, Beliveau, Blodgett, Boland, Bryant, Burns DC, Carey, Chapman, Chipman, Cornell du Houx, Crafts, Cray, Curtis, Damon, Davis, Dill J, Dion, Dunphy, Eves, Fitts, Fitzpatrick, Flemings, Fredette, Gifford, Graham, Guerin, Harlow, Haskell, Herbig, Hinck, Johnson D, Johnson P, Kruger, Libby, Long, Longstaff, Lovejoy, Martin, Mazurek, Morrison, Newendyke, O'Brien, Picchiotti, Priest, Rioux, Rotundo, Russell, Stevens, Strang Burgess, Stuckey, Timberlake, Treat, Turner, Webster, Winsor, Wintle.

ABSENT - Celli, Hanley, Hogan, Plummer.

Yes, 90; No, 56; Absent, 4; Vacant, 1; Excused, 0.

90 having voted in the affirmative and 56 voted in the negative, 1 vacancy with 4 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-160)** was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Before we adopt Committee Amendment "A," for the record and for the Representatives who voted one way, I am now assuming that Seven Islands Company and Huber will now provide access so that the four-wheelers can now travel from Eagle Lake to Portage and Portage to Presque Isle.

Subsequently, **Committee Amendment "A" (H-160)** was **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 by Committee Amendment "A" (H-160)** and sent for concurrence.

---

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

---

## CONSENT CALENDAR

### First Day

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

(S.P. 336) (L.D. 1103) Bill "An Act To Speed Recovery of Amounts Due the State" Committee on **JUDICIARY** reporting **Ought to Pass**

(S.P. 407) (L.D. 1310) Bill "An Act To Amend the Laws Governing the Address Confidentiality Program" Committee on **JUDICIARY** reporting **Ought to Pass**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

---

(S.P. 409) (L.D. 1312) Bill "An Act To Require That Notaries Public Keep Records of Notarial Acts" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-117)**

On motion of Representative CAIN of Orono, was **REMOVED** from the First Day Consent Calendar.

The Unanimous Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

## REPORTS OF COMMITTEE

### Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-89)** on Bill "An Act To Eliminate the Sunset Date of the Maine Historic Preservation Tax Credit"

(S.P. 235) (L.D. 742)

Signed:

Senators:

TRAHAN of Lincoln  
HASTINGS of Oxford  
WOODBURY of Cumberland

Representatives:

KNIGHT of Livermore Falls  
BENNETT of Kennebunk  
BICKFORD of Auburn  
BURNS of Alfred  
HARMON of Palermo  
WATERHOUSE of Bridgton

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

Signed:

Representatives:

BERRY of Bowdoinham  
BRYANT of Windham  
FLEMINGS of Bar Harbor  
PILON of Saco

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-89) AS AMENDED BY SENATE AMENDMENT "A" (S-116)** thereto.

**READ.**

On motion of Representative KNIGHT of Livermore Falls, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (S-89) was **READ** by the Clerk.

**Senate Amendment "A" (S-116)** to Committee Amendment "A" (S-89) was **READ** and **ADOPTED**.

Committee Amendment "A" (S-89) as Amended by **Senate Amendment "A" (S-116)** thereto was **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 by Committee Amendment "A" (S-89) as Amended by Senate Amendment "A" (S-116)** thereto in 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. 645) (L.D. 878) Bill "An Act To Provide a Temporary License To Operate a Public Dance Establishment" Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-299)**

(H.P. 667) (L.D. 908) Bill "An Act Regarding Gas Utilities under the Safety Jurisdiction of the Public Utilities Commission" Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-298)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

---

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

(H.P. 744) (L.D. 1008) Bill "An Act To Limit the Use of Social Security Numbers by State Agencies" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-303)**

There being no objections, the above item was ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

## UNFINISHED BUSINESS

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

An Act To Increase the Availability of Independent Medical Examiners under the Workers' Compensation Act of 1992 (EMERGENCY)

(H.P. 791) (L.D. 1056)  
(C. "A" H-204)

**TABLED** - May 16, 2011 (Till Later Today) by Representative CUSHING of Hampden.

**PENDING - PASSAGE TO BE ENACTED.**

On motion of Representative TUTTLE of Sanford, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-204)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-279)** to **Committee Amendment "A" (H-204)** which was **READ** by the Clerk.

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

Representative **TUTTLE**: Mr. Speaker, this is a technical amendment. This was a unanimous report from the Committee on Labor. Essentially the amendment clarifies that an independent medical examiner chosen by an employer to conduct an examination of an employee is limited to performing 12 such examinations in one calendar year. Thank you, Mr. Speaker.

Subsequently, **House Amendment "A" (H-279)** to **Committee Amendment "A" (H-204)** was **ADOPTED**.

**Committee Amendment "A" (H-204)** as Amended by **House Amendment "A" (H-279)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-204)** as Amended by **House Amendment "A" (H-279)** thereto in **NON-CONCURRENCE** and sent for concurrence.

---

**SENATE DIVIDED REPORT - Majority (12) Ought to Pass - Minority (1) Ought to Pass as Amended by Committee Amendment "A" (S-36) - Committee on TRANSPORTATION on Bill "An Act To Prohibit Texting while Driving"**

(S.P. 228) (L.D. 736)

- In Senate, Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-39)**.

**TABLED - April 26, 2011 (Till Later Today)** by Representative **PARRY** of Arundel.

**PENDING - Motion of same Representative to ACCEPT** the Majority **OUGHT TO PASS** Report.

Representative **CAIN** of Orono **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**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 63**

**YEA - Ayotte, Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Bennett, Berry, Bickford, Black, Blodgett, Boland, Bolduc, Briggs, Bryant, Burns DC, Burns DR, Cain, Carey, Casavant, Cebra, Chapman, Chase, Chipman, Clark H, Clark T, Clarke, Cornell du Houx, Cotta, Crafts, Cray, Curtis, Cushing, Damon, Davis, Dill J, Dion, Dow, Driscoll, Duchesne, Edgcomb, Espling, Eves, Flemings, Flood, Fossel, Foster, Fredette, Gifford, Gilbert, Gillway, Goode, Graham, Guerin, Hamper, Harlow, Harmon, Harvell, Haskell, Hayes, Herbig, Hinck, Hunt, Innes Walsh, Johnson P, Kent, Keschl, Knapp, Knight, Kruger, Kumiega, Lajoie, Long, Longstaff, Lovejoy, Luchini, MacDonald, Maker, Malaby, Maloney, Martin, Mazurek, McCabe, McFadden, McKane, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Brien, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Pilon, Prescott, Priest, Rankin, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Rotundo, Russell, Sanborn, Sanderson, Shaw, Sirocki, Strang Burgess, Stuckey, Theriault, Timberlake, Treat, Turner, Tuttle, Valentino, Volk,**

**Wagner R, Weaver, Webster, Welsh, Willette A, Wood, Mr. Speaker.**

**NAY - Dunphy, Fitts, Fitzpatrick, Johnson D, Kaenrath, Libby, McClellan, O'Connor, Stevens, Tilton, Waterhouse, Winsor, Wintle.**

**ABSENT - Celli, Crockett, Eberle, Hanley, Hogan, Plummer, Sarty, Willette M.**

Yes, 129; No, 13; Absent, 8; Vacant, 1; Excused, 0.

129 having voted in the affirmative and 13 voted in the negative, 1 vacancy with 8 being absent, and accordingly the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Senate Amendment "A" (S-39)** 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 by Senate Amendment "A" (S-39)** in concurrence.

---

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

---

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Tuttle, who wishes to address the House on the record.

Representative **TUTTLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I received a memo from Representative Tilton of Cherryfield and with deep regret she advised me of the death of the former Honorable Frank Farren from Cherryfield. He was elected to the Maine State House of Representatives from 1986 and served until 1994. I did serve with him. He was on the Agriculture Committee and Energy and Natural Resources Committee. He was a friend, a U.S. Army veteran and a very good legislator, and I would ask that today when we adjourn, we do so in his memory, Mr. Speaker.

---

Bill "An Act To Tax Water Used by Hydroelectric Facilities"

(H.P. 1156) (L.D. 1574)

(Committee on **TAXATION** suggested)

**TABLED - May 16, 2011 (Till Later Today)** by Representative **KNIGHT** of Livermore Falls.

**PENDING - REFERENCE.**

Representative **KNIGHT** of Livermore Falls moved that the House **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

The **SPEAKER**: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Bear with me. I've got a 43 minute speech at hand in front of me and having a sidebar with the Speaker, I've nailed it down to 30 seconds.

Mr. Speaker, Men and Women of the House, I want to thank the body for bearing with me. As you know we're having some delicate serious talks going on in the Katahdin area. When I first submitted this bill, as you know, we did not have a potential buyer. We had notification that they were going to dismantle the mills, tear them down and move it out and make a parking lot. So I would not be any kind of Representative if I sat back on my heels and not do anything for the people in the Katahdin area.

I want to assure you that my major goal is to get those mills up and running, make sure the buyers are intact, and make sure that we have a stable workforce in the Katahdin area. With that, Mr. Speaker, I want to thank you all very much for bearing with me.

Subsequently, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

---

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

---

On motion of Representative TILTON of Harrington, the House adjourned at 5:24 p.m., until 10:00 a.m., Monday, May 23, 2011, pursuant to the Joint Order (S.P. 508) and in honor and lasting tribute to the Honorable Frank Harold Farren, Jr., of Cherryfield, and all of those members of the law enforcement services in the State of Maine, and throughout this country, for their devotion and their giving of the ultimate sacrifice.