

MAINE STATE LEGISLATURE

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Pages 777-1562

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. This amendment is even more regressive than the last one. I ask that the motion to Indefinitely Postpone be carried.

Representative BROWNE of Vassalboro REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-843) to Committee Amendment "A" (S-359)**.

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 Waterboro, Representative Jacobsen.

Representative JACOBSEN: Mr. Speaker, Ladies and Gentlemen of the House. I don't believe that many of us have given this a lot of thought. I believe we should do our math. I believe that we should consider the capabilities of a young person going to work for the first time. I believe we should consider how long our mom-and-pop independent restaurants, corner stores are going to survive. How long is it going to take before we are in a vending machine society where we don't need to give any of these kids' jobs? We are forcing everybody to cut out the small jobs, the starting jobs that employ young people. How many jobs are we going to eliminate today? How much pressure can you put on us small businesses? How many more kids are going to be hanging around street corners because they don't have a job because they are not learning responsibility? I know I am emotional on this, but I have an awful lot of kids work for me, an awful lot of young people. It is regretful that a lot of these small businesses are going to have to terminate employees. I can buy, like many restaurants, an awful lot of things pre-made, ready to go, take it out of the box and sell it. I can do away with a lot of jobs for these young people. I don't want to. Others don't want to, but we will be forced to do it in order to survive. We can't survive now with our next door neighbors. They are paying \$5.15 an hour. What we are creating here is a tragedy. Go home and ask your small businesses how they feel about this? Ask the people who run these businesses who work 70 and 80 hours a week. They know what hard times are. They realize it is going to get worse. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-843) to Committee Amendment "A" (S-359). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 407

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Gerzofsky, Glynn, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, McGlocklin, McLaughlin, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Mr. Speaker.

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Finch, Fischer, Fletcher, Heidrich, Honey, Hotham, Jacobsen, Joy, Kaelin, Ledwin, Lewin, Lundeen, Maietta, Marraché, McCormick, McGowan, McKenney, McNeil, Millett, Moore, Muse, Nutting, O'Brien J, Peavey-Haskell,

Rector, Richardson E, Richardson M, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Wotton.

ABSENT - Annis, Bennett, Bryant-Deschenes, Cowger, Gagne-Friel, Goodwin, Greeley, Jodrey, McKee, Mills J, Murphy, Perry A, Rogers, Tardy, Wheeler, Young.

Yes, 69; No, 66; Absent, 16; Excused, 0.

69 having voted in the affirmative and 66 voted in the negative, with 16 being absent, and accordingly **House Amendment "A" (H-843) to Committee Amendment "A" (S-359) was INDEFINITELY POSTPONED**.

Subsequently, the House voted to **CONCUR**.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry who wishes to address the House on the Record.

Representative PERRY: Mr. Speaker, Men and Women of the House. In this last vote I attempted to vote, but it did not light up. I would have voted yes.

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

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

HOUSE DIVIDED REPORT - Majority (6) Ought to Pass as Amended by Committee Amendment "A" (S-475) - Minority (5) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Strengthen the Enforcement Provisions of the Maine Health Data Organization"

(S.P. 730) (L.D. 1884)

Which was **TABLED** by Representative KANE of Saco pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Mr. Speaker, Men and Women of the House. The Maine Health Data Organization is charged with the responsibility of collecting information to help us manage and improve health care costs and quality. To do that we have been increasing in both volume and quality of health care data that we collect with respect to the cost and outcomes of care. The increase requires vigilant oversight in protecting the confidentiality and the security of the data. That is the job of the MHDO. With the creation of a substantial increase in the demand and use of the data, MHDO needs to send a clear signal to all data users the confidentiality and data use agreements are to be taken seriously and failure to do so will result in substantial fines.

Currently all hospitals and health care providers help finance the MHDO operation and should to be subject to exploitation of others who would abuse the use of data. The purpose of LD 1884 is to strengthen the enforcement provisions of the Maine Health Data Organization, which are outdated and inconsistent with other sections of the Maine Revised Statutes. The amendment provides a person who intentionally or knowingly engages in the unauthorized misuse of individually identifiable health information or data obtained from organizations are subject to civil fines of up to \$250,000, an amount that is commensurate with the provisions of the Federal Health Insurance Portability and Accountability Act of 1996 for the

knowing wrongful disclosure of individually identifiable health information.

The amendment allows the organization to refer failures to comply with the requirements to the appropriate department or licensing board or to the Department of Professional and Financial Regulation. The Bureau of Insurance ought to file a complaint in Superior Court. The amendment also allows the Attorney General to pursue an injunction or other appropriate remedies for violation to the chapter. The Majority Report will help protect the rights of those who expect that the data that they submit to help manage health care costs will not be exploited. I urge you to support the pending motion. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Curley.

Representative CURLEY: Mr. Speaker, Men and Women of the House. I appreciate the comments of my colleague from Saco describing what the Maine Health Data Organization does. For all of the health care providers and our communities, our physicians, nursing homes, hospitals, they must every year provide data to this group and they get to pay for that privilege. Not only do they have to pay for the data, but if they want to have the data looked at in a different way or look at someone else's information, they have to buy their own report back, their own data and those of others.

To move onto this fine, this bill proposes that the fine is increased for anyone misusing the data. We certainly don't want it misused, but the fine increases from \$2,500 to \$250,000. When I heard that number, my first thought was this must be a really big problem. Why would we strengthen the enforcement unless we knew we had a problem? The interesting thing was the director of this organization, I asked him, how many problems have you had that you feel you have to raise the enforcement or strengthen this at such a magnitude? I was surprised by the answer. There has never been a problem. I just want to repeat that. There has never been a problem, yet this bill proposes increasing a fine from \$2,500 to \$250,000. I really don't know why this organization would raise the fine so much when there has never been a problem. I am voting no on this bill.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

A vote of the House was taken. 63 voted in favor of the same and 60 against, and accordingly the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-475)** was **READ** by the Clerk and **ADOPTED**.

On motion of Representative SHIELDS of Auburn, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-475)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-873) to Committee Amendment "A" (S-475)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative SHIELDS: Mr. Speaker, Ladies and Gentlemen of the House. This organization has tried to strengthen its hold on the people that report to it. You just voted on a bill that has a lot of heavy fines and enforcement through the Attorney General. They left out one thing. They left out themselves and that is what my amendment does. It just says that they are going to be subject to the same scrutiny and the same fines if they violate the rules of the organization and violate the confidentiality. I hope this can be accepted.

Representative KANE of Saco moved that **House Amendment "A" (H-873) to Committee Amendment "A" (S-475)** be **INDEFINITELY POSTPONED**.

Representative KANE: Mr. Speaker, Men and Women of the House. The Maine Health Data Organization is a state entity and its employees and management are governed by state personnel policies for any violations. I urge Indefinite Postponement of the proposed House Amendment "A."

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative SHIELDS: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will hold this organization accountable and vote against the current motion. Mr. Speaker, I ask for the yeas and nays.

Representative SHIELDS of Auburn **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-873) to Committee Amendment "A" (S-475)**.

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 Indefinite Postponement of House Amendment "A" (H-873) to Committee Amendment "A" (S-475). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 408

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Bull, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Gerzofsky, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McGowan, McLaughlin, Mills J, Mills S, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Glynn, Heidrich, Honey, Hotham, Jacobsen, Joy, Kaelin, Ledwin, Lewin, Maietta, Marraché, McCormick, McKenney, McNeil, Millett, Moore, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

ABSENT - Annis, Bennett, Browne W, Bruno, Bryant-Deschenes, Bunker, Eder, Fletcher, Gagne-Friel, Goodwin, Greeley, Jodrey, McKee, Murphy, Rogers, Sukeforth, Tardy, Wheeler, Young.

Yes, 77; No, 55; Absent, 19; Excused, 0.

77 having voted in the affirmative and 55 voted in the negative, with 19 being absent, and accordingly **House Amendment "A" (H-873) to Committee Amendment "A" (S-475)** was **INDEFINITELY POSTPONED**.

Subsequently, **Committee Amendment "A" (S-475)** 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-475)** in concurrence.

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