

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 2, 1995 to June 16, 1995

The Committee on **CRIMINAL JUSTICE** on Bill "An Act to Amend the Maine Bail Code"

H.P. 1000 L.D. 1411

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-483)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-483)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-483) **READ** and **ADOPTED**, in concurrence.

The Bill, as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Clarify the Forcible Entry and Detainer Law"

H.P. 982 L.D. 1390

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-479)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-479) **READ** and **ADOPTED**, in concurrence.

The Bill, as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Create the Overhead High-voltage Line Safety Act"

H.P. 894 L.D. 1247

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-484)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-484)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-484) **READ** and **ADOPTED**, in concurrence.

The Bill, as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **UTILITIES AND ENERGY** on Bill "An Act to Establish Safety Standards for All Utility Facilities"

H.P. 997 L.D. 1407

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-472)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-472)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-472) **READ** and **ADOPTED**, in concurrence.

The Bill, as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act Concerning the Liability of Governmental Entities for the Use by Employees of Private Motor Vehicles"

H.P. 824 L.D. 1155

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-423)**.

Signed:

Senators:

ABROMSON of Cumberland
SMALL of Sagadahoc

Representatives:

VIGUE of Winslow
CAMPBELL of Holden
GUERRETTE of Pittston
JONES, JR. of Pittsfield
LUMBRA of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-424).**

Signed:

Senator:

MCCORMICK of Kennebec

Representatives:

CHASE of China
GATES of Rockport
MAYO, III of Bath
PAUL of Sanford
SAXL of Portland

Comes from the House 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" (H-423).**

Which Reports were **READ**.

Senator **ABROMSON** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-423)** Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you, Mr. President, Men and Women of the Senate. The story behind this bill is that it is because of a recent court case. The court ruled that for employees who are asked to use their vehicles in the course of their job, for state employees who are asked to use their vehicles in the course of their job, that the State Risk Management Fund must be in the primary position in terms of liability. That's what the court ruled. Previous to that we had thought, and the budget had reflected, us, the State Risk Management, being in a secondary position for liability. This bill was brought in order to countermand what the court said was fair, in order to make the State be in a secondary position in liability. The six members of the Banking and Insurance Committee who signed the minority report feel that the court was expressing what is fair and just, but, of course, their position would have cost us half a million dollars. So, our minority report is a compromise, is a slight gesture towards fairness. I would urge you to oppose the majority report which basically countermands the court's decision, and seriously consider the compromise minority report which would merely ask the State to pay for any increase in premium caused by accidents for State employees who are asked to use their vehicles in the course of their job.

Some interesting statistics on this, if you are

interested. The total mileage of State employees who are asked to use their vehicles in the course of their job is about 20 million miles per year. They have about 50 accidents per year, and that is all. So, we are talking about an increase in premium to 50 policies. We believe that it is the cheapest way of getting towards fairness. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Abromson.

Senator **ABROMSON:** Thank you, Mr. President. What the bill does is eliminates the sunset which currently exists where governmental entities can continue their current practice of not defending or indemnifying an employee who used a privately-owned vehicle in the course of employment. When we first heard this we said this doesn't sound very fair if somebody uses their own car to carry out their employer's work. But we had testimony from Risk Management, and as we all know, in private industry, current practice is consistent with most other states and with private businesses. The change in practice now would cost the State at least half a million dollars to purchase primary liability insurance for its employees. So, what we would like to do is continue the way we are going and we also, I believe, will come up with a separate bill in which we believe that the way to handle this is to treat employees like the federal employees and many private employees, by increasing the mileage allowance so that would take care of their insurance as well.

Another problem with trying to do the difference between if they have an accident and their premium goes up, and they change cars or they have a child who becomes eligible, there are so many variables in just trying to figure how much this change in premium would be that it is a nightmare. So we feel that the best way is to continue the way we are going and try to put in a change in the mileage allowance. I would urge the passage of the majority report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **MCCORMICK:** Thank you, Mr. President. Just to clarify. The change in the mileage reimbursement to state employees, which is currently at twenty-two cents a mile, was endorsed by every member of the Committee, but it is totally outside of our control. It is a negotiated item and state employees are way behind what the IRS allows for reimbursement. The minority report is the compromise and moves us a baby step towards fairness for employees who are required to use their own vehicles in the course of their jobs. Thank you.

On motion by Senator **MCCORMICK** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **ABROMSON** of Cumberland that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-423)** Report, in concurrence.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, BEGLEY, BENOIT,
BERUBE, CARPENTER, CASSIDY,
FERGUSON, GOLDTHWAIT, HALL,
HANLEY, HARRIMAN, HATHAWAY,
KIEFFER, LORD, MILLS, PENDEXTER,
SMALL, STEVENS, and the
PRESIDENT, Senator BUTLAND

NAYS: Senators: BUSTIN, CAREY, CLEVELAND, ESTY,
FAIRCLOTH, LAWRENCE, LONGLEY,
McCORMICK, MICHAUD, PARADIS,
PINGREE, RAND, RUHLIN

ABSENT: Senators: AMERO, CIANCHETTE, O'DEA

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 3 Senators being absent, the motion by Senator ABROMSON of Cumberland to ACCEPT the Majority OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-423) Report, in concurrence, PREVAILED.

The Bill READ ONCE.

Committee Amendment "A" (H-423) READ and ADOPTED, in concurrence.

The Bill, as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act to Require a 24-Hour Waiting Period before an Abortion May Be Performed"

H.P. 464 L.D. 630

Reported that the same Ought Not to Pass.

Signed:

Senators:

MILLS of Somerset
PENDEXTER of Cumberland
FAIRCLOTH of Penobscot

Representatives:

TREAT of Gardiner
RICHARDSON of Portland
LEMKE of Westbrook
WATSON of Farmingdale
LAFOUNTAIN, III of Biddeford
JONES of Bar Harbor
HARTNETT of Freeport
NASS of Acton

The Minority of the same Committee on the same subject reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-474).

Signed:

Representative:

MADORE of Augusta

Comes from the House with the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

Which Reports were READ.

Senator MILLS of Somerset moved that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Michaud.

Senator MICHAUD: Thank you, Mr. President, Men and Women of the Senate. I hope you would vote against the pending motion, so we can go on to the minority ought to pass report. I will not belabor this. I think most of us know how we are going to be voting on this issue. The minority report requires a twenty-four hour waiting period before an abortion can be performed. Mr. President, when the vote is taken, I request a Roll Call. Thank you.

On motion by Senator MICHAUD of Penobscot, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by Senator MILLS of Somerset that the Senate ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: ABROMSON, BEGLEY, BENOIT,
BUSTIN, CARPENTER, CLEVELAND,
ESTY, FAIRCLOTH, FERGUSON,
GOLDTHWAIT, HARRIMAN, LAWRENCE,
LONGLEY, McCORMICK, MILLS,
PENDEXTER, PINGREE, RAND,
RUHLIN, SMALL, STEVENS, and the
PRESIDENT, Senator BUTLAND

NAYS: Senators: BERUBE, CAREY, CASSIDY, HALL,
HANLEY, HATHAWAY, KIEFFER, LORD,
MICHAUD, PARADIS