MAINE STATE LEGISLATURE

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Legislative Record

House of Representatives

One Hundred and Thirty-First Legislature

State of Maine

Daily Edition

First Special Session

Beginning April 5, 2023

Beginning with Page H-277

Representatives:
SALISBURY of Westbrook
LOOKNER of Portland
MADIGAN of Waterville
MATHIESON of Kittery
MILLIKEN of Blue Hill

Six Members of the same Committee report in Report "B" **Ought Not to Pass** on same Bill.

Signed:
Senators:
HARRINGTON of York
LaFOUNTAIN of Kennebec
Representatives:
ARDELL of Monticello
NEWMAN of Belgrade
NUTTING of Oakland
PERKINS of Dover-Foxcroft

READ.

Representative SALISBURY of Westbrook moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended**.

On motion of Representative TERRY of Gorham, **TABLED** pending the motion of Representative SALISBURY of Westbrook to **ACCEPT** Report "A" **Ought to Pass as Amended** and later today assigned.

Six Members of the Committee on **TAXATION** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-627)** on Bill "An Act to Reduce the Income Tax to 4.5 Percent on the Lowest Tax Bracket and Remove Low-income Families from Taxation"

(H.P. 1069) (L.D. 1671)

Signed:
Senator:
LIBBY of Cumberland
Representatives:
CARMICHAEL of Greenbush
LAVIGNE of Berwick
LIBBY of Auburn
QUINT of Hodgdon
RUDNICKI of Fairfield

Six Members of the same Committee report in Report "B" **Ought Not to Pass** on same Bill.

Signed:
Senator:
GROHOSKI of Hancock
Representatives:
PERRY of Bangor
CROCKETT of Portland
HASENFUS of Readfield
MATLACK of St. George
RANA of Bangor

READ.

On motion of Representative PERRY of Bangor, Report "B" **Ought Not to Pass** was **ACCEPTED** and sent for concurrence.

Seven Members of the Committee on **JUDICIARY** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-596)** on Bill "An Act to Increase Access to Necessary Medical Care for Certain Minors"

(H.P. 340) (L.D. 535)

Signed:
Senators:
CARNEY of Cumberland
BAILEY of York
Representatives:
MOONEN of Portland
KUHN of Falmouth
LEE of Auburn
RECKITT of South Portland
SHEEHAN of Biddeford

Four Members of the same Committee report in Report "B" **Ought Not to Pass** on same Bill.

Signed:
Representatives:
ANDREWS of Paris
HAGGAN of Hampden
HENDERSON of Rumford
POIRIER of Skowhegan

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-597)** on same Bill.

Signed:
Senator:
BRAKEY of Androscoggin

One Member of the same Committee reports in Report "D" **Ought to Pass as Amended by Committee Amendment "C" (H-598)** on same Bill.

Signed:
Representative:
MORIARTY of Cumberland

Representative DANA of the Passamaquoddy Tribe - of the House - supports Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-597)**.

READ.

On motion of Representative MOONEN of Portland, **TABLED** pending **ACCEPTANCE** of any Report and later today assigned.

Eight Members of the Committee on **JUDICIARY** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-652)** on Bill "An Act to Amend the Laws Governing Damages Awarded for Wrongful Death"

(H.P. 581) (L.D. 934)

Signed:
Senators:
CARNEY of Cumberland
BAILEY of York
Representatives:
MOONEN of Portland
KUHN of Falmouth
LEE of Auburn
MORIARTY of Cumberland
RECKITT of South Portland
SHEEHAN of Biddeford

Two Members of the same Committee report in Report "B" **Ought Not to Pass** on same Bill.

Signed:

Representatives:

ANDREWS of Paris

POIRIER of Skowhegan

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-653)** on same Bill.

Signed:

Senator:

BRAKEY of Androscoggin

One Member of the same Committee reports in Report "D" **Ought to Pass as Amended by Committee Amendment "C" (H-654)** on same Bill.

Signed:

Representative:

HAGGAN of Hampden

One Member of the same Committee reports in Report "E" **Ought to Pass as Amended by Committee Amendment "D" (H-655)** on same Bill.

Signed:

Representative:

HENDERSON of Rumford

Representative DANA of the Passamaquoddy Tribe - of the House - supports Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-653)**.

READ.

Representative MOONEN of Portland moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended**.

Representative POIRIER of Skowhegan **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought to Pass as Amended**.

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 Houlton, Representative Swallow.

Representative **SWALLOW**: Thank you, Madam Speaker. I stand in opposition to this motion. Wrongful death is defined as the death of a human being which was the result of a wrongful act of another person. A wrongful death suit can be filed on behalf of decedent's heirs or beneficiaries against the person who caused the death. And wrongful death Statutes differ by state, and each state determines their own limits. Most often, wrongful death lawsuits are filed on behalf of family members who have lost the support or company of the deceased. Probably the most common example of a wrongful death that most could identify with would be an individual who while driving negligently causes the death of another. Damages under wrongful death fall into three different categories. They include compensatory, noneconomic and punitive.

Compensatory damages are the more ubiquitous and make restitution for money lost, they're pecuniary issues. Maine Law states that, quote; the jury may give damages as it determines fair and just compensation with reference to the pecuniary injuries resulting from the death. This would be the compensation for lost wages, et cetera, to the family. This is the economic part. There is no dollar limit on compensatory compensation in the State of Maine. Non-economic damages, on the other hand, would change under this bill and noneconomic damages would include comfort, society, companionship and emotional distress. In the case of LD 934, this would be raised from $750,000 to $1 million. Then there are the third part, the punitive damages. They are awarded in cases where the crime may have been so heinous or reckless that they want to punish the defendant and LD 934 would raise punitive damages from $250 to 500,000.

The genesis of this bill is both the non-economic and punitive damages. This legislation can create yet another additional increase in insurance premiums of auto, home, recreational vehicles, businesses and more for all Mainers. And by relative historical standards, the current limits are more than sufficient without any increase. I ask that we consider the following. Not only will this result in an increase in insurance premiums of Mainers but at the same time, the limit for our Maine Government is and will remain $400,000 per incident, period. Few Mainers have sufficient insurance to cover this exposure. It's estimated that probably 15% of Mainers have sufficient coverage for these damage limits. The current non-economic limit was set in 2019 and that still exceeds the rate of inflation from the past 2007 increase in the limit. Madam Speaker, Mainers already are burdened by escalated insurance premiums which are caused by increased inflationary costs on vehicles, homes, businesses and more. When combined, the expanded insurance premiums to Mainers prompted by this bill and other legislation that we have considered will have a severe incremental effect on the insurance costs of our constituents. Let's help maintain Maine's affordable insurance environment and follow my light. Thank you, Madam Speaker.

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

Representative **MOONEN**: Thank you, Madam Speaker. Madam Speaker, Colleagues of the House, this bill does propose a $250,000 increase, as the Representative from Houlton said. The current cap is $750,000; the Majority Report in front of us would raise it to $1 million.

I just want to point out a couple things. One is that 12 out of the 14 Members of this Committee agree that this bill should pass in some form. Unfortunately, we couldn't quite all get on the same page with the details of that. There are Minority Reports that propose significantly higher dollar amounts to increase the cap than what the Majority Report does and I would love to get on board with those dollar amounts, but those amendments have some other pieces that I can't get on board with. But what I can tell you about the Majority Report is it's a very modest increase of $250,000. Thirty-eight other states have no cap at all on wrongful death. Thirty-eight states have no cap and we're talking about changing ours from $750,000 to $1 million.

We heard hours of testimony from Mainers who lost a loved one in tragic, negligent, wrongful circumstances and deserve some level of accountability. And I would love for us to be one of those States that has no cap at all because I have a lot of faith that our juries are reasonable people. You know, you never see jury awards in Maine of $150 million for hot coffee. That doesn't happen here. Our juries provide very reasonable awards. And even still, those reasonable awards are artificially lowered to whatever the cap is that we set in Statute. I think this increase is very modest and for the people who we heard hours from who lost loved ones, it's a very small gesture to show that we understand the pain of their loss and I ask you to join me in supporting it. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Underwood.

Representative **UNDERWOOD**: Thank you, Madam Speaker. May I pose a question to the Chair, please?

The SPEAKER: The Member may proceed.

Representative **UNDERWOOD**: Looking at a damage suit in a case like this, they were awarded $1 million, how are lawyers' fees determined? Thank you.

The SPEAKER: The Member has posed a question to anyone who cares to answer. The Chair recognizes the Representative from Houlton, Representative Swallow.

Representative **SWALLOW**: Thank you, Madam Speaker, for letting me rise again. I would like to remind the Body that on the compensatory, there is no limit. That is there is no dollar limit whatsoever on that portion in this bill and there never has been in the State of Maine. And I'd also like to remind everyone that Maine has, according to the Bureau of Insurance, the lowest automobile rates in the nation and the way things are in this State with costs going up, I would advise us to keep it the way it is. Thank you.

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

ROLL CALL NO. 299

YEA - Ankeles, Arford, Bell, Boyer, Boyle, Brennan, Bridgeo, Cloutier, Cluchey, Collings, Copeland, Crafts, Craven, Dhalac, Dill, Dodge, Doudera, Fay, Gattine, Geiger, Gere, Golek, Graham, Gramlich, Hasenfus, Henderson, Hepler, Hobbs, Jauch, Kessler, Kuhn, LaRochelle, Lee, Lookner, Madigan, Malon, Mastraccio, Mathieson, Matlack, Meyer, Millett R, Milliken, Montell, Moonen, Moriarty, Murphy, O'Connell, O'Neil, Osher, Perry A, Perry J, Pluecker, Pringle, Rana, Reckitt, Rielly, Roberts, Roeder, Runte, Russell, Sachs, Salisbury, Sargent, Sayre, Shagoury, Shaw, Sheehan, Skold, Stover, Supica, Terry, Warren, White B, Williams, Worth, Zager, Madam Speaker.

NAY - Adams, Albert, Andrews, Arata, Ardell, Babin, Bagshaw, Blier, Bradstreet, Campbell, Carlow, Carmichael, Collamore, Costain, Cray, Cyrway, Davis, Drinkwater, Ducharme, Dunphy, Faulkingham, Foster, Fredericks, Galletta, Gifford, Greenwood, Griffin, Guerrette, Haggan, Hall, Hymes, Jackson, Lanigan, Lemelin, Libby, Lyman, Mason, Millett H, Morris, Ness, Newman, Nutting, Parry, Paul, Perkins, Poirier, Polewarczyk, Pomerleau, Quint, Riseman, Rudnicki, Sampson, Schmersal-Burgess, Simmons, Smith, Soboleski, Strout, Swallow, Theriault, Thorne, Underwood, Walker, White J, Wood.

ABSENT - Abdi, Crockett, Eaton, Javner, Landry, Lavigne, Paulhus, Woodsome, Zeigler.

Yes, 77; No, 64; Absent, 9; Vacant, 0; Excused, 1.

77 having voted in the affirmative and 64 voted in the negative, with 9 being absent and 1 excused, and accordingly Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-652)** 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-652)** and sent for concurrence.

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 (7) **Ought to Pass as Amended by Committee Amendment "A" (H-337)** - Minority (6) **Ought to Pass as Amended by Committee Amendment "B" (H-338)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act to Reclassify Certain Offenses Under the Motor Vehicle Laws and Increase the Efficiency of the Criminal Justice System"

(H.P. 262) (L.D. 429)

TABLED - June 7, 2023 (Till Later Today) by Representative SALISBURY of Westbrook.

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

Representative NUTTING of Oakland **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **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 Oakland, Representative Nutting.

Representative **NUTTING**: Thank you, Madam Speaker, Men and Women of the House. The Good Representative from Warren, Representative Pluecker, introduced two bills in this Legislature that did similar things. One of them we dealt with and is now resting on the Appropriations Table; dealt with offenses dealing in the Inland Fisheries and Wildlife division, reducing the penalties for violations with certain fishing and hunting regulations. That one kind of flew through here without much discussion at all and, like I say, it rests now on the Appropriations Table.

This bill, LD 429, is a similar bill that deals with motor vehicle infractions. And there are several problems with it. I will highlight just one. Perhaps you know someone who has at some time had a license plate with a month and year sticker on it which has expired. Perhaps you know somebody, perhaps you know somebody quite well, maybe they're seated next to you. For we all have, if we haven't had that offense, we've come painfully close on many occasions. So, take that set of circumstances and compare that to someone who registers a vehicle, gets the two little stickers that say June, takes them home and puts one on their Prius and one on their Ford truck and then drives them around hopefully for the next year without getting caught. If we pass this bill, LD 429, this will make those two offenses punishable by the same amount. And I submit to you that there is a big difference between forgetting to register your vehicle and for fraudulently registering two vehicles or making up a sticker with your Crayola pencils, taking a piece of white paper, coloring it the color of the month and sticking it on your car. These are things that go beyond just forgetting what you were supposed to do. As a matter of fact, when our Secretary of State testified in Committee, she said that we're not after people who simply forget to do something. And that's true, we're not. We want to treat them more fairly than somebody who colors their own inspection sticker or colors their own license or makes up their own license. I hope you'll agree that those two things are vastly different and I hope that you will vote Ought Not to Pass on the pending motion. Thank you.