

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Sixteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME I**

**FIRST REGULAR SESSION**

**House of Representatives**  
December 2, 1992 to May 13, 1993

Conference of Commissioners on Uniform State Laws  
(H.P. 74) (L.D. 104) (C. "A" H-26)

Were 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.

The following items appearing on Supplement No. 2 were taken up out of order by unanimous consent:

**SENATE PAPERS**

Bill "An Act to Amend the Maine Hunting Laws to Prohibit Discharges of Firearms across Paved Ways" (S.P. 282) (L.D. 853)

Came from the Senate, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Was referred to the Committee on Fisheries and Wildlife in concurrence.

Bill "An Act to Ensure the Timely Resolution of Complaints under the Maine Human Rights Act" (S.P. 283) (L.D. 854)

Bill "An Act Concerning Victims of Stalking" (EMERGENCY) (S.P. 284) (L.D. 855)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

Were referred to the Committee on Judiciary in concurrence.

Bill "An Act to Prohibit Voter Registration on Election Day" (S.P. 281) (L.D. 852)

Came from the Senate, referred to the Committee on Legal Affairs and Ordered Printed.

Was referred to the Committee on Legal Affairs in concurrence.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

**SENATE PAPER**

The following Joint Order: (S.P. 285)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, March 15, 1993, at four o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

**ORDERS OF THE DAY**

**UNFINISHED BUSINESS**

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

Bill "An Act to Amend the Confidentiality Provisions of the Maine Juvenile Code" (EMERGENCY) (S.P. 251) (L.D. 770) (Governor's Bill) TABLED - March 9, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield. PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and specially assigned for Monday, March 15, 1993.

**TABLED AND TODAY ASSIGNED**

The Chair laid before the House the first tabled and today assigned matter:

HOUSE ORDER relative to Propounding Questions to the Justices of the Supreme Judicial Court. (Relative to I.B. 1, L.D. 751) TABLED - March 9, 1993. (Pursuant to House Rule #40) PENDING - Passage.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: The Order before us is an Order asking the opinion of the Supreme Judicial Court in regard to L.D. 751. Article VI, section 3 of the Constitution provides for the Justices of the Supreme Judicial Court to render their opinion from time to time when so requested by the members of the House and Senate. Many of us believe this is one of those times.

As you know, we are dealing with L.D. 751 which is the citizens initiative to limit terms on all legislators as well as constitutional officers.

The concern has been raised by many people including the Attorney General of this state that there may be some questions of legality regarding this particular measure which in fact would change state statutes dealing with eligibility requirements for legislators heretofore thought to have been the purview of the Constitution which is very specific in terms of the requirements and eligibility of any member as well as the Constitutional Officers.

The three questions - I presented this on Friday but I indicated to Representative Whitcomb I wanted to table it in order to give people an opportunity to read this and if they had suggestions to talk about that. Yesterday it was tabled pursuant to the rules which require any request of the Justices to be tabled.

Let me repeat for the Record the three questions that we would like to ask the Justices for some guidance on these technical matters. Question number

one, "If Legislative Document 751 becomes law, would its limitations on the terms of legislators be valid in light of the lack of those limitations in the Constitution of Maine, Article IV, parts first and second?" Question number two, "If Legislative Document 751 becomes law, would its limitations on the terms of the Secretary of State, Treasurer of State and Attorney General be valid in light of the lack of those limitations in the Constitution of Maine, Article V, parts second and third and Article IX, section eleven?" Finally, question number three, "If the answer to questions one or two is negative, must the initiative nevertheless be submitted in its current form to the voters at a referendum pursuant to the Constitution of Maine, Article IV, part three, section 18?"

Traditionally, when we receive initiated referendums, our options are either to enact them into law or to send them out to referendum. We have no ability to kill these, to make them go away, we have to deal with them when we are provided with initiated referendums.

This is a little bit of a twist because it deals with provisions that many people felt were dealt with in the Constitution and what we are asking today is some clarification, some guidance on these technical matters from the members of the Supreme Judicial Court.

My intention then would be to table L.D. 751 which is next on our calendar unassigned until we are able to get some reference back from the Supreme Judicial Court and then act promptly on that as soon as we hear from the members of the Supreme Judicial Court.

There are many members in this chamber who are ready to vote on this now, I understand that. There are many other pieces of legislation that will have an almost identical effect depending on how they come out of committee. I am sure that the opportunity will be presented. There is a precedent that is potentially being set and it was the concern of many members of this House that there ought to be some sort of clarification as to whether or not we actually have legal standards in moving at this point. This mechanism allows us to get the opinion of the Supreme Judicial Court and then use that knowledge to proceed.

Once again, it is not an attempt to slow down or delay this in any stretch of the imagination, it is simply to discern what the intent of the law is and, once again, to know what our parameters are, what our options may or may not be.

I hope you will support this measure.

Subsequently, the Order was passed.

The Chair laid before the House the second tabled and today assigned matter:

Bill "An Act to Impose Term Limitations on Legislators, Constitutional Officers and the State Auditor" (I.B. 1) (L.D. 751)

TABLED - March 9, 1993 by Representative GWADOSKY of Fairfield.

PENDING - Reference.

On motion of Representative Gwadosky of Fairfield, tabled Unassigned pending reference.

The Chair laid before the House the third tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (H-34) - Committee on Business Legislation on Bill "An Act to Revise the Reciprocity Provisions for Licensing of Barbers and Cosmetologists" (H.P. 121) (L.D. 162)

TABLED - March 9, 1993 by Representative MURPHY of Berwick.

PENDING - Motion of the same Representative to Reconsider whereby the Majority "Ought Not to Pass" Report was read and accepted.

Subsequently, the House reconsidered its action whereby the Majority "Ought Not to Pass" Report was accepted.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lemont.

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: As sponsor of L.D. 162, I would like to share with you the reasoning behind this bill.

This bill changes a word, "may" to "shall." Let me read to you now in context how that would read. "The board shall waive the examination and grant a license to any applicant who presents proof of current licensing in another state or other jurisdiction in the United States or another country that maintains professional standards considered by the board to be equivalent to or higher than those set forth by the state."

This bill is not asking to lower standards but simply to recognize licensed barbers and cosmetologists from other states that are already qualified and allow them to work in Maine without going through the examination process. This is already working concerning some states. If you were licensed in Massachusetts, relocate to Maine to work, no examination, license granted. Maine to New Hampshire, no examination, license granted. New Hampshire to Maine, there is where the problem is. One year ago, this was not a problem, but New Hampshire raised their standards and Maine had a problem with that.

As a Representative of a border community, I am only too aware of the problem facing my community. Let me give you one example. I represent a hair salon in my community who six months ago lost a licensed hair cutter. This individual went to New Hampshire, drove to Concord, filled out the necessary paper work, was granted a license and was cutting hair within 24 hours after receiving that license, less than two miles from the hair salon which she left. The hair salon in my community that I just mentioned made every attempt to fill that seat. They hired an individual who started through the licensing process. To this day, the individual is still fighting with the red tape and the bureaucracy here in the State of Maine. This is a serious problem when we are trying to hire people and put people to work in the State of Maine.

I might also add that the individual in question who is fighting the bureaucracy here is a life-long resident of Maine and would like to relocate and work, once again, in the State of Maine. This is the problem this bill addresses.